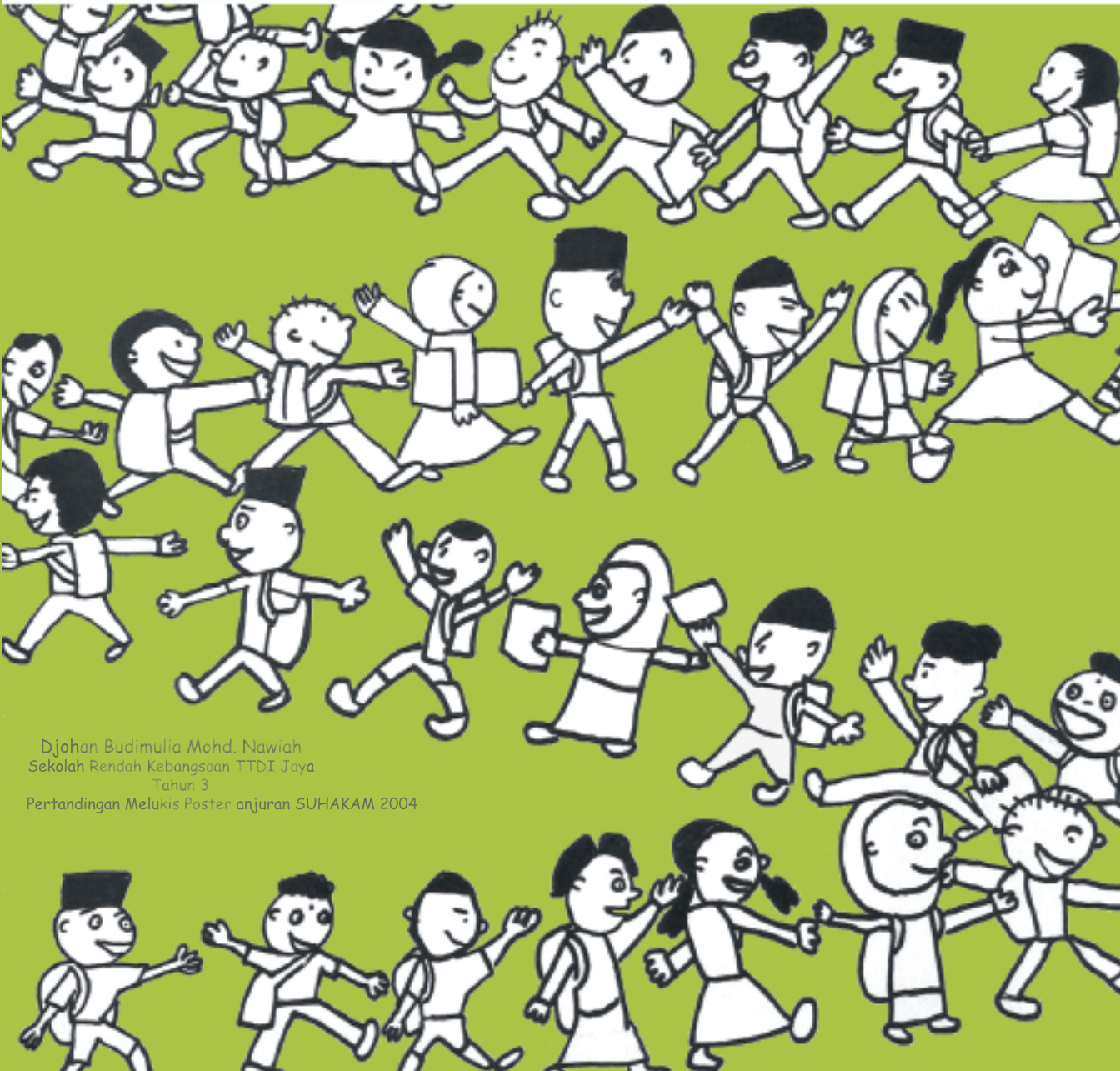




SUHAKAM
HAK ASASI UNTUK SEMUA

CONVENTION ON THE RIGHTS OF THE CHILD

Report of the Roundtable Discussion



Djohan Budimulia Mohd. Nawiah
Sekolah Rendah Kebangsaan TTDI Jaya
Tahun 3

Pertandingan Melukis Poster anjuran SUHAKAM 2004



**CONVENTION ON THE RIGHTS
OF THE CHILD
Report of the Roundtable Discussion**

(19-20 JANUARY 2004)

LEVEL 29, MENARA TUN RAZAK, JALAN RAJA LAUT
50350 KUALA LUMPUR
603-2612 6000 (T)
603-2612 5620 (F)
humanrights@suhakam.org.my (E)
www.suhakam.org.my

Cetakan Pertama / *First Printing, 2005*

Hak Cipta Suruhanjaya Hak Asasi Manusia (SUHAKAM), 2005
Copyright Human Rights Commission of Malaysia (SUHAKAM), 2005

Diterbitkan di Malaysia oleh / *Published in Malaysia by*
SURUHANJAYA HAK ASASI MANUSIA/
HUMAN RIGHTS COMMISSION OF MALAYSIA
E-mail: humanrights@suhakam.org.my
URL: [http:// www.suhakam.org.my](http://www.suhakam.org.my)

Dicetak di Malaysia oleh / *Printed in Malaysia by*
OMR PRESS ENT,
No. 26A Jalan Bola Tampar, 13/14,
Seksyen 13, 40100 Shah Alam.
Tel/fax: 03-5513 9396

Perpustakaan Negara Malaysia
National Library of Malaysia

Data-Pengkatalogan-dalam-Penerbitan
Cataloguing-in-Publication-Data

Hak cipta laporan ini adalah milik SUHAKAM. Laporan ini boleh disalin dengan syarat mendapat kebenaran daripada SUHAKAM. SUHAKAM menyangkal sebarang tanggungjawab, warranti dan liabiliti sama ada secara nyata atau tidak ke atas sebarang salinan penerbitan. Artikel-artikel yang dicetak di sini adalah dengan kebenaran penulis dan tidak boleh diulang cetak mana-mana pihak yang lain tanpa merujuk kepada penulis itu sendiri. Pengguna-pengguna adalah dinasihatkan untuk merujuk kepada pembentang / penulis atau sumbernya untuk memastikan ketepatan dan keterkinian maklumat yang terkandung di dalam artikel-artikel tersebut sebelum menerima pakai atau bertindak berdasarkan maklumat tersebut. Pandangan serta cadangan pembentang dan peserta di dalam penerbitan tni adalah kepunyaan mereka masing-masing dan adalah tidak semestinya mewakili dan merupakan pandangan serta cadangan SUHAKAM. Penerbitan pandangan serta cadangan pembentang dan peserta adalah sebagai sumbangan terhadap maklumat dan perbincangan umum semata-mata dan tidak boleh diambil kira sebagai pengesahan atau sokongan SUHAKAM ke atas pandangan dan cadangan tersebut.

The copyright of this report belongs to SUHAKAM. This report may be reproduced with SUHAKAM's permission. SUHAKAM assumes no responsibility, warranty and liability expressed or implied by any other reproduction of this publication. The articles by various authors have been reprinted here with permission. The contents of these articles should not be published without reference to the writers themselves. Users of the articles printed here are advised to reconcile the accuracy and currency of the information provided with the respective writers or source before acting upon or in consideration of the information. The views and recommendations expressed by the speakers and participations in this publication are entirely the respective speakers' or participations' own and do not necessarily represent the views and recommendations of SUHAKAM. The publications of the views and recommendations of the speakers and participations is intended to contribute to public information and discussion and is not in any way to be taken to constitute endorsement or support by SUHAKAM of those views and recommendations.

Perpustakaan Negara Malaysia Cataloguing-in-Publication Data

Report on Roundtable Discussion on Convention on the Rights of the Child (RTD on CRC)

Includes bibliographical references

ISBN 983-2523-26-5

1. Children's rights --Malaysia. 2. Children - legal status, laws, etc. -Malaysia. I. Suruhanjaya Hak Asasi Manusia Malaysia. 342.08772

TABLE OF CONTENTS

No.	Details	Page No.
1	Executive Summary	1
2	Report	10
	Opening Remarks	11
	Keynote Address	11
	A Comparative Study on the Implementation of the CRC - the UNICEF Experience	12
	Group Discussions	13
	SUHAKAM's recommendations	31
	Conclusion	37
	Acknowledgement	37

LIST OF ANNEXURE

Annex	Title	Page No.
Annex 1	Opening Remarks	38
Annex 2	Keynote Address	41
Annex 3	A Comparative Study on the Implementation of the Convention on the Rights of the Child- - the UNICEF Experience	44
Annex 4	Presentation - Group 1	52
Annex 5	Presentation - Group 2	56
Annex 6	Presentation - Group 3	62
Annex 7	Presentation - Group 4	65
Annex 8	Presentation - Group 5	69
Annex 9	Presentation - Group 6	75
Annex 10	Recommendations of Participants	82
Annex 11	Text of Convention on the Rights of the Child	94
Annex 12	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	112
Annex 13	Optional Protocol on the Convention on the Rights of the Child on the involvement of children in armed conflicts	116
Annex 14	Overview Paper (of the RTD on CRC)	123
Annex 15	Programme	128
Annex 16	List of participants	131

EXECUTIVE SUMMARY OF THE ROUNDTABLE DISCUSSION ON THE CONVENTION ON THE RIGHTS OF THE CHILD

Introduction

Malaysia acceded to the Convention on the Rights of the Child (CRC) in 1995. To date, Malaysia maintains eight reservations to the CRC¹. SUHAKAM initiated a one and a half day Roundtable Discussion (RTD) on the CRC on 19 and 20 January 2004 involving Government Ministries, Agencies, Non-Governmental Organisations (NGO) and some individual experts. The objective was to provide an avenue for a broad-based forum to discuss challenges relating to the rights of children and to chart the way forward. Other objectives were to discuss ways to further the implementation of the CRC, to review whether the provisions of the CRC are contained in the Child Act 2001 and other domestic laws and to recommend to the Government the withdrawal of reservations to the CRC.

Issues Raised

Some of the issues raised at the RTD were:-

1. The need for protection of marginalised children, such as, those living with HIV/AIDS, the poor, the disabled, migrants, undocumented, indigenous children and orphans;
2. Accessibility to basic needs for survival, such as, health and clean water for all children;
3. Right to education, quality and type of education that children should get;
4. Right to information and the role of the media;
5. Right to name and identity for children;
6. Adequacy of domestic laws regarding children and their implementation;
7. Protection of rights of children under Syariah Law;
8. Reservations to the CRC; and
9. Criminal justice system for children.

Roundtable Recommendations

Following discussions, the participants recommended that the following areas be reviewed and further action be taken by all the relevant parties. The recommendations are divided under three main headings, i.e.:-

1. Rights under the CRC;
2. Domestic laws, reservations to the CRC and Optional Protocols to the CRC; and
3. Criminal justice system for children and Syariah law;

¹http://www.unhchr.ch/html/menu3/b/treaty_15-asp.htm

1. Rights under the CRC:-

a) Right to Health

- i. To review the Private Hospital Act 1971 and/or other Acts to reduce red tape in applying for Government funds for treatment in private hospitals in areas where such needed services are not provided by public hospitals, or in exceptional circumstances;
- ii. To review current policies and legislation to ensure accessibility to health and medical care for all children, without any discrimination including children of migrants and those without documents;
- iii. To provide separate wards for adolescents requiring medical treatment;
- iv. To give equal importance for the mental and emotional health of children. Accessibility to health should also include facilities for children's psychological well-being;
- v. To develop policies and programmes to provide sexuality education in schools; and
- vi. To enact policies and laws to sustain natural resources for future generations, to provide an effective system for resource management and to guarantee equal access to them.

b) Right to Survival

- i. To re-define inner city poverty taking into account the current economic situation and standard of living.

c) Right to Adequate Housing

- i. To ensure that all types of housing have at least three rooms and that there are adequate playgrounds for leisure and recreational activities².

d) Right to Leisure

- i. To provide adequate child and environmental friendly parks with better facilities especially in high density areas; and
- ii. To provide more recreational and/or sports facilities and to enhance the usage of sports facilities in schools.

e) Rights of Indigenous Children

- i. To ensure access to clean water and sanitation;
- ii. To implement livelihood programmes that will allow indigenous children better means to support themselves;
- iii. To reduce red-tape, particularly in the Jabatan Orang Asli, hospitals and schools;
- iv. To ensure re-settlement and progressive integration without loss of livelihood; and
- v. To prioritise accessibility to education and to incorporate and develop aspects of their cultures into the school curriculum. There is also a need to study alternative ways of providing education.

²Please refer to SUHAKAM's Economic Social and Cultural Working Group's "Report on Adequate Housing: A Human Right" for a comprehensive report on right to housing. This report can be downloaded from SUHAKAM website at www.suhakam.org.my

f) Right to Education

Education System, Aims and Policies

- i. To develop a flexible education system and assessment methods to cater for different types of students with varying degrees of intelligence and capabilities;
- ii. To re-examine the current Education Act 1996, education aims and policies, to identify areas of improvement and to ensure accessibility to education for all children as intended by articles 28 and 29 of the CRC;
- iii. To introduce a curriculum that focuses on skills instead of only on theory, promote meaningful practical learning through applied approach and train teachers on teaching methodologies;
- iv. To provide holistic and lifelong education incorporating the importance of the family unit, community involvement and participation and formulation of support groups; and
- v. To have better methods for effective Moral Education, such as, through project work and /or community service.

Educators

- i. To train teachers to manage children with disabilities;
- ii. To impress on teachers for the need to be more sensitive and respectful of the diverse cultures in Malaysia;
- iii. To provide teachers with better facilities and benefits especially when they are posted in remote areas; and
- iv. To develop a more selective recruitment of teachers to ensure quality and sustainability.

Others

- i. To develop a partnership among the Ministry of Education, parents, community and corporate bodies for total education of children;
- ii. To re-assess the division of responsibilities between Ministry of Education and the (then) Ministry of National Unity and Social Development in handling children with disabilities;
- iii. To provide a 'Panel of Experts' at each district level to identify children's capabilities, talents, special interests, behavioural problems and learning disabilities and to take the necessary co-ordinated action to address the problems; and
- iv. To provide better accessibility, especially to education and healthcare for children with disabilities who are not living in metropolitan areas and especially for those who remain at home.

g) Access to Appropriate Information and the Role of Media

- i. The media should be more responsible in reporting news about children in line with article 17 of the CRC;
- ii. The Government should ensure that programmes through mass media are educational and non-violent;
- iii. To develop policies and take steps to reduce the digital divide amongst urban and rural children; and
- iv. To appoint competent personnel to oversee the subject on Information Technology in schools.

h) Right to Name, Nationality, Preservation of Identity and Protection

- i. To increase awareness, information and access to registration of children under the Births and Deaths Registration Act 1957;
- ii. To formulate training programmes for Department of Registration staff to sensitise them to the plight of unwed or single mothers;
- iii. To review discriminatory immigration laws with regard to children born to foreign parents, especially where the child has a foreign father and a Malaysian mother; and
- iv. To develop social programmes for the prevention of child abuse, such as, sexuality education in schools and in-depth research on child offenders including sex offenders.

i) Protection of Children without Families

- i. To ensure the institutions that shelter children without families take into account the best interest of the child, in line with article 20 of the CRC. *Rumah Tunas Harapan* is a good example and should be expanded upon;
- ii. To promote foster homes and protection of children without families and provide adequate training of staff and skilled-workers caring for these children; and
- iii. To accelerate and simplify the adoption process³.

j) Freedom of Expression

- i. To alter the mindset of parents, teachers and society, such as, to allow children to voice their opinions and to be non-judgmental;
- ii. To create awareness and develop training programmes on rights of the child for all levels of society, especially for teachers and parents;
- iii. To better equip resource centres and schools, through its clubs and libraries with information on CRC. Such information should be included within the “*Maju Diri*” programme and other children’s programmes on television; and
- iv. To make reference to syariah and civil principles in dealing with the issue of allowing children to express opinions which can be considered in Court.

2. Domestic law, reservations to the CRC and the Optional Protocols to the CRC

- a) To have a standard definition and cut-off age to denote a “child”;
- b) To standardise the terminology of usage of words denoting a “child”, “young persons”, “juveniles”, “infants” and others in all legislation to be consistent with the Child Act 2001;
- c) To provide for situations or cases where children detained and/or charged do not fall under the ambit of the Child Act 2001. For instance, when a child is charged with an adult, the Child Act 2001 does not apply to the said child;
- d) To include in the Child Act 2001, a provision similar to section 16(1) of the Women and Girls Protection Act 1973⁴ in relation to child prostitution;

³Please refer to article 21 of the CRC.

⁴Section 16 (1) of the Women and Girls’ Protection Act 1973 provides comprehensively on trafficking, prostitution and others.

- e) To review the Education Act 1996 to include and/or provide for:-
 - i. Equal opportunity to education for child offenders who are under remand;
 - ii. Allowing students who are arrested or child offenders to continue their education until their cases are settled. It is recommended that the police or prison department liaise with the Ministry of Education for such cases;
 - iii. Allowing a child without a birth certificate to attend school even before the application process is finalised;
- f) To provide free education for all children, in line with the CRC⁵;
- g) To review the reservations to the CRC with a view to withdrawing the reservations as recommended;
- h) To study the Optional Protocols to the CRC⁶ and to ratify them as soon as possible;
- i) Other issues:-
 - i. Training for Court Officers - Advisers, Magistrates and probation officers need further training to sensitise and prepare them for the rigours of the child justice system;
 - ii. Remand Centres - To provide more specialised remand centres for child offenders. Centres should be located closer to the courts and special training programmes to deal with problematic children and offenders should be developed and implemented;
 - iii. Sex Offenders:-
 - To have a register of convicted sex offenders, when needed by potential employers;
 - To formulate guidelines on the publication of a list of habitual sex offenders and on how such data may be accessed; and
 - To develop regulations to vet people applying for employment in areas that cater for or deal with children.
 - iv. To recommend that the Government sets up a special fund for families of detained breadwinners that need immediate assistance and to develop guidelines for dissemination of such fund; and
 - v. To heighten awareness on the importance of the mental and emotional health of child offenders. Parents and guardians should be encouraged to seek counselling or other psychological support to facilitate the child's emotional recovery and the rehabilitation of child offenders.

3. Criminal Justice System for Children and Syariah Law

- a) The criminal justice system or Court procedures (pre and post trial) involving children must be in conformity with articles 37⁷ and 40⁸ of the CRC;

⁵Please note that the recent amendment to the Education Act in 2002 provides for compulsory education only. See section 29A Education (Amendment) Act 2002.

⁶Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and Optional Protocol on the Convention on the Rights of the Child on the involvement of children in armed conflicts.

⁷Please refer to the CRC as annexed, at annexure 11.

⁸Please refer to the CRC as annexed, at annexure 11.

- b) To amend laws to expressly exclude children from penalties of life imprisonment or death sentence;
- c) To provide for and clearly distinguish and clarify powers of the police during remand in the law or Practice Directions;
- d) To amend lock-up rules to prevent children from being detained with adult offenders⁹ and to provide for basic needs of children, such as, access to legal advice and family visitations, clean clothes, reading materials and religious requirements;
- e) To ensure that children are not incarcerated for a period of more than 3 months;
- f) To classify children whose parent(s) are detained or who are suspected of committing crimes together with their parents/guardian, as 'children in need of care and protection'¹⁰, thereby entitling them to protection by the protector or police officer¹¹;
- g) To prohibit the use of handcuffs for cases involving child offenders;
- h) To discourage the police from bringing children to Court for minor offences and to resort to cautioning them instead;
- i) To re-employ retired Magistrates especially to serve in Courts for Children to ease the problem of shortage of staff;
- j) To study the need for adopting various provisions in the Child Act 2001 to cater for the special needs of children who come within Syariah enactments particularly provisions pertaining to child offenders and/or victims in need of rehabilitation and/or protection;
- k) To study the issue of whipping for child offenders with the aim of abolishing it altogether;
- l) To amend the Evidence Act 1950 to allow child witnesses to give evidence via video conferencing. The aim is to lessen their intimidation caused by unfamiliar surroundings and the accused person, for example, in sexual abuse cases¹²;
- m) To use imprisonment only as a last resort for child offenders. In this regard, research should be carried out to study the various means of effective sentencing policies involving children¹³; and
- n) To upgrade probation services in terms of increasing the number and training of personnel. Custodial sentences and references to reform schools should be reduced.

⁹Please refer to section 85 of the Child Act 2001 which specifically provides that a child must be separated from adult in police stations or Courts.

¹⁰Please refer to section 17 of the Child Act 2001.

¹¹Please refer to section 18 of the Child Act 2001.

¹²Siri Undang-undang Mimi Kamariah – Akta Kanak-kanak 2001, published by Universiti Malaya in 2002. Edited by Siti Zaharah Jamaluddin, Norchaya Talib and Jal Zabdi Mohd Yusoff.

¹³Please see the SUHAKAM's submission to the Parliamentary Select Committee. This can be downloaded from SUHAKAM's website at www.suhakam.org.my

SUHAKAM's recommendations

The following recommendations are made upon consideration of and in furtherance of the concerns voiced during the RTD:

i. Accessibility to Medical Care

It is noted that medicine and healthcare are only for citizens of Malaysia and children with identity papers (documented children). Although public hospitals provide treatment to undocumented children, they will usually report such children to the relevant Government authorities for further action. As such, the undocumented children are reluctant to seek treatment, for fear of being detained or deported. The Government is urged to look into this grey area of “non-accessibility” to healthcare of undocumented children since it is a growing concern;

ii. Community Support System

SUHAKAM recommends that interested bodies and NGOs develop adequate community support system as suggested in the National Plan of Action for Children calling for the establishment of a National Coordinator of Foster Families to encourage foster care and community involvement in the protection of children without families. Hence, there should be an effective translation and implementation of the suggestions into laws, policies and action;

iii. Right to Name and Identity

Article 7 of the CRC provides for the right of nationality and name of every child from birth. There must be a mandatory system to cater for immediate registration of all children;

iv. Access to Appropriate Media Information

Teachers and parents ought to take the responsibility to monitor the information accessed by children under their care. Children must also be taught on their responsibility in assessing appropriate or suitable information from computers and other forms of media. Internet cafes' operators should also be more responsible in allowing youngsters to use the internet in their premises;

v. Schools as Information Communication Technology (ICT) points

SUHAKAM reiterates its recommendation in its Report on the Seminar on Accessibility to Basic Needs organised by the Economic, Social and Cultural Working Group on 31 July 2003 for schools to be used as ICT points for the community in rural areas¹⁴;

vi. Voluntary Probation Officer

SUHAKAM supports the idea of and recommends the creation of Voluntary Probation Officers to foster greater involvement in the management of criminal justice, prevention of crime and rehabilitation of offenders. This is in line with the Tokyo Rules (United Nations Standard Minimum Rules for Non-custodial Measures)¹⁵ and is also provided in the National Plan of Action for Children;

¹⁴Please refer to SUHAKAM's Report of the Seminar on Accessibility to Basic Needs at page 43. This report can be found at www.suhakam.org.my

¹⁵Article 1.2 states that, “The Rules are intended to promote greater community involvement in the management of criminal justice, specially in the treatment of offenders, as well as to promote among offenders a sense of responsibility towards society”.

vii. Compulsory and Free Education

The recent amendment to the Education Act in 2002¹⁶ provides for compulsory primary education. In this regard, enforcement must ensure that it is an offence for parents who are unable to send their children to school and that the Government must ensure that assistance is provided to parents who are unable to send their children to school for specific reasons. The provision of free education for all children should also be considered;

viii. Research on Children with Problems

Systematic research and documentation of children with problems should be developed and carried out to better understand the causes of the problems as well as to study the needs and care for such children. These studies can be conducted in high density areas and areas where statistics of crime among youths are high;

ix. Prioritising Children's Cases in Court

SUHAKAM recommends a court circular be issued requiring cases involving children be prioritised and for speedy disposal of the cases;

x. In-service Continuous Training for Court Officers

Emerging issues and changes in the society must be taken into account by Judges and Court Officers when making decisions. SUHAKAM recommends that a comprehensive and continuous in-service training programme for Judges and other Court Officers be developed, not only to incorporate human rights considerations in line with international standards in decision making but also to facilitate their keeping abreast of emerging issues and laws;

xi. Malaysia's Country Report on the CRC to the United Nations Committee on the Rights of the Child

SUHAKAM urges the Government to take urgent action to finalise Malaysia's Country Report on the CRC for submission to the United Nation's Committee on the Rights of the Child, to study the reservations and to take affirmative actions based on the findings of SUHAKAM's study on the reservations. It is a matter of grave concern that the Government has not finalised the Country Report;

xii. Setting up a Task Force

SUHAKAM recommends that the Government sets up a task force to ensure domestic laws, policies and regulations are consistent with obligations under the CRC;

¹⁶Section 29A of Education (Amendment) Act 2002 states that, (1) The Minister may, by order published in the Gazette, prescribe primary education to be compulsory education, (2) Every parent who is a Malaysian citizen residing in Malaysia shall ensure that if his child has attained the age of six years on the first day of January of the current school year that child is enrolled as a pupil in a primary school in that year and remains a pupil in a primary school for the duration of the compulsory education. (3) The Minister may, if he considers it desirable and in the interest of the pupils or the public to do so, by order published in the Gazette, exempt any pupil or any class of pupils from the requirement to attend compulsory education, either absolutely or subject to such conditions as he may think fit to impose, and may at any time in his discretion revoke the exemption or revoke or alter or add to such conditions.

(4) A parent who contravenes subsection (2) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(5) The Minister may make regulations for the carrying into effect of the provisions of this section."

xiii. Effective Implementation of the National Plan of Action for Children

SUHAKAM urges the Ministry of Women, Family and Community Development to involve NGOs, SUHAKAM, civil society and experts in the monitoring and evaluation of the implementation of the National Plan of Action for Children to study its effectiveness and impact on children; and

xiv. Task Force

SUHAKAM recommends that the Government sets up a task force consisting of relevant Government agencies, NGOs, academicians and experts to study the Syariah laws and practice to ensure compliance with the CRC and the Child Act 2001.

REPORT ON THE ROUNDTABLE DISCUSSION ON THE CONVENTION ON THE RIGHTS OF THE CHILD

“A century that began with children having virtually no rights is ending with children having the most powerful legal instrument that not only recognizes but protects their human rights.” - Carol Bellamy, UNICEF Executive Director.

Malaysia acceded to the Convention on the Rights of the Child (CRC) in 1995. To date, Malaysia maintains eight reservations in respect of the provisions in the CRC¹. They are:

- 1) Article 1 - Definition of a child;
- 2) Article 2 - Principle of non-discrimination;
- 3) Article 7 - Name and nationality;
- 4) Article 13 - Freedom of expression;
- 5) Article 14 - Freedom of thought, conscience and religion;
- 6) Article 15 - Freedom of association;
- 7) Article 28 (1) (a) - Right to free and compulsory primary education; and
- 8) Article 37 - Torture and deprivation of liberty.

SUHAKAM initiated a one and a half day Roundtable Discussion (RTD) on the CRC on 19 and 20 January 2004 involving Government Ministries, Agencies, Non-Governmental Organisations (NGOs) and some individual experts. The objective was to provide an avenue for a broad-based forum to discuss challenges relating to the rights of children and to chart the way forward. Other objectives were to discuss ways to improve the implementation of the CRC, to improve the consistency between the CRC, the Child Act 2001 and other domestic laws and to recommend to the Government to withdraw the reservations to the CRC.

The Organising Committee Members consisted of representatives of SUHAKAM and the (then) Ministry of National Unity and Social Development, Department of Social Welfare and several NGOs like P. S. The Children, Malaysian Association for the Protection of Children (MPAC), Association for Registered Childcare Providers Malaysia (Persatuan Pengasuh Berdaftar Malaysia) and Sisters in Islam (SIS).

The RTD on CRC started off with Opening Remarks by the Co-Chairperson of the Law Reform and International Treaties Working Group (LRITWG), Dato' Ranita Mohd. Hussein. The Opening Remarks was followed by the Keynote Address by the then Minister of National Unity and Social Development, Y. B. Dato' Dr. Siti Zaharah Sulaiman read by her representative, Y.B. Dato' Veerasingham a/l Suppiah, (the then) Parliamentary Secretary, Ministry of National Unity and Social Development. The newly appointed UNICEF Representative to Malaysia, Dr. Gaye Phillips was also present to give a presentation on a comparative study on the implementation of the CRC.

¹http://www.unhcr.ch/html/menu3/b/treaty_15-asp.htm. Please also see full text of the Convention at Annex 11.

Following the presentation, the participants were divided into six groups and each group was given a topic for discussion. The objective was to have a set of recommendations from the issues raised by each group.

The first day ended with all the groups submitting their recommendations to be summarised by the Secretariat.

The second day started with the group presentations. A 15-minute question and answer session was allocated for each group.

The recommendations developed by the participants in the RTD were not adopted on the day itself. In his closing remarks, the Co-Chairperson of the LRITWG, Dato' K. C. Vohrah said that the recommendations would be adopted as soon as possible and that a report would ensue.

Opening Remarks

The Opening Remarks were delivered by Dato' Ranita Mohd. Hussein, the Co-Chairperson of SUHAKAM's LRITWG. It was mentioned that SUHAKAM, recognising the importance of rights of children and the promotion of the CRC as a tool in promoting the rights of children, has been working on rights of children issues from as early as the year 2002. The six key areas discussed by the groups were, the four components of the CRC - Survival, Development, Protection, Participation, the Child Act 2001 and other relevant legislation concerning children and the criminal justice system. These six areas are regarded as key areas which should be prioritised due to their importance.

The Opening Remarks also touched on the Malaysian National Plan of Action for Children following the World Declaration and Plan of Action². However, several challenges still remain for Malaysia and thus, it was hoped that the RTD would facilitate discussion on the issues and challenges.

The Opening Remarks is at Annex 1.

Keynote Address

The Keynote Address of Y. B. Dato' Dr. Siti Zaharah Sulaiman, the then Minister in the Ministry of National Unity and Social Development was delivered by her representative, Dato' Veerasingham a/l Suppiah, the then Secretary of Parliament, Ministry of National Unity and Social Development. The Minister touched on the principles of the CRC, which were taken into account by the Ministry in developing the National Plan of Action for Children. To date, there are two National Plans of Action that have been developed by the Ministry through its focal agent, the Department of Social Welfare, with the cooperation from other Government Agencies. The first Plan of Action took into account the aspect of survival, as entrenched in the CRC. The second Plan of Action focused mainly on six aspects, namely:

²We the Children: End-decade review of the follow-up to the World Summit for Children, *UN GA Twenty-seventh special session*, 4 May 2001.

- i Childcare and early child development;
- ii Early education and literacy;
- iii Problematic children;
- iv Children with disabilities;
- v Education for parents and family's functions; and
- vi Developing a child-friendly environment.

The Minister went on to elaborate on each of the points and the challenges faced by Malaysia in relation to children. These include the continuous rise in social ills and crimes committed by youth, the insufficient research and data collection of children with problems, such as, prostitution, gangsterism and crimes, the need to re-examine the Child Act 2001 in the context of the CRC and the effectiveness of the current programmes run by the Government in order to implement the National Plan of Action for Children. The Minister also touched on the willingness of the Ministry to work together with other agencies and NGOs to find solutions to the challenges faced by Malaysia.

However, the question that remains at the forefront is effectiveness of the programmes and policies in light of the continuous rise in social ills and crimes committed by youths today, in particular, the extent the two National Plans of Action for Children have been successful in preventing crimes and other social ills and eradicating other problems. The issue relating to insufficient research and database on children with problems must also be addressed.

The Minister concluded the Keynote Address by stating that the Ministry looked forward to working together with all parties in matters relating to children.

The Keynote Address is at Annex 2.

A comparative study on the implementation of the CRC - the UNICEF experience

Dr. Gaye Phillips gave her views on the issues of children and the experience of the UNICEF in the implementation of CRC.

CRC is the most widely ratified treaty in history. This universal ratification of the CRC is important because it highlights the challenge to transform the commitment into a world in which children's right is a priority.

Among the mechanisms to promote and protect children's rights is the legal framework. There must be widespread consultation with children to obtain their perspective, promote awareness of their rights, ensure all legislation do not discriminate children and promote the development of a culture of rights of children.

Apart from the Government as an important stakeholder in implementing CRC, NGOs and private corporations are also very important in promoting and raising awareness and in building public support for implementing the CRC. The challenge is to devise new and appropriate ways and to ensure that children's views are accorded their full weight rather than being taken as token contribution.

Dr. Phillips described the measures to be looked at by States in the area of children's rights, namely:

- The process of law reform, the impact of that on children and enforcement of relevant new laws and whether children have effective remedies for breaches of their rights;
- Development of budget analysis and child related budgets to ensure States are promoting implementation of the CRC;
- Development of systematic monitoring of the implementation of the CRC, including at regional and local levels - data collection and evaluation;
- Education, training and awareness raising concerning children's rights; and
- Collaboration for the implementation of the CRC with civil society including children.

The speaker ended her speech by mentioning that what was needed was a broad-based constituency in favour of children's rights. Education and advocacy are needed to be at the core of strategies to expand local understanding of the CRC.

Dr. Phillips' speech is at Annex 3.

Group Discussions

Group 1

Topic: Survival

Introduction

This group's focus was on survival, one of the main components of the CRC. This group of 12 members from various backgrounds discussed issues and challenges concerning the rights of children to survival. The presentation, amongst others, highlighted the issues and recommendations of the group and it was done by Dr. Kamarul Azahar from Hospital Kuala Lumpur.

Issues raised include:

- a) Access to health and living conditions for children of all walks of life;
- b) New sub-specialty in Malaysia, which is, adolescent medicine and the need for creation of adolescent wards and health programmes to cater for this;
- c) Sufficiency of current legislation in providing accessibility to health;
- d) The need and importance of sex education in school;
- e) Rights of marginalised children, such as, the migrant children, the disabled, the indigenous people and the urban poor; and
- f) Management and sustainability of natural resources.

Recommendations by the group include:

- a) To review the Private Hospital Act 1971 and/or other Acts to reduce red tape in applying for Government funds for treatment in private hospitals in areas where such needed services are not provided by public hospitals, or in exceptional circumstances;
- b) To review current policies and legislation to ensure accessibility to health and medical care for all children, without any discrimination, including children of migrants and those without documents;
- c) To provide separate wards for adolescents requiring medical treatment;
- d) To develop policies and programmes to provide sexuality education in schools;
- e) To enact policies and laws to sustain natural resources for future generations, to provide an effective system for resource management and to guarantee equal access to them;
- f) To re-define inner city poverty taking into account the current economic situation and standard of living;
- g) To implement livelihood programmes that will allow indigenous children better means to support themselves;
- h) To reduce red-tape, particularly in the Jabatan Orang Asli, hospitals and schools;
- i) To ensure resettlement and progressive integration without loss of livelihood;
- j) To ensure access to clean water and sanitation; and
- k) To ensure that all types of housing have at least three rooms and that there are adequate playgrounds for leisure and recreational activities³.

Question and Answer session:

THE URBAN POOR

A participant from the Ministry of National Unity and Social Development referred to the issue on urban poor, commenting that the presentation seemed to suggest that the Government was not doing anything to alleviate the problem and said that it was incorrect.

The Presenter explained that the objective of the group was to urge the Government to do more. Better policies should be developed in order to improve the rights of the vulnerable group, which includes the urban poor. While appreciating that the Government has done a lot to alleviate the problem concerning the urban poor and other vulnerable groups, it was timely to review the policies and the implementation of the policies and programmes to better protect rights of these groups.

INDIGENOUS CHILDREN

Touching on the issue of indigenous children and their lack of accessibility to basic needs, a participant remarked that it is a well known problem that this group of people is not accorded accessibility to their rights. He added that what needs to be addressed is how to move forward from here.

³Please refer to SUHAKAM's Economic Social and Cultural Working Group's "Report on Adequate Housing: A Human Right". This report can be downloaded from Suhakam's website at www.suhakam.org.my

SEXUALITY EDUCATION

A participant commented on the importance of having sexuality education in schools. She stressed that the planning and implementation of the subject must be done properly so as not to defeat its purpose. She observed that just knowing about sex does not make one responsible. Her view was that mothers are the best people to teach on this subject.

IMPORTANCE OF THE FAMILY INSTITUTION

A participant mentioned that institutions catering for children without families cannot be substituted for real homes. Thus, she stressed on the importance of the family institution and teaching the young about parenting skills to reduce the problems of broken homes and dysfunctional families that will lead to children being sent to institutions.

The presentation of Group 1 is at Annex 4.

Group 2

Topic: Development

Introduction

This group deliberated on education, it being an important aspect of the development of a child. The members consisted of 20 people from various backgrounds. The presentation was done by Dr. Chiam Heng Keng, SUHAKAM Commissioner, who was also the group's Moderator.

Issues raised include:

- a) Sufficiency of the Education Act 1996, education policies and the aim of education;
- b) Accessibility to education for different groups of children, particularly the disabled and indigenous children;
- c) The education and assessment systems to cater for the different groups of students;
- d) Roles of the different actors/stakeholders in developing children; and
- e) Training, benefit and selection process of teachers/educators.

Recommendations by the group include:

EDUCATION SYSTEM, AIMS AND POLICIES

- a) To develop a flexible education system and assessment methods to cater for different types of students with varying degrees of intelligence and capabilities;
- b) To re-examine the current Education Act 1996, education aims and policies, to identify areas of improvement and to ensure accessibility to education for all children as intended by articles 28⁴ and 29⁵ of the CRC;

⁴Please refer to the CRC as annexed at annexure 11.

⁵Please refer to the CRC as annexed at annexure 11.

- c) To introduce a curriculum that focuses on skills instead of only on theory, promote meaningful practical learning through applied approach and to train teachers on teaching methodologies;
- d) To provide holistic and lifelong education incorporating the importance of the family unit, community involvement and participation and formulation of support groups; and
- e) To have better methods for effective Moral Education, such as, through project work and/or community service.

EDUCATORS

- a) To train teachers to manage children with disabilities;
- b) To impress on teachers for the need to be more sensitive and respectful of the diverse cultures, ethnicity and religions in Malaysia;
- c) To provide teachers with better facilities and benefits especially when they are posted in remote areas; and
- d) To develop a more selective recruitment of teachers to ensure quality and sustainability.

OTHERS

- a) To develop a partnership among the Ministry of Education, parents, community and corporate bodies for the total education of children;
- b) To reassess the division of responsibilities between the Ministry of Education and the (then) Ministry of National Unity and Social Development in handling children with disabilities;
- c) To provide a 'Panel of Experts' at each district level to identify children's capabilities, talents, special interests, behavioural problems and learning disabilities and to take the necessary co-ordinated action to address the problems; and
- d) To provide better accessibility, especially to education and healthcare for children with disabilities who are not living in metropolitan areas and especially for those who remain at home.

Question and Answer session:

AUTOMATIC PROMOTION OF STUDENTS AND THE ONE SESSION SCHOOL SYSTEM

A participant referring to the automatic promotion of students asked whether this system could be improved on. She also asked about the proposal for a one session school system and whether or not there was continued effort in this direction.

The Presenter supported the idea of abolishing the automatic promotion so as to allow for early detection of students with learning disabilities. So far, the education policy does not provide for the abolition of this. This could lead to a situation where students who cannot read or write are promoted from year to year. Particular problems, such as, dyslexia faced by certain students, are not solved.

On the issue of one session school system, a participant speaking on behalf of the Ministry of Education said that currently 20% of schools in Malaysia are one session schools. However, insufficient buildings and financial constraints hamper the achievement of this goal.

EXCESSIVE FOCUS ON ACADEMIC ACHIEVEMENT

A participant commented on teachers, the schools and the education system putting too much focus and emphasis on academic performance. Teachers then put pressure on students to go for private tuition. It was alleged that in some cases teachers have shares in the tuition centres which could affect their professionalism.

The Moderator suggested that SUHAKAM carry out a study on tuition centres in order to verify the truth of the allegation.

EDUCATION FOR CHILDREN IN DETENTION

A participant remarked on the importance of school education for children in detention, for example, in cases where delinquents were sent to the Henry Gurney School.

The Moderator expressed her view that such children should not be deprived of their right to education just because they are being detained and in fact, it is more the reason for the said children to continue with their education which would facilitate and hasten their rehabilitation.

TEACHERS, EDUCATORS AND CHILDREN TO BE MORE CULTURALLY SENSITIVE

A participant voiced the need for teachers to be culturally sensitive and said that some teachers are not helping to promote racial integration.

Another participant raised the issue of pupils not being culturally sensitive. In his opinion, one of the reasons may be due to the fact that in some schools classes are streamed according to races.

The Presenter agreed that it is important for teachers to be trained to be more culturally sensitive. She also added that parents must also get involved and be more sensitive to the diversity of cultures that exist in Malaysia and to teach their children to respect that diversity.

ACTIVITIES OUTSIDE SCHOOL HOURS

A participant touched on the matter of access to school facilities outside of normal hours and asked whether the limit to accessibility was due to budget or policy.

The Presenter opined that access to school facilities should not only be confined to school hours. She suggested that schools allow students to stay back to do homework (with minimal supervision from the staff), to allow for more curricular activities and to allow for

the students to utilise the school fields and facilities. This will help in alleviating problems of loitering at shopping centres and will increase loyalty to schools. The students can also be involved in extra curricular activities after school hours and on weekends.

The presentation of Group 2 is at Annex 5.

Group 3

Topic: Protection

Introduction

This group's Moderator, Professor Datuk Dr. Mohd Sham Kassim and his team of 18 members deliberated on the issue of protection, another big component of the CRC. The approach taken by this group was to analyse several articles of the CRC that relate to protection of children. The presentation was conducted by Sara Chen, a school-going teenager who participated actively in the group discussion.

Issues raised include:

- a) Article 7 on right to name and nationality;
- b) Article 8 on preservation of identity;
- c) Article 9 on separation from parents;
- d) Article 19 on protection from abuse and neglect;
- e) Article 20 on institutionalised and other types of care for children without families;
- f) Article 21 on adoption of children;
- g) Article 23 on the rights of mentally and physically disabled children; and
- h) Article 39 on physical, psychological recovery and social integration of child victims of any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment or armed conflict.

Recommendations by the group include:

- a) To increase awareness, information and access to registration of children under the Births and Deaths Registration Act 1957;
- b) To formulate training programmes for the National Registration Department staff to sensitise them to the plight of unwed or single mothers;
- c) To review discriminatory immigration laws with regard to children born to foreign parents, especially where the child has a foreign father and a Malaysian mother;
- d) To develop social programmes for the prevention of child abuse, such as, sexuality education in schools and in-depth research on child offenders including sex offenders;
- e) To ensure that institutions that shelter children without families take into account the best interest of the child, in line with article 20 of the CRC. "*Rumah Tunas Harapan*" is a good example and should be expanded upon;
- f) To promote foster homes and protection of children without families and provide adequate training of staff and skilled-workers caring for these children;

- g) To accelerate and simplify the adoption process⁶.
- h) To include and place importance on the mental and emotional health of children. Accessibility to health should also include facilities for children's psychological well being; and
- i) To develop social programmes for the prevention of abuse of children and enhancement of support groups. Prevention programmes should include sex education in school, in-depth research on sex offenders and prevalence of sexual abuse.

Question and Answer session:

CHILDREN WITHOUT FAMILIES

A participant commented that there is a huge problem of orphans or abandoned children affected with HIV. None of the Rumah Kebajikan or welfare homes can handle these children because they do not have the expertise and facilities to cope with them. He suggested they be placed under foster care of good samaritans who are not affected with HIV. He also suggested that the Government provides allowances for these care-providers. Currently, there is no specialised home to cater for children with HIV who are abandoned. These children are either placed in hospitals or welfare homes.

The Moderator observed that the institution of fostering is still not internalised and promoted in Malaysia. He added that there is not much support in terms of advocating for it. However, he agreed with the suggestion to develop a policy for it.

ADOPTION OF CHILDREN

A participant touched on the issue of adoption and the possibility of the adopted children using the adoptive parents' names.

A participant from the National Registration Department explained that there were two issues that needed to be addressed. Basically, there are two governing legislation, viz, the Adoption Act 1952 and Registration for Adoption Act 1952. Both Acts are applicable to Non-Muslims but only the Registration of Adoption Act 1952 is applicable to Muslims. Under the Adoption Act 1952, the adoptive parents are presumed to have given birth to the child⁷.

This is different under the Registration of Adoption Act 1952 because in the Application for the Registration of Adoption Form⁸ the name of the biological father and former name of the child (which would state the surname of the child before the adoption) would be stated. He added that there should not be any difference between the States in Malaysia with regard to adoption and the procedures are the same although the States have the option to regulate its adoption process.

⁶Please refer to article 21 of the CRC.

⁷s. 9 Adoption Act 1952.

⁸ First Schedule of the Registration of Adoption Act 1952.

REGISTRATION OF CHILDREN

A participant raised the issue of insensitiveness and unprofessionalism of the staff at the National Registration Department. She said that the front desk staff is not able to answer questions and deal especially with uneducated applicants. Therefore, she suggested that a senior officer be tasked to manage such people.

The Moderator agreed that there was a problem of lack of sensitiveness and professionalism on the part of the staff of the National Registration Department, especially when dealing with unwed or single mothers. It is hoped that the staff will be more sensitive to the plight of single and unwed mothers and also be trained to handle applicants from all levels of society. Also raised was the issue of the lack of proper accountability towards newborn children. The voluntary nature of registration of births could contribute to the problem of non-registration of children⁹. As an example, 495,000 birth certificates were issued last year but more than 550,000 babies were born. This means that at least 50,000 babies are not registered. There is, furthermore, no proper statistics in Malaysia and there were instances of babies who die within the first weeks of life without being accounted for.

The presentation of Group 3 is at Annex 6.

Group 4

Topic: Participation

Introduction

Group 4 was moderated by Dato' Asiah Abu Samah, SUHAKAM Commissioner and this group focused on challenges in matters relating to participation of children. There were 19 members in this group, including three teenagers. The presentation was done by two young participants, Cik Marisha Naz and Encik Daniel Rahman, both were school-going teenagers.

Issues raised include:

Some of the articles touched on were on freedom of assembly¹⁰, association, religion¹¹, leisure¹², access to information and freedom of expression¹³ and opinion¹⁴. Concerns raised during discussion included non-participation of children in decisions affecting them, the role and responsibilities of media in highlighting issues, the existence of digital divide between the urban and rural students and rights of the minorities and indigenous children in relation to their culture and religion.

⁹See section 7 of the Births and Deaths Registrations Act 1957.

¹⁰Please refer to article 15 of CRC at Annex 11.

¹¹Please refer to article 14 of CRC at Annex 11.

¹²Please refer to article 31 of CRC at Annex 11.

¹³Please refer to article 13 of CRC at Annex 11.

¹⁴Please refer to article 12 of CRC at Annex 11.

Recommendations by the group include:

- a) To alter the mindset of parents, teachers and society, such as, to allow children to voice their opinions and to be non-judgmental;
- b) To create awareness and develop training programmes on rights of the child for all levels of society especially for teachers and parents;
- c) To better equip resource centres and schools, through its clubs and libraries with information on CRC. Such information should be included within the “*Maju Diri*” programme and other children’s programmes on television;
- d) To make reference to Syariah and civil principles in dealing with the issue of allowing children to express opinions which can be considered in Court;
- e) The media should be more responsible in reporting news about children in line with article 17 of the CRC;
- f) The Government should ensure that programmes through mass media are educational and non-violent;
- g) To develop policies and take steps to reduce the digital divide amongst urban and rural children;
- h) To appoint competent personnel to oversee the subject of Information Technology in schools;
- i). To provide more child and environmental friendly parks with better facilities especially in high density areas; and
- j) To provide more recreational/sports facilities and enhance the usage of sports facilities in schools.

Question and Answer session:

CHANGING MINDSET OF PARENTS

A participant urged adults to change their mindset and allow participation by children not only in schools but also in other places and as early as possible, for example, in Taska and childcare centres and at home. She also suggested that SUHAKAM look into the possibility of teaching CRC at home and in schools.

SIGN LANGUAGE AND COCKLEAR IMPLANTS

A participant raised the issue of Sign Language. She suggested that Sign Language be part of the school syllabus to allow participation of hearing impaired children. She also inquired on the appropriate time for cocklear implants for children.

The Moderator suggested that clubs be created in schools to teach Sign Language.

Another participant said that the implant should ideally be done before the child is 4 years old. However, the problem of financial constraints could prevent provision of implants to all hearing impaired children.

The Moderator informed the participants that currently, *Yayasan Penyayang* is working with *Universiti Teknologi Malaysia (Kuala Lumpur)*, on a community project to help hearing impaired children by finding sponsors to provide these implants.

PUBLIC FACILITIES

A participant advocated for public recreation facilities to be utilised by the community.

Another participant responded that the public facilities and utilities are always open to the public. However, many do not know how to go about utilising them. Moreover, the public, including children, should be trained to be more civic minded and not abuse the use of these facilities.

A participant from the *Dewan Bandaraya Kuala Lumpur (DBKL)* clarified that the community halls under local authorities are fully utilised for various activities, such as, badminton and netball. There are no restrictions in its usage and it is up to the people to use them properly.

SCHOOL POLICIES AND REGULATIONS ON PRACTISING RELIGION

There was a discussion on unclear policies and regulations in schools when students want to practise religions. For example, whether some schools allow students to go and perform their prayers, especially for the Muslims during school hours. There are also instances where schools make it compulsory for students to perform prayers. Thus, the issue of having the freedom to practise one's religion was debated.

A participant commented that we need to understand that schools are training grounds and that the students may be taught on practising religion. We have to look on the basis of teaching religion and using schools as a training ground. However, there must be a balance between their right to practise their religious requirements and also the action of schools in enforcing such rights. For instance, once a Muslim child reaches puberty, it is compulsory for him/her to perform prayers. The schools should allow these students to perform their prayers but at the same time, they should not be forced to do so.

Another participant shared the same view and stated that if a child wants to practise his/her religion, schools cannot stop them. On the other hand, schools should not impose on these children to practise their religions. There must be a balance between these two.

The Moderator added by saying that teachers ought to be sensitive to the different religions and their requirements. Thus, teacher training and curriculum should incorporate this sensitiveness and understanding of the diverse cultures and religions in Malaysia. Teachers ought to be sensitive to the different religions of the students and to respect this right to practise them. She also said that schools should have clear policies and regulations on the issue of practising one's religion and its requirements.

SENSITISATION OF DIFFERENT CULTURES

A participant from the Ministry of Education said that the Ministry has been working towards sensitising children on the different cultures and religions of Malaysians and the importance of respecting these differences by introducing a new subject called Civics and Citizenship in schools. This subject is a compulsory subject, very hands-on and commences from Standard 4 and continues until students reach Form 5. There is also group work for community projects. This subject will also allow the students to voice their opinions and to be involved in community development, in line with the spirit and intent of the CRC.

ACCESS TO INFORMATION

A participant touched on the issue of access to information. She said that computers in schools are not only underutilised, but there is also lack of information on how to access the right information.

A participant from the Ministry of National Unity and Social Development said that there is a programme on rural computerisation for the rural students. This programme, apart from providing access to information, also educates these students on how to use the information for good purposes.

REPLICATING THE DISCUSSION OF THE RTD ON CRC IN SCHOOLS

A participant who was impressed with the two young presenters from Group 4 asked them about replicating this discussion in their schools and presenting the suggestions to their schools and teachers.

Cik Marisha, one of the presenters answered in the affirmative and said that each representative in class will get together with the school prefects and discuss issues that relate to them. They (prefects) will then bring this up to the teachers.

The presentation of Group 4 is at Annex 7.

Group 5

Topic: Child Act 2001, other domestic laws and the CRC

Introduction

Group 5, led by Dato' Ranita Mohd. Hussein was given the task of looking into the domestic laws in Malaysia and the extent to which there is conformity with the CRC. There was time only to review certain laws and to consider the reservations to the CRC and the Optional Protocols to the CRC. This group consisted of 19 members from various backgrounds. The presentation was done by Encik Wan Ahmad Wan Ibrahim from the Prime Minister's Department.

Issues raised include:

- a) The definition and minimum age of a child/young person;
- b) Problems created by lacunae in local legislation;
- c) Conformity of the local legislation with the CRC;
- d) Reservations to the CRC by Malaysia;
- e) Optional Protocols to the CRC and whether Malaysia should become a party to them; and
- f) Treatment and welfare of child detainees.

Recommendations by the group include:

- a) To have a standard definition and cut-off age to denote a “child”;
- b) To standardise the terminology of usage of words denoting a “child”, “young persons”, “juveniles”, “infants” and others in all legislation to be consistent with the Child Act 2001;
- c) To provide for situations or cases where children detained and/or charged do not fall under the ambit of the Child Act 2001. For instance, when a child is charged with an adult, the Child Act 2001 does not apply to the said child;
- d) To include in the Child Act 2001, a provision similar to section 16(1) of the Women and Girls Protection Act 1973¹⁵ in relation to child prostitution;
- e) To review the Education Act 1996 to include and/or provide for:-
 - i. Equal opportunity to education for child offenders who are under remand;
 - ii. Allowing students who are arrested or child offenders to continue their education until their cases are settled. It is recommended that the police or prison department liaise with the Ministry of Education for such cases;
 - iii. Allowing a child without a birth certificate to attend school even before the application process is finalised;
- f) To provide free education at least at primary level for all children, in line with the CRC¹⁶;
- g) Reservations to the CRC:

The Government has made reservations in respect of eight articles of the CRC, namely, articles 1, 2, 7, 13, 14, 15, 28(1)(a) and 37. The Group’s comments are as follows:-

- i. Article 1 of the CRC¹⁷
Recommendation - to withdraw the reservation to this article.
Reason: Laws in Malaysia, such as, the Age of Majority Act 1971 and Child Act 2001 already acknowledge a child as being one below 18 years of age. However, there are still some discrepancies in our domestic law. There are different definitions of the word ‘child’ and also discrepancies on the cut-off age to denote a child in the legislation. It is recommended that there be only one definition of ‘child’ in the various laws, which is “a person below the age of 18”;
- ii. Article 2 of the CRC¹⁸
Recommendation – to review the reservation with a view to withdraw.
Reason: Basic principle of human rights – Children must be treated equally irrespective of race, religion, status, nationality, etc. This principle is embodied in Article 8(1) and 12(1) of the Federal Constitution. However, the probable concerns in Malaysia as to reservation are maybe due to the differences in religion, race and birth status between Muslims and Non-Muslims. Muslim children are governed by a different law in some cases (for examples, inheritance and custody cases) and there are certain implications and discrepancies between the Islamic law and the CRC which may also pose complications. Thus, a careful study of this article should be carried out;

¹⁷Please refer to article 1 of the CRC at annexure 11.

¹⁸Please refer to article 2 of the CRC at Annexure 11.

¹⁵Section 16 (1) of the Women and Girls’ Protection Act provides comprehensively on trafficking, prostitution and others.

¹⁶Please note that the recent amendment to the Education Act in 2002 provides for compulsory education only. See section 29A Education (Amendment) Act 2002.

- iii. Article 7 of the CRC¹⁹
 Recommendation - to withdraw the reservation to this article.
 Reason: Every child has a right to a nationality and name irrespective of race, religion, place of birth, etc. Nothing should prevent a child from being a documented person. Further, a child should be allowed to enjoy all rights of a documented person, such as, education and medicine;
- iv. Article 13 of the CRC²⁰
 Recommendation – to withdraw the reservation to this article.
 Reason: Article 10(1) of the Federal Constitution already provides for freedom of speech and expression subject to restrictions imposed by Parliament as is deemed necessary or expedient. Article 13 of the CRC is a reflection of and is consistent with Article 10(1) of the Federal Constitution;
- v. Article 14 of the CRC²¹
 Recommendation – to withdraw the reservation to this article.
 Reason: Article 14 of the CRC is reflected in Article 10 and Article 11 of the Federal Constitution;
- vi. Article 15 of the CRC²²
 Recommendation – to withdraw the reservation to this article.
 Reason: Article 15 of the CRC is reflected in Article 10(1)(b) of the Federal Constitution which gives the right to assemble peacefully and in article 10(1)(c) of the Federal Constitution to relating to the right to form association;
- vii. Article 28 (1) (a) of the CRC²³
 Recommendation – to review this reservation with a view to withdrawal.
 Reason: Amended Education Act 1996²⁴ now provides for compulsory education at primary level. However, the amendment only provides for compulsory education, not free. It is hoped that the Government will look into this issue and amend our domestic laws accordingly; and
- viii. Article 37 of the CRC²⁵
 Recommendation – to withdraw the reservation to this article.
 Reason: This is already reflected in Article 5 of the Federal Constitution on liberty of the person. It is hoped that the Government will amend the domestic law and abolish capital punishment and life imprisonment for children.
- h) Accession to the Optional Protocols to the CRC, viz:
 - i. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; and
 - ii. Optional Protocol on the Convention on the Rights of the Child on the involvement of children in armed conflicts. SUHAKAM has made recommendations urging the Government to adopt the above²⁶. The Government should study both the Optional Protocols and ratify them as soon as possible.

¹⁹Please refer to article 7 of the CRC at Annexure 11.

²⁰Please refer to article 13 of the CRC at Annexure 11.

²¹Please refer to article 14 of the CRC at Annexure 11.

²²Please refer to article 15 of the CRC at Annexure 11.

²³Please refer to article 28(1) (a) of the CRC at Annexure 11.

²⁴Education (Amendment) Act 2002.

²⁵Please refer to article 37 of the CRC at Annexure 11.

²⁶SUHAKAM's Annual Reports 2001, 2002 and 2003. These reports can be downloaded from SUHAKAM's website at www.suhakam.org.my.

- i) Other issues:-
- i. Training for Court Officers - Advisers, Magistrates and probation officers need further training to sensitise and prepare them for the rigours of the child justice system;
 - ii. Remand Centres – To provide more specialised remand centres for child offenders. Centres should be located closer to the Courts and special training programmes to deal with problematic children and offenders should be developed and implemented;
 - iii. Sex Offenders:-
 - To have a register of convicted sex offenders, when needed by potential employers;
 - To formulate guidelines on the publication of a list of habitual sex offenders and on how such data may be accessed; and
 - To develop regulations to vet people applying for employment in areas that cater for or deal with children.
 - iv. To recommend that the Government sets up a special fund for families of detained breadwinners that need immediate assistance and to develop guidelines for dissemination of such fund; and
 - v. To heighten awareness on the importance of the mental and emotional health of child offenders. Parents and guardians should be encouraged to seek counseling or other psychological support to facilitate the child's emotional recovery and the rehabilitation of child offenders.

Question and Answer session:

VOLUNTARY PROBATION SYSTEM

A participant suggested introducing voluntary probation officers into the system. In his view, there are many retirees with knowledge that can help out, citing Japan where there are very good voluntary probation officers.

BAIL BOND

A participant expressed concern about bail bond which are set too high for parents to afford. As a result, children are detained. They are, thus being punished even before the finding of guilt.

POSITIVE CHANGE BROUGHT BY THE CHILD ACT 2001

A participant touched on the issue of the implementation of the Child Act 2001 from a counselor's viewpoint. Her post as counselor in the (then) Ministry of National Unity and Social Development was created thanks to the Child Act 2001²⁷. In the past, there were only attempts to rehabilitate the children. Once they go back to their families and neighbourhood, they return to their original habits. Thus, the rationale behind the interactive workshops provided by the Ministry is to include parental involvement to

²⁷Please refer to s 93 of the Child Act 2001– interactive workshops.

understand better what both parties are going through and to find a solution that is workable so that these children will not go back to being delinquents. Parenting skills are also given in this workshop. However, this is only for parents with children who are delinquents and not for the other parents.

RATIONALE FOR THE RESERVATIONS TO THE CRC

A participant expressed her view that not all the reservations made by the Government in respect of the CRC were based on conflict between the articles and the Syariah law. She observed that the Government's stance is that until and unless domestic laws are in conformity with the CRC, Malaysia will maintain the reservations. She pointed out that despite maintaining a reservation on the article relating to compulsory education²⁸, Malaysia, already has about 98% of school attendance. Another participant agreed that the reservations to the CRC are based not only on Syariah but also on other reasons, such as, conflict with the Federal Constitution, for example, articles 2, 7, 13 and 14.

A participant suggested that the CRC be viewed as setting a global standard and in bigger context. The approach should not be to view the CRC as being inconsistent with local laws but to see it as the recommended standard. He wondered whether or not it can be implemented into local law.

The presentation of Group 5 is at Annex 8.

Group 6

Topic: Criminal Justice System and Procedures relating to Children

Introduction

The Moderator for Group 6, Cik Zainah Anwar and 23 members consisting of academicians, lawyers, Magistrates and Syariah Court Judges, amongst others, focused their discussion on the issues relating to the criminal procedure system relating to children and also Syariah law. Presenter for Group 6 was Dr. Farah Nini Dasuki of Universiti Islam Antarabangsa.

Issues raised include:

The Group looked at the procedures and issues arising from the pre-trial, trial, post-trial stages and the Syariah procedures and laws affecting children.

²⁸See article 28(1)(a) of the CRC

Recommendations by the group include:

- a) The criminal justice system or Court procedures (pre and post trial) involving children must be in conformity with Articles 37 and 40 of the CRC;
- b) To amend laws to expressly exclude children from penalties of life imprisonment or the death sentence;
- c) To provide for and clearly distinguish and clarify powers of the police during remand in the law or Practice Directions;
- d) To amend lock-up rules to prevent children from being detained with adult offenders²⁹ and to provide for basic needs of children, such as, access to legal advice and family visitations, clean clothes, reading materials and religious requirements;
- e) To ensure that children are not be incarcerated for a period of more than 3 months;
- f) To classify children whose parent(s) are detained or who are suspected of committing crimes together with their parents/guardian, as 'children in need of care and protection'³⁰, thereby entitling them to protection by the Protector or police officer³¹;
- g) To prohibit the use of handcuffs for cases involving child offenders;
- h) To discourage the police from bringing children to Court for minor offences and to resort to cautioning them instead;
- i) To re-employ retired Magistrates especially to serve in Courts for Children to ease the problem of shortage of staff;
- j) To study the need for adopting various provisions in the Child Act 2001 to cater for the special needs of children who come within Syariah enactments particularly provisions pertaining to child offenders and/or victims in need of rehabilitation and/or protection;
- k) To study the issue of whipping for child offenders with the aim of abolishing it altogether;
- l) To amend the Evidence Act 1950 to allow child witnesses to give evidence via video conferencing. The aim is to lessen their intimidation caused by unfamiliar surroundings and the accused person, for example, in sexual abuse cases³²;
- m) To use imprisonment only as a last resort for child offenders. In this regard, research should be carried out to study the various means of effective sentencing policies involving children³³; and
- n) To upgrade probation services in terms of increasing the number and training of personnel. Custodial sentences and references to reform schools should be reduced.

Question and Answer session:

DELAY IN DISPOSING CASES

On the issue of delay in disposing cases and the remark that there are insufficient Courts in every State, a participant observed that though the number of cases is very high, every State has many districts and only one Court per State. However, setting up a Court for every district is not financially viable.

²⁹Please refer to section 85 of the Child Act 2001 which specifically provides that a child must be separated from adult in police stations or Courts.

³⁰Please refer to section 17 of the Child Act 2001.

³¹Please refer to section 18 of the Child Act 2001.

³²Siri Undang-undang Mimi Kamariah – Akta Kanak-kanak 2001, published by Universiti Malaya in 2002. Edited by Siti Zaharah Jamaluddin, Norchaya Talib and Jal Zabdi Mohd Yusoff.

³³Please see the SUHAKAM's submission to the Parliamentary Select Committee. This can be downloaded from SUHAKAM's website at www.suhakam.org.my

The Presenter stated although it is not viable to establish a Court in every district, what the group was recommending was for a serious effort to be undertaken to implement the provisions at Part IV of the Child Act 2001³⁴. If the Magistrate cannot sit to hear cases relating to children every day, then it is suggested that the Magistrate do it on a weekday and try to alleviate the problem of long period of delay in settling cases. For instance, some Courts sit on Saturdays to hear cases relating to children and this causes delays in settling the cases since not only civil servants work only half day on Saturdays, they also work alternate Saturdays only.

The Moderator added a suggestion to help in solving the problem of delay by saying that maybe Judges can start the day with cases regarding children, that is, to give priority to children cases.

COURT FOR CHILDREN

A participant suggested using the California system in dealing with juvenile delinquents. In this system there is a board consisting of a child expert, the Prosecutor and the Judge. What is important to note is that the proceeding is done in an informal atmosphere. He also asked about the possibility of including the Court for Children in the Family Court.

A participant, who is a Judge in the Sessions Court, commended the Californian System. He explained that the Family Court deals with family matters only and it has nothing to do with child offenders. His view was that the Court for Children should be segregated from the other Court system and be given priority.

The Presenter said that they took into account the South African system where the Courts there are more child-friendly to reduce the fright of child offenders and that these Courts will not affect the justice system. Thus, she advocated for Malaysia to look into the idea of making our Courts more child-friendly, in line with the CRC.

The Presenter and another participant supported the recommendation for a child-friendly and less intimidating environment in the Court for Children.

SYARIAH MATTERS CONCERNING CHILDREN

A participant pointed out the unfair treatment in Syariah Courts by giving the example of “khalwat” (close proximity) case in Kedah where the girl was sent to an institution but the boy was set free! It was suggested that there should be courses for Syariah Judges and other officers on appropriate ways in dealing with these cases.

ESTABLISHMENT OF FAMILY COURTS

The Moderator informed the participants that the women NGOs have sent a proposal for the establishment of Family Courts for Civil and Syariah Courts, and would like an answer from the Attorney General’s Chambers (AG’s Chambers) on the status of this proposal.

³⁴Please see Part IV of the Child Act 2001 which provides for Court for Children.

An AG's Chambers representative responded that there was a paper from the (then) Ministry for Women and Family Development about the establishment of the Family Court but she was not sure whether this had been passed back to the Ministry for further comments. She assured the participants that the officers of the AG's Chambers have discussed this paper.

LACK OF CONSULTATION IN PASSING OF BILLS IN PARLIAMENT

The Moderator lamented the lack of consultation when the Child Act 2001 was passed. Before an Act is passed, there should be consultation and debate in Parliament and that the Government must open up this process of law making to involve the interested public.

To this, the representative from the AG's Chambers said that NGOs and other bodies do get invitations from time to time. To her knowledge, the late Professor Mimi Kamariah of Universiti Malaya was invited to be a consultant in the Child Bill 2001 and that the Act was passed after some consultations.

The Presenter clarified that what the group was advocating was for more transparency in passing of any Act. She said that in most cases by the time a law is passed it will be too late for participation of the general public. She said that the existing procedures must be more people-friendly and allow for more community involvement before passing of any Bill.

TRAINING OF COURT OFFICERS IN HUMAN RIGHTS

The Moderator commented on the need for sensitising of Judges, training Judges on emerging issues, human rights issues and many others. It is timely for Malaysia to look into this lack of continuous training for Judges and lawyers. She illustrated that in Britain, every lawyer has to undergo 17 hours of legal training and that in Thailand and Philippines, they have continuous training for Judges.

The presentation by Group 6 is at Annex 9.

Group discussions lasted until the afternoon with all the group members participating vigorously. Each group had to present issues that were focused on and the recommendations to the Secretariat who then had to sum up the recommendations for adoption.

SUHAKAM's Recommendations

After reviewing the recommendations and discussions above, SUHAKAM would like to recommend the following:

1. Right to: SURVIVAL

a) Housing Policy

In its Report on Accessibility to Basic Needs³⁵, the development of a comprehensive National Housing Policy by the Government was advocated. It was opined that houses in the cities that are available currently are not adequate for big families and are not maintained well. Although there is no definite relation between inadequate housing to the increase in social ills, it is believed that it could be a factor. SUHAKAM therefore, would like to re-iterate its recommendations for a comprehensive National Housing Policy and that this policy should be developed as soon as possible;

b) Indigenous people/children

"Jabatan Hal Ehwal Orang Asli" is the primary agency responsible for the protection of rights and also for the development of the indigenous people. However, there have been allegations of corruption and lack of implementation of policies and programmes that may cause problems. It is time for the Government to take stock of what is happening and to take some affirmative action, in line with the policy of good governance that is being promoted currently³⁶;

c) Effective implementation of the National Plan of Action for Children

The National Plan of Action for Children (2001-2020) covers many of the issues and recommendations discussed in the RTD. For example, on the issue of lack of parenting skills, the Ministry of Women, Family and Community Development, through its Agency, the "Lembaga Penduduk dan Pembangunan Keluarga Negara" has developed some programmes to address this problem, such as, the parents and infants module and the module on development of adolescents. It is suggested that the Ministry of Women, Family and Community Development invite NGOs and SUHAKAM to be involved in the Monitoring Committee to look into the effective implementation of the National Plan of Action for Children; and

d) Accessibility to medical care

It is noted that medicine and healthcare are only for citizens of Malaysia and children with identity papers (documented children). Although public hospitals provide treatment to undocumented children, they will usually report such children to the relevant government authorities for further action. As such, the undocumented children are reluctant to seek treatment, for fear of being detained or deported. The Government is urged to look into this grey area of "non-accessibility" to health care of undocumented children since it is a growing concern;

³⁵Report on Accessibility to Basic Needs (A Report of SUHAKAM's Seminar on Economic Social and Cultural Rights). Please refer to www.suhakam.org.my.

³⁶Please also refer to SUHAKAM's Report on "Hak Asasi Orang Asal". It can be downloaded from SUHAKAM's website at www.suhakam.org.my.

2. Right to: DEVELOPMENT

a) Right to education for children in detention

Article 40(4) of the CRC states that, “a variety of dispositions”, such as, care, guidance, supervision orders, counseling, probation, foster care, education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence. Not sending them to school and/or not providing for rehabilitative or alternative care is a violation of the CRC. Moreover, article 28 of the CRC provides children’s right to education and although this article is reserved by Malaysia, efforts have been made to ensure compliance with this article. Thus, it is suggested that the Government develop policies to ensure that children in detention are ensured their rights to education even during their period of detention since education will give them a chance to reform and become good members of the society;

b) Aims of education

Article 29(1)(a) CRC states that one of the aims of education is to develop the child’s personality, talents and mental and physical abilities to their fullest potential. Thus, by allowing students to stay back in school and allowing them to use the school facilities, the children will be able to develop their skills, not only in academic but also in other fields. It is suggested for schools to regulate on students staying back after school hours and using the facilities;

c) Children with disabilities

Malaysia is a signatory of the Proclamation on the Full Participation and Equality of People with Disabilities in the Asia Pacific Region in 1994. The effect of this is that Malaysia has to develop effective new policy initiatives and actions at national, sub-regional and regional levels aimed at systematically improving the conditions of people with disabilities³⁷. Furthermore, the National Plan of Action for Children provides extensively on the issues of children with disabilities. There are several special education programmes to cater for the different disabilities of students as follows:

- i. Education programme for the blind- this programme uses the Braille system and that until June 1999, there are 15 primary schools and 11 secondary schools the offer this programme;
- ii. Education programme for the hearing impaired- this programme uses the hearing aids and Sign Language method. There are 28 primary schools and 18 secondary schools that offer this programme;
- iii. Mixed Education Programme- this programme allows the hearing impaired and the blind students to be in special classes in a normal school. There are 205 schools that offer this programme as at June 1999; and
- iv. Inclusive Education Programme- this programme facilitates the disabled students to be in the same class as other students in the classes with a teacher and a teacher’s aid who specialises in educating the disabled. Until June 1999, there were 59 schools that offer this programme in Malaysia.

³⁷Please refer to article 6 of the said Proclamation.

Apart from the disabled, students with special problems, such as, the dyslexic and mentally challenged children are also taken into account. The most pressing challenge is to ensure that these programmes and policies are efficiently implemented within the constraints of limited resources. Training of teachers is also important to ensure that educators realise the rights of children with disabilities and also children with learning problems and to help them accordingly. Thus, the Government is urged to re-examine these programmes and evaluate the effectiveness of the implementation of them. This is to ensure that children with disabilities will be accorded their rights; and

d) Compulsory and free education

The recent amendment to the Education Act in 2002³⁸ provides for compulsory primary education. By virtue of this, enforcement must ensure that it is an offence for parents who are unable to send their children to school. In this regard, the Government must ensure that assistance is provided to parents who are unable to send their children to school for specific reasons. The provision of free education at least at primary level for all children should also be considered;

3. Right to: PROTECTION

a) Community Support System

SUHAKAM recommends that interested bodies and NGOs develop adequate community support system as suggested in the National Plan of Action for Children calling for the establishment of a National Coordinator of Foster Families to encourage foster care and community involvement in the protection of children without families. Hence, there should be an effective translation and implementation of the suggestions into laws, policies and action;

b) Right to Name and Identity

Article 7 of the CRC provides for the right of nationality and name of every child from birth. There must be a mandatory system to cater for immediate registration of all children; and

c) Research on Children with Problems

Systematic research and documentation of children with problems should be developed and carried out to better understand the causes of the problems as well as to study the needs and care for such children. These studies can be conducted in high density areas and areas where statistics of crime among youths are high;

³⁸Section 29A of Education (Amendment) Act 2002 states that, (1) The Minister may, by order published in the Gazette, prescribe primary education to be compulsory education, (2) Every parent who is a Malaysian citizen residing in Malaysia shall ensure that if his child has attained the age of six years on the first day of January of the current school year that child is enrolled as a pupil in a primary school in that year and remains a pupil in a primary school for the duration of the compulsory education. (3) The Minister may, if he considers it desirable and in the interest of the pupils or the public to do so, by order published in the Gazette, exempt any pupil or any class of pupils from the requirement to attend compulsory education, either absolutely or subject to such conditions as he may think fit to impose, and may at any time in his discretion revoke the exemption or revoke or alter or add to such conditions.

4. Right to: PARTICIPATION

a) Dissemination of CRC

At the moment, SUHAKAM, as part of its function to educate the public about their rights, has developed a programme called, Training of Trainers. Under this programme, SUHAKAM's personnel and external consultants train the teachers, educators and other relevant participants on the CRC. The intention is that these Trainers will take the lead to train teachers and educators on the rights of children in their localities. Apart from that, other programmes have been developed to raise awareness on human rights for children, for example, an annual colouring/painting competition and poster and essay competitions. It is suggested that the Government develop policies to implement dissemination of CRC in schools;

b) Access to Appropriate Media Information

Teachers and parents ought to take the responsibility to monitor the information accessed by children under their care. Children must also be taught on their responsibility in assessing appropriate or suitable information from computers and other forms of media. Internet cafes' operators should also be more responsible in allowing youngsters to use the Internet in their premises; and

c) Schools as Information Communication Technology (ICT) points

SUHAKAM reiterates its recommendation in its Report on the Seminar on Accessibility to Basic Needs organised by the Economic, Social and Cultural Working Group on 31 July 2003 for schools to be used as ICT points for the community in rural areas³⁹.

5. Child Act 2001, other domestic laws and the CRC

a) Amendment to the Education Act 1996

The recent amendment to the Education Act 1996 in 2002 provides in section 29A⁴⁰ for compulsory primary education. This is a commendable move by the Government, in line with the CRC⁴¹. The same section also makes it an offence for parents who contravene the section. In this regard, the Government must ensure that assistance is provided for parents who cannot afford to send their children to school. Parents who cannot afford education for their children should

³⁹Please refer to SUHAKAM's Report of the Seminar on Accessibility to Basic Needs at page 43. This report can be found at www.suhakam.org.my

⁴⁰Section 29A of Education (Amendment) Act 2002 states that, (1) The Minister may, by order published in the Gazette, prescribe primary education to be compulsory education.

(2) Every parent who is a Malaysian citizen residing in Malaysia shall ensure that if his child has attained the age of six years on the first day of January of the current school year that child is enrolled as a pupil in a primary school in that year and remains a pupil in a primary school for the duration of the compulsory education. (3) The Minister may, if he considers it desirable and in the interest of the pupils or the public to do so, by order published in the Gazette, exempt any pupil or any class of pupils from the requirement to attend compulsory education, either absolutely or subject to such conditions as he may think fit to impose, and may at any time in his discretion revoke the exemption or revoke or alter or add to such conditions.

(4) A parent who contravenes subsection (2) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding six months or to both. (5) The Minister may make regulations for the carrying into effect of the provisions of this section."

⁴¹Please see article 28 of the CRC on right to education.

not be taken to prison because this will further burden the family. Another issue that merits consideration is to provide for free education for all children, at least at the primary level. It is suggested for the Government study the possibility of providing free education at primary level as an initial step. SUHAKAM will conduct a study on the issue of free and compulsory education soon;

b) Rehabilitation Programmes

In its Report on “Hak-hak Asasi Banduan Muda” released in 2001, SUHAKAM suggested for a more comprehensive rehabilitation programmes to be offered by Prison Department and other institutions to rehabilitate young detainees in preparation to rejoin the society⁴². SUHAKAM would like to reiterate its recommendation for the Government’s consideration;

c) Voluntary probation officers

SUHAKAM supports the idea of and recommends the creation of Voluntary Probation Officers to foster greater involvement in the management of criminal justice, prevention of crime and rehabilitation of offenders. This is in line with the Tokyo Rules (United Nations Standard Minimum Rules for Non-custodial Measures)⁴³ and is also provided in the National Plan of Action for Children;

d) Bail bonds

SUHAKAM notes that the consequence of bail being set too high which is inconsistent with the fundamental aims of the Tokyo Rules (United Nations Standard Minimum Rules for Non-custodial Measures)⁴⁴. Therefore, measures must be taken to ensure that bails are not set above the affordability of parents of child offenders;

e) Malaysia’s Country Report on CRC to the United Nations Committee on the Rights of the Child:

SUHAKAM urges the Government to take urgent action to finalise Malaysia’s Country Report on CRC for submission to the United Nations Committee on the Rights of the Child, to study the reservations and to take affirmative actions based on the findings of SUHAKAM’s study on the reservations. It is a matter of grave concern that the government has not finalised the Country Report;

f) Setting up a Task Force:

SUHAKAM recommends that the Government sets up a task force to study domestic laws, policies and regulations are consistent with obligations under the CRC; and

g) Effective Implementation of the National Plan of Action for Children:

SUHAKAM urges the Ministry of Women, Family and Community Development to involve NGOs, SUHAKAM, civil society and experts in the monitoring and evaluation of the implementation of the National Plan of Action for Children to study its effectiveness and impact on children.

⁴²Laporan SUHAKAM : Bengkel Hak hak Asasi Banduan Muda, 20 November 2001”.

⁴³Article 1.2 states that, “The Rules are intended to promote greater community involvement in the management of criminal justice, specially in the treatment of offenders, as well as to promote among offenders a sense of responsibility towards society”.

⁴⁴The present Standard Minimum Rules for Non-custodial Measures (Tokyo Rules) provides a set of basic principles to promote the use of non-custodial measures, as well as minimum safeguards for persons subject to alternatives to imprisonment.

6. Criminal Justice System and Procedures relating to Children

a) Condition of children in detention

SUHAKAM notes that the condition of children in detention can be improved and that there are instances of abuse and infringement of rights. In its report on “Hak-hak Asasi Banduan Muda” in November 2001, SUHAKAM has highlighted concerns similar to the concerns raised in this discussion. SUHAKAM has also outlined some proposals for reform⁴⁵. It is hoped that the Government will re-consider the recommendations advocated in that report;

b) Prioritising Children’s Cases in Courts

SUHAKAM recommends a Court circular be issued requiring cases involving children be prioritised and for speedy disposal of the cases;

c) In-service Continuous Training for Court Officers:

Emerging issues and changes in the society must be taken into account by Judges and Court officers when making decisions. SUHAKAM recommends that a comprehensive and continuous in-service training programme for Judges and other Court Officers be developed, not only to incorporate human rights considerations in line with international standards in decision making but also to facilitate their keeping abreast of emerging issues and laws;

d) Allegations of abuse and unfairness in Syariah Courts

SUHAKAM would like to urge the Government to look into the issues and allegations of disparity and unfairness of decisions and lack of professionalism among the Syariah Court Officers. Since we have separate Court systems for the Civil and Syariah laws, the relevant bodies are urged to take action in ensuring that the principles of fairness and non-discrimination are adhered to in both Court systems;

e) Public Consultation

SUHAKAM notes the recent invitation by the Select Committee of the Penal Code (Amendment) Bill 2004 and Criminal Procedure Code (Amendment) Bill 2004 for the general public to give views before passing of the Bills. There was also the invitation by the Ministry of Women, Family and Community Development in the consultation of the draft Persons with Disabilities Bill whereby several NGOs and relevant bodies were invited to comment on this draft Bill. These are commendable moves and it is hoped that this practice of involving the public will continue in the future; and

f) Task Force

SUHAKAM recommends that the Government sets up a task force consisting of relevant Government agencies, NGOs, academicians and experts to study the Syariah laws and practise to ensure compliance with CRC and the Child Act 2001.

⁴⁵Please refer to the Report by SUHAKAM. This report can be downloaded from SUHAKAM website at www.suhakam.org.my.

Conclusion

The recommendations arising from this report are just initial steps in ensuring that the rights of children are recognised, promoted and protected by all levels of society. It is our fervent hope that this report will be utilised in drafting the Country Report to the United Nations Committee on the Rights of the Child and also as a guideline for the Government and other bodies to take appropriate actions. It is of the greatest importance for us to acknowledge that everyone, have equal roles to play in the protection of children. It must also be acknowledged that children are our future leaders and that their rights must be one of the main agendas for Malaysia.

Acknowledgements

SUHAKAM would like to convey its heartfelt thanks and appreciation for the full commitment and support given by all the Committee members in organizing the RTD on CRC. They are: Puan Zaison Hussain from the (then) Ministry of National Unity and Social Development, Mrs. Amy Bala and Mrs. Teoh Kim Lan from the Department of Social Welfare, Mrs. Sharifah Zuriah Al-Jefri from Sisters in Islam, Ms. Shahida Musa of Malaysian Association for the Protection of Children (MAPC), Mrs. Wong Puoi Hong from the Persatuan Pengasuh Berdaftar Malaysia, Ms. Diana Low and Ms. Madeline Yong from P.S. The Children and the members of SUHAKAM. Special thanks to Y. B. Dato' S. Veerasingham and Dr. Gaye Phillips for their speeches. Not to mention the hardworking and committed Moderators, Rapporteurs and Presenters: Datuk Dr. Raj Abdul Karim, Dato' Asiah Abu Samah, Dato' Ranita Mohd. Hussein, Dato' K. C. Vohrah, Professor Dato' Dr. Mohd Sham Kassim, Dr. Chiam Heng Keng and Cik Zainah Anwar, Dr. Kamarul Azahar Mohd Razali, Dr. Zaiton Hamin, Encik Wan Ahmad Wan Ibrahim, Puan Ayinalin Mohd Annuar, Ms. Diana Low, Mrs. Lena Yeoh, Miss Sarah Chen, Miss Marisha Naz and Encik Daniel Abdul Rahman. Special thanks also to the staff of SUHAKAM who worked very hard to make this event a successful one.

OPENING REMARKS

Yang Berhormat Dato' Dr. Siti Zaharah Sulaiman, Minister of National Unity and Social Development, distinguished guests, ladies and gentlemen. I bid you a very good morning and welcome to SUHAKAM's Round Table Discussion on the Convention on the Rights of the Child.

Ladies and Gentlemen,

As I stand here and address you, it is indeed gratifying to see the encouraging turnout and the participation of children at this Round Table Discussion. This is indeed an indication of our commitment to the promotion and protection of children's rights.

While this may be the first Round Table Discussion on the Convention on the Rights of the Child, or the CRC, children's rights have been on SUHAKAM's agenda as early as year 2002. The Education Working Group of SUHAKAM has worked in the advocacy of the rights of the child through programmes, such as, the 'Training of Trainers', 'CRC Awareness' workshops and the 'Message Competition'. As continued commitment to children's rights, the Law Reform and International Treaties Working Group which is entrusted with the mandate to recommend to the Government with regard to the subscription or accession of treaties in the field of human rights and to advise and assist the Government in formulating legislation and to recommend the necessary measures to be taken, considered that a Round Table Discussion on the CRC as timely. It was felt that a Round Table Discussion would serve as a platform to discuss and analyse the CRC and its implications domestically. In addition, it is SUHAKAM's fervent hope that this Round Table Discussion would facilitate and contribute to Malaysia's report to the UN Committee on the Rights of the Child.

Ladies and Gentlemen,

The CRC provides a fundamental benchmark for children's rights. While international affirmation on the rights of children began as early as 1924 when the League of Nations adopted the first declaration on the rights of the child¹, it was not until the adoption of the CRC in 1990² that children's rights were recognised as human rights³. It is upon this framework of human rights that child-related goals are based⁴. The CRC is the most widely and rapidly ratified human rights instrument⁵. To date, all member states of the UN have ratified the CRC save for Somalia and the United States⁶.

Ladies and Gentlemen,

In tandem with the adoption of the CRC in 1990 was the World Summit for Children. The outcome of the World Summit for Children was the World Declaration on the Survival, Development and Protection of Children and Plan of Action for Implementing the Declaration. The World Declaration and Plan of Action set out specific goals relating to

¹History and workings of the UN Convention, <http://www.unicef.org.uk/aboutunicef/issues/rioghts5.htm>.

²The UN General Assembly adopted the CRC on 20 November 1989.

³We the Children, *loc. cit.*, *infra*, see n. 11.

⁴We the Children, *loc. cit.*, *infra*, see n. 11.

⁵<http://www.unicef.org/crc/faq.htm>

⁶<http://www.unicef.org/crc/faq.htm>

children's survival, health, nutrition, education and protection and a progression of actions and a timeline for its achievements⁷. This commitment was significant not only because it was attended by the largest group of world leaders but also the heightened pledge of placing the "best interests of children first – in good times and bad, whether in peace or in war, in prosperity or economic distress"⁸.

The dawn of the new millennium brought about two significant developments to children's rights. The first being the end-decade review of progress for children, carried out to ascertain the achievements of the World Declaration and Plan of Action. The National Plan of Action⁹ 2001 - 2020 spearheaded by the Ministry of National Unity and Social Development is, I believe, carried out, pursuant to this end-decade review. The second was the adoption of the Millennium Development Goals. The Millennium Development Goals sets out the promise to ensure access to primary education by both boys and girls, eliminate gender disparities in primary and secondary education and to reduce by two-thirds the mortality rate among children under 5, all by the target year of 2015¹⁰.

Following from this, in 2002, at the Special Session of the UN General Assembly on Children, once again governments all over the world committed their governments to another set of time-bound goals for children and young persons. The Declaration and Plan of Action – A World Fit for Children articulates the objectives of "promoting healthy lives, providing quality education, protecting against abuse, exploitation and violence and combating HIV/AIDS"¹¹.

Ladies and Gentlemen,

With the plans of action adopted since the World Summit on Children in 1990 up till the first anniversary report on the follow-up to the end-decade review last year, it is increasingly evident that time-bound goals and targets have proved effective in the advancement of children's rights¹². However, although the plans of action brought about improvements in terms of increased immunization and enrolment in schools, much remains to be done¹³. The majority of the approximately 31 million refugees and displaced persons worldwide are children, 50 to 60 million children between the ages of 5 and 11 work in hazardous circumstances, more than 2 million children have been killed and more than 6 million have been injured or disabled in armed conflicts, more than 4.3 million children under the age of 15 have been killed by AIDS and 30% of children under 5 suffer from severe or moderate malnutrition¹⁴.

⁷Global Movement for Children, loc. cit, infra, see n. 15.

⁸We the Children, loc. cit., infra, see n. 11.

⁹We the Children: End-decade review of the follow-up to the World Summit for Children, *UN GA Twenty-seventh special session*, 4 May 2001

¹⁰UNDP Millennium Development Goals, <http://www.undp.org/mdg/>

¹¹A World Fit for Children, UN General Assembly Resolution S-27/2, <http://www.unicef.org>; The UN Special Session on Children, A First Anniversary Report on Follow-up, <http://www.unicef.org>

¹²We the Children, loc. cit., supra see n. 11.

¹³We the Children, loc. cit., supra see n. 11.

¹⁴Global Movement for Children, Special Session on Children, <http://www.unicef.org/gmfc/specialsession.htm>

Ladies and Gentlemen,

Bearing in mind the initiatives and the challenges that lie ahead, this Round Table Discussion is aimed at strengthening and addressing issues pertaining to children's rights in Malaysia. Four broad categories of rights namely, survival, development, protection and participation¹⁵ including two additional areas, will be discussed within the Malaysian context. The six key areas to be analysed are:

- i. A child's right to life, with particular attention to a clean and healthy environment and children with HIV/AIDS;
- ii. Right to development which includes education;
- iii. A child's right to participation;
- iv. A child's right to protection;
- v. The Child Act 2001 and other domestic legislation, the reservations to the CRC and the two Optional Protocols; and
- vi. The criminal justice system for children in Malaysia, with particular attention to Syariah Law.

In each focus area, it is hoped that priority areas be identified with recommendations to address each area of concern. At the conclusion of this Round Table Discussion, a set of recommendations will be agreed upon and adopted, representing our renewed promise to build a world fit for children. It is recognised that while these may be the law as it stands now, it is hoped that the set of recommendations will provide an impetus to the review of the law and policies.

Ladies and Gentlemen,

In concluding, let us be reminded that the obligation to ensure a world fit for children falls not only on the Government but upon each of us as members of the human family. Our children are our common future and should be afforded the necessary protection and assistance¹⁶. It is our responsibility to ensure that every child is brought up in an environment where freedom, justice and peace flourish and where the best interest of the child is the primary consideration.

Thank you.

¹⁵<http://www.unicef.org.uk/aboutunicef/issues/rights3.htm>

¹⁶Preamble to the CRC.

**KEYNOTE ADDRESS
RTD ON CRC**

The Honourable Chairperson, Dato' Ranita Mohd Hussein, Tan Sri-Tan Sri, Datuk-Datuk and distinguished guests, ladies and gentlemen,

Assalamualaikum warah matullah hiwabarokatuh and salam sejahtera.

It is an honour for me to be invited to officiate this Roundtable Discussion organized by SUHAKAM today. I would like to thank and commend SUHAKAM for taking this initiative as the issue of women and children have been at the forefront of everyone, especially in the Ministry of National Unity and Social Development, being the entrusted Ministry to implement the Convention on the Rights of the Child in Malaysia.

Ladies and gentlemen,

The United Nations has adopted the Convention on the Rights of the Child (or better known as the CRC) on the 20 November 1989. Malaysia has become a member to the CRC since February 1995. Acknowledging the importance of the rights accorded to children, Malaysia decided to become a party to the CRC with eight reservations, that is, Articles 1,2,7,13,14,15,28(1) and 37. The reservations remain to this date. We welcome cooperation from all bodies, for example, SUHAKAM and the NGOs in facilitating the Ministry to withdraw the said reservations and also to implement the CRC in Malaysia.

As the Ministry responsible for the implementation of the CRC in Malaysia, we have developed 2 National Action Plans for children. The Ministry have also developed the Child Act 2001 to encompass the CRC, amongst others. The Ministry has also been in consultation with other relevant ministries and the Non Government Organisations (NGOs) in developing both the Action Plans and the Child Act. The Ministry encourages discussions, such as, the one organized by SUHAKAM and also others to facilitate the Ministry in developing the said Plans, the Act and also in drafting reports and in our endeavor to withdraw the reservations to the CRC. We acknowledge that there are challenges and problems in implementing the CRC in Malaysia because of the diverse culture, ethnic and religions and this situation may be different compared to other countries in the world. The implementation of the new Child Act 2001 is also facing some teething problems as it is still quite new. These areas and issues of concern can be taken up during the discussion that will go on for this one and a half day Roundtable Discussion. SUHAKAM's action in organizing the RTD and inviting the participation of the relevant Government agencies and NGOs is commendable as it functions as a platform for all concerned to look further into issues relating to children and their rights. I hope that this discussion will provide input and will be able to facilitate us in our effort to protect the rights of children in our country.

Ladies and gentlemen,

As the guardian of the CRC, it is part of the Ministry's duty to draft the country report to be forwarded to the United Nation. This Roundtable Discussion can also be used to discuss the challenges and the ways to facilitate the Ministry to draft the Country reports to be submitted to the United Nation.

Ladies and Gentlemen,

I have briefly mentioned that we have developed 2 National Plan of Action for Children. This Plan of Action is the main responsibility of the Welfare Department. The first Plan of Action was from 1990 – 2000 entitled, 'Caring for the Children of Malaysia'. The Second National Plan of Action is from year 2001 to 2020. This Plan of action is the product of a workshop and forum that were participated by Government Agency representatives, the NGOs and children themselves. Another workshop was held afterwards on the preparation of the Plan of Action for Children 2001 – 2020 which was held in December 2000. Amongst the things taken into account in drafting this Plan of Action are the issues discussed in previous workshops, the CRC and the Vision 2020 of the Government, outlined the scopes and objectives to the Plan. Several elements of life have been concentrated on, viz:-

- a) the decrease in mortality rate of infants and children;
- b) the decrease in mortality rate of mothers in childbirth;
- c) the decrease in malnutrition amongst children 5 years and below;
- d) the accessibility to clean water and sanitation;
- e) the accessibility to basic education and facilities for at least 99.3% of children at the primary school level;
- f) the increase in literacy up to 50% for adults especially for women;
- g) the increase in child protection through registration of disabled children, reports of abused children cases; and
- h) to increase health and education of women and overall health and well being of children.

Study by the Welfare Department shows that Malaysia has achieved 11 out of the 13 objectives outlined by the United Nations. The two remaining objectives are the iodine level and Children with deficiency in Vitamin A which cannot be determined and these are largely problems in East Malaysia.

The second Plan of Action on Children is concentrating on increasing the standard of living of children in all aspects of life. Some areas of particular attention by the Plan are:

- a) to broaden the existing programmes;
- b) to develop more protection programme;
- c) to enhance development and participation of children; and
- d) to address new issues for examples, disabled children, children and multimedia and parental education.

Ladies and gentlemen,

Looking at the overall situation of children in Malaysia, particular attention was paid to health, food, malnutrition, early child education and development. Role of women is also involved as it relates directly to the development of children and issues relating to education, entry into the job market, role as wife and mother in family, safe childbirth, childcare, rights and family planning.

The Second Plan of action also lays down the strategies that will and are being implemented to promote and protect the rights of children in Malaysia and also to implement the Plan of Action. All relevant bodies will meet 4 times a year to evaluate the implementation of the Plan. It can be said that the overall rights of children in Malaysia have improved over the years.

Be that as it may, although the overall rights of children in Malaysia is improving, we must not sit on our laurels and I am reiterating again that the Ministry and other relevant bodies are working hard towards achieving the successful implementation of the CRC in Malaysia.

Ladies and gentlemen,

At the Ministry we welcome efforts, help and positive criticism to facilitate us in promoting and protecting the rights of the child.

I do believe that this roundtable discussion will be a success if all parties will sit together and analyse the CRC and the challenges we face today. These analysis will be a basis for us to work towards the solutions to better the promotion and protection of children in Malaysia. Once again I would like to thank SUHAKAM for its effort in organizing such an event and it is hoped that more cooperation can be enhanced between the government agencies and the NGOs to protect the basic rights of human, and not only children.

With that, it is my utmost pleasure to officiate this auspicious event and hope that this discussion will bear fruits and encourage further cooperation between the government and the NGOs towards protection of human rights.

Thank you.

**Roundtable Discussion - UN Convention on the Rights of the Child
19 & 20 January 2004
Pan Pacific Hotel Kuala Lumpur**

A Comparative Study on the Implementation of the Convention on the Rights of the Child - the UNICEF Experience.

**Ms Gaye Phillips
Representative, UNICEF Malaysia**

Opening:

Yang Berhormat Dato' Dr Siti Zaharah, the Honourable Minister of National Unity and Social Development,

Yang Berbahagia Dato' Ranita Mohd Hussein, Co-Chairperson Suhakam,

Distinguished delegates,

Ladies and Gentlemen,

Introduction:

Thank you for this invitation to address your roundtable. I am very humbled by your confidence in me given my very short stay, so far, in Malaysia. I hope your confidence is not misplaced. My presentation will not comment on Malaysia. The assembled delegates in this room are the experts from whom I have much to learn in relation to Malaysia and its children.

My comments will, necessarily, be broad and general. At best I can set a scene for your further dialogue during this roundtable. If time permits I can draw a little on my personal experience from my country, Australia, in relation to the CRC, its implementation, reporting and benefits for children. I will try to give some examples from our East Asia and Pacific region.

Background:

In May 2002, in advance of the UN General Assembly's Special Session on Children, a meeting was held in NY of the representatives of independent children's rights commissioners or ombudsmen with legal authority to promote, protect and monitor children's rights from some thirty countries around the world. In assessing the progress that had been achieved in the twelve and a half years since the Assembly's adoption of the CRC, the commissioner and ombudsmen proclaimed:

"We cannot tolerate another decade of non-compliance with the CRC. After decades of international standards setting activities and ratifying human rights treaties, States must focus on their full implementation. Having rights on paper means little or nothing when they are not known about or cannot be enforced. We can and must do better."

A year later in May 2003, a UNICEF report entitled "A Future for All Our Children" concluded that while "the countries of East Asia and the Pacific have taken enormous strides in recent years, especially in terms of economic growth and democracy, the harsh reality remains that too many countries in this region continue to fail their children". The situation in other regions of the world is not very different. Commissioners also reiterated that the principle of accountability is central to efforts to achieve widespread respect for human rights.

It is not difficult to find superlatives to describe the achievements of the CRC. It is the most widely ratified treaty in history, the first virtually universal human rights convention, it is the most far reaching, the most forward looking, the most comprehensive, it is the embodiment of a whole new vision for children, and a document with potential to bring about change.

But the paradox is that it is equally easy to recite a litany of terrible abuses which continue to be committed against children, some of which seem to be even more chronic and less susceptible to resolution today than they were before the CRC existed. It is lamentably common place to read reports of the sexual exploitation of children on a large scale, of their involvement and systematic abuse in armed conflicts, of the vast numbers who are refugees or asylum seeking children, of their enslavement to exploitative child labour and even of their basic rights to food and education, shelter and health care. The CRC may have drawn our attention to these abuses more prominently but nevertheless they continue unabated.

The UN Secretary General, Kofi Annan, said in May 2002 at the Special Session.

"The idea of children's rights then may be a beacon guiding the way to the future, but it is also illuminating how many adults neglect their responsibilities towards children and how children are too often the victims of the ugliest and most shameful human activities."

But the gap between rhetoric and reality is not new. It has always been so. Does it mean we should not have a CRC or promote its universality?

In June 1857 Abraham Lincoln explained the gap between the rhetoric and the reality of the US Declaration of Independence. "The founders do not assert the obvious untruth that all men were then actually enjoying equality. They meant simply to declare the right, so that the enforcement of it might follow as fast as circumstances should permit. They meant to set up a standard ... never perfectly attained but constantly approximated."

The mere act of universal ratification of the CRC is important because it highlights the challenge to transform the commitment into a world in which children's rights are a priority. To paraphrase Lincoln, the CRC is a historic declaration of the rights of every child in the world and its enforcement should follow as fast as circumstances permit. It sets a universal standard, never perfectly attained but constantly approximated.

So while the near universality of the CRC is a remarkable achievement its wider significance is that the formal commitment by 192 countries to the principles of children's rights, even if not always in practice, is one area in which there is virtual unanimity in the world. In a complex world in which agreement on many issues is sometimes difficult, this is an accomplishment, in itself worth proclaiming.

An evaluation of the impact of the CRC must take into account not just the number of ratifications but the quality of those ratifications. In this context we must bear in mind the number and extent of reservations and the establishment of an appropriate legal framework at all levels to enshrine the human rights treaty within domestic law as well as appropriate institutional arrangements to complement and supplement this legal framework.

Mechanisms to promote and protect children's rights:

In every respect accountability for children's rights involves multiple partners. They include national governments, regional and local governments, national human rights institutions, civil society, international development agencies, international financial institutions, young people themselves and the UN Committee on the Rights of the Child.

1. At the national level, the law and the legal framework are not the only mechanisms by which effect can be given to the rights of the child. Nevertheless, in virtually every society there is an important role to be played by the law and where the legal framework is inhospitable, or even indifferent to children's rights the impact of the ratification of the CRC is likely to be severely limited.
2. Regional-level legal instruments are also important to the implementation of the CRC. The African Charters, the Council of Europe, and the European union are examples. Within this region, the Asia Pacific Forum is a regional body whose membership consists of national human rights institutions. Its aim is not to promote the Convention and independent institutions for children but to develop a dialogue of co-operation and support between general human rights institutions. In recent years the Forum has come to pay much greater attention to children's rights and the Convention. The discussion of the sexual exploitation of children at the Forum's annual meeting in 1998 precipitated a special focus on the role of national human rights institutions in the protection and promotion of children's rights at the Forum's annual meeting in Manila in 1999. The most significant outcome of this meeting was the adoption by the parties of twenty (20) separate recommendations for national institutions with respect to their treatment of children's rights and the Convention. They included recommendations to:
 - ▶ Integrate the Convention into the level and organisational structure of national institutions;
 - ▶ Use the idea of children as rights holders to guide the work of national institutions;
 - ▶ Encourage widespread consultation with children to obtain their perspective;
 - ▶ Promote awareness of the role of national institutions in promoting the rights of the child;
 - ▶ Ensure all legislation accounts for the impact on children; and
 - ▶ Promote the development of a culture of rights of children.

In addition, regional workshops and ministerial consultations have played a significant role in bringing various national interests together.

4. The central role played by NGOs in the drafting of the CRC led to a recognition of the importance of their continuing contributions which has been reflected in the role they play in the work of the Committee on the Rights of the Child. They also have a role in promoting the CRC to the broader public and raising awareness of inconsistencies and in building public support for and understanding of the CRC. On the down side, the efforts of some NGOs have been somewhat fragmented especially in relation to the reporting context of the Committee on the Rights of the Child.
5. Decentralisation can be both a positive and a negative in relation to implementing the CRC. Put simply, it can raise challenges about who is accountable for the CRC. The central government is the signatory to the Convention but practical implementation of its provisions may be decentralised to state, regional, local authorities. Clarity on assignment of responsibility from central to decentralised levels in relation to children's issues has to be precise in order to ensure accountability at a local level. Sufficient resources must be provided for the respective levels of government to carry out their responsibilities to ensure regional disparities in relation to children's rights under the CRC are minimised.
6. I am not an economist. It is difficult for non-economists to measure the direct policy impact of the CRC on the work of International Financial Institutions. Certainly there is considerable policy dialogue and practice in relation to universal access to social services and provision of basic infrastructure to ensure survival and development of children. But the international financial institutions must also play a role to ensure their decisions, policies and practice, work in the best interest of the child. Especially in developing and emerging economies, their activities impact on the realisation of the Millennium Development Goals and the Poverty Reduction Strategy Process. As an example only, the World Bank's response to the HIV/AIDS epidemic reflects a rights-based approach, including in relation to children, as does their work in child labour, health and education. The CRC is acknowledged as part of the World Bank's overarching international legal framework and occasionally as a source of inspiration. But there's always room for improvement and, given the role of the International Financial institutions in developing countries, they can be an important player in the implementation of the CRC, both in spirit and in reality.
7. The area of corporate responsibility, as a mechanism for ensuring the implementation of the CRC, is not well defined. There is a lively debate in most countries over ethics and social responsibility within the context of community responsibility and commercial imperatives. Private or non state actors are not signatories to the CRC and as such not bound by its human rights standards as such. The use of child labour is probably the most public face of the intersection of private sector, globalisation and the CRC but it is not the only one. The adoption of voluntary codes of conduct is a welcome initiative within different business sectors, such as footwear, apparel and other sectors. Consumer pressure for corporate citizenship is partly driving the significant expansion in the number of voluntary codes. The companies themselves are also aware that good corporate citizenship and the ability to market their adherence to higher standards of behaviour is a value add in their world of commercial competition. Whatever the drivers, the result of industry adopting a process of self-censoring is a benefit in terms of CRC implementation and human rights standards for children. The next step is a more formal children's rights accountability and adoption of reporting mechanisms to ensure consistency and conformity.

8. The CRC bestows on children a right to participation. Can we infer that the CRC also draws the attention of responsible bodies to, where appropriate, effectively seek instructions from its constituents, who are children, rather than merely acting on the assumption that our actions are in their best interests? This invokes a discussion about the right of children to participate in the work of institutions designed to implement and monitor the CRC and protect their rights.

There is considerable debate about how to go about meaningful child and youth participation. Should we establish separate child specific institutions, such as, child and youth advisory groups, Internet sites, phone lines to allow children to express their views? Or integrate their participation into existing institutions, such as through surveys, focus groups?

The reality is that the issue of child participation remains one of the great unresolved dilemmas not just for the work of institutions to protect children's rights, but in every area concerning the implementation of the Convention. Much work still needs to be done by all institutions, child-specific and general human rights alike, to determine how they can effectively facilitate the participation of children in their work in order to fulfil their role as advocates on behalf of children. The starting point is to emphasise that children's participation does not automatically transfer into children playing the same roles as adults by being invited to conferences or meetings at which they will be unable to contribute effectively or invited to make submissions which may require skills they do not possess. Rather, the challenge is to devise new and appropriate ways, based on the contexts in which children are comfortable, and ensuring that when their views are fed into broader policy processes they are accorded their full weight rather than being taken as token contributions.

Case studies from the East Asia and Pacific Region: a UNICEF perspective

Given the breadth of the CRC, I've chosen to look at only one aspect of the CRC in terms of how UNICEF is working in this East Asia and Pacific Region and then only very top line snapshots. More detailed information is available.

Trafficking of children in the region, largely for the purpose of commercial sexual exploitation is a serious problem. In last 30 years in Asia alone, estimates are that trafficking has victimised more than 30 million people.

Despite the lack of adequate data and monitoring mechanisms we know that improving child protection requires prevention and early action at family and community level; protection systems with appropriate legal provisions and well trained law enforcement officials; and awareness and advocacy about the problem.

We know what we must do to prosecute the perpetrators of this violation of children's rights.

We also know that the victims of these crimes need protection and assistance with recovery and social integration.

This Region has an impressive record in its commitments to children and in particular on this issue of trafficking. The East Asia and Pacific Regional Commitment and Plan of Action against Commercial Sexual Exploitation of Children, spells all this out very clearly. In addition, the CRC Optional Protocol on the Sale of Children and Child Pornography provides an excellent legal framework for the prevention and combating of this crime.

So we have a basis for action and within the Region strong commitments have been made. What is needed are concrete steps at the national and regional level including bilateral and multilateral arrangements, territorial and extra territorial jurisdiction, to prevent cross-border trafficking. Countries need to participate in data collection in a systematic way and to establish effective systems for monitoring this aspect of the CRC.

Cambodia

Trafficking and sexual exploitation of children and women, in particular, remains a major priority for the UNICEF Country program. There is an emphasis on the enactment of relevant international treaty provisions into domestic legislation with regard to trafficking and inter-country adoption. As part of this strategy, the Cambodian Government reconfirmed its commitment to birth registration but its implementation requires momentum and resources. A working group on the CRC and juvenile justice has been established. In terms of general monitoring of CRC implementation, data collection is a priority.

Timor-Leste

The justice system in Timor-Leste is functioning in an ad hoc basis due to limited human and financial resources. As a result the rights of children in contact with the law, whether as offenders, victims, or witnesses, are not always consistent with the CRC provisions. As the world's newest nation, UNICEF is assisting Timor-Leste to develop policies, procedures and legislation on a range of child protection issues including the legal definition of a child.

Indonesia

UNICEF is pursuing a strategy at two levels: national and district level implementation. Protection issues are highlighted with the introduction of the new Child Protection Law; the finalisation of regulations governing birth registration; the approval of a National Plan of Action for the Elimination of Commercial Sexual Exploitation of Children; and local initiatives to increase birth registration in 34 districts. Law enforcement remains a challenge.

Laos

Protection issues remain a focus of the UNICEF country strategy. In particular a study into children in detention highlighted international obligations and a review of legislation related to protection of children and compliance with CRC.

Pacific

There are increasing numbers of children and young people, living on the street, involved in pornography and prostitution. Legislation to protect children is inadequate in most Pacific Island countries, although some improvements have been made in areas such as adoption and juvenile justice.

Papua New Guinea

In promoting the rights of women and children UNICEF has catalysed a comprehensive juvenile justice reform: the Juvenile Justice Project has designed alternative ways of rehabilitating offenders.

Thailand

Child protection remains a priority for the UNICEF Country program. UNICEF is working with local authorities to advocate for "Child Friendly Cities and Communities". The Child Protection law covers the spectrum of child protection issues including the juvenile justice system. It is considered as a "child friendly" law, addressing children as "rights- holders" and "rights claimers".

Vietnam

Trafficking of children remains a major issue. Under the "Rights Promotion Project", UNICEF supports the Government to implement the CRC by prioritising capacity building and training in children's rights.

Conclusion:

The almost universal ratification of the CRC and its widespread implementation in countries with different political, economic and social contexts has led to a process of social change unique in the history of UN treaties. It is necessary to document and analyse the impact of this process at the national level in order to promote the cross fertilisation of positive experiences and the replication of good practices, as well as to promote the universal realisation of children's rights.

For UNICEF, the CRC is a key ethical and normative reference, and is increasingly becoming a framework for its operational work. In each region, the principles and provisions of the CRC, together with the reporting process of the Committee on the Rights of the Child, have been instrumental in shaping many country programs, in guiding advocacy campaigns and policy debate, in capacity building, as well as in promoting the development of new monitoring and evaluation tools and methodologies.

UNICEF is working to translate its human rights based approach into working tools, such as operational manuals, data collection and indicators while bridging the work of the human rights treaty bodies, particularly those monitoring the CRC and CEDAW, with UNICEF operational activities. The implementation of the CRC has taken place in a diversified political, economic and social context and has paved the way to the development of new partnerships. It has challenged UNICEF to play innovative roles - including voicing concerns on politically sensitive areas.

UNICEF through its Innocenti Research Centre is monitoring the impact of the CRC. In March 2003 UNICEF embarked on a new study of about 30 months duration to monitor impact. Two reports will be produced. The first report focusing on Europe, the Americas and the Caribbean. The second report will focus primarily on practice in Africa and Asia/Pacific. States considered for the study will have been twice through the CRC reporting cycle. The general checklist of measures to be looked at in more than 60 States are:

- ▶ The process of law reform: how states ensure compatibility of existing and new legislation and judicial practice with the CRC, including comprehensive reviews of legislation; the development of constitutions and specific laws to reflect the CRC and also to respond to "new" issues related to children's rights; how new draft law is reviewed for compatibility; how the impact on children and enforcement of relevant new law is evaluated; whether children and their representatives have effective remedies for breaches of their rights;

- ▶ Establishment of independent national human rights institutions for children - children's ombudspersons and commissioners and focal points within national human rights institutions;
- ▶ Development of comprehensive national agenda or strategies for implementation of the CRC; their relationship to the follow up process to the World Summit for Children and UNGA Special Session on Children; establishment of children's rights focussed permanent institutions and structures within government to pursue implementation and ensure co-ordination;
- ▶ Development of budget analysis and child related budgets to ensure States are promoting implementation "to the maximum extent of available resources";
- ▶ Development of systematic monitoring of the implementation of the CRC, including at regional and local levels - data collection and evaluation;
- ▶ Education, training and awareness raising concerning children's rights;
- ▶ Collaboration for implementation of the CRC with civil society including children. Much of the work to promote children's' rights reflects a top down approach by international agencies and NGOs working with national level agencies while simultaneously acknowledging the importance of grassroots support and the need for participatory structures.

Ideally, what is needed is a broad-based constituency in favour of children's rights. Education and advocacy thus need to be at the core of strategies to expand local understanding of the CRC. We must reinforce the fact that we are all responsible for all our children. We need a genuinely shared commitment and a sustained follow up to achieve goals for children.

Presentation By Group 1

Topic: Survival

*“Give us - your children - a good today.
We will, in turn, give you a good tomorrow.”*

Moderator: Datuk Dr Raj Karim.

Group members

Name	Organisation
Dato' Mohd Farid Ariffin	Majlis kanser Nasional (MAKNA)
Datin Susheila McCoy	Environmental Protection Society of M'sia
Dr. Hussain Imam B Hj Muhammad Ismail	Head, Paediatric Dept, KL Hospital
Dr. Zainol Ariffin B Pawanchee	Jab Kesihatan, DBKL
Hj. Annuar B Hj Mohd Nor	Jab Kebajikan Masyarakat Sarawak
Mother Mangalam	Pure Life Society
En. Selvaretnam	Malaysian AIDS Council
En. Kon Onn Sein	Yayasan Kajian/Pembangunan Masyarakat
Hjh. Mariani Bt Mohamed Saad	Jab Kebajikan Masyarakat Selangor
Pn. Bahiyah Bt Mohammad	Pej Kebajikan Masyarakat Petaling
Pn. Nooraini Bt Md Ali	Economic Planning Unit
Dr. Kamarul Azahar B Mohd Razali	Paediatric Institute, KL Hospital

Questions/ Facts/ Issues/ etc

Definitions:

- 1) Who is a child?
CRC & Child Act: any person <18 years why are children >12 years admitted to adult wards?

who manage the adolescents?

whose responsibilities: physicians or paediatricians?

- 2) Survival communicable diseases
vs.
emerging / chronic diseases
+
social - health issues

	1990	2000	
IMR	13.1	7.9	
MMR		0.2	0.2

Malaysia's Health 2002

Recommendations

Creation of adolescent wards – single sex wards

Adolescent medicine is a new sub-specialty in Malaysia.

Needs separate health programs.

An adolescent paediatrician has already been trained by KKM

Ensure good/ acceptable 'quality of life' preventive vs. curative vs palliative cost to treat vs. budget availability disease selection vs. survival curve

Health care financing policy one's right for access to treatment

Right to life:

Chronic diseases

- 1) Thalesaemia
chronic hemoglobinopathy
blood transfusion dependent
body iron overloading
death in the 2nd decade of life

2500 affected Malaysian children could benefit from iron chelation therapy
~ RM 20M/ year

*personal comm. With Dr Hishamshah
(paed-hemato-oncologist, HKL)*

- 2) Cancer
risk (1 in 4 chance) 17 000 registered
inaccessibility
cost in private hospitals
Govt fund RM 100M: not used?
Marginalised children

Paediatricians strongly urging for government's support for commencement of therapy

Cancer screening programs on red tape bureaucracy private hospital Act

1) HIV/AIDS

~ 1% of total infected population
> 90% vertical transmission (mother child)
long term survival into adolescence & young adulthood
~successful antenatal prevention program (transmission from 30% to 2%)

~worrying trend of teenagers getting infected mainly through casual sex or IVDU

~Vicious cycle of alcohol & virus:
high risk sexual contact with + viral replication 20x

prevalent stigmatization issues
confidentiality & discrimination:
education prospects- secondary/ tertiary
working opportunities
marriage

2) Children traumatized by abuse

sexual
physical
emotional
neglect

delinquents/ drug addicts/ young single parent

“Preventive strategies is the mainstay”
Educating and providing accurate information on responsible sex (no sex before marriage & one partner only) via a well structured sex education program in their late primary school years

Interactive, practical teenager programs
PROSTAR needs modification/ different approach/ more forthcoming as the real high risk group (out of school) shun it
participation of peer role models (teenage support group) for high risk group: prime them into making informed, careful and responsible life decisions

the right to get the highest possible education and equal opportunities
educate people to accept (Person Living with HIV/Aids) as another fellow human being

adults as responsible role models
holistic education throughout life
parenting life skill requirements
marital/ family bonding
community involvement
government's role~
mass media: TV(“idiot box”) programs to tailor for non violence
censorship board's role
consumerism/ profitability with
guarding of children's moral upbringing

support group/ community participation
stress coping skills
inter-grate living skills

3) Urban Poor

estimated 3 million people living in the cities with household income <RM 1000/month

poor housing/ no play ground
poor immunization coverage
malnutrition
risk of communicable diseases
abuses (physical/ incest/ neglect/ dadah/ partner)
crime rate

4) Orang asal

polluted water source
inadequate housing
poor resettlement sites
lost of livelihood (deforestation/ herbal products
access to health
education opportunities
marriage with outsiders/ foreigners
vice/ alcoholism

5) Children of immigrants/ refugees

what rights do they have?
education health care
shelter

re define poverty lines (monthly income)

houses must have at least 3 rooms
immunization programs with catch ups
re look into school food programs/monthly food basket
“Pusat Rujukan Sosial”: inter-grate with practical implementation and sustenance
24 hours availability
inter-grate with teenage activities
practical working patterns:
flexi-hours/ shared-time for mothers
creche’ at work place

gravity feed system/ well drilling
red tapes
access to health/ education
maintenance of cultural knowledge (herbal medicine)
inter-grated land/ economic resettlement policy without loss of livelihood/ lifestyle
gradual integration into national policies
protect their rights to cultivate land

inter-grate study/ issues with CARAM- ASIA(NGO)

The physical environment

Water resources
Sanitation
Waste disposal
Air
Pollutants- smoke

AGENDA 21

We must ensure that future generations can live and have sustainable natural resources/ environment(esp. water)
Right to water
water as a basic requirement of life
therefore water is a public right/control

Conclusion:

The rights to life and survival of children are very much dependent on the concerted efforts of everyone at every level of care. The survival of future generations begs our unifying and untiring efforts to make Malaysia a place for a good tomorrow.

Round Table on CRC

Group 2: Development

Members

Mohamad B. Hj Ikhsan
 Lok Yim Peng
 Patricia Teh
 Wong Poai Hong
 Putri Zabaraiah Bte Megat Abd Rahman
 Noran Fauziah Yaakub
 Lucy Lim
 Ho Koon Wei
 Raja Mustapha Hassan
 Charmaine
 Indrani Manual

Format of the Discussion

- Issues, concerns and challenges
: before lunch.
- Recommendations
: after lunch.

Participants

- Moderator : Chiam Heng Keng
- Recorder : Diana Lau
- Members : Janet Looi
 Noor Yasmin Abd Karim
 Aminah Bee Mohd Kassim
 Mohd Arif B. Abu Bakar
 Zaharah Bte Zainal Abidin
 R. Loganathan
 Sharifah Fatma Alhabshi
 Siti Zaharah bte Mat Akib

Articles in CRC Pertaining to Education

- Articles 28 – Right to Education, at least primary education to be compulsory.
- Article 29 – Aim of Education: development of child's personality, talents and mental & physical abilities.
- Article 23 – Right of disabled to special care, education and training to enjoy a full and decent life in dignity.

Aim of Education

Good examination results:

- Paper chase.
- Learning for knowledge and not skills.
- Tuition – Malaysia has the most tuition centres in the world.
- Parent pressure to children to achieve.
- Children's potentials are not developed or maximized, especially in non-academic areas.

Aim of Education: Consequences

- Teachers are pressured to complete the syllabuses and students' needs and problems are ignored.
- Disabled children, especially mentally challenged children, are not welcome.
- Best practice is not used as teachers are concerned with producing good examination results.

National Preschool Curriculum

- A beautiful curriculum that focuses on skills instead of knowledge, promotes meaningful learning through thematic approach.
- Most kindergartens are still teaching knowledge and as discrete subjects.
- Teachers are not properly trained to use the NPC.
- Teachers prefer talk & chalk to hands-on activities.

Mass Media

- Values portrayed in both electronic and print media are contrary to the values we want to imbue into our children.
- Parents are too busy to monitor what children view.
- Stop highlighting high achievers in the academic arena and best school results.
- Educating the society.

Moral Education

- Have to learn 18 values by rote and they are not internalized and become part of students' personality.
- Cannot be examined on the basis of a single correct answer as the behaviour has to be judged on the purpose/intent.
- Better assessed in term of project work or community service.

Personality Development

- Project work to encourage team work and problem solving.
- Way teachers teach is important.
- Examine educational systems in other countries to identify best practice.
- School environment is important, give points to schools for taking in disabled children.
- Sensitive to cultural differences.

Aim of Education

- The national philosophy states that education is for the development of the whole child.
- Translation of the national philosophy into practice needs examination.

Role of the Ministry of Education

- Proactive role in pre-empt problems, especially the negative consequences of education.
- Proactive in estimating population of disabled children to cater to their needs.
- Problems lay with the delivery system.
- Ministry has long-term plan: 10-year blueprint.

Teachers

- Not all teachers are ineffective.
- Basic needs must be met, especially those of young teachers who are placed in remote areas.
- ME is working towards Continuous Professional Development.
- Aptitude Test for selecting teachers.
- ME is more selective in recruitment.

Preschools

- Operators should have the proper qualification, not based merely upon financial capability.
- Teachers need to be properly trained and accredited.
- Preschools should be closely monitored to ensure minimum standard/quality.

Parents

- Parents push for academic excellence.
- Abdicate their responsibilities and expect teachers and schools to discipline, guide & teach their children.
- Parent involvement is important.
- Education of children should be a partnership among ME, parents, community and corporate bodies (corporate citizenship).

Minority Groups

- Several aspects of the curriculum are not meaningful to indigenous children.
- Should incorporate certain aspects of their culture and experiences into the curriculum, especially the primary school curriculum.
- Distance from school – accessibility.
- Irregular attendance.

cont..

Minority Groups

- Some schools in the interiors lack basic facilities and quality education.
- Basic needs must be met.
- Hardship allowance for teachers serving in the interiors.
- Hard core poor should be regarded as a minority group – have some similar problems.

Children with Disabilities

- A wide range of disabilities and of severity.
- Education is for all.
- Early detection and early intervention.
- Education should begin at birth.
- Difficult to get information on availability of education, especially those outside metropolitan areas.

Recommendations: Educational System

A flexible system (including curriculum) to:

- Cater to children differing abilities (e.g. high to low mental abilities), type of intelligence and talents.
- Meet the needs of the minority and the disabled.
- Make provision for examination on demand.
- Provide a child-centred and child-friendly system.
- Cater to the needs of children in difficult circumstances.

Panel of Experts

- Have the right to the development of their potential to the fullest.
- A Panel of Experts at every district level to identify capabilities, talents, special interests, behavioural problems and learning disabilities and so forth.
- Early detection, counseling & appropriate education experiences can reduce social problems and develop talents.

Children with Disabilities

- The division in responsibilities between ME and Ministry of National Unity and Social Development (MNUSD) generates hardships for parents with disabled children.
- Flexible curriculum because of the wide range in disabilities.
- Database of children with disabilities is very recent.

Primary School: Paradigm Shift

- Should emphasize on skills rather than on contents.
- Should relate learning to everyday life, integrated and problem-solving approach to develop thinking skills, team work and character development.
- Educate the child instead of teaching the child.
- Screening at the entry to Year I for physical problems.

Education for the Disabled

- Disabled children have the right to education, the term, 'educable' and 'non-educable' should be removed.
- Severely disabled: the curriculum should less academic and more towards helping disabled become independent.
- Close collaboration among the ME, MNUSD and MH to provide early detection and intervention.

cont..

Education for the Disabled

- With the present available facilities and capabilities, ME should continue with special schools for the disabled and work towards the provision of inclusive education.
- ME should provide special school for F1-F5. This facility is only available in certain areas.
- Ratio: not more than 4 students/teacher.

cont..

Education for the Disabled

- Special schools to be strategically located, not at the end of a block.
- Alarms and school bells to be visual to the disabled.
- Dynamics of the school is important for advocacy.

cont..

Education for the Disabled

- Schools to be disabled friendly: ramps, bigger toilets with grab bars etc.
- Employment of teacher aids.
- Role model provided by teachers who are them-selves disabled.

Sign Language

- ME should regard sign language as a minority language, To consider the BM sign language and the American sign language as 2 different languages creates confusion.
- Parents and teachers should know the sign language.

Teacher Education: Paradigm Shift

- Less theoretical, more on problem-solving approach. Provide training to handle real situations, such as students with behavioural problems – more hands-on.
- Include Behavioural Management Course & CRC.
- Expose them to children of different abilities – awareness of the range.
- Include interpersonal skill training.

cont..

Teacher Education: Sensitivity towards the Disabled

- Culture of the various disabled group e.g. touching the arm and thigh of the hearing impaired to communicate, banging to get attention.
- Partnership with all stakeholders.
- Multicultural sensitivity & disability orientation.
- Disabled teacher educators.

The Disabled: Vocational Training

- Mentally challenged and other forms of severe disabilities: practical, pre-vocational training during primary and secondary schools.
- More vocational training institutes for students after SPM e.g. special school in Bangi.
- Greater flexibility in entry requirement e.g. BM.
- Education to the society to accept the competence of the disabled.
 - Up-to-date techniques, skills and trends.

cont..

The Disabled: Information

- 1-stop centre in public hospitals to provide information e.g. education, parent support group etc.
- In not possible, at least provide information in public and private clinics and hospitals.

Education for the Indigenous

- Inaccessibility due to distance: provision of education via radio. Teachers go to the students rather than they come to the teachers.
- Community involvement.
- Accessibility to quality education should be ensured.

Assessment

- Continuous assessment to monitor children's progress & give fairer assessment.
- Marks for project work and community services.
- Stop evaluating school by examination results.
- Award for schools that help or rehabilitate the most problematic students.
- Accreditation for childcare centres and private kindergartens to ensure minimum standards.

Other Rights

- For children to develop, other rights are just as important. These rights:
- Leisure, recreation and cultural activities (Article 31).
- Parental guidance and care (Article 18).
- Access to appropriate information (Article 17).
- Protection from abuse & neglect (Article 19).

Thank You

- These issues and concerns are not new.
- **Can SUHAKAM make a Difference?**

CRC Roundtable Discussion

Group 3

CRC Roundtable Discussion

- To look into articles 7, 8, 9, 19, 20, 21, 22, 23, 33 and 39.
- To establish current situation in MALAYSIA, as according to these articles.
- What's next and what is to be done for further development

ARTICLE 7 & 8

Name and Nationality, Identity Preservation

PRESENT:-

Section 13 (Registration Act)

- register births within first 2 weeks of birth.
- system of registration is simplified.
- 10-15,000 are not registered within the first 2 weeks = problem.
- single parents, illegitimate babies are still registered even though late – more lenient law.

cont..

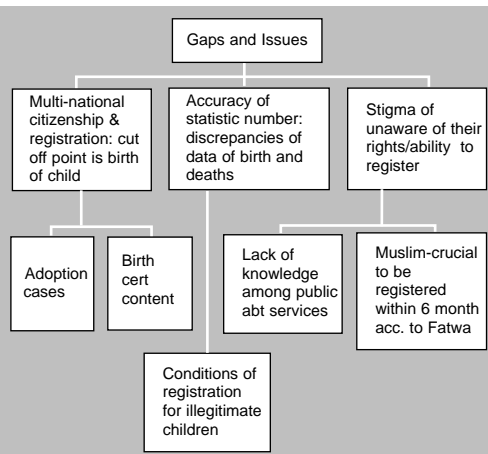
ARTICLE 7 & 8

Name and Nationality, Identity Preservation

- special procedures are given for unwed mothers / illegitimate cases (discreet treatment).
- registration offices in district, state office and federal office.
- birth certificates also given to children born from parents who are foreigners.
- mobile registration service in East Malaysia.

ARTICLE 7 & 8

Name and Nationality, Identity Preservation



ARTICLE 7 & 8

Name and Nationality, Identity Preservation

Recommendations

- increase AWARENESS
 - need to register.
 - how to register.
- unwed mothers to reduce stigmatization.
- sensitize the registration staff for unwed mothers and other cases of similar nature-through training.
- ACCESSIBILITY OF REGISTRATION.

ARTICLE 9 Separation From Parents

Issues:

- children are not always given a chance to make their views known.

Recommendations:

- children to be sent to institutions that are close to their homes (appropriate placement).
- children should be given opportunity to participate in the proceedings and make their views known on where and who to stay with.

ARTICLE 19 Protection From Abuse & Neglect

Present:

- legislative = Child Act 2001.
- Pilot programme = Witness Service, child friendly courts, evidence video recording.
- research on sex offenders, prevalence of sexual abuse.
- curriculum on sexuality education i.e.: reproduction, sexuality, leading to abuse.
- prevention programmes are in progress.
- reporting and investigation system exist, but need to be improved.
- rehabilitation.

cont..

ARTICLE 19 Protection From Abuse & Neglect

Recommendations:

- focus on emotional welfare of children.
- the need to reassess the children's emotional needs/well being.
- sensitize teachers to the emotional needs of children, as teachers are in the position of trust and responsibility.
- lack of support for certain minority groups e.g.: orang asli.
- to provide minority groups the same support given to the majority.

ARTICLE 20 Protection of a Child without a Family

Present:

- Akta Pusat Jagaan.
- Child Act 2001.

Issues:

- institutions are not conducive for children.

cont..

ARTICLE 20 Protection of a Child without a Family

Recommendations:

- Implementation of Rumah Tunas Harapan should be taken as an example and expanded.
- Promotion of fostering and protection of children.
- emotional welfare of children need to be addressed within the institutions.
- training of staff.

ARTICLE 21 Adoption

Present:

- when a child is an "ordinary resident", he/she can be adopted by Malaysians.
- Akta Pengangkatan.
- Akta Pendaftaran Pengangkatan.

- need for skilled workers.
- adoption process should be accelerated.

ARTICLE 23 Disabled Children

Present:

- lack of protection of the disabled.
- not enough resources.
- however, Disabilities Act is in the pipeline.

Issues:

- Identification.
- magnitude / number / statistics questionable.
- communication barriers.
- lacking of facilities.

cont..

- Recommendation:**
- to create awareness that the adoption system has been simplified to encourage registered adoption.

ARTICLE 23 Disabled Children

Recommendations:

- give protection to the disabled, as they are in the high risk group.
- eg: difficulties in reporting.

ARTICLE 39 Rehabilitative Care

Present:

- physical rehabilitates are available.

Issues:

- access to services.
- not enough resources = skill and numbers.
- mind set of parents, community and workers.

Recommendation:

- increase awareness on mental and emotional health.
- Encourage parents and guardians to seek counseling or other psychological help to ensure the children's emotional . recovery.
- rehabilitation for offenders.

Thank You

-The End-

The Convention on the Rights of the Child



Child Participation

ARTICLE 12 & 13

Article 12 – The Child’s Opinion.

States parties shall assure to the child who is capable of forming his/her own views the right to express those views freely in all matters affecting the child, the views of the child being due weight in accordance with the age and maturity of the child.

Article 13 – Freedom of expression.

The child shall have the right to freedom of expression; this right shall include freedom to seek receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or any media of child's choice.

The Convention on the Rights of the Child

Issues	Recommendations
3. Lack of confidence to voice out their opinions.	3. Children need to be taught communication skills as well as given encouragement. Parents should possess parenting skills.
4. Teachers be evaluated.	4. School administration and teachers should encourage feedback from students.

cont..

The Convention on the Rights of the Child

The following report was a compilation of information as a result from the round table discussion by group 4 on the 19th January 2004 concerning child participation-reference to article 12,13,14,15,16,17,30,31.

The Convention on the Rights of the Child

Issues	Recommendations
1. Adults don't listen and take children seriously.	1. Adults, community, parents and teachers must listen more and take children's opinions and views more seriously.
2. Children are not given an opportunity to voice out their views.	2. Adults should allow, ask, and enable children to voice out their views especially on matter concerning children.

cont..

The Convention on the Rights of the Child

Issues	Recommendations
5. School to implement CRC content.	5. Teacher's education to include CRC so to be equipped to handle situations in school.
6. Certain schools are dictatorial.	6. School should be child friendly.
7. View children as individual who have Rights.	7. Especially when enforcing Child Act 2001.

cont..

ARTICLE 14

Article 14 – Freedom of thought, conscience and religion.

State parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health morals, or the fundamental rights and freedom of others.

The Convention on the Rights of the Child

Issues	Recommendations
1. Does the school have a right to enforce religious obligations upon its students?	1. Clear policy guidelines on this matter and at the sametime teachers should approach this issue with great sensitivity.
2. In the remand home, the Christian child was lumped together with the Hindu Children.	2. Be more sensitive when it comes to religion.
3. Beef being portrayal within media.	3. Chicken and fish only be served.

ARTICLE 15

Article 15 – Freedom of association.

State parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

No restrictions may be laced on the exercise of these rights other than those imposed in conformity with the aw and which are necessary in a democratic society in the interest of national security or public safety.

The Convention on the Rights of the Child

Issues	Recommendations
1. Negative portrayal within media.	1. Less sensationalism on negative aspects (behavior and activities) regarding Children.

ARTICLE 16

Article 16 – Protection of privacy.

No child shall be subjected to arbitrary or unlawful interference with his/her privacy, family, home or correspondence, nor to unlawful attacks in his/her honor and reputation.

The Convention on the Rights of the Child

Issues	Recommendations
1. Teachers at times ask personal question relating to the family of the students without the parent being present.	1. Teachers ask only on a need to know basis.

ARTICLE 17

Article 17 – Access to appropriate information.

The state shall ensure the accessibility to the children of information and material from a diversity of sources, and it shall encourage the mass media to disseminate information which is of social and cultural benefit to the child, and take steps to protect him/her from harmful materials.

The Convention on the Rights of the Child

Issues	Recommendations
1. Computers are underutilized in schools.	1. Proper guidelines to enable students to access computer facilities. Personnel who is competent to oversee IT.
2. Digital divide has resulted in a disparity of opportunity for children to access information.	2. Policy and steps made to reduce divide.

The Convention on the Rights of the Child

Issues	Recommendations
3. Lack of CRC Information.	3. Libraries to be equipped. School clubs to promote CRC. CRC to be talked within Program 'MajuDiri'. Children Programs on TV to include CRC elements.
4. Libraries to be better equipped for Children esp. those below 12.	4. School libraries to be upgraded. More sufficient information for the young.

ARTICLE 30

Article 30 – Children of minorities or indigenous Populations.

Children of minority communities and indigenous populations have the right to enjoy their own culture and to practice their own religion and language.

The Convention on the Rights of the Child

Issues	Recommendations
1. Sustainable Development.	1. The development should be in line with the indigenous ppl's needs without compromising their culture and lifestyle.

ARTICLE 31

Article 31 – Leisure, recreation and cultural activities.

The child has the right to leisure, play and participation in cultural and artistic activities.

The Convention on the Rights of the Child

Issues	Recommendations
1. Lack of public parks.	1. More child and environmental friendly parks.
2. Ratio of parks to the density of Children population within an area.	2. Local authority's need to be more gadhering to creating recreational parks for those from high density population areas.

The Convention on the Rights of the Child

Issues	Recommendations
3. Complete P.E Facilities.	2. Better facilities to promote healthy lifestyle as well as sports interest amongst youth.
4. Too much emphasis on academic achievement.	4. More time to develop other areas of interest of youth.

TOPIC FOR DISCUSSION
Child Act 2001 & Other Legislations
Pertaining to Children

How Far Do They Conform to the UNCRC?

PRESENTATION BY:
GROUP 5

INTRODUCTION

Workers' Minimum Standards of Housing and Amenities Act 1990
Child Care Centre Act 1984
Care Centres Act 1993
Reservations to the CRC
Optional Protocol to the CRC

CHILD ACT 2001

3. Child Offenders.
 - A clear philosophy is urgently needed to address the predicament of child offenders detained on remand.
 - As compared to convicted child offenders, they enjoy less freedom.
4. Special Remand Centres for Child Offenders.
 - More centres for girls. Lock-ups and prisons are not suitable.

cont..

INTRODUCTION

There are 32 pieces of legislation governing children in one way or the other. The law governs everything from the child's birth, legitimacy, adoption and custody, its protection, rights, education, employment and death.

The following legislations and protocols were considered:-

Child Act 2001.
 Children & Young Persons (Employment) Act 1966.
 Education Act 1966.

cont..

CHILD ACT 2001

1. Right to legal representation.
 - The law should provide for a wide legal representation to children.
 - Parents are at a disadvantaged position.
2. Training for court officers.
 - Advisors, Magistrates and probation officers need advanced training to sensitise and prepare them for the rigours of the child justice system.

CHILD ACT 2001

- Centres in close proximity to courts.
 - Staff, taken not from correctional centres, are given special training to deal with problematic children.
5. Incest Child as Victim of Incest.
 - Long prison terms to perpetrators (biological father, bread winners) could be counter-productive to the family.

cont..

CHILD ACT 2001

- Families need immediate financial support. A way out is needed by way of setting up of a special fund by the relevant authorities.
- Impacts on the rate of reporting of incest cases.

Child Charged for Incest Under Syariah Law

- The whole system of dealing with Child Offenders **CRIES FOR CHANGE** in both Syariah and Civil courts.
- What about the kind of legal protection given to children under the civil law that appears to be missing under our Syariah laws? (Requires serious examination!).

cont..

CHILD ACT 2001

The Kelantan case where father and 17 year old daughter were caught and charged for incest is a classic example. The father was charged (maybe as a result of plea bargaining) with incest and subsequently punished.

- Later on, the daughter was also charged (as a consenting adult, as opposed to a “protected” child under the Child Act) and whilst some protection would have been accorded to her under the civil law, it was found they were not made available to her in this case.

CHILD ACT 2001

6. Parental Responsibilities

- The Child Act spells out clearly on parental responsibilities.
- The court can order parents to make mandatory visits to children held in rehabilitation centres.

7. Sexual Abuse

- Section 17(2)(c) of the Child Act concerns only with exploitation of children for pornographic purposes. It does not seem to be clear on other kinds or forms of sexual abuse.

cont..

CHILD ACT 2001

- There is a need for:

- (i) a register of sexual offenders which can be accessed by potential employers;
- (ii) guidelines on the publication of the list of habitual sexual offenders and how data may be accessed;
- (iii) regulations to check on people gaining employment in areas that require close contact with children.

CHILD ACT 2001

8. Section 82 - Board of Visitors

- Needs to be amended as per the original situation envisaged by the Juvenile Courts Act 1947.

9. Section 97(2) – Death Penalty

- Needs to be amended. Children should be committed to reformatory schools first and not held in prison at the pleasure of the Yang di-Pertuan Agong or Ruler or the Yang di-Pertua Negeri.

CHILD ACT 2001

10. Children of Detained Parents

- Special funding with inbuilt “fast-track” procedures needed to help children of detained parents to help them get on with their lives.

11. Wishes of the Child

- At what age is he allowed to make up his mind? In UK, there is legislation that allows a child 14 years and above to say “No” to having a medical examination.

cont..

CHILD ACT 2001

- Under Islamic law (custody), a 7-8 y.o. is given choice.
- Perhaps a re-look, combining both syariah and civil principles, is in order?

12. Recommendations of WCC.

- (i) Integration of definitions relating to children in need of care and protection, and protection and rehabilitation and places of safety and refuge;

CHILD ACT 2001

- (ii) The words “against the child’s will” be deleted from section 43(1)(f) and (g) of the Act *since the child’s consent would not be relevant in considering the offences of detaining a child in a brothel or with intent that the child be employed for prostitution or immoral purposes;*
- (iii) Delete the option of a fine for offences of procuring a child for prostitution or sexual intercourse and all other related offences (Section 43(1)(aa) and (bb);

cont..

CHILD ACT 2001

- (iv) A person having lawful custody of a child may deny access to the other parent despite a court order to the contrary. The other parent should not be deemed to have committed an offence under section 52(1) if the parent having custody does not consent to his or her exercising his right of access;
- (v) Section 86(1) and 45 be amended to reflect a minimal period of detention of a child.
- (vi) There must be a provision for the Government to recognise and gazette privately-run institutions as places of safety and refuge.

CHILDREN AND YOUNG PERSONS (EMPLOYMENT) ACT

Definition

- The definition of young persons under the Act (above 14 and below 16) be streamlined with the Child Act.
- This matter is now being reviewed.

Safeguards

- Restricts & controls child from abuse and discrimination at work.
- Child not allowed to work in close proximity to machinery or working underground.

EDUCATION ACT

1. Equal opportunity for child offenders on remand to education.
2. A child without birth certificate should be allowed to go to school pending the conclusion of the application process.
3. Compulsory education only at primary level (subject to change).

SHOULD WE WITHDRAW THE RESERVATIONS TO THE CONVENTION ON THE RIGHTS OF THE CHILD

THREE MAIN CONSIDERATIONS FOR THE GOVERNMENT :

1. Costs.
2. Political Implication.
3. Consistency and Sufficiency of current laws and Federal Constitutions.

1. Article 1 (Definition)

- 1.1 To withdraw.
- 1.2 Laws in Malaysia such as Age of Majority Act and Child Act already acknowledge a child as being one below 18 years of age.
- 1.3 No plausible reason now to reserve.

2. Article 2 (Non-Discrimination)

- 2.1 Basic principle of human rights – Children must all be treated alike irrespective of race, religion, status, nationality, etc. This principle embodied in Article 8(1) and 12(1) of the Federal Constitution.
- 2.2 Article 2 CRC reflects the above and should be accepted.
- 2.3 Probable concerns in Malaysia as to reservation – religion, race, birth status between Muslims and Non-Muslims and affirmative action. Implications of Syariah law and dichotomy between Syariah law and Civil law.

3. Article 7 (Name and Nationality)

- 3.1 To withdraw.
- 3.2 Every child has a right to a nationality and name irrespective of race, religion, place of birth, etc. Nothing should prevent a child from being a documented person. Further, to allow a child all rights of a documented person such as education.
- 3.3 Concern – practical problem of immediate registration overcome by Article 7(2) CRC which allows Malaysia to implement in its own laws consistent with the spirit of Article 7.

4. Article 13 (Freedom of Expression)

- 4.1 To withdraw.
- 4.2 Article 10(1) of the Federal Constitution already provides for this freedom of speech and expression to all persons subject to restrictions imposed by Parliament as is deemed necessary or expedient. Article 4(2)(b) of the Federal Constitution immune from any challenge those restrictions imposed by Parliament even if those restrictions were not necessary or expedient.

cont..

4. Article 13 (Freedom of Expression)

- 4.3 Such restrictions are contained in Defamation Act, Sedition Act, Printing and Press Publications Act, University and University Colleges Act, etc.
- 4.4 Article 13 CRC is reflective and consistent of Article 10(1) of the Federal Constitution.

5. Article 14 (Freedom of thought, conscience and religion)

- 5.1 Article 14 CRC is reflected in Article 10 and Article 11 of the Federal Constitution. Article 14 CRC is a dilution of a right as it merely speaks in terms of “respect”.
- 5.2 Restrictions are allowed under Article 14 CRC as are allowed under Article 11(5) of the Federal Constitution.
- 5.3 Demarcation between Syariah law and Civil law in the Federal Constitution not settled and it takes a brave Judge to not take a hands off approach in considering syariah matters in civil courts.

6. Article 15 (Freedom of Association)

- 6.1 To withdraw.
- 6.2 Article 15 CRC is reflected in Article 10(1)(b) of the Federal Constitution to assemble peaceably and without arms and Article 10(1)(c) of the Federal Constitution to form associations.
- 6.3 Restrictions may be imposed as per points in respect of Number 4 (Freedom of Expression) above and the Federal Constitution already allows this.
- 6.4 Such restrictions are contained in for example the Police Act and Penal Code.

8. Article 37 (Torture and Deprivation of Liberty)

- 8.1 No reason not to withdraw.
- 8.2 Already reflected in Article 5 of the Federal Constitution. Probably reserved as non ratification by Malaysia of the Convention Against Torture.
- 8.3 Core principles such as no death penalty, no life sentence without parole for children under 18 in CRC already incorporated into the scheme of the Child Act in particular Chapter 3 of the Act.

cont.

8. Article 37 (Torture and Deprivation of Liberty)

- 8.5 Section 83 of the Child Act which provides for the provisions of arrest, detention and trial of persons is to be followed for children notwithstanding anything contained in any written law. Arguably therefore it does not allow preventive detention and excludes the operation of the provisions of the Internal Security Act 1960 e.g. breach of Child Act in detaining in detaining Karachi boys.

cont.

7. Article 28(1)(a) (Free and Compulsory Education at Primary Level)

- 7.1 To withdraw.
- 7.2 Partially reflected in Article 12 of the Federal Constitution.
- 7.3 Amended Education Act now provides free and compulsory education at primary level. Not in force yet.
- 7.4 Education at least primary level is fundamental to the development of a child as in education during the period of remand of a child pending trial.

8. Article 37 (Torture and Deprivation of Liberty)

- 8.4 Arrest, detention and trial of children are under Article 13 CRC to be used only as last resort and for the shortest time possible. This is reflected in sections 83 –90 of the Child Act which requires immediate production of the arrested child before the court in 24 hours and to grave crimes.

cont.

ACCESSION TO PROTOCOLS

- A. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.
- B. Optional Protocol on the Convention on the Rights of the Child on the involvement of children in armed conflicts.

SUHAKAM has made recommendations to adopt the above. There is no reason why it should not be so.

CONCLUSION

Although the Child Act 2001 & other legislations pertaining to children may not have enshrined all principles of the CRC, without reservation, the country has generally conformed to its basic tenets.

Withdrawal of reservations and accession to new protocols, meanwhile, could be considered a matter of course.

THANK YOU

THANK YOU

CRIMINAL JUSTICE SYSTEM & CRIMINAL PROCEDURES INVOLVING CHILDREN

GROUP : 6

CRIMINAL JUSTICE SYSTEM & CRIMINAL PROCEDURES INVOLVING CHILDREN

- Issues.
- State of Affairs/Realities.
- Recommendation.

SITTING OF COURT

Issues:

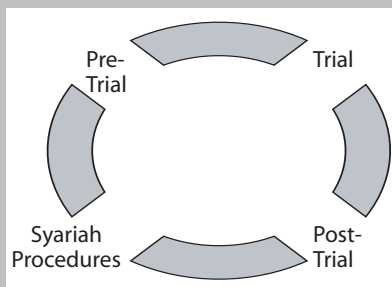
1. Apart from KL which sits daily, other states only once a week and mostly on Saturdays with an exception – Ampang Court : Wednesday

Obviously inadequate to cater for the number of cases – resulting in delays in disposal of cases

2. Current infrastructure does not cater for the child-friendly atmosphere as required in the Child Act 2001 – separate building/ entrances

Group recognises difficulties involved but urges for best interests of child offenders be considered as paramount consideration

SCOPE



COURT FOR CHILDREN

- SETTING-UP.
- JURISDICTION.

CRIMINAL JURISDICTION

To try all offences (CE10–18 s 2) except:

1. Those punishable with death therefore children charged with murder/drug trafficking or death sentences under ss 57, 58, 59 & 61 ISA and Reg3 ESCAR will be tried at the High Court
2. When children are jointly tried with adult then proceedings will be carried out in 'adult' court – s 83(4)
3. Where child turn 18 at the time of charge – s 83(3)

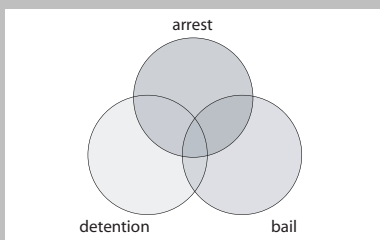
CHILDREN'S RIGHTS ARE COMPROMISED

- 8.1 No reason not to withdraw.
- 8.2 Already reflected in Article 5 of the Federal Constitution. Probably reserved as non ratification by Malaysia of the Convention Against Torture.
- 8.3 Core principles such as no death penalty, no life sentence without parole for children under 18 in CRC already incorporated into the scheme of the Child Act in particular Chapter 3 of the Act.

cont.

PRE-TRIAL PROCEDURES

PRE-TRIAL involves:



DETENTION

- Period of remand not specifically provided under s 83. Power to remand should not be based on seriousness of offence but rather, the existing of reasonable grounds to suspect crime is being committed
Query: does s 117 CPC applies then [s 11(6) Child Act 2001] allowing for maximum 14 days? Re N : High Court held

CA prevails being special law. Matter under appeal.

RECOMMENDATIONS

- Although no child offender has been committed to either life sentence or to a provision ought to be expressly inserted to exclude children from life imprisonment or the death sentence in the Child Act and to remove those inhuman sentences from the specific Acts.

RECOMMENDATIONS

- Failure of police to contact parents/guardian of child suspects immediately after arrest.
- Failure to contact probation officers upon arrest.
- Both provided under s 87 plus, a copy of charge & related documents to be transmitted to probation officer, so he can prepare effective probation report. Efforts are being undertaken by authorities but monitoring ought to be enhanced.

RECOMMENDATIONS

Ss 83 ought to be reviewed – as a matter of practice, remand ought to be the last resort & alternative means to be undertaken in dealing with children

Clear legislative provisions ought to be inserted to clearly distinguish & clarify powers on remand during the investigation period and pending trial. Alternatively, Practice Directions ought to be issued

cont..

RECOMMENDATIONS

- Amend lock-up rules to specifically provide for avoidance of children being detained with adult offenders & for basic needs of children to be catered for – access to legal advice, & family members, clean clothes, reading materials, religious requirements.

cont..

BAIL

- Release of child pending investigation on a bond is promoted for offences other than murder or other grave crime (s 2 : PC (300 – 302); all offences under:
- Firearms Increased Penalties Act 1971; Internal Security Act 1960: death/life; Dangerous Drugs Act :>5 years/death Kidnapping Act.

NON/UNBAILABLE OFFENCES

For Bailable Offences:

- Parents cannot meet the bail imposed (family mostly from low-income category).
- Parents not in court to bail them despite efforts made to get them to attend 88 mandates the attendance of parents in court – liable for an offence for failure - RM5000/imprisonment 2 years/both.

RECOMMENDATIONS

- Children should not be detained longer than necessary – 3 months maximum as opposed to the incident where there was a case of child being remanded for 3 years.

NON/UNBAILABLE OFFENCES

- Some cases are not bailable [s 84(3)] hence remand facilities ought to be specially provided to cater the needs of children. Currently, no special detention centres but children are separated from adult detainees.

NON/UNBAILABLE OFFENCES

Side Issues

- Rights of young children whose parent(s) are detained or possibly suspected of committing crimes together with parents/guardian.
- They would come within the definition of children in need of care & protection (s 17 CA) therefore entitled to protection from Protector (Social Services). Either police or Protector is empowered to immediately remove such children under temporary custody for 24 hours (s 18 CA) before subjecting them by court order to either one of various orders under s 30 CA – fit person order, foster care, institutional care, adoption etc.

NON/UNBAILABLE OFFENCES

- Consider the need for (abolishing) use of handcuffs. Re Ramanathan Chelliah – handcuffs are only to be used when:
 1. There is application for it;
 2. Supported by evidence that the offender is either dangerous / suspect of violent crime / made attempts to escape

These rules were held for adult offenders.

ISSUES

1. DELAYS

If child pleads guilty, no problem. Problem takes place when child claims for trial. Recommendation for cases involving children to settle within 3 months. (Practice Directive).

RECOMMENDATIONS

- Police should avoid bringing children to courts (e.g. for not having their I.Cs!) by adopting a diversion approach by cautioning child instead.
- To ease problems in shortage of staff, retired magistrates ought to be re-employed specially to serve Court for Children.
- Minor cases should not even be brought to court – police to exercise more discretionary powers.
- Courts should replace Saturdays which are holidays.

cont..

TRIAL PROCEDURE

- S 90 (1-18) provides a comprehensive trial procedure in respect to children.
- Conforming to both the letter & spirit of s 90 would be adequate in safeguarding the rights of children in court.

REALITY?

- In KL, it is possible as the court sits daily but problematic in other states due to limited days in sitting.
- In other states, question of space & needs. At State level, catering for cases for the whole state presents practical problems.

RECOMMENDATIONS

- If children's needs are prioritised, then space will be created regardless the obstacles (in many other countries, courts catering for need of children are small in size as only the required people can attend, besides to lessen the intimidating atmosphere of ordinary courts).

ISSUES

2. DISPOSAL OF CASES

Various orders under s 91 on proof of offence (admonish & discharge/ execute bond on good behaviour/ fit person order/ fine / probation/ approved or Henry Gurney School/ whipping <10 strokes of light cane/ > 14 imprisonment of period allowed to Sessions Court.

- latter 2 infringe Art 37 – degrading treatment.

ISSUES

2. DISPOSAL OF CASES

Various orders under s 91 on proof of offence (admonish & discharge/ execute bond on good behaviour/ fit person order/ fine / probation/ approved or Henry Gurney School/ whipping <10 strokes of light cane/ > 14 imprisonment of period allowed to Sessions Court.

- latter 2 infringe Art 37 – degrading treatment.

POST TRIAL

MATTERS

For children ordered for imprisonment

- Separation between young prisoners & adult offenders. In Kajang, young prisoners are sub-divided into 2 categories, catering for their different & special needs:
 1. Above 18 but below 21.
 2. Below 18.

MATTERS

- There are no subdivisions in other prisons due to the smaller number of young prisoners.
- There ought to be regular checks on children held in prison for indeterminate period of time [s 97(4) requires for annual review by Board of Visiting Justices for recommendation for early release].

RECOMMENDATIONS

- Ultimate consideration *to serve the best interest of the child.
- Prison should be the last resort – some times children are sent to Tunas Bakti and some to prison depending on Magistrate's Orders.
- Research ought to be carried out to study the various means of disposing cases involving children to look into its effectiveness.
- Research ought to be carried out to study the various means of disposing cases involving children to look into its effectiveness

REHABILITATION PROGRAMMES

- Good programmes such as Pembangunan Insan in 4 Stages.
- Mandatory counselling is available for child inmates but formal education is not mandated but instead, some vocational training is given in substitute. *to ensure child inmates are sufficiently advised on making the decision on whether to further their studies or not.

cont

REHABILITATION PROGRAMMES

- More trained counsellors are available.
- Expansion of joint-training skills.
- Usually after one-year in Henry Gurney children will be released on parole.

ISSUES

- Problem in Sabah as many detainees are of other nationalities and sometimes they are detained with their children – 6-7 years – totally inconducive environment.

PROCEDURES IN THE SYARIAH COURTS

Age of the child:

- S 2 Tatacara Jenayah Wilayah Persekutuan above 10 below 16 for criminal matter (civil : below 18).
- S 51: children incapable of committing crimes.
- 15 is the opinion of majority of Muslim jurists on the attainment of majority whilst Maliki even opined on 19.

PROCEDURES

- Generally the same to that applicable to adult offenders meaning there are lacuna in terms of, inter alia:
 1. No pegawai akhlak/probation officer
 2. No requirement for probation report
 3. No requirement for special advisory to the court to address special needs of children

DISPOSAL OF CASES

- Current teething problem is that child offenders convicted by the Syariah Courts are not allowed to be sent to any of the Children's Homes under the Social Welfare Department as those places are not gazetted ,Akta Kesalahan Jenayah Syariah.

EXISTING WHIPPING FOR FEMALE OFFENDERS

- To consider its feasibility both on existence and method on carrying it. It is recommended to abolish it altogether as this applies equally to female offender under the age of 18 despite the method of executing it is merely to educate rather than to punish.

RECOMMENDATION

- A study ought to be carried out to seriously consider the appropriateness of the age discrepancy especially to prevent different standards imposed on children upon entering the criminal justice system.

RECOMMENDATION

A study to be carried out to consider adopting various provisions in the Child Act catering for the special needs of children into the Syariah Enactments particularly pertaining to child offenders and offenders/victims in need of rehabilitation /treatment/protection.

RECOMMENDATION

- To extend the definition of "Pusat Pemulihan" to include homes/centres under the SWD with adequate religious instructions catered for the needs of different children.

GENERAL RECOMMENDATION

PROBATION SERVICES

- Upgrading of PROBATION SERVICES in terms of number and training – if adequate, less need for custodial sentences / reform schools.

COLLABORATIVE EFFORT

- The Coordinating Council that meets quarterly ought to consider the establishment of Working Committees at the State Levels to carry out multi-disciplinary efforts effectively (s 6 CA) – crucial to monitor/ ensure implementation of decisions made by Council.

CHILD VICTIMS/WITNESSES

- No specific provisions currently but efforts are underway to protect their interests in minimising the agony of being witnesses of crime.

PARENTING SKILLS

- Although CA provides for inter alia, power of court to order parents to execute bond for child's good behaviour & attend interactive workshops but again in smaller towns, implementation is difficult.
- Parenting skills ought to be promoted as strong basis for prevention of potential offenders.

SPECIALISED SEMINAR

- A specialised seminar ought to be held to further concretize ideas / suggestions that have been mooted during this round-table discussion and ought to be more widely represented by those on the ground including those in other States.

RESOURCES

- Whole issue of resources ought to be considered as this seems to be the main obstacle in carrying out legal/ non-legal measures in dealing with children coming into contact with criminal justice.

DISMISSAL OF CHILDREN FROM SCHOOL AFTER ARREST/CHARGE

- Students should not be expelled until the police case is wholly disposed off – to liaise with Education Ministry (hence the need for collaborative effort!).

RE-DEFINE ROLES OF DIFFERENT AGENCIES

- Too many institutions / agencies make it actually more difficult to reconcile matters of conflict.
- Perhaps some can be consolidated and strengthened thus more effective?

THANK YOU

Thank you.

Recommendation of participants

1. There should be separate adolescent wards, and within it, single sex wards for children and young persons between the ages of 12–18 years, with special attention given to health programmes for adolescents;
2. To ensure that every child has a good and acceptable quality of life, addressing emerging and chronic diseases especially amongst children. This should include good financing policies to ensure the right to access to healthcare and treatment;
3. The Government should increase subsidies for chronic diseases, support for the commencement of therapy and cancer screening programmes, for chronic diseases, such as, thalassemia and cancer;
4. The Government should study and revise where appropriate the Acts governing private medical care to ensure that costs of healthcare and treatment are kept at a reasonable level;
5. To address the issue of HIV/AIDS and teenage pregnancies, it is recognised that education is the best preventive measure, particularly education for women and introduction of a well-structured sex education programme, providing accurate information on responsible sex, modification to the current PROSTAR programmes to include interactive and practical teenage programmes, participation of peer role models, teenage support groups for high risk groups;
6. The right to obtain the highest possible education and equal opportunities and to educate people to accept people living with HIV/AIDS as another fellow human being;
7. Holistic education throughout life emphasizing on the importance of the family unit, community involvement, parenting life skill requirements;
8. The Government should ensure that programmes through the mass media are educational and non-violent, particularly in the formative years of a child;
9. The formulation of support group/community participation;
10. It is recognized that a safe environment is essential for the child to grow up. The Government should ensure that all types of housing must have at least 3 rooms, a playground;
11. To re-define inner city poverty, ensuring at least a 3-bedroom home, monthly food basket with 24 hour availability;
12. The introduction of flexi hours/ shared time for mothers and the provision;
13. It is recognized that indigenous children are vulnerable, face various forms of discrimination and are marginalized. There is a high percentage of infant mortality rate, malnourishment (urban and rural areas), inaccessibility to basic needs, such as, clean water, affordable medical services, housing and education;

14. The Government should provide for indigenous persons:
 - a. Access to clean water, for instance facilitate in the digging of wells;
 - b. Carry out an economic program of sorts that will allow them better means to support themselves;
 - c. Reduce red-tape, particularly in the Jabatan Orang Asli, hospitals and schools;
 - d. Resettlement without loss of livelihood; and
 - e. Progressive integration into city living.

15. Migrant and undocumented children should have the same right to healthcare. Therefore, it is recommended that SUHAKAM explore and study this area in consultation with CARAM Asia and Tenaganita; and

16. There is a need to increase the promotion on the understanding that sustainable development is critical to right to life issues which includes the preservation and continuity of clean water. Equally, there is also an urgent need to address this issue of water wastage.

Development

1. Moral Education
 - a. Cannot be examined on the basis of a single correct answer as the behaviour has to be judged on the purpose/intent; and
 - b. Better assessed in term of project work or community service.

2. National Preschool Curriculum (NPC)
 - a. A beautiful curriculum that focuses on skills instead of knowledge, promotes meaningful learning through thematic approach; and
 - b. Teachers are not probably trained to use the NPC.

3. Personality Development
 - a. Project work to encourage team work and problem solving;
 - b. Way teachers teach is important;
 - c. Examine educational systems in other countries to identify best practice;
 - d. School environment is important, give points to schools for taking in disabled children; and
 - e. Sensitive to cultural differences.

4. Mass Media
 - a. Values portrayed in both electronic and print media are contrary to the values we want to imbue into our children;
 - b. Parents are too busy to monitor what children view;
 - c. Stop highlighting high achievers in the academic arena and best school results; and
 - d. Educating the society.

5. Aim of education
 - a. The national philosophy states that education is for the development of the whole child; and
 - b. Translation of the national philosophy into practice needs examination.

6. Teachers
 - a. Basic needs must be met, especially those of young teachers who are placed in remote areas;
 - b. Ministry of Education (ME) is working towards Continuous Professional Development;
 - c. Aptitude Test for selecting teachers; and
 - d. ME is more selective in recruitment.
7. Preschools
 - a. Operators should have the proper qualification, not based merely upon financial capability;
 - b. Teachers need to be properly trained and accredited; and
 - c. Preschools should be closely monitored to ensure minimum standard/quality.
8. Teachers
 - a. Parents push for academic excellence;
 - b. Abdicate their responsibilities and expect teachers and schools to discipline, guide & teach their children;
 - c. Parental involvement is important; and
 - d. Education of children should be a partnership among ME, parents, community and corporate bodies (corporate citizenship).
9. Minority Groups
 - a. Several aspects of the curriculum are not meaningful to indigenous children;
 - b. Should incorporate certain aspects of their culture and experiences into the curriculum, especially the primary school curriculum;
 - c. Schools to be accessible;
 - d. Irregular attendance;
 - e. Some schools in the interiors lack basic facilities and quality education;
 - f. Basic needs must be met;
 - g. Hardship allowance for teachers serving in the interiors; and
 - h. Hard core poor should be regarded as a minority group – have some similar problems.
10. Children with disabilities
 - a. A wide range of disabilities and of severity;
 - b. Education is for all;
 - c. Early detection and early intervention;
 - d. Education should begin at birth;
 - e. Difficult to get information on availability of education, especially those outside of metropolitan areas;
 - f. The division in responsibilities between ME and Ministry of National Unity and Social Development (MNUSD) generates hardships for parents with disabled children;
 - g. Flexible curriculum because of the wide range in disabilities; and
 - h. Database of children with disabilities is very recent.
11. Education System
 - a. A flexible system (including curriculum) to cater to children differing abilities (e.g. high to low mental abilities), type of intelligence and talents;
 - b. Meet the needs of the minority and the disabled;

- c. Make provision for examination on demand;
 - d. Provide a child-centred and child-friendly system; and
 - e. Cater to the needs of children in difficult circumstances.
12. Primary Schools-Paradigm shift
- a. Should emphasise on skills rather than on contents;
 - b. Should relate learning to everyday life, integrated and problem-solving approach to develop thinking skills, team work and character development;
 - c. Educate the child instead of teaching the child; and
 - d. Screening at the entry to Year I for physical problems.
13. Panel of experts
- a. A Panel of Experts at every district level to identify capabilities, talents, special interests, behavioural problems and learning disabilities and so forth; and
 - b. Early detection, counseling & appropriate education experiences can reduce social problems and develop talents.
14. Education for the Disabled
- a. Disabled children have the right to education, the term, 'educable' and 'non-educable' should be removed;
 - b. Severely disabled: the curriculum should be less academic and more towards helping the disabled become independent;
 - c. Close collaboration among the ME, MNUSD and Ministry of Health (MH) to provide early detection and intervention;
 - d. With the present available facilities and capabilities, ME should continue with special schools for the disabled and work towards the provision of inclusive education;
 - e. ME should provide special school for F1-F5 (secondary school). This facility is only available in certain areas;
 - f. Ratio not more than 4 students/teacher;
 - g. Special schools to be strategically located, not at the end of a block;
 - h. Alarms and school bells to be visual to the disabled;
 - i. Dynamics of the school is important for advocacy;
 - j. Schools to be disabled friendly: ramps, bigger toilets with grab bars etc;
 - k. Employment of teacher aids; and
 - l. Role model provided by teachers who are themselves disabled.
15. Sign Language
- a. ME should regard sign language as a minority language, to consider the BM sign language and the American sign language as 2 different languages creates confusion; and
 - b. Parents of disabled children and teachers should know the sign language.
16. Teacher Education
- a. Multicultural sensitivity & disability orientation; and
 - b. Disabled teacher educators.
17. The Disabled
- a. Mentally challenged and other forms of severe disabilities: practical, pre-vocational training during primary and secondary schools;
 - b. More vocational training institutes for students after Sijil Pelajaran Malaysia e.g. special school in Bangi;

- c. Greater flexibility in entry requirement e.g. Bahasa Malaysia;
- d. Education to the society to accept the competence of the disabled;
- e. Up-to-date techniques, skills and trends; and
- f. One stop centre in public hospitals to provide information e.g. education, parent, support group etc. If not possible, at least provide information in public and private clinics and hospitals.

18. The Education for the Indigenous

- a. Inaccessibility due to distance provision of education via radio. Teachers go to the students rather than they come to the teachers;
- b. Community involvement; and
- c. Accessibility to quality education should be ensured.

19. Assessment

- a. Continuous assessment to monitor children's progress & give fairer assessment;
- b. Marks for project work and community services;
- c. Stop evaluating school by examination results;
- d. Award for schools that help or rehabilitate the most problematic students; and
- e. Accreditation for childcare centres and private kindergartens to ensure minimum standards.

20. Other rights

For children to develop, other rights are just as important. These rights:-

- a. Leisure, recreation and cultural activities (Article 31);
- b. Parental guidance and care (Art. 18);
- c. Access to appropriate information (Art.17); and
- d. Protection from abuse & neglect (A.19).

Protection

1. To give meaning to Article 7 and 8 of the CRC with regard to name, nationality and the preservation of identity, there should be increase awareness, information on registration, access to registration and the formulation of training for registration staff to sensitize them to the plight of unwed and/or single mothers thereby reducing stigmatization;
2. Relevant authorities must recognize that children must be given the opportunity to participate and make their views known in proceedings where child is separated from his or her parents within the meaning of Article 9 of the CRC. In this regard, it is recommended that the authorities send children to institutions that are close to their homes, appropriate placement and better communication between parent and children;
3. Legislation, educational programmes to protect the child from physical/mental abuse, maltreatment and social programmes for the prevention of abuse must take into consideration and re-assess the emotional welfare of children. Teachers must be adequately trained to cater to the emotional needs of these children and there must be enhancement of support group, particularly minorities, indigenous persons etc. Prevention programmes should include sexuality education, in depth research on sex offenders, prevalence of sexual abuse and education;

4. To ensure that institutions where children without family are placed are conducive for children, the Rumah Tunas Harapan should be taken as an example and expanded upon. There should be promotion of fostering and protection of children, adequate training of staff and skill workers and the acceleration of the adoption process. Most importantly, the emotional welfare of the children must be addressed;
5. The relevant authorities should ensure that the system of adoption should be simplified to encourage registered adoption and to increase awareness of the simplified adoption process;
6. The Government must recognize that there must be active measures to protect and promote the rights of children with disabilities. Statistical data should include both qualitative and the quantitative aspects and the Government must strive to ensure accessibility to built environments, transportation and to integration of children with disabilities into society at large;
7. With regard to rehabilitative care for children, there is a need to heighten awareness on the importance of mental and emotional health. Parents and guardians should be encouraged to seek counseling or other psychological help to facilitate the child's emotional recovery and the rehabilitation of offenders;

Participation

1. Article 12 and 13 – The Child's Opinion
 - a. There must be a change in mindset of parents, teachers and community at large on the involvement of children especially in decisions affecting them, Children have to be recognized as individuals and everyone should be more sensitive to children's rights;
 - b. Children need to be taught communication skills as well as given encouragement. Parents should possess parenting skills;
 - c. More community programme and promotion of CRC, are to be developed – for example, to include the CRC in tv programmes, to distribute pamphlets at public places and encourage involvement from big corporations like KFC, McDonalds, Petronas etc; and
 - d. Teachers should also be equipped with the CRC knowledge.
2. Article 14 – Freedom of Thought, Conscience and Religion
The community at large would be more sensitive to the different culture, race and religions of children and provide for the various needs accordingly;
3. Article 15 – Freedom of Association
Less sensationalism on negative aspects (behavior and activities) regarding Children by Media;
4. Article 16 – Protection of Privacy
Teachers ask only on a need to know basis;
5. Article 17 – Access to Information
There must be a development of programmes that allow better access to information for children, for examples, better facilities for the library and computer labs, school fields etc; Schools to be more child friendly; and

6. Article 31 – More child and environmental friendly parks. Local authorities need to create recreational parks for those from high density population areas.

Child Act 2001, other Domestic laws and the CRC

1. Child Act 2001

- a. Right to legal representation
The law should provide sufficient legal representation to children as much as we provide in capital cases;
- b. Training for Court Officers
Advisors, Magistrates and probation officers need further training to sensitise and prepare them for the rigours of the child justice system;
- c. Child offenders
A clear philosophy is urgently needed to address the predicament of child offenders detained on remand;
- d. Remand Centres
More special/remand centres for child offenders especially for girls. Lock-ups and prisons are not suitable, Centres to be located closer to the courts and special training to deal with problematic children and offenders to be developed and implemented;
- e. Incest
When father as the perpetrators - Families need immediate financial support. A way out has to be crafted for instance, setting up of a special fund by the relevant authorities;
- f. Children of Detained Parents
Special funding with special procedures needed to help the children to rebuild their lives;
- g. When a child is charged for incest under Syariah Law
The whole system of dealing with young offenders caught in this situation needs to be looked at in both Syariah and Civil courts. What about the kind of legal protection given to children under the civil law that appear to be missing under our Syariah Laws?
- h. The court can order parents to make mandatory visits to children held in rehabilitation centres;
 - i. Sexual Abuse
There is a need for:-
 - i. A register of sexual offenders which can be accessed by potential employers;
 - ii. Guidelines on the publication of the list of habitual sexual offenders and how data may be accessed; and
 - iii. Regulations to check on people gaining employment in areas that have to do with children.

- j. Section 82
Needs to be amended as per the original situation envisaged by the juvenile Courts Act 1947. Power needs to be spelt out clearly. Minister of National Unity to be given power;
- k. Section 97(2) – Death Penalty
Needs to be amended. Children should be committed to reformatory schools first and not held in prison at the pleasure of the Yang Di Pertuan Agong or Ruler or the Yang Di Pertua Negeri. (Reformatory process first);
- l. Wishes of the Child
 - i. At what age is he allowed to make up his mind? In UK, there is legislation that allows a child 14 years and above to say “No” to having a medical examination;
 - ii. Under Islamic law (custody), a 7-8 years old is given choice; and
 - iii. Perhaps a re-look, combining both Syariah and Civil principles, is in order?

2. Recommendations of WCC

- a. Integration of definitions relating to children in need of care and protection, and protection and rehabilitation and places of safety and refuge;
- b. The words against the child's will be deleted from section 43(1)(f) and (g) since the child's consent should not be relevant when considering the offences of detaining a child in a brothel or with intent that the child be employed for prostitution or immoral purposes;
- c. Delete the option of a fine for offences of procuring a child for prostitution or sexual intercourse and all other related offences (Section 43(1)(aa) and (bb));
- d. A person having lawful custody of a child may deny access to the other parent despite a court order to the contrary. The other parent should not be deemed to have committed an offence under section 52(1) even if the parent having custody does not consent to his or her exercising his right of access;
- e. Section 86(1) and 45 be amended to reflect a minimal period of detention of a child; and
- f. There must be a provision for the Government to recognise and gazette privately-run institutions as places of safety and refuge.

3. Children and Young Persons (Employment) Act

The definition of young persons under the Act (above 14 and below 16) be streamlined with the one in the Child Act. This matter is now being reviewed. Safeguards:-

- a. Restricts & controls child from abuse and discrimination at work; and
- b. Child not allowed to work in close proximity to machinery or working underground

4. Education Act 1996

Equal opportunity for child offenders on remand to education. A child with birth certificate should be allowed to go to school pending the conclusion of the application process.

5. Reservations to the CRC:

Three Main Considerations For The Government To Consider:-

- a. Costs
- b. Political Implications
- c. Consistency and Sufficiency of current laws and Federal Constitutions
 - i. Article 1 – to withdraw
Laws in Malaysia such as Age of Majority Act and Child Act already acknowledges a child as being one below 18 years of age;
 - ii. Article 2 – (?)
Basic principle of human rights – Children must all be treated alike irrespective of race, religion, status, nationality, etc. This principle is embodied in Article 8(1) and 12(1) of the Federal Constitution. Article 2 CRC reflects the above and should be accepted. Probable concerns in Malaysia as to reservation – religion, race, birth status between Muslims and Non-Muslims and affirmative action. Implications of Syariah law and dichotomy between Syariah law and Civil law.
 - iii. Article 7 – to withdraw
Every child has a right to a nationality and name irrespective of race, religion, place of birth, etc. Nothing should prevent a child from being a documented person. Further, to allow a child all rights of a documented person such as education. Concern – practical problem of immediate registration overcome by Article 7(2) CRC which allows Malaysia to implement in its own laws consistent with the spirit of Article 7.
 - iv. Article 13 – to withdraw
Article 10(1) of the Federal Constitution already provides for this freedom of speech and expression to all persons subject to restrictions imposed by Parliament as is deemed necessary or expedient. Article 4(2)(b) of the Federal Constitution immunises from any challenge those restrictions imposed by Parliament even if those restrictions were not necessary or expedient. Such restrictions are contained in Defamation Act, Sedition Act, Printing and Press Publications Act, University and University Colleges Act, etc.

Article 13 CRC is reflective and consistent of Article 10(1) of the Federal Constitution.

- v. Article 14 – to withdraw
Article 14 CRC is reflected in Article 10 and Article 11 of the Federal Constitution. Article 14 CRC is a dilution of a right as it merely speaks in terms of “respect”. Restrictions are allowed under Article 14 CRC as are allowed under Article 11(5) of the Federal Constitution. Demarcation between Syariah Law and Civil Law in the Federal Constitution is not settled and it takes a brave Judge to not take a hands off approach in Civil Law.
- vi. Article 15 – to withdraw
Article 15 CRC is reflected in Article 10(1)(b) of the Federal Constitution to assemble peaceably and without arms and Article 10(1)(c) of the Federal Constitution to form associations. Restrictions may be imposed as per points in respect of Number 4 (Freedom of Expression) above and the Federal Constitution already allows this.
- vii. Article 28 (1) (a) – to withdraw
Amended Education Act now provides compulsory education at primary level. Education at least at primary level is fundamental to the development of a child as in education during the period of remand of a child pending trial.
- viii. Article 37 – to withdraw
Already reflected in Article 5 of the Federal Constitution. Probably reserved as non ratification by Malaysia of the Convention Against Torture. Core principles, such as, no death penalty, no life sentence without parole for children under 18 in CRC which is already incorporated into the scheme of the Child Act in particular, Chapter 3 of the Act.

6. Other issues

Arrest, detention and trial of children are under Article 13 CRC to be used only as last resort and for the shortest time possible. This is reflected in sections 83 – 90 of the Child Act which requires immediate production of the arrested child before the court in 24 hours and to be released on bond save for certain grave crimes. Section 83 of the Child Act which provides for the provisions of arrest, detention and trial of persons is to be followed for children notwithstanding anything contained in any written law. Arguably therefore it does not allow preventive detention and excludes the operation of the provisions of the Internal Security Act 1960 e.g. breach of Child Act in detaining in detaining the Karachi boys.

7. Accession to the Optional Protocols to the CRC:

- a. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; and
- b. Optional Protocol on the Convention on the Rights of the Child on the involvement of children in armed conflicts. SUHAKAM has made recommendations to adopt the above. There is no reason why it should not be so.

Criminal justice system for children and Syariah Law

1. It is recognised that the current court infrastructure do not cater for children. Thus, it is recommended that changes be made to the court structure taking into primary consideration the best interest of the child;
2. To expressly exclude children from life imprisonment and the death sentence in the Child Act 2001;
3. A review of section 83 and 84 of the Child Act 2001 be carried out. Remand should be used as a last resort and that the interest of the child should take precedence over the seriousness of the offence. Clear legislative provision should be inserted in the Child Act 2001 to clearly distinguish and clarify powers on remand pending investigation and powers on bail pending trial. Alternatively, Practice Directions should be issued;
4. To amend the Lock-Up Rules to specifically provide for avoidance of children being detained with adult offenders and for basic needs of children to be ensured, for example access to legal advice and family members, clean clothing, reading materials and religious requirements;
5. Children should not be detained longer than necessary, in any event no longer than 3 months;
6. To abolish the use of handcuffs. Handcuffs should only be used where there is an application for it; it must be supported by evidence that the offender is either dangerous/suspect of violent crime/have made attempts to escape;
7. To address the problem of delay in disposal of cases involving children, it is recommended that cases for children should be disposed off within 3 months. For minor offence, cautioning of the child should be used instead of resorting to bringing them to court;
8. To address the problem of delay in disposal of cases involving children, the Government should also look into the re-employment of retired Magistrates to serve in courts for children to ease the burden of the court system;
9. To prioritise children's needs by reducing to size of courts and limiting only relevant persons to be in court during the proceedings and to promote child-friendly courts;
10. For cases of statutory rape, it is recommended that section 16(1) of the Women and Girls Protection Act 1973 be re-inserted into the Child Act 2001;
11. To ensure the welfare if children in detention, it is recommended that regular checks be carried out in prisons for an indeterminate period of time;
12. Imprisonment should be used as a last resort in sentencing children. In this regard, research should be carried out to study the various means of effective sentencing policies involving children;

13. Counseling should be provided to children in detention. Prison authorities should look into the interest of children in detention who are keen on studying, to encourage education, vocational training, to ensure that child inmates are sufficiently advised on making the decision with regard to furthering their studies;
14. The relevant authorities should increase the number of available trained counselors and the expansion of joint-training skills;
15. As regards Syariah law, it is recommended that a study be carried out to seriously consider the appropriateness of the age discrepancy, particularly to prevent different standards imposed on children upon entering the criminal justice system;
16. It is also recommended that a study be carried out to consider adopting various provisions in the Child Act 2001 to cater for the special needs of children who come within the Syariah enactments, particularly pertaining to child offenders and offenders/victims in need of rehabilitation/treatment/ protection;
17. To extend the definition of pusat pemulihan to include homes/centres with adequate religious instructions catering to the needs of different children;
18. To consider the feasibility of the existence and method of carrying out whipping for female offenders with the ultimate aim of abolishing it altogether;
19. To upgrade the probation services in terms of the number and training of personnel. The use of custodial sentences/reform schools should be reduced;
20. The establishment of working committees at the State Level to carry out multi-disciplinary efforts effectively pursuant to section 6 of the Child Act 2001. This is crucial to monitor and ensure the implementation of decisions made by the Coordinating Council;
21. The consideration of the issue of resources as it is the main obstacle in carrying out legal/non-legal measures for children coming into contact with the Criminal justice system;
22. The enactment of specific provisions to protect the interest of child victims and child witnesses, with the view of minimising the agony of being witnesses of crimes;
23. Students who are arrested should not be expelled from their schools/educational institutions until the police case is wholly disposed off. It is also recommended that the police liaise with the Ministry of Education;
24. The promotion of parenting skills as a strong basis for prevention of potential offenders;
25. To strengthen and consolidate the different agencies relating to children so as a more effective mechanism can be put in place; and
26. The organisation of specialised seminars and workshops to concretise ideas, suggestions that have been mooted at this Round Table Discussion, with emphasis on wider participation.

Full text of the Convention

The Convention on the Rights of the Child was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. It entered into force 2 September 1990, in accordance with article 49.

Preamble

The States Parties to the present Convention, Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance, Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding, Considering that the child should be fully prepared to live an individual life in society and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity.

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children, ' Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions and

that such children need special consideration, Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries, Have agreed as follows:

Part I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their view known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests. 4. Where such separation result from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the

information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.
2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children .
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's

status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin; (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child. 3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child and shall be designed to ensure that the disabled child has effective access to and receives education, training, health

care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) To diminish infant and child mortality;
 - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
 - (d) To ensure appropriate pre-natal and post-natal health care for mothers;
 - (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
 - (f) To develop preventive health care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
 - (d) Make educational and vocational information and guidance available and accessible to all children;
 - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention
 3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:
 - (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
 - (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
 - (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
 - (e) The development of respect for the natural environment.
2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.
2. To this end and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:
 - (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;
 - (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
 - (i) To be presumed innocent until proven guilty according to law;
 - (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
 - (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
 - (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
 - (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
 - (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings. 3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

- (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
- (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in

- (a) The law of a State party; or
- (b) International law in force for that State.

Part II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.
2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.
3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them and shall submit it to the States Parties to the present Convention.
5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.
7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.
8. The Committee shall establish its own rules of procedure.
9. The Committee shall elect its officers for a period of two years.
10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.
11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.
12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:
 - (a) Within two years of the entry into force of the Convention for the State Party concerned;
 - (b) Thereafter every five years.
2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.
3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.
4. The Committee may request from States Parties further information relevant to the implementation of the Convention.
5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.
6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

- (a) The specialized agencies, the United Nations Children's Fund and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;
- (b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

- (c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;
- (d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

Part III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.
2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.

**Optional Protocol to the Convention on the Rights of the Child
on the involvement of children in armed conflicts**

Article 1

States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.

Article 2

States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

Article 3

1. States Parties shall raise in years the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that article and recognizing that under the Convention persons under the age of 18 years are entitled to special protection.
2. Each State Party shall deposit a binding declaration upon ratification of or accession to the present Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced.
3. States Parties that permit voluntary recruitment into their national armed forces under the age of 18 years shall maintain safeguards to ensure, as a minimum, that:
 - (a) Such recruitment is genuinely voluntary;
 - (b) Such recruitment is carried out with the informed consent of the person's parents or legal guardians;
 - (c) Such persons are fully informed of the duties involved in such military service;
 - (d) Such persons provide reliable proof of age prior to acceptance into national military service.
4. Each State Party may strengthen its declaration at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall inform all States Parties. Such notification shall take effect on the date on which it is received by the Secretary-General.
5. The requirement to raise the age in paragraph 1 of the present article does not apply to schools operated by or under the control of the armed forces of the States Parties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child.

Article 4

1. Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.

2. States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.
3. The application of the present article shall not affect the legal status of any party to an armed conflict.

Article 5

Nothing in the present Protocol shall be construed as precluding provisions in the law of a State Party or in international instruments and international humanitarian law that are more conducive to the realization of the rights of the child.

Article 6

1. Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of the present Protocol within its jurisdiction.
2. States Parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike.
3. States Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the present Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration.

Article 7

1. States Parties shall cooperate in the implementation of the present Protocol, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary thereto, including through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with the States Parties concerned and the relevant international organizations.
2. States Parties in a position to do so shall provide such assistance through existing multilateral, bilateral or other programmes or, inter alia, through a voluntary fund established in accordance with the rules of the General Assembly.

Article 8

1. Each State Party shall, within two years following the entry into force of the present Protocol for that State Party, submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol, including the measures taken to implement the provisions on participation and recruitment.
2. Following the submission of the comprehensive report, each State Party shall include in the reports it submits to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the Protocol. Other States Parties to the Protocol shall submit a report every five years.

3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of the present Protocol.

Article 9

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.
2. The present Protocol is subject to ratification and is open to accession by any State. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.
3. The Secretary-General, in his capacity as depositary of the Convention and the Protocol, shall inform all States Parties to the Convention and all States that have signed the Convention of each instrument of declaration pursuant to article 3.

Article 10

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

Article 11

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General. If, however, on the expiry of that year the denouncing State Party is engaged in armed conflict, the denunciation shall not take effect before the end of the armed conflict.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act that occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee on the Rights of the Child prior to the date on which the denunciation becomes effective.

Article 12

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall there upon communicate the proposed amendment to States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments they have accepted.

Article 13

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention.

<http://www.unhchr.ch/html/menu2/6/crc/treaties/opac.htm>

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Article 1

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

Article 2

For the purposes of the present Protocol:

- (a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;
- (b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;
- (c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

Article 3

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:

- (a) In the context of sale of children as defined in article 2:
 - (i) Offering, delivering or accepting, by whatever means, a child for the purpose of:
 - a. Sexual exploitation of the child;
 - b. Transfer of organs of the child for profit;
 - c. Engagement of the child in forced labour;
 - (ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;
 - a. Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;
 - b. Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.

2. Subject to the provisions of the national law of a State Party, the same shall apply to an attempt to commit any of the said acts and to complicity or participation in any of the said acts.
3. Each State Party shall make such offences punishable by appropriate penalties that take into account their grave nature.
4. Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article. Subject to the legal principles of the State Party, such liability of legal persons may be criminal, civil or administrative.
5. States Parties shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments.

Article 4

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, when the offences are committed in its territory or on board a ship or aircraft registered in that State.
2. Each State Party may take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, in the following cases:
 - (a) When the alleged offender is a national of that State or a person who has his habitual residence in its territory;
 - (b) When the victim is a national of that State.
3. Each State Party shall also take such measures as may be necessary to establish its jurisdiction over the aforementioned offences when the alleged offender is present in its territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its nationals.
4. The present Protocol does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 5

1. The offences referred to in article 3, paragraph 1, shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties and shall be included as extraditable offences in every extradition treaty subsequently concluded between them, in accordance with the conditions set forth in such treaties.
2. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider the present Protocol to be a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.

3. States Parties that do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 4.
5. If an extradition request is made with respect to an offence described in article 3, paragraph 1, and the requested State Party does not or will not extradite on the basis of the nationality of the offender, that State shall take suitable measures to submit the case to its competent authorities for the purpose of prosecution.

Article 6

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 3, paragraph 1, including assistance in obtaining evidence at their disposal necessary for the proceedings.
2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 7

States Parties shall, subject to the provisions of their national law:

- (a) Take measures to provide for the seizure and confiscation, as appropriate, of:
 - (i) Goods, such as materials, assets and other instrumentalities used to commit or facilitate offences under the present protocol;
 - (ii) Proceeds derived from such offences;
- (b) Execute requests from another State Party for seizure or confiscation of goods or proceeds referred to in subparagraph (a);
- (c) Take measures aimed at closing, on a temporary or definitive basis, premises used to commit such offences.

Article 8

1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:
 - (a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;

- (b) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;
 - (c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law;
 - (d) Providing appropriate support services to child victims throughout the legal process;
 - (e) Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims;
 - (f) Providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;
 - (g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims.
2. States Parties shall ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations, including investigations aimed at establishing the age of the victim.
 3. States Parties shall ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration.
 4. States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol.
 5. States Parties shall, in appropriate cases, adopt measures in order to protect the safety and integrity of those persons and/or organizations involved in the prevention and/or protection and rehabilitation of victims of such offences.
 6. Nothing in the present article shall be construed to be prejudicial to or inconsistent with the rights of the accused to a fair and impartial trial.

Article 9

1. States Parties shall adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular attention shall be given to protect children who are especially vulnerable to such practices.
2. States Parties shall promote awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the present Protocol. In fulfilling their obligations under this article, States Parties shall encourage the participation of the community and, in particular, children and child victims, in such information and education and training programmes, including at the international level.

3. States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.
4. States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.
5. States Parties shall take appropriate measures aimed at effectively prohibiting the production and dissemination of material advertising the offences described in the present Protocol.

Article 10

1. States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.
2. States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.
3. States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.
4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

Article 11

Nothing in the present Protocol shall affect any provisions that are more conducive to the realization of the rights of the child and that may be contained in:

- (a) The law of a State Party;
- (b) International law in force for that State.

Article 12

1. Each State Party shall, within two years following the entry into force of the present Protocol for that State Party, submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol.
2. Following the submission of the comprehensive report, each State Party shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the present Protocol. Other States Parties to the Protocol shall submit a report every five years.

3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of the present Protocol.

Article 13

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.
2. The present Protocol is subject to ratification and is open to accession by any State that is a party to the Convention or has signed it. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

Article 14

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

Article 15

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any offence that occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee on the Rights of the Child prior to the date on which the denunciation becomes effective.

Article 16

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall there upon communicate the proposed amendment to States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments they have accepted.

Article 17

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention.

<http://www.unhchr.ch/html/menu2/6/crc/treaties/opsc.htm>

OVERVIEW PAPER

INTRODUCTION TO THE CONVENTION ON THE RIGHTS OF THE CHILD

Introduction

The UN General Assembly adopted the Convention on the Rights of the Child (“CRC”) on 20 November 1989 and within a period of less than one year, the CRC entered into force on 2 September 1990. To date, only two countries of the United Nations (UN) have not ratified the CRC - Somalia and the United States¹. As the widest ratified treaty, the CRC is a reflection of global consensus that children’s rights are important.

The CRC is a legal treaty, which provides a comprehensive framework for children’s rights. The CRC is significant as children’s rights are recognised as human rights and for the first time children are set apart as worthy subjects of international rights and protection². The rights based approach is essential in promoting and protecting children’s rights as it marks a paradigm shift of perceiving children as objects of charity and of their parents³ to children as an individual and as members of the human family and thus, equally entitled to fundamental rights.

The CRC incorporates civil, political, economic, social and cultural rights, including basic rights, such as, the right to life⁴, right to adequate health care⁵, right to protection from sexual exploitation, sexual abuse⁶ and the illicit use of narcotic drugs⁷ and right to education⁸. The whole host of rights set out in 41 articles of the CRC are to be accorded to each child without distinction of any kind irrespective of the “child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status”⁹. One of the strengths of the CRC is the underlying principle of the best interest of the child. Article 3(1) explicitly mentions, “the best interest of the child shall be a primary consideration” in “all actions concerning children”. This was further affirmed at the World Summit for Children in 1990¹⁰. Correspondingly, the significance of the family unit is also highlighted. In the preamble, articles 5, 10 and 18 explicitly state that the family as a fundamental group of society is important to a child. It places an obligation on civil society, NGOs and the private sphere to safeguard children’s rights. In addition, the CRC addresses not only the rights but also the responsibilities of children and it highlights excluded children, with explicit mention of the rights of children with disabilities¹¹.

¹The United States signed the CRC on 16 February 1995 and Somalia signed the CRC on 9 May 2002.

²T. Buergental, *International Human Rights* (1995) (2nd edition) (West Publishing Co), at pg. 77.

³<http://www.unicef.org/crc/faq.htm>

⁴Article 6 of the CRC.

⁵Article 24 of the CRC.

⁶Article 34 of the CRC.

⁷Article 33 of the CRC.

⁸Article 28 of the CRC.

⁹Article 2 of the CRC.

¹⁰*We the Children: End-decade review of the follow-up to the World Summit for Children*, UN GA Twenty-seventh special session, 4 May 2001

¹¹Article 2 and 23 of the CRC.

Within the monitoring mechanism of the CRC is the Committee on the Rights of the Child (the "Committee"). Established pursuant to Article 43, the Committee assumes the responsibility of examining progress made by States Parties in fulfilling the obligations under the CRC. In ratifying or acceding to the CRC, apart from the obligation to incorporate the CRC into domestic law¹², States Parties undertake to submit periodic reports to the Committee, within two years of ratification/accession and every five years thereafter¹³. Such reports are required to address, inter alia, the measures taken by that State Party in giving effect to the rights in the CRC, any factors and difficulties faced in discharging the obligations in the CRC and further information which may assist the Committee in understanding the implementation of the CRC in that particular country¹⁴. Apart from reports from States Parties, the Committee also receives information from non-governmental organisations (NGOs), academic institutions and national human rights institutions¹⁵. After a dialogue session with the government representatives and after considering the reports, the Committee would then issue Concluding Observations comprising of the findings and recommendations of the Committee. In addition to the Concluding Observations, the Committee also publishes General Comments and General Recommendations, which are principally interpretation of the provisions of the CRC¹⁶.

Four sets of rights in the CRC

There are four sets of rights that the CRC seeks to protect - the right to survival, the right to development, the right to protection and the right to participation¹⁷.

The right to survival

An essential component in the holistic concept of the right to development of a child is the right to survival. The right to survival recognises that a child is entitled to the basic right to life, to a healthy life and an adequate standard of living. The augmentation of a child's physical well being in terms of nutritional status and health is closely associated with the living conditions of that the child. Therefore, it is our responsibility to ensure that a child grows up in the best possible living condition and environment. It is only through such optimum conditions that a child is able to develop a well-balanced personality.

The provisions relevant to this component of rights include:

- i. Right to survival and development - Article 6;
- ii. Right to health - Article 24;
- iii. Right to an adequate standard of living, including clean environment, nutrition and housing - Article 27.

¹²Incorporation of the CRC into domestic law will be briefly addressed later.

¹³Article 44 of the CRC.

¹⁴General Guidelines for periodic reports: 20/11/96. CRC/C/58 (Basic Reference Document), <http://www.unhchr.ch/tbs/doc.nsf>

¹⁵Committee on the Rights of the Child, <http://www.unhchr.ch/html/menu2/6/crc/>

¹⁶ibid

¹⁷<http://www.unicef.org.uk>

Right to development

Within this conceptual framework of the right to development is a child's right to develop his or her personality through education. The importance of education cannot be emphasised enough. The situation today is somewhat desolate - nearly 130 million children entered the 21st century unable to read a book or sign their names¹⁸. Therefore, it is not surprising that the child-related goals set out in the Millennium Development Goals pays great emphasis on education for children. It aims to ensure that all boys and girls complete primary education and to eliminate gender disparities in primary and secondary school education by the year 2015.

The provisions relating to the right to development include:

- i. Right to survival and development - Article 6;
- ii. Right to education, particularly the development of the child's personality, talents, mental and physical abilities to their fullest potential - Articles 28 & 29;
- iii. Right to education and holistic development of children with disabilities, particularly the promotion of self-reliance and the child's active participation in the community - Article 23;
- iv. The recognition that the primary responsibility for the upbringing and development of the child is upon both parents or legal guardians - Article 18.

Right to protection

These impose a positive obligation upon States Parties and every member of society to safeguard children from all forms of abuse, sexual exploitation and illicit use of narcotic drugs. It also addresses the rights of children who are in need for special protection, such as children involved in armed conflicts, refugee children and children going through the process of adoption¹⁹.

The provisions relating to the right to protection include:

- i. To protect children from the illicit use of narcotic drugs and psychotropic substances - Article 33;
- ii. To protect children from all forms of sexual exploitation and sexual abuse - Article 34;
- iii. Right to a name at birth, right to acquire nationality and the right to preserve his or her identity including nationality, name and family relations - Articles 7 & 8;
- iv. Special protection and assistance for children temporarily or permanently deprived of his or her family environment - Articles 20 & 21.

¹⁸<http://www.unicef.org.uk>

¹⁹<http://www.unicef.org.my>

Right to participation

Another noteworthy feature of the CRC is the inclusion of children in the decision making process. This includes participation and self-expression of children consistent with their evolving capacities, particularly in decisions that affect them. The archaic expression that “children must only be seen and not heard” must be discarded. Children are no longer passive subjects but active subjects of rights . It is only through empowerment that human rights²⁰ for children can be realised to its fullest capacity. Further, if children are not given a voice, their invisibility would perpetuate their vulnerability and they would be open to exploitation and abuse²¹.

Provisions of the CRC relating to the right to participation include:

- i. Right to express views freely consistent with his/her age and maturity, right to freedom of expression, thought, conscience - Articles 12 - 14 & 16;
- ii. Right to access to information - Article 17;
- iii. Right of the child to rest and leisure and to participate freely in cultural life and the arts - Article 31;
- iv. Right of children of ethnic, religious or linguistic minorities or persons of indigenous origin to enjoy his or her own culture, profess and practise his or her own religion and to use his or her own language.

Whilst it may be useful to compartmentalise children rights into four sets of rights, it is acknowledged that categorisation of the rights in the CRC is not inflexible as more often than not, the rights share common characteristics and may be linked to perhaps two sets of rights.

The CRC envisages the holistic development of a child and the belief in giving the child the “best possible start in life”²² and central to this aim is the concept of right to survival and development in Article 6. Article 6 is a positive obligation to ensure “to the maximum extent possible the survival and development of the child” and it is upon this commitment that all rights enumerated in the CRC, be it survival, development, participation or protection, hinge upon.

CRC and Malaysia

Malaysia acceded to the CRC on 17 February 1995 with a number of reservations. Although in 1998 Malaysia withdrew its reservations in respect of Articles 22, 28(1)(b), (c), (d) & (e), 28(2), 28(3), 40(3) & (4), 44 & 45, a number of reservations remained:

- i. Article 1 - Definition of a child to be under the age of 18 years.
- ii. Article 2 - Principle of non-discrimination.
- iii. Article 7 - Right to be registered at birth and to a name at birth, right to acquire nationality, the right to be cared for by his/her parents. The State Party obligation to ensure the implementation of these rights, in particular where the child would otherwise be stateless.

²⁰M. Santos Pais, *General Principles Guiding the Convention on the Rights of the Child*, <http://www.childinfo.org/CRind/paispaper.pdf>

²¹<http://www.unicef.org.uk>

²²Global Movement for Children, <http://www.unicef.org/gmfc/call.htm>

- iv Article 13 - Right to freedom of expression including the freedom to seek, receive and impart information and ideas.
- v. Article 14 - Right to freedom of thought, conscience and religion.
- vi. Article 15 - Right to freedom of association and to freedom of peaceful assembly.
- vii. Article 28(1)(a) - State Party obligation to make primary education compulsory and available free to all²³.
- viii. Article 37 - The prohibition of torture or other cruel, inhuman or degrading treatment or punishment, life imprisonment/capital punishment, arbitrary detention. Any child deprived of his/her liberty must be treated with humanity, dignity and afforded the right to prompt legal access, right to a fair trial etc.

Conclusion

The rights and responsibilities in the CRC have been dealt with above but the more important aspect of children's rights is the implementation of these rights domestically. Ratification/ accession to the CRC is no more than an indication to be bound of the provisions of the convention. Ratification/ accession requires an additional step at the domestic level to incorporate the CRC into domestic law. By being a party to the CRC, States Parties have a positive obligation to create awareness for everyone, including children and a re-examination of local laws and policies to ensure compliance with the provisions of the CRC. Therefore, in view of the importance of implementation, two additional focus areas have been added to the Round Table Discussion:

- i. The relationship between the Child Act 2001, other domestic laws relating to children and the CRC, the reservations to the CRC and the two Optional Protocols to the CRC;
- ii. The criminal justice system and procedures relating to children, with particular emphasis on Syariah Law.

How we give effect to children's rights today will invariably influence the future progress of humanity, as children will shape the world's future. With the knowledge, resources, technological advancement and the legal tools at hand, we are in the position to bring about change. Therefore, there must be a conscious and sincere effort at all levels to give effect to the human rights of children.

²³Malaysia declared that even though primary education is not compulsory and available free to all in Malaysia, primary education is available to everybody and Malaysia has achieved a high rate of enrolment for primary education i.e. at the rate of 98% enrolment

**PERBINCANGAN MEJA BULAT – KONVENSYEN HAK ASASI KANAK-KANAK
19 & 20 JANUARI 2004
HOTEL PAN PACIFIC, KUALA LUMPUR**

ATURCARA

Hari Pertama: Isnin, 19 Januari 2004

- 0800 - 0850 Pendaftaran Peserta.
- 0850 - 0900 Ketibaan Para Jemputan.
- 0900 KETIBAAN MENTERI PERPADUAN NEGARA DAN PEMBANGUNAN MASYARAKAT.
- 0900 - 0915 **UCAPAN ALU-ALUAN**
Dato' Ranita Mohd. Hussein,
Pengerusi Bersama, Kumpulan Kerja Pembaharuan Perundangan dan Triti Antarabangsa SUHAKAM.
- 0915 - 0945 **PERASMIAN DAN UCAP UTAMA**
Dato' Dr. Siti Zaharah Sulaiman,
Menteri Perpaduan Negara Dan Pembangunan Masyarakat.
- 0945 - 1000 Jamuan Ringan.
- 1000 - 1045 **A Comparative Study on the Implementation of the Convention on the Rights of the Child – the UNICEF Experience**
Ms. Gaye Phillips,
Representative, UNICEF Malaysia.
- 1045 - 1100 **PEMBAHAGIAN PESERTA-PESERTA KEPADA ENAM KUMPULAN BERIKUT:**
- KUMPULAN SATU**
Tajuk : Kehidupan.
Moderator : Datuk Dr Raj Karim,
Pesuruhjaya SUHAKAM.
- KUMPULAN DUA**
Tajuk : Perkembangan.
Moderator : Professor Dr Chiam Heng Keng,
Pengerusi Kumpulan Kerja Pendidikan dan Promosi Hak Asasi Manusia SUHAKAM.

KUMPULAN TIGA

Tajuk : Perlindungan.
Moderator : Professor Datuk Dr. Mohd. Sham Kassim,
Naib Presiden, Majlis Kebajikan Kanak-Kanak Malaysia.

KUMPULAN EMPAT

Tajuk : Penyertaan.
Moderator : Dato' Asiah Abu Samah,
Pesuruhjaya SUHAKAM.

KUMPULAN LIMA

Tajuk : Akta Kanak-Kanak 2001, Undang-Undang Negara
yang lain dan CRC.
Moderator : Dato' Ranita Mohd Hussein,
Pengerusi Bersama, Kumpulan Kerja
Pembaharuan Perundangan dan Triti
Antarabangsa SUHAKAM.

KUMPULAN ENAM

Tajuk : Sistem Keadilan dan Tatacara Jenayah
yang berkaitan dengan kanak-kanak.
Moderator : Cik Zainah Anwar,
Pesuruhjaya SUHAKAM.

1100 - 1245 PERBINCANGAN MEJA BULAT OLEH KUMPULAN-KUMPULAN
1245 - 1400 Makan Tengah Hari
1400 - 1630 PERBINCANGAN DISAMBUNG
1630 - 1700 Jamuan Ringan
Tamat Hari Pertama

Hari Kedua: Selasa, 20 Januari 2004

- 0830 - 0915 **PEMBENTANGAN OLEH KUMPULAN SATU**
Tajuk: Kehidupan.
- 0915 - 1000 **PEMBENTANGAN OLEH KUMPULAN DUA**
Tajuk: Perkembangan.
- 1000 - 1015 Jamuan Ringan.
- 1015 - 1100 **PEMBENTANGAN OLEH KUMPULAN TIGA**
Tajuk: Perlindungan.
- 1100 - 1145 **PEMBENTANGAN OLEH KUMPULAN EMPAT**
Tajuk: Penyertaan.
- 1145 - 1230 **PEMBENTANGAN OLEH KUMPULAN LIMA**
Tajuk: Akta Kanak-Kanak 2001, Undang-Undang Negara yang lain dan CRC.
- 1230 - 1315 **PEMBENTANGAN OLEH KUMPULAN ENAM**
Tajuk: Sistem Keadilan dan Tatacara Jenayah yang berkaitan dengan kanak-kanak.
- 1315 - 1345 **KESIMPULAN, SYOR-SYOR DAN UCAPAN PENUTUP**
Dato' K. C. Vohrah,
Pengerusi Bersama, Kumpulan Kerja Pembaharuan Perundangan dan Triti Antarabangsa SUHAKAM.
- 1345 - 1430 Makan Tengah Hari.

Tamat Perbincangan Meja Bulat.

Government

No.	Name	Organisation	Designation	Contact No.
1.	Abas Bin Nordin, Yang Arif.	Mahkamah Syariah Wilayah Persekutuan, Bangunan Sulaiman, Jalan Damansara, 50676 Kuala Lumpur.	Judge.	T :03-22748196 F: 03-22740136
2.	Aminah Bee Mohd Kassim, Dr.	Kementerian Kesihatan, Bahagian Pembangunan Kesihatan Keluarga, Tingkat 2, Blok B, Jalan Cenderasari, 50590 Kuala Lumpur.	Medical Officer.	T: 03-26946505 F: 03-26946510
3.	Annuar Bin Haji Mohd. Nor, Tuan Haji.	Jabatan Kebajikan Masyarakat Negeri Sarawak, Tingkat 11, Wisma Saberka, Jalan Green, 93564 Kuching, Sarawak.	Director.	T:082-411551 F:082-256710
4.	Bahiyah Binti Mohammad, Puan.	Pejabat Kebajikan Masyarakat Daerah, Petaling, Tingkat Bawah, Kompleks Kerajaan, Daerah Petaling, 47500 Subang Jaya, Selangor.	Penolong Pegawai Pembangunan Masyarakat.	T: 03-56335728
5.	Chung Tsu Tuab, Cik.	Agensi Dadah Kebangsaan, Kementerian Dalam Negeri, Aras 6, D1 Parcel D, Pusat Pentadbiran Kerajaan Persekutuan, 62502 Putrajaya.	Ketua Penolong Pengarah.	T:03-88891659
6.	Goh Seng Wing, Encik.	Jabatan Tenaga Kerja, Ibu Pejabat, Aras 5, Blok D3 Parcel D, Pusat Pentadbiran Kerajaan Persekutuan, 62502 Putrajaya .	Director, Law and Enforcement.	T:03-88865057 F:03-88892363
7.	Zurina Binti Zakaria, Puan.	Kementerian Penerangan, Cawangan Antarabangsa, Tingkat 2, Bangunan IBC Angkasapuri, 50610 Kuala Lumpur.	o/b Director.	T:03-22847120 F:03-22847742
8.	Halimah Binti Kawaluddin, Puan.	Polis DiRaja Malaysia, Bukit Aman, Division (D9), 50560 Kuala Lumpur.	Police, Crime	T:03-22627019 F:03-22627041
9.	Hussain Imam Bin Haji Muhammad Ismail, Dr.	SCAN TEAM Hospital Kuala Lumpur, Jalan Pahang, 50586 Kuala Lumpur.	Head, Pediatric Department.	T:03-2615564 F:03-26948187
10.	Jeswant Singh, Encik.	Bahagian Hal Ehwal Undang-Undang, Jabatan Perdana Menteri, Aras 3, Blok B7, Pusat Pentadbiran Kerajaan Persekutuan, 62502 Putrajaya.	Timbalan Ketua Pengarah.	T:03-88881062 F:03-88893958
11.	Junaida Lee Abdullah, Dr.	Kementerian Kebudayaan, Kesenian dan Pelancongan, (Bahagian Pelancongan) Tingkat 33, Menara Dato' Onn PWTC, 50694 Kuala Lumpur.	Ketua Penolong Setiausaha.	T:03-26963140 F:03-26932399
12.	Kamarudin Bin Abdul Ghapar, Tuan Haji.	Jabatan Pendaftaran Negara Malaysia, Wisma Pendaftaran Persiaran Barat, 46551 Petaling Jaya, Selangor.	Director, Birth, Death and Adoption Division.	T: 03-79683366 F:03-79585098
13.	Katti Dan, Puan.	Kementerian Pendidikan Malaysia, Bahagian Sekolah (HEP), Jabatan Sekolah, Tingkat 5, Blok J, Pusat Bandar Damansara, 50600 Kuala Lumpur.	Penolong Pengarah.	T: 03-20949151

14. Mah Chui Ying, ASP	PDRM, Maktab Pegawai Kanan, PDRM Kuala Lumpur, 45200 Cheras, Selangor.	Assistant Superintendent.	F: 03-91065588
15. Mariani Binti Mohamed Saad, Puan Hajja.	Jabatan Kebajikan Masyarakat Negeri, Selangor, Tingkat 2, Bangunan Darul Ehsan, No.3, Jalan Indah, 40000 Shah Alam, Selangor.	Penolong Pegawai Pembangunan Masyarakat.	T: 03-56335728
16. Masila Binti Yaakub, Puan.	Kementerian Dalam Negeri, Tingkat 13, Parcel D1, Pusat Pentadbiran Kerajaan Persekutuan, 60546 Putrajaya.	Penolong Setiausaha.	T:03-88868552 F:03-88891763
17. Mohamad Bin Haji Mohd. Insan, Tuan Haji.	Bahagian Pendidikan Guru, Kementerian Pendidikan Malaysia, Paras 4 & 5 Blok F (Selatan), Pusat Bandar Damansara, 50640 Kuala Lumpur.	Ketua Penolong Pengaruh.	T: 03-20987201 F:03-20938475
18. Mohd. Fazari Bin Mohd. Salleh, Encik.	Kebajikan Masyarakat Daerah Petaling, Pejabat Kebajikan Masyarakat Daerah, Petaling, Tingkat Bawah, Kompleks Kerajaan, Daerah Petaling, No.9, Jalan SS 10/1, 47500 Subang Jaya, Selangor.	Pegawai.	T: 03-56335728 F:03-56348947
19. Mohd. Zaki Bin Abdul Wahab, Tuan.	Mahkamah Seksyen Seremban, Jalan Dato' Hamzah, 70000 Seremban, Negeri Sembilan.	Judge.	
20. Siti Darmawan Binti Amarudin, Puan.	Jabatan Kebajikan Masyarakat, Wisma Shen, Jalan Masjid India, Kuala Lumpur.	b/p:Pegawai.	T:03-26925011 F:03-26949395
21. Noraini Mohd, Prof. Madya Dr.	Penasihat Kepada Mahkamah Kanak-Kanak, 49 3/1 H USJ, 47600 Subang Jaya, Selangor.	Court Adviser and Lecturer.	T:03-79675073 F:03-79675148 H/p:019-2660607
22. Norazman Bin Ayob, Encik.	Kementerian Dalam Negeri, Tingkat 13, Parcel D1, Pusat Pentadbiran Kerajaan Persekutuan, 60546 Putrajaya,	Penolong Setiausaha.	T:03-88868552 F:03-88891763
23. Nurul Izwan Binti Ahmad Zubir, Puan.	Mahkamah Majistret Kuala Lumpur, Jalan Raja Laut, 50506 Kuala Lumpur.	Magistrate.	
24. Rosniah Binti Ramle, Puan.	PDRM, Maktab Pegawai Kanan, PDRM Kuala Lumpur, 45200 Cheras, Selangor.		T: F:03-91065588
25. Samsul Khamariah Binti	Jabatan Perpustakaan Negara Malaysia, Hamzah, Puan232 Jalan Tun Razak, 50572 Kuala Lumpur.	Ketua Bahagian Pinjaman.	T: 03-26871742 F:03-26942490
26. Nooraini Binti Md. Ali, Puan.	Unit Perancang Ekonomi, Jabatan Perdana Menteri, Aras 3, Blok B6, Pusat Pentadbiran Kerajaan Persekutuan, 62502 Putrajaya.	Ketua Penolong Pengaruh.	T:03-88883680 F:03-88883689
27. Siti Zaharah Binti Mat Akib, Puan.	Jabatan Pendidikan Khas, Kementerian Pendidikan Malaysia, Tingkat 33, Blok G Selatan, Pusat Bandar Damansara, 50604 Kuala Lumpur.	Timbalan Ketua Pengaruh Pendidikan.	T: 03-20944129 F:03-20942644

28. Subramaniam a/l Muniandy, Encik.	Jabatan Penjara Malaysia, Bahagian Keselamatan, Ibu Pejabat Penjara Malaysia, Bukit Wira, Sungai Jelok, 43000 Kajang, Selangor.	Penguasa Penjara.	T:03-87348084
29. Syafeera Binti Mohd. Said, Puan.	Mahkamah Majistret Kuala Lumpur, Jalan Raja Laut,	Magistrate. 50506 Kuala Lumpur.	
30. Wan Ahmad Bin Ibrahim, Encik.	Bahagian Hal Ehwal Undang-Undang, Jabatan Perdana Menteri, Aras 3, Blok B7, 62502 Putrajaya.	Director, Research.	T:03-88881080 F:03-88883731
31. Zaharah Binti Zainal Abidin, Puan.	Ibu Pejabat, Jabatan Tenaga Kerja Semenanjung Malaysia, Aras 5, Blok D3 Parcel D, Pusat Pentadbiran Kerajaan Persekutuan, 62502 Putrajaya.	Assistant Director.	T: 03-88865245 F: 03-88892367
32. Zulfikri Bin Yasoa, Tuan.	Jabatan Kehakiman Syariah Selangor, Tingkat 5 & 6, Bangunan Mahkamah SSAAS, Persiaran Pegawai, Seksyen 5, 40000 Shah Alam, Selangor.	Judge, Syariah Court, Selangor.	T:03-55191291 F:03-55191317
33. Kamarul Azahar Mohd. Razali, Dr.	Institut Paediatric, Hospital Kuala Lumpur, 50586 Kuala Lumpur.	Pediatric Consultant.	T: 03-26155555 ext.6888 F: 03-26948187
34. Irene Cheah Guat Sim, Dr.	Jabatan Pediatrik, Institut Pediatrik, Hospital Kuala Lumpur, Jalan Pahang, 50583 Kuala Lumpur.	Pediatric Consultant.	T: 03-26948187

NGO's

No.	Name	Organisation	Designation	Contact No.
1.	Anne B. Lasimbang, Puan.	Pacos Trust, P.O. Box 511, 89507 Penampang, Sabah.	Programme Coordinator, Early Childhood Education.	T: 088-718669
2.	Ayinalin Mohd. Annuar, Puan.	Jabatan Kebajikan Masyarakat WPKL, Tingkat 10B, Grand Seasons Avenue, Jalan Pahang, 50564 Kuala Lumpur.	Counselor.	T:03-40441188 ext 110 F:03-40428185
3.	Charmine Wong, Ms.	Student Participant.		E-mel: wongcharmaine@ yahoo.com
4.	Colin Nicholas, Dr.	Centre for Orang Asli Concerns, P.O.Box 3052, 47590 Subang Jaya, Selangor.	Director & Coordinator.	T:03-56340988 H/P: 013-3508058
5.	Diana Low, Ms.	PS The Children, No. 66, Bangunan GB, 2nd Floor, Jalan Petaling Utama 9, Taman Petaling Utama, 46000 Petaling Jaya, Selangor.	Representative.	T:03-77844344/55 F:03-77844322
6.	Dzofrain Azmi, Encik.		Student Participant.	E-mel: dzof@dzof.org
7.	Ganadara Vadivel, S. Encik.	The Befrienders, 95, Jalan Templer, 46000 Petaling Jaya, Selangor.	Deputy Chairman.	T:03-79570497
8.	Danial Abdul Rahman, Encik.	No. 10 Jalan 16/62, Bandar Manjalara, Kepong, 52100 Kuala Lumpur.	Student Participants.	H/P:012-6885972
9.	Indrani Manuel, Dr.	150 Jalan Maarof, Bukit Bandaraya, 59000 Kuala Lumpur.	Bekas Pengetua.	T:03-20956212 H/P:019-3399273
10.	Mohd. Fauzan Amran.	PEMADAM, c/o Jabatan Pendidikan WP Kuala Lumpur, Bangunan Anjung Felda, Jalan Maktab, Off Jalan Semarak, 50604 Kuala Lumpur, KEBANGSAAN.	b/p:Setiausaha Biro Latihan PEMADAM.	T:03-26978270 F:03-26930736
11.	Z.A. Malik, Datuk.	HAKAM, 5th Floor Wisma Harwant, 106 Jalan Tunku Abdul Rahman, 50100 Kuala Lumpur.	Timbalan Presiden.	T: 03-26938828
12.	Janet Looi, Puan.	Skrine Unit No. 50-8-1, 8th Floor, Wisma UOA Damansara, 50 Jalan Dungun, Damansara Heights, 50490 Kuala Lumpur.	Peguam.	T: 03-20948111 F:03-20943211
13.	Jasmine Adaickalam, Mrs.	Yayasan Strategik Sosial, 5th Floor, Menara Manickavasagam, No.1, Jalan Rahmat, 50350 Kuala Lumpur.	Service Director.	T:03-40415958 F:03-40415681

14. Noor Yasmin Binti Abdul Karim, Puan.	Majlis Pemulihan Malaysia, Bilik 3, Tingkat 4, Bangunan Sultan Salahuddin, Abdul Aziz Shah, No.16, Lorong Utara (A), 46200 Petaling Jaya, Selangor.	b/p: Setiausaha Agong.	T: 03-79553510 F:03-79553514
15. Wong Poi Hong, Puan.	Persatuan Pengasuh Berdaftar Malaysia, 3rd Floor, Wisma W.I.M , 7, Jalan Abang Haji Openg, 60000 Kuala Lumpur.	President.	T: 03-77272991 F: 03-77272993
16. Kishnaaveni D/O R. Mottaiyan, Ms.	National Union of Plantation Workers, 428-430 (1st Floor) Jalan 5/48, P.O. Box No. 73, 46000 Petaling Jaya, Selangor.	Setiausaha Cawangan.	T: 03-77827622 /718/861 F: 03-77815321
17. Kon Onn Sein, Encik.	Yayasan Kajian dan Pembangunan, Masyarakat, 31 A-C Jalan Besar, Selayang Besar, Batu Caves, Selangor.	Pengarah.	T: 03-61369854
18. Kristina Bah Yan, Cik.	Yayasan Kajian dan Pembangunan, Masyarakat, 31A-C Jalan Besar, Batu Caves, Selangor.	Pengarah.	T: 03-61369854
19. Lalitha Manon, Puan.	Women's Centre for Change, Peguambela & Penguamcara, 24-D Jalan Jones, 10250 Pulau Pinang.	Naib Presiden Pusat Kesedaran Wanita.	T: 04-2280342 F: 04-2285784
20. Lok Yim Peng, Puan.	Kesatuan Perkhidmatan Pengurusan, Kebangsaan Semenanjung Malaysia, (NUTP), 13-15 Jalan Murai Dua, Kompleks Batu, Off Jalan Ipoh, 51100 Kuala Lumpur.	Setiausaha Agong.	T: 03-62510621 F: 03-62551060
21. Lucy Lim, Puan + 1 peserta OKU.	Pusat Maju Diri, 95, Jalan Padang Belia, Off Jalan Tun Sambathan, 50470 Kuala Lumpur.	Executive for Committee Development.	T: 03-22741439 F: 03-22740559 H/P:016-2442542
22. Madeleine Yong, Cik.	P.S.The Children, 2nd Floor, Bangunan GB, No. 66C, Jalan Petaling Utama 9, Taman Petaling Jaya, 46000 Petaling Jaya, Selangor.	Pengarah.	T: 03-77844344 F: 03-77844322
23. Mangalam, Mother.	The Pure Life Society, Batu 6 Jalan Puchong, 58200 Kuala Lumpur.	President.	T: 03-77828303 /9391 F: 03-77846020
24. Marisah Naz, Cik.	Sekolah Sri Cempaka, No.19, Jalan Setiabistari, Bukit Damansara, 50490 Kuala Lumpur.	Student Participant.	H/P: 012-3203994
25. Nazmi Kamurulzaman.	39, Jalan AU 5 Lembah Keramat, 54200 Kuala Lumpur.	Student Participant.	T: 03-41080241
26. Wan Rokiah Wan Ismail, Puan Hajjah	Majlis Kebajikan Kanak-Kanak, Malaysia (MKKM), 25A , Jalan Kampung Pandan, 55100 Kuala Lumpur.	Penolong Setiausaha Kehormat.	T: 03-92810858 F: 03-92832400

27. Mohd. Farid Ariffin, Dato' .	Majlis Kanser Nasional (MAKNA), c/o 16-3, jalan 10/55A, Taman Setiawangsa, 54200 Kuala Lumpur.	President.	T: 03-42569178 /79 F: 03-42569203
28. Mohd. Salleh Bin Mat Ali, Encik.	Pusat Aktiviti Kanak-Kanak Chow Kit, 4A, Tingkat 1, Lorong Haji Taib 3, 50350 Kuala Lumpur, d/a Pusat Harian Bukit Tunku No. 5 Jalan Syers, Bukit Tunku, 50480 Kuala Lumpur.		T: 03-62010195 F: 03-40428185
29. Patricia Teh, Puan.	Persatuan Tadika Malaysia, No. 58, Jalan SS/72, 47300 Petaling Jaya, Selangor.	Setiasaha Kehormat.	T: 03-79574610 F: 03-79544610
30. Raja Mustafa Bin Raja Abu Hasan, Dr. 55000 Kuala Lumpur.	Persatuan Sindrom Down Malaysia, 79 Lingkungan U Thant,	President.	T/F: 03-42579818
31. Sariah Ibrahim, Puan + 2 jurubahasa.	Persatuan Orang Pekak Malaysia, c/o 931-1 Jalan SS17/38, Petaling Jaya, 46400 Petaling Jaya, Selangor.	Executive Secretary.	T: 03-79572890 F: 03-79572891
32. Sarah Chen, Ms.	Y.Bhg Datin Freida Pilus, Pengetua, Persiaran Awana, Taman Cheras Permata 2, 43200 Cheras, Selangor.	Student Participant.	F: 03-90768194
33. Shahida Musa, Puan.	Persatuan Perlindungan, Kanak-Kanak Malaysia, Tingkat 3, Bangunan Persatuan, Barah Kebangsaan, No. 66, Jalan Raja Muda Abdul Aziz, 50300 Kuala Lumpur.		F: 03-26914773
34. Siti Aida, Puan.	52, Jalan Kasah, Medan Damansara, Kuala Lumpur.	Individual participant.	T: 03-20932301
35. Susheila McCoy, Datin.	Environmental Protection Society, Malaysia, 17, Jalan Tanjong (RD5/4), 46000 Petaling Jaya, Selangor.	President.	T: 03-79568407, F: 03-79550178
36. Sharifah Zuriah Binti Al-Jefri, Puan.	Sisters In Islam, 25, Jalan 5/31, 46000 Petaling Jaya, Selangor.	Founder.	T: 03-79606121 F: 03-79604737
37. Yeoh Gaik Li Lina, Puan.	Persatuan Pengasuh Berdaftar Malaysia, c/o 3rd Floor, Wisma W.I.M., 7 Jalan Abang Haji Openg, 60000 Kuala Lumpur.	President.	T: 03-77272991 F: 03-77272993
38. Viji Ramanathan, Encik.	Women Aid Organisation (WAO), No.2 Lorong 14/30A, Seksyen 14, Petaling Jaya, 46100 Selangor.	Child Social Worker.	T: 03-79563488 F: 03-79563237

Academic

No.	Name	Organisation	Designation	Contact No.
1.	Abdul Halim Bin Sidek,	Faculty of Law and Administration, Assoc Prof. 40450 Shah Alam, Selangor.	Lecturer, Law Faculty. Universiti Teknologi Mara,	H/P:019-3056952
2.	Farah Nini Dusuki, Dr.	Ahmad Ibrahim Kulliyah of Laws, Universiti Islam Antarabangsa, Jalan Gombak, 53100 Kuala Lumpur.	Lecturer, Law Faculty.	F: 03-20564854
3.	Mohd. Nasran Mohamad, Prof. Madya, Dr.	Fakulti Pengajian Islam, Universiti Kebangsaan Malaysia, 43600 Bangi, Selangor.	Lecturer, Syariah.	T: 03-89215128 F: 03-89213153
4.	Noor Aziah Bin Mohd. Awal, Prof. Madya.	Fakulti Undang-undang, Universiti Kebangsaan Malaysia, 43600 Bangi, Selangor.	Lecturer, Law Faculty.	T: 03-89216378
5.	Norbani Mohamed Nazeri, Puan.	Falkulti Undang-Undang, Universiti Malaya, 50603 Kuala Lumpur.	Lecturer, Law Faculty.	H/P:012-3071053 T: 03-79676549
6.	Putri Zabarlah Binti Megat Abdul Rahman, Dr.	Falkulti Pengajian Pendidikan, Universiti Putra Malaysia, 43400 Serdang, Selangor.	Lecturer, Education Faculty.	T: 03-89435386
7.	Zaiton Hamin, Dr.	Falkulti Pentadbiran dan Undang-Undang, Universiti Teknologi Mara, 40450 Shah Alam, Selangor.	Lecturer, Law Faculty.	T: 03-55444181 F: 03-55444131