

## Regional Plan of Action on Implementing the ASEAN Declaration on the Rights of Children in the Context of Migration

### I. Background and Rationale

Worldwide millions of children are living in migration or displacement, placing them in situations of risk. International and domestic migration and displacement are not new phenomena. They affect every country in the ASEAN region. According to UNICEF, based on international migrant stock, more international migrants move beyond the ASEAN region than within ASEAN countries.<sup>1</sup> As of 2017, one in eight international migrants in ASEAN countries was a child. This means that there are approximately 1.2 million international child migrants in ASEAN. Around half of the 1.5 million refugees from ASEAN countries are children.<sup>2</sup> An estimated 2 million children in the ASEAN region were internally displaced due to natural disasters in 2018.

The Convention on the Rights of the Child (CRC) enshrines a set of universal rights that constitute the minimum standards that States Parties must ensure for every child within their jurisdiction, including for children in the context of migration, whether they i) migrate across international borders or internally, with or without their parents or other primary caregivers; ii) are born to migrant parents in destination countries; or iii) remain in countries of origin after one or both parents have migrated.<sup>3</sup> These rights must be guaranteed without discrimination of any kind, including, but not limited to, on the grounds of the child's or his or her parent's or legal guardian's age, sex, social origin, national, birth, or other status. In its joint General Comment No. 23 on 'State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return', the CRC Committee states that the CRC "stipulates that States parties shall respect and ensure the rights set forth in the Convention to each child within its jurisdiction without discrimination of any kind; this includes discrimination against children on the basis of their or their parents' migration status". Further, States should provide appropriate care and protection for children in the context of migration.<sup>4</sup> A number of global efforts have further elaborated upon the rights of children in the context of international migration.<sup>5</sup>

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<sup>1</sup> As of 2017, almost 21 million persons from the 10 ASEAN countries lived outside their country of birth (3.3 per cent of the total population). Of those, 7 million had moved within the ASEAN region and 14 million people had migrated beyond the ASEAN region. The bulk of these emigrants with destinations beyond the region had gone to other Asian countries (6 million, 42 per cent) and to North America (5 million, 37 per cent).

<sup>2</sup> At the end of 2018, 1.5 million refugees originated from ASEAN countries – 670,000 more than two years previous.

<sup>3</sup> See Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration.

<sup>4</sup> Note also that in its General Comment No. 6 'Treatment of unaccompanied and separated children outside their country of origin', the Committee on the Rights of the Child (CRC Committee) stated, "the enjoyment of rights stipulated in the Convention is not limited to children who are citizens of a State Party and must therefore, if not explicitly stated otherwise in the Convention, also be available to all children – including asylum-seeking, refugee and migrant children – irrespective of their nationality, immigration status or statelessness".

<sup>5</sup> Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the

Upholding the rights of children in the context of migration is also part of the effort to achieving the Sustainable Development Goals in the ASEAN region.<sup>6</sup>

Migration and related child protection risks are a significant concern. The ASEAN region encompasses countries of origin, transit, destination and combination origin/destination, with internal and cross-border migration being significant features. The drivers of migration include: poverty, inequalities, social exclusion and discrimination, conflicts, insecurity and violence, disaster and persecution, economic and educational opportunities, intra-regional migrant labour flows, trafficking, internal labour migration, the environmental impact of climate change, and increased regional connectivity and integration. Key child protection risks in the region include child immigration detention; lack of protection for refugee<sup>7</sup> and asylum-seeking children, unaccompanied and separated children, children who are stateless or at risk of statelessness, and children of migrant workers; discrimination in access to basic services (e.g., health, education, protection etc.); exploitation by smugglers and traffickers; the sale of children; child marriage; millions of children remaining in origin countries while their parents migrate for work, facing risks of violence, abuse and exploitation; and lack of data on the situation of children in the context of migration contributing to their vulnerability.<sup>8</sup>

ASEAN Member States have committed to respect, protect and fulfill the rights of all children, including in the context of migration. A number of relevant regional efforts have been made, including the adoption of the ASEAN Declaration on the Rights of Children in the Context of Migration. The ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, the ASEAN Regional Plan of Action on the Elimination of Violence against Children (which includes a specific provision to review/strengthen protective policies and measures for stateless, migrant, and asylum-seeking children who are victims of violence) are of note. In addition to the CRC, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of Persons with Disabilities are universally ratified within the ASEAN region, and contain a number of relevant provisions. Also of note for its relevant provisions is the ILO Minimum Age Convention, 1973 (No. 138).

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Child on the general principles regarding the human rights of children in the context of international migration; Committee on the Rights of the Child, General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration; UN General Assembly, Global Compact on Refugees (as contained in A/73/12 (Part II)) was adopted on 17 December 2018 (A/RES/73/151) and UN General Assembly, Global Compact for Safe, Orderly and Regular Migration was adopted on 19 December 2018 (A/RES/73/195).

<sup>6</sup> Goals 3, 4, 8, 10, 13, 16, 17, and in particular Target 10.7 to “Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”, and Target 16.2 to “End abuse, exploitation, trafficking and all forms of violence against and torture of children”, in addition to many additional targets related to migration and the pledge that no one will be left behind and to reach the furthest behind first.

<sup>7</sup> The CRC provides that 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 receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the CRC and in other international human rights or humanitarian instruments to which the said States are Parties

<sup>8</sup> As noted in the ASEAN Declaration on the Rights of Children in the Context of Migration (Paragraph 6), children in the context of migration are particularly vulnerable to discrimination and certain types of violence, abuse, and exploitation, including forced and child labour, child marriage, sexual exploitation, gender-based violence, neglect, and domestic servitude.

Understanding the ever-changing dynamics regarding the issues of migration and refugees and asylum seekers, ASEAN also takes into account the recent developments and deliberations at the global level. In this regard, this Regional Plan of Action is formulated to take into consideration as appropriate the Global Compact for Safe, Orderly and Regular Migration and the Global Compact for Refugees.

## II. Definitions

### a) Definition of a child

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 1 of the CRC)<sup>9</sup>

### b) Definition of children in the context of migration

The term “children in the context of migration”, as used in this Regional Plan of Action, refers to (a) children moving or who have moved for a variety of reasons, voluntarily or involuntarily, within or between countries with or without their parents or other primary caregivers, (b) children who were born to migrant parents in countries of destination, or (c) children remaining in the country of origin after one or both parents have migrated.<sup>10</sup>

## III. Principles

- **Non-discrimination:** As stated in Article 2 of the CRC, States Parties shall respect and ensure the rights set forth in the Convention to each child within their jurisdiction without discrimination of any kind. The CRC Committee, in its General Comment No. 22, notes that the principle of non-discrimination is fundamental and is “fully applicable to every child and his or her parents, regardless of the reason for moving, whether the child is accompanied or unaccompanied, on the move or otherwise settled, documented or undocumented or with any other status.”<sup>11</sup>
- **Primary consideration of the best interests of the child:** The interpretation and safeguarding of a child’s best interests, including the obligation to protect children in the context of migration, must be consistent with the provisions in the CRC. To this end, the best interests of the child must be a primary consideration in all relevant policies and practices in the context of migration.

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<sup>9</sup>In the ASEAN Regional Plan of Action on the Elimination of Violence against Children (ASEAN RPA on EVAC), the definition of a child is “In accordance with the Convention on the Rights of the Child (CRC) , a child means every human being below the age of eighteen years unless, the law applicable to the child, majority is attained earlier.”

<sup>10</sup> This definition is based on the interpretation of the Committee on the Rights of Child, notably joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration, CMW/C/GC/3-CRC/C/GC/22. This definition includes those who are victims of trafficking, refugees, asylum-seekers, children who are stateless or at risk of statelessness, and internally displaced children.

<sup>11</sup> Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration, CMW/C/GC/3-CRC/C/GC/22, Para. 21.

- **Life, survival, and development:** As stated in Article 6 of the CRC, every child has an inherent right to life, and States Parties shall ensure to the maximum extent possible the survival and development of the child. The CRC Committee, in its General Comment No. 22, clarified that the obligations of States parties under this article “include the protection and reduction — to the maximum extent possible — of migration-related risks faced by children, which may jeopardize a child’s right to life, survival and development. States, especially those of transit and destination, should devote special attention to the protection of undocumented children, whether unaccompanied and separated or with families, and to the protection of refugee and asylum-seeking children, stateless children and child victims of transnational organized crime, including trafficking, sale of children, commercial sexual exploitation of children and child marriage.”<sup>12</sup>
- **Participation:** As called for in Article 12 of the CRC, 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, and these views shall be given due weight in accordance with the age and maturity of the child. This includes children in the context of migration, who could be in a particularly vulnerable and disadvantaged situation. As noted in CRC Committee General Comment No. 22, it is critical to implement fully their right to express their views on all aspects affecting their lives, including in immigration and asylum proceedings.
- **Non-refoulement:** Under international law, the non-refoulement principle prohibits States from expelling or returning an individual to a jurisdiction where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion.<sup>13</sup>
- **Do no harm:** Humanitarian assistance must be provided in ways that reduce the risks that children in the context of migration may face and meet their needs with dignity. Assistance must be provided in an environment that does not further expose this vulnerable group of children to physical hazards, violence or abuse. Child safeguarding protocols shall be established and followed that have accessible procedures and mechanisms for reporting and addressing suspected violations.

#### IV. Time Frame

This ASEAN Regional Plan of Action (RPA) on Implementing the ASEAN Declaration on the Rights of Children in the Context of Migration aims at covering a period of ten (10) years (2021-2030). This RPA identifies priority indicators for the first five years (2021-2025) of implementation. A total of four reviews of the RPA’s implementation will be conducted over the 10-year period of its implementation (a first periodical review in 2023, mid-term review in 2025, second periodical review in 2028, and end-

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<sup>12</sup> Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration, CMW/C/GC/3-CRC/C/GC/22, Para. 42. Also of relevance are CRC Committee General Comment No. 5 (2003) on the general measures of implementation of the CRC, General Comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, and General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration.

<sup>13</sup> See 1951 Convention Relating to the Status of Refugees, Article 33.

of-term review in 2030). A second RPA will be developed in follow-up in consultation and with the approval of all ASEAN Member States and will take these reviews into account.

## **V. Overall Objective**

The overall objective of this RPA is to respect, promote and protect the rights of all children in the context of migration, regardless of their migration status, in accordance with the CRC.

### **Specific Objective**

The specific objective of this RPA is to encourage ASEAN Member States to ensure the protection of the best interests of the child as a primary consideration in all relevant policies and practices as they relate to children in the context of migration, and to further strengthen national systems to identify and respond to the specific needs of children in the context of migration, including but not limited to child protection, education, health, and justice, and to enhance their accessibility to children affected by migration.<sup>14</sup>

## **VI. Regional Plan of Action on Implementing the ASEAN Declaration on the Rights of Children in the Context of Migration**

The following focus areas and actions will be adopted at the regional and national levels for children in the context of migration. The implementation of these actions will be considered in accordance with regional and national contexts and circumstances. The implementation of the focus areas in this RPA is conducted, when necessary and appropriate, in coordination with relevant national, regional and international organisations.<sup>15</sup> The elimination of discrimination in all its forms and manifestations will be considered in a cross-cutting manner. Particular attention will be paid to persons who have become victims of violence, abuse and exploitation, including gender-based violence and human trafficking, those living with life threatening infections and diseases, and those with disabilities.

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<sup>14</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 1 & 2

<sup>15</sup> As pointed out in the CRC General Comment no. 6 of 2005 on the treatment of unaccompanied and separated children outside their country of origin, “States are expected to accept and facilitate assistance offered within their respective mandates by the UNICEF, UNHCR, and other agencies (article 22 (2)) of the Convention) in order to meet the needs of accompanied and separated children”.

**Focus Area 1: Policies and procedures are strengthened to enhance the accessibility to child protection systems<sup>16</sup> for all children in the context of migration.<sup>17</sup>**

- Activity 1.1: Promote a review of legal and procedural gaps in the child protection system and barriers to the identification, referral, and protection of, and assistance to all children in the context of migration. This activity shall take into account new and emerging challenges such as the impact of emergencies including public health crises and climate change.
- Activity 1.2: On the basis of the review in Activity 1.1, strengthen legislative and policy frameworks and allocate necessary resources. This includes the development and integration of specialized protection procedures to assess and determine the best interests of the child in the context of migration through trained and accountable personnel.<sup>18</sup>
- Activity 1.3: Identify and address legal and policy gaps, and practical barriers, in coordination with respective concerned consular offices/embassies/legal authorities and other relevant competent authorities in facilitating the registration of all births and the issuance of birth certificates and other relevant identity documentation, as necessary for all children in the context of migration, in accordance to the respective prevailing laws and regulations.<sup>19</sup>
- Activity 1.4: Systematically involve ministries responsible for child protection and social welfare in migration systems and procedures.
- Activity 1.5: Support existing mechanisms or establish mechanisms to monitor the effective access of children in the context of migration to national child protection systems.<sup>20</sup>
- Activity 1.6: Encourage ASEAN Member States to establish regional and bilateral child protection networks<sup>21</sup> on case management and cross border collaboration on children in the context of migration,

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<sup>16</sup> A Child Protection system can be defined as: Certain formal and informal structures, functions and capacities that have been assembled to prevent and respond to violence, abuse, neglect and exploitation of children. A Child Protection system is generally agreed to be comprised of the following components: human resources, finance, laws and policies, governance, monitoring and data collection as well as protection and response services and care management. It also includes different actors – children, families, communities, those working at subnational or national level and those working internationally. Most important are the relationships and interactions between and among these components and these actors within the system. It is the outcomes of these interactions that comprise the system. (United Nations Children’s Fund, United Nations High Commissioner for Refugees, Save the Children and World Vision, “A Better Way to Protect ALL Children: The theory and practice of child protection systems”, UNICEF, New York, 2013, p. 3)

<sup>17</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 2, 3, 4, 5, 6, 8, 9

<sup>18</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 3, 12

<sup>19</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraph 8

<sup>20</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 2

<sup>21</sup> At bilateral level these can be memoranda of understanding (MoUs), agreements on collaboration and supporting systems for cross- border case management.

- including in relation to family tracing and reunification for unaccompanied and separated children, as appropriate.<sup>22 23</sup>
- Activity 1.7: Enhance the availability and implementation of clean and safe non-custodial, community-based alternatives to child immigration detention, that promote the best interests of the child, including through ensuring that children are kept together with their families, where possible. This activity should ensure the adequate provision of appropriate alternative family based care (such as foster care and guardianship) for unaccompanied and separated children.<sup>24</sup>
- Activity 1.8: Establish or improve existing mechanisms, where necessary, to facilitate the meaningful participation of children in the context of migration in decisions that affect them.

**Focus Area 2: Policies and procedures are strengthened to enhance accessibility to basic services, i.e., quality healthcare, age-appropriate food and nutrition, clean drinking water, sanitation and hygiene, education, social protection, a safe place to live, a clean and safe environment, and psychosocial support services for children in the context of migration.<sup>25</sup>**

- Activity 2.1: Identify gaps in access to basic services for children in the context of migration.<sup>26</sup> This activity shall take into account new and emerging challenges such as the impact of emergencies including public health emergencies and climate change.
- Activity 2.2: On the basis of the identified gaps, consider revising policies, procedures and practice, and as necessary, cooperate with relevant international organizations, and allocate necessary resources to ensure the access to and quality of basic services for children in the context of migration in accordance with international obligations or commitments with a focus on education, health, psychosocial support, justice and social protection.
- Activity 2.3: Facilitate access to the provision of inclusive and equitable quality education, and when needed strengthen alternative or non-formal educational opportunities for children in the context of migration in preparation to join the formal system.
- Activity 2.4: Provide comprehensive access to healthcare for children in the context of migration in accordance with international obligations or commitments, including access to primary health care and

<sup>22</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraph 12

<sup>23</sup> Note that these can also engage at the interregional level.

<sup>24</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraph 9

<sup>25</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 2, 4, 7

<sup>26</sup> by, for example, conducting national surveys and/or other research to identify existing policy gaps and barriers inhibiting the access to and quality of basic services for children in the context of migration with a focus on education, health, justice and social protection

preventive services, immunization and prenatal care, as well as nutrition and hygiene services. Particular attention should be paid to those living with life-threatening infections and diseases, and those with disabilities, among others.

- Activity 2.5 Endeavour to provide comprehensive access to a safe place to live for children in the context of migration, with access to safe, clean, accessible and affordable drinking water and sanitation.
- Activity 2.6: Identify operational steps to improve access to basic services and strengthen procedures on inter- and intra-agency cooperation for children in the context of migration.<sup>27</sup>

**Focus Area 3:                   The capacity of relevant actors - law enforcers, social workers, service providers, civil society organizations and others - is increased to respond, in a multidisciplinary manner, to the rights and needs of children in the context of migration.<sup>28</sup>**

- Activity 3.1: Identify gaps in skills, knowledge, experience, attitudes and beliefs (i.e., capacity gaps) of a) social workers; b) law enforcers; c) teachers/educators; d) service providers; e) civil society organizations and other relevant actors in responding to the rights and needs of children in the context of migration, including for determining the best interests of the child in the context of migration.<sup>29</sup>
- Activity 3.2: Incorporate the specific needs of children in the context of migration - including case management for children in the context of migration - in standardized social work curriculum, and in other capacity building of law enforcers, social workers and para social workers, teachers/educators, service providers, civil society organisations and other relevant actors.<sup>30 31</sup>
- Activity 3.3: Conduct capacity building programmes, if necessary, for a) social workers; b) law enforcers; c) teachers/educators; d) service providers; e) civil society organizations and other relevant actors on the rights and needs of children in the context of migration.<sup>32</sup>

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<sup>27</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraph 7

<sup>28</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 4, 11

<sup>29</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 4, 11

<sup>30</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 4, 11

<sup>31</sup> This activity is to be carried out in coordination with the implementation of the ASEAN Declaration on Social Work.

<sup>32</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 4, 11

<sup>33</sup> Through institutions such as the ASEAN Training Centre on Social Work and Social Welfare.

**Focus Area 4:**                    **The evidence base on the situation of children in the context of migration is further strengthened by improving and investing in the collection and analysis of accurate, reliable, and comparable data, disaggregated by sex, age, migration status and other characteristics relevant in national contexts, including contributing factors to the movement, where such data is available.<sup>34</sup>**

Activity 4.1:                    Child-sensitive collection and use of migration-related non-personal data<sup>35</sup> and indicators relating to children, that are accurate, reliable, and comparable, disaggregated by sex, age, migration status and other characteristics relevant in national contexts.<sup>36</sup>

Activity 4.2:                    Share good practices and national experiences in improving and investing in the collection and analysis of data on children in the context of migration.<sup>37</sup>

Activity 4.3:                    Conduct research, where necessary, to enhance understanding of the drivers of unsafe migration, and the risks and barriers to children accessing services in the context of migration.

Activity 4.4                    Conduct research, where necessary, to enhance understanding of the rights of children in the context of migration, including a gender analysis of the specific impacts of policies and programmes on children.

**Focus Area 5:**                    **Networking and partnerships within and among ASEAN Member States as well as with international organizations, National Human Rights Institutions, ASEAN dialogue partners, civil society organizations, the private sector and other countries are strengthened in supporting and assisting the effective implementation of the commitments made in the ASEAN Declaration on the Rights of Children in the Context of Migration.<sup>38</sup>**

Activity 5.1:                    Strengthen collaboration and partnerships within and between ASEAN Member States and international organisations, National Human Rights Institutions, ASEAN dialogue partners, civil society organizations, the private sector and other countries to support the implementation of the RPA on Implementing the ASEAN

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<sup>34</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 10

<sup>35</sup> Personal data refers to data about an individual who can be identified from that data, or from that data and other information to which the organisation has or is likely to have access.

<sup>36</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 10

<sup>37</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 10

<sup>38</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 12, 13

- Declaration on the Rights of Children in the Context of Migration. ASEAN Member States can build upon global and regional initiatives promoting cooperation and solidarity to protect and assist children in the context of migration.<sup>39</sup>
- Activity 5.2: Raise awareness of the commitments made in the ASEAN Declaration on the Rights of Children in the Context of Migration, including amongst children through the development of child-friendly materials on the Declaration and RPA, and support child participation in monitoring its implementation.

## VII. Indicators

**Focus Area 1: Policies and procedures are strengthened to enhance the accessibility to child protection systems<sup>40</sup> for all children in the context of migration.<sup>41</sup>**

- \*\*\*Indicator 1.1:** *Number of ASEAN Member States that have undertaken a review of laws, policies and/or procedures against applicable international human rights standards for their impact on the accessibility to national child protection systems for all children in the context of migration. (National)*
- \*\*\*Indicator 1.2.1:** *Number of ASEAN Member States that have national laws, policies or procedures that ensure the accessibility to child protection systems for all children in the context of migration and enshrine the best interests of the child as a primary consideration [for example, i) Laws and policies allow access to services for children in the context of migration; ii) National case management system includes children in the context of migration; iii) Capacity building activities targeting frontline workers (social service workforce) include children in the context of migration]. (National)*
- Indicator 1.2.2:** *Number of ASEAN Member States that have strengthened legislative and policy frameworks to assess and determine the best interests of the child for actions concerning children in the context of migration. (National)*
- Indicator 1.2.3:** *Number of ASEAN Member States that prohibit immigration detention of all children. (National)*

<sup>39</sup> Such as the Global Compact for Migration and the Global Compact on Refugees.

<sup>40</sup> A Child Protection system can be defined as: Certain formal and informal structures, functions and capacities that have been assembled to prevent and respond to violence, abuse, neglect and exploitation of children. A Child Protection system is generally agreed to be comprised of the following components: human resources, finance, laws and policies, governance, monitoring and data collection as well as protection and response services and care management. It also includes different actors – children, families, communities, those working at subnational or national level and those working internationally. Most important are the relationships and interactions between and among these components and these actors within the system. It is the outcomes of these interactions that comprise the system. (United Nations Children’s Fund, United Nations High Commissioner for Refugees, Save the Children and World Vision, “A Better Way to Protect ALL Children: The theory and practice of child protection systems”, UNICEF, New York, 2013, p. 3)

<sup>41</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 2, 3, 4, 5, 6, 8, 9

- Indicator 1.2.4: Number of ASEAN Member States that develop alternatives to immigration detention of all children in accordance with international obligations or commitments.*
- \*\*\*Indicator 1.2.5: Number of ASEAN Member States that have developed alternative care<sup>42</sup> options for children without parental care in the context of migration.<sup>43</sup> (National)*
- Indicator 1.3: Number of ASEAN Member States with policies and procedures in place ensuring birth registration and/or the issuance of relevant identity documentation irrespective of the nationality, migration and residence status of the child's parents. (National)*
- Indicator 1.4: Number of ASEAN Member States that involve ministries responsible for child protection and social welfare in migration systems and procedures. (National)*
- Indicator 1.5: Number of national and/or sub-national mechanisms to monitor the effective access of children in the context of migration to national child protection systems. (National)*
- \*\*\*Indicator 1.6: A regional network on cross border collaboration for child protection is established and operational. (Regional)*
- \*\*\*Indicator 1.7: Number of ASEAN Member States that have developed alternatives to child immigration detention which ensure that, where possible, children are kept together with their families in a non-custodial, and clean and safe environment. (National)*
- Indicator 1.8: Number of child participation mechanisms that involve children, including children in the context of migration, in the decision-making process on policies, programmes and activities related to children in the context of migration. (National & Regional)*

**Focus Area 2: Policies and procedures are strengthened to enhance the accessibility to basic services. i.e. quality healthcare, age-appropriate food and nutrition, clean drinking water, sanitation and hygiene, education, social protection, a safe place to live, a clean and safe environment, and psychosocial support services for children in the context of migration.<sup>44</sup>**

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<sup>42</sup> According to the Guidelines for the Alternative Care of Children (GA A/RES/64/142, 2010), alternative care is “where the child’s own family is unable, even with appropriate support, to provide adequate care for the child, or abandons or relinquishes the child, the State is responsible for protecting the rights of the child and ensuring appropriate alternative care, with or through competent local authorities and duly authorized civil society organizations. It is the role of the State, through its competent authorities, to ensure the supervision of the safety, well-being and development of any child placed in alternative care and the regular review of the appropriateness of the care arrangement provided”.

<sup>43</sup> Key guidance in this regard shall be the UN Guidelines for the Alternative Care of Children (GA A/RES/64/142, 2010) which stress the essential role of the family for the growth, the well-being and protection of children. The Guidelines call upon states to make every effort to prevent family separation and ensure appropriate and culturally sensitive measures particularly for children in vulnerable situations such as unaccompanied and separated children, internally displaced and refugee children.

<sup>44</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 2, 4, 7

- \*\*\*Indicator 2.1:** *Number of ASEAN Member States that have undertaken a review of laws, policies and/or procedures, including against applicable international human rights standards, for their impact on the accessibility to basic services for all children in the context of migration. (National)*
- Indicator 2.2.1:** *Number of ASEAN Member States that have national laws, policies or procedures that ensure the accessibility of basic services for all children in the context of migration and enshrine the best interests of the child as a primary consideration. (National)*
- Indicator 2.2.2** *Number of ASEAN Member States that have laws and policies ensuring that all children in the context of migration, regardless of their migration status are able to participate in the national education system. (National)*
- Indicator 2.2.3** *Number of ASEAN Member States that have laws and policies guaranteeing access of all children to basic health services. (National)*
- \*\*\*Indicator 2.3:** *Number of ASEAN Member States where children and adolescents in the context of migration have access to at least basic education<sup>45</sup> with considerations to their specific learning needs. (National)*
- \*\*\*Indicator 2.4:** *Number of ASEAN Member States with health protocols, including psychosocial support, that address the specific needs of children in the context of migration. (National)*
- \*\*\*Indicator 2.5:** *Number of ASEAN Member States with policies that ensure comprehensive access to a safe place to live for children in the context of migration, with access to safe, clean, accessible and affordable drinking water and sanitation. (National)*
- Indicator 2.6:** *Compendium<sup>46</sup> on good practices and national experiences in ensuring the access to basic services for children in the context of migration is developed. (Regional)*

**Focus Area 3:** **The capacity of relevant actors - law enforcers, social workers, service providers, civil society organizations and others - is increased to respond, in a multidisciplinary manner, to the rights and needs of children in the context of migration.<sup>47</sup>**

- Indicator 3.1:** *Number of capacity gap analyses of relevant stakeholders (social workers, law enforcers, teachers/educators, service providers, civil society organisations and others) conducted. (National & Regional)*
- \*\*\*Indicator 3.2.1:** *Number of ASEAN Member States with in-service training courses and/or manuals for relevant law enforcement personnel*

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<sup>45</sup> in accordance with national law

<sup>46</sup> The compendium shall gather material on good practices, methodologies and tools.

<sup>47</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 4, 11

- and/or immigration officials on the rights and needs of children in the context of migration. (National)*
- \*\*\*Indicator 3.2.2: Number of ASEAN Member States with in-service and pre-service training courses and/or manuals for social workers on the rights and needs of children in the context of migration. (National)*
- Indicator 3.2.3: Number of ASEAN Member States with modules (training components) on the rights and needs of children in the context of migration contextualized and integrated into the national law enforcement/immigration officials' curriculum. (National)*
- Indicator 3.2.4: Number of ASEAN Member States with modules (training components) on the rights and needs of children in the context of migration contextualized and integrated into the national social work curriculum. (National)*
- Indicator 3.2.5: Number of ASEAN Member States where the training curriculum for teachers/educators includes specific training on meeting the needs of children in the context of migration. (National)*
- Indicator 3.2.6: Number of ASEAN Member States where the health training curriculum includes specific training on meeting the needs of children in the context of migration. (National)*
- \*\*\*Indicator 3.2.7: Regional training materials and guidelines for social workers and other key actors on the rights and needs of children in the context of migration (developed and rolled out through existing regional entities and mechanisms). (Regional)*
- Indicator 3.3.1: Number of social service workers who have been trained on case management and referrals for children in the context of migration. (National & Regional)*
- Indicator 3.3.2: Number of law enforcers trained to support the rights and needs of children in the context of migration. (National)*
- Indicator 3.3.3: Number of teachers/educators trained to support the learning needs of children in the context of migration. (National)*
- Indicator 3.3.4: Number of medical professionals trained to support the rights and needs of children in the context of migration. (National)*

**Focus Area 4:** **The evidence base on the situation of children in the context of migration is further strengthened by improving and investing in the collection and analysis of accurate, reliable, and comparable data, disaggregated by sex, age, migration status and other characteristics relevant in national contexts, including contributing factors to the movement, where such data is available.<sup>48</sup>**

- \*\*\*Indicator 4.1: Number of ASEAN Member States that collect and use child-sensitive migration-related data and indicators to inform the development and implementation of policies and procedures that*

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<sup>48</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 10

*ensure the best interests of the child are ensured in the context of migration. (National)*

*Indicator 4.2: Compendium<sup>49</sup> on good practices and national experiences in collecting and using child-sensitive migration-related data and indicators is developed. (Regional)*

*\*\*\*Indicator 4.3: Number of research products on the drivers of unsafe migration, and the risks and barriers to children accessing services in the context of migration. (National & Regional)*

*\*\*\*Indicator 4.4: Number of research products on the rights of children in the context of migration which include a gender analysis of the specific impacts of policies and programmes on all children. (National & Regional)*

**Focus Area 5:                    Networking and partnerships within and among ASEAN Member States as well as with international organizations, National Human Rights Institutions, ASEAN dialogue partners, civil society organizations, the private sector and other countries are strengthened in supporting and assisting the effective implementation of the commitments made in the ASEAN Declaration on the Rights of Children in the Context of Migration.<sup>50</sup>**

*Indicator 5.1.1: Number of ASEAN Member States that engage in collaborations and partnerships with international organizations, National Human Rights Institutions, civil society organizations, the private sector and/or other countries to implement the Regional Plan of Action on Implementing the ASEAN Declaration on the Rights of Children in the Context of Migration. (National)*

*Indicator 5.1.2: Number of ASEAN Member States that engage in collaborations and partnerships with other ASEAN Member States and/or ASEAN dialogue partners, to implement the Regional Plan of Action on Implementing the ASEAN Declaration on the Rights of Children in the Context of Migration. (Regional)*

*Indicator 5.1.3: Number of activities in focus areas 1-4, which benefitted from the support of international organizations, National Human Rights Institutions, ASEAN dialogue partners, civil society organizations, the private sector and/or other countries. (National & Regional)*

*\*\*\*Indicator 5.1.4: Number of national and/or regional efforts made to monitor the implementation of the Regional Plan of Action on Implementing the ASEAN Declaration on the Rights of Children in the Context of Migration. (National & Regional)*

*\*\*\*Indicator 5.2.1: Number of awareness raising efforts on the ASEAN Declaration on the Rights of Children in the Context of Migration, including number of child-friendly publications (printing and digital media)*

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<sup>49</sup> The compendium shall gather material on good practices, methodologies and tools.

<sup>50</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, Operational Paragraphs 12, 13

*developed and rolled out on the ASEAN Declaration on the Rights of Children in the Context of Migration. (National & Regional)*

### **VIII. Implementation Arrangements**

In line with the ASEAN Declaration on the Rights of Children in the Context of Migration<sup>51</sup>, the ASEAN Ministerial Meeting on Social Welfare and Development (AMMSWD) is tasked, with the support of the Senior Officials Meeting on Social Welfare and Development (SOMSWD) and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), as the focal point for monitoring the progress of this RPA, and for cross-pillar and cross-sectoral cooperation on issues pertaining to children in the context of migration at the regional level, while acknowledging the different national coordinating mechanisms in ASEAN Member States.

### **IX. Monitoring and Evaluation Arrangements**

SOMSWD jointly with ACWC (ASEAN Commission on the Promotion and Protection of the Rights of Women and Children) shall undertake a first periodical review of the implementation of the RPA on the Rights of Children in the Context of Migration in 2023, a mid-term review in 2025, a second periodical review in 2028, and a final review in 2030. SOMSWD and ACWC Representatives shall report after the completion of each review to AMMSWD on the progress of the implementation of the RPA. SOMSWD and ACWC shall prepare and disseminate an annual report on the progress of the implementation of the RPA.

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<sup>51</sup> Operational Paragraph 14