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REGIONAL LEARNING SESSION ON SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION AND SEX CHARACTERISTICS (SOGIESC) AND CHILD RIGHTS

Organized by:
ASEAN SOGIE Caucus
In partnership and with the support of
Save the Children and UNDP Being LGBTI in Asia



BACKGROUND AND OBJECTIVES

The regional learning session served as a safe space for meaningful dialogue between child rights advocates, and lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) advocates to find synergies for cross-movement collaboration. The workshop took into consideration some existing developments how child rights discourse and frameworks can be useful in furthering LGBTIQ human rights in Southeast Asia. Likewise, the activity enabled LGBTIQ advocates to raise concerns faced by LGBTIQ and gender-diverse children and to generate ideas how such can be addressed using child rights and broader human rights frameworks.

The activity brought together 25 LGBTIQ activists from diverse countries, namely, Indonesia, Cambodia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam. Child rights experts from Save the Children, UNICEF, Yayasan SEJIWA, UNESCO and Child Fund were present to help enhance child rights perspectives. Moreover, the workshop included a feminist organization, Women's Legal and Human Rights Bureau (WLB), to share information how child rights may be mainstreamed into a regional program on gender.

The objectives of the learning session are as follows:

- Understand how the principles and instruments of the rights of the child as enshrined in the UN Convention on the Rights of the Child can be utilized in analyzing SOGIESC children and young people's issues;
- Identify human rights issues faced by lesbian, gay, bisexual, transgender, intersex, queer and gender non-conforming (LGBTIQ/GNC) children in Southeast Asia;
- Generate practical steps to incorporate child rights principles into LGBTIQ human rights advocacy and activism.

INTERFACE BETWEEN CHILD RIGHTS AND SOGIESC

Resource persons from both Save the Children and UNICEF started the learning session by discussing the history of the UN Convention on the Rights of the Child (UN CRC), the key principles and provisions of the UN CRC, and ways how civil society groups can participate in the monitoring and reporting of the UN CRC's implementation.

Hope Tura of Save the Children provided an overview of the historical development of the UN CRC. She stressed the key role of Save the Children's founder, Eglantyne Jebb, in raising concerns of children affected by World War I and it evolved into political messages to urge international institutions such as the League of Nations and the United Nations. She narrated the key historical turning points that led to the current UN CRC – the adoption of the Geneva Convention on the Rights of the Child by the League of Nations in 1924, the adoption of the Universal Declaration of the Human Rights in 1948, the UN General Assembly's adoption of the Declaration of the Rights of the Child in 1959, the inclusion of child rights in various international human rights treaties such as the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), and then the adoption of the UN CRC in 1989. Contrary to common public perception that child rights is simply a welfare issue, she clarified that the history of child rights is closely intertwined with the evolution of human rights. She noted that the development of the Convention on the Rights of the Child (1923-1989) was an outcome of decades of advocacy and international debate devoted to the meaning of children's rights. Children as subjects of rights rather than passive objects of charity.

Grace Agcaoili of UNICEF, meanwhile, shared some of the key provisions in the UN CRC. She elaborated the core principles of the UN CRC: a) survival

and development, b) non-discrimination, c) best interest of the child, and d) child participation. She said that the 54 provisions of the UN CRC may be clustered into four interrelated categories: survival, development, protection and participation.

She clarified that when one uses the child rights approach, the following perspectives have to inform the work: a shift from needs to rights; needs are not necessarily universal, while rights are always universal; needs do not imply obligations while rights always imply obligations; and that human rights are inalienable, inherent, indivisible, interdependent and imprescriptible.

Following the presentations, group discussion amongst participants led to a surfacing of existing developments on UN CRC's inclusion of SOGIESC. Some participants noted that there is some improvement in terms of inclusion of SOGIESC perspective in children's rights discourse. Issues and concerns related to SOGIESC or LGBTIQ are increasingly being recognized in key legal instruments for children's rights such as the Concluding Observations and the General Comments of the UN Committee on the Rights of the Child.

However, a closer look at the UN CRC led some LGBTIQ participants to raise the following concerns:

- The concept of “best interest of the child” while a cornerstone in child rights framework was viewed with caution by LGBTIQ groups. There were concerns raised that this principle was used by parents and governments to conduct forced sex assignment surgeries for intersex children, prohibit discussions about LGBTIQ concerns as such may impede the moral development of children, and some cases used as a rationale behind conversion treatments for LGBTIQ and gender-diverse children.
- There is also a view that LGBTIQ concerns are not child rights issues. LGBTIQ advocates expressed concern that some child rights groups look at LGBTIQ issues as sensitive and that incorporating it into their work may

compromise their relationships with networks. One participant added that merging both perspectives may result to “stigmatization of SOGIESC, which will translate into stigmatization of child rights in general”. One participant from Myanmar shared that one challenge encountered is the need to change discourses on gender: “the country was isolated for a long time, the discourses of gender beyond male and female is not sufficiently widespread”.

CHILD PARTICIPATION AS AN ENTRY POINT

Marcela Donaal of ChildFund shared that child participation is a key principle enshrined in the UN CRC. She mentioned that such principle can be found in around 14 provisions of the UN CRC. One provision is Article 13.1, whereby *“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”*.

She shared that child participation may take different forms and may happen in different spaces. Children may participate in research, in sharing views to media, involvement in discussions to craft policies and programs, and others. She shared that children may participate in different spaces such as the families, communities, schools, children’s associations, governments, and societies at large.

She presented the experience of ChildFund to engage LGBTIQ and gender-diverse children in the Philippines. ChildFund implemented a program to train LGBTIQ youth and peers, which included discussions on child rights, reproductive and sexual health, and gender-based violence.

Reflecting on their program involving LGBTIQ children, Marcela shared some of the positive outcomes towards children themselves: a sense of improvement of self-expression, self-confidence, self-esteem and adaptive social behavior; improved relationships with their parents, teachers, community leaders and child rights agency workers; better social awareness and sense of social responsibility; upholding of democratic principles and process; and strengthened resilience.

Reflecting on the topic of child participation, participants shared possible challenges that are applicable to LGBTIQ and gender-diverse children. These include the following:

- Many child rights organizations are not supportive of LGBTIQ issues. This may hinder them from reaching out to or silence the perspectives of LGBTIQ children.
- Parents, families and legal guardians do not have sufficient understanding or appreciation to give children the consent to attend LGBTIQ-related activities. A participant from Singapore shared that there are legal issues when reaching out to children; consent forms are needed and parents have barred LGBTIQ advocates from reaching out to children because they are representing LGBTIQ issues.
- Information on sexuality and gender is restricted by government. In countries where the work of child rights groups may be regulated, this can be a hindrance to enable LGBTIQ and gender-diverse children to participate.

THEMATIC ISSUES RELEVANT TO LGBTIQ AND GENDER-DIVERSE CHILDREN

VIOLENCE AGAINST CHILDREN is a recurring theme expressed during the discussion. VAC is a matter that is closely linked to the lived experiences of LGBTIQ persons. Two child rights resource persons, Madeleine Yong from Malaysia and Diena Haryana from Indonesia, surfaced the different forms of online and offline examples of VAC in the context of their experiences:

- Children face online and offline bullying, psychological abuse (such as shaming and intimidation) as well as sexual harassment due to their SOGIESC;
- Children face constant pressure from their families, schools, religious institutions, and communities to make them believe that being LGBTIQ is a disease, thus, making it socially unacceptable;
- Existence of self-inflicted harm, including suicide, due to non-acceptance of one's identity.

In addressing violence against children, one key challenge faced is the difficulty to disclose one's experience. Such disclosure is hampered by fear of further harm, fear of remembering, fear of being blamed, fear of shame and guilt, and fear of losing love.

RIGHT TO EDUCATION is a key human right of every child. However, the enjoyment of this right amongst LGBTIQ and gender-diverse children is affected by factors such as the following:

- absence of safe and inclusive spaces that allow students to express their gender
- restrictive school policies

- problematic school curriculum that reinforces gender stereotypes and stigma against LGBTIQ persons
- school uniforms that reinforce gender binary
- and lack of redress mechanisms to enable students to report instance of violence and discrimination.

A resource person shared that school bullying is a serious concern that may affect a child's right to education. Consequently, when schools and education institutions are not safe, children are hindered from attending classes and demotivated to study. Based on the findings of a research he shared, LGBTIQ youth face higher rates of peer victimization and are greatly impacted by violence more than their non-LGBTIQ peers. Furthermore, he shared relevant findings to illustrate the gravity of SOGIESC-based bullying: a study in Thailand revealed that 56% of LGBTIQ youth who participated in the said study reported to have been bullied in the past month; and a study in Viet Nam revealed that 15% of LGBTIQ and gender non-conforming students who were victims of school violence had self-harmed or attempted suicide.

In ensuring the right to education for LGBTIQ and gender-diverse children, the resource person shared some strategies. First is finding allies within the ministries, a focal point who has connections to the issues. Second is building momentum particularly among advocacy groups. And third is looking at political will and whether the policy and legal systems in place are conducive to our issues.

INTERSEX GENITAL MUTILATION (IGM) FOR CHILDREN INTERSEX SEX CHARACTERISTICS. As explained by Hiker Chiu and Nada Chaiyajit, IGM refers non-consensual surgical procedures on the genitals of children towards making the genitals match the more unambiguous features of male or female genitalia. This is regardless of there being no indication of actual medical benefits on the part of the child, and with claims that such procedures would benefit the relationship between the child and their parents being unclear or erroneous. Though not specifically identifying intersex people, the joint General Recommendation No. 31 of CEDAW and General Comment No. 18 of CRC identifies genital mutilation as a harmful

practice rooted in social norms. Traditional cultural beliefs categorize intersex bodies as abnormalities and that such diversity in sex characteristics is neither taught nor appreciated. These beliefs are the motivation behind the practice of IGM. The prevailing belief, according to Nada, is that non-consensual surgical procedures are in “the best interests of the child”, owing to said social norms that discriminate against ambiguous bodies.

SELECTIVE ABORTIONS OF FETUSES FOUND TO HAVE INTERSEX SEX CHARACTERISTICS.

Though it is not known to what extent this actually happens, the question was raised during a thought exercise regarding potentially competing rights. In the scenario of fetuses with intersex characteristics, the potential conflict is between the right of the woman over their own body and the right of a child to be born (and by extension, taken cared of) without discrimination on the basis of their apparent sex characteristics. A participant identified this thought exercise as a good example of seeing how we can address two rights at once, in this case bodily autonomy vis-a-vis non-discrimination. While there is no clear-cut formula for resolving similar issues, the hope is that activists can find a balance through more dialogues involving stakeholders.

CAPACITY FOR SELF-IDENTIFICATION AND DECISION-MAKING FOR CHILDREN WHO IDENTIFY AS TRANSGENDER.

As explained by Kath Khangpiboon, the capacity of children to self-identify as transgender or other gender identities beyond the categories of male or female is constantly impeded by social and cultural norms that dictate how one’s life should look like based on the sex assigned at birth. The question however, as the discussion went on, led to other potential issues. For example: does self-identification by a child necessarily preclude granting a child more legal authority to make decisions regarding potentially irreversible procedures such as hormone replacement therapy (i.e. which alters the body’s endocrine functions through the introduction of feminizing or masculinizing hormones to produce specific sex characteristics aligned with one’s gender identity)

and gender-affirming therapy (i.e. also called “sex reassignment surgery” which surgically alters the genitals)? For this particular question, answers from both research and policy implementation remain inconclusive. The compromise answer was that the body ought to be kept “neutral” until a child reaches legal age, at which point they can decide whether they want or need to medically transition. Participants agreed during the discussion that such issues be approached cautiously and critically. In principle, the stance is that children, regardless of who they eventually become or foresee themselves to be, are allowed to self-identify as they choose as part of nurturing their full development as children.

Should any transitioning process occur, as one participant explained, human rights mechanisms can also provide a framework for creating spaces in which those transitions are safe and affirmative. Assuming that a child wants to transition in some way, either socially (i.e. changing one’s style of dress and behavior in order to align with the culturally-appropriate norms of their gender identity) or medically (i.e. the processes stated above), the question does not only concern the transgender child. Kath explained that the transition process will also involve everyone in the child’s family, community and school environment.

MAINSTREAMING CHILD RIGHTS PERSPECTIVES INTO LGBTIQ ADVOCACY

Participants brainstormed about possible entry points for mainstreaming child rights perspectives into LGBTIQ advocacy and vice-versa. These include the following:

- Collect case studies relating to LGBTIQ or gender non-conforming children.
- Organize public forums and symposia linking children's rights and LGBT issues.
- Integrate LGBTIQ issues into comprehensive sexuality education.
- Provide staff training on intersex and transgender issues for child rights organizations.
- Provide spaces for sharing knowledge about LGBTIQ issues to child rights groups, and vice-versa.
- Produce fact sheets and other creative and easily disseminated materials.
- Find entry points within society to mainstream LGBTIQ and children's issues, such as professional organizations and other important social institutions.
- Collaborate with institutions like Save the Children or UNICEF.

SELECTED QUOTES FROM THE DISCUSSIONS



The Convention [on the Rights of the Child] is a benchmark. For example: Article 12 states that we must listen to the views of children. Over the 30 years of the existence of this convention, child rights activists have pushed this further beyond listening, claiming that participation is about having the opportunity to express a view, to influence decision making and to achieve change. This interpretation is nowadays widely accepted however not originally expressed in those words in Article 12. Therefore, we should recognize the possibility to push the instrument towards more inclusive and affirmative interpretations as we collectively learn to use it.”
(Shared by a child rights expert)



We cannot be compartmentalized: we cannot operate in silos when it comes to advancing human rights. The battle against discrimination is so big, that if we operate separately it would be difficult to win the battle. If we learn to work together and find ways where our work can complement, it can elevate our advocacy to a higher level.”

(Hope Tura, Save the Children)



We always tell policy-makers that one day their own children might be minorities in another place. They expect that regardless of such status, these countries will take care of their rights. So we expect these policy makers in these countries to do the same.”

(Grace Agcaoili, UNICEF)



Inter-movement dialogue takes some time. In the case of child rights discourse, it can definitely be a challenge especially for us activists who are trying to learn so many instruments. But a good start would be to engage ourselves in a space side by side with children. To understand these issues, you need to go deep into their experiences. There are initiatives around these issues now. In that way, we can expand our analysis and help us consider how to better understand our approach to child’s rights.”

(Ryan Silverio, ASEAN SOGIE Caucus)



Yin and Yang. There is Yin in Yang and Yang in Yin. Ren, in Chinese, is human. This is a very old term going about two thousand years, and you see there is wisdom there. Yin-Yang-Ren is a stigmatized term, and a lot of people don't like it, but it is a beautiful word that we have to save from stigma."

(Hiker Chiu, Intersex Asia)



Child rights and women's rights advocacy are interrelated and should not be seen as separate issues; instead it must be examined using a life cycle approach. WEAVE believes the need to address gender stereotyping against girls by understanding their specific contexts. We're not saying that boys are not being violated, however, as a feminist network we want to focus mainly in understanding the meaning of the best interest of the child, particularly, girls who became victims of sexual violence. We are also looking at the norms that negatively affect boys too. Using gender lens is not solely about women and men—it is about changing cultural norms embedded in our society."

(Jelen Paclarin, Weaving Women's Voices in Southeast Asia (WEAVE)/ Women's Legal and Human Rights Bureau (WLB))

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