

## Legal Analysis on the Minimum Age of Criminal Responsibility Within ASEAN

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**Abstract:** At the first glance, the concept of a Minimum Age of Criminal Responsibility (MACR) appears simple. However, the majority of people are unable to define it. MACR is a relatively new concept and determining an MACR is a challenge in light of children's rights. The challenge stems from ideological differences concerning concepts of MACR by states based on social, religious and cultural structures. The MACR is significant because of its relevancy to the fundamental rights of the child because the MACR is the lowest statutory age at which children may be held criminally liable for infringements of the penal law in a given state. The present study seeks to examine the MACR of children in Malaysia, Thailand and Indonesia as member states of ASEAN and also the United Nations Convention on the Rights of the Child (UNCRC). This study analyses the MACR of children from domestic legislations of three ASEAN Member States from a legal perspective. The results of this analysis can be used to find the international standards concerning MACR of children in Malaysia, Thailand and Indonesia.

**Key words:** Minimum age of criminal responsibility, children rights, ASEAN, juvenile justice system, Malaysia

### INTRODUCTION

As Nayagam (2009) notes, issues concerning children and crime have always been a sensitive subject. No one likes to think of a child as a perpetrator of crime nor can we tolerate or fully understand the apparatus that contributes to the formation of delinquency among youth. Due to this fact, the Minimum Age of Criminal Responsibility (MACR) is fundamental in the protection of children rights because any child below the MACR who commits a criminal act is not guilty in the eyes of the court while children above the MACR threshold that commit criminal acts are considered offenders. The importance of childhood and the important role of MACR have led to the overwhelming ratification of international instruments geared towards promoting children's rights by states despite ideological differences concerning concepts associated with MACR.

Significant progress has been made in defining both the status of children under international law and the broad range of rights that attach to such status since the 1980s (Bueren, 1998) culminating in the adoption of UNCRC by the United Nations General Assembly (UNGA) in 1989 (Arts, 2000). The UNCRC entered into force in 1990 and has been ratified by all the member states of the United Nations (UN) except for the United States and Somalia making the UNCRC the closest instrument to a unanimously accepted international convention in the UN

system (Fortin, 2005). The UNCRC is an integrated approach to children's rights in international societies. States that have ratified the UNCRC are obliged to implement the provisions and submit reports for monitoring and complaints purposes to the Committee on the Rights of the Child (CRC). The UNCRC serves as the contemporary basis of international legal perspectives concerning the rights of the child regardless of race, religion or gender and it reflected in an appropriate manner in the domestic legislation of state parties. The fundamental rights of the child are protected in the text of the UNCRC including the right to life (Article 6); identity and education (Articles 7 and 8); participation (Article 12); expression (Article 13); freedom of thought (Article 14); protection from abuse (Article 19); protection from sexual exploitation (Article 34) and in particular, the establishment of an MACR (Article 1).

In the past 2 decades, issues concerning, the rights of child offenders within the ASEAN community have become increasingly important. Controversy concerning the penal systems, particularly the established MACR of children in domestic legislation, has become a matter of grave concern in ASEAN member states, such as Malaysia, Thailand and Indonesia. The MACR is one the most controversial issues amongst states. The determination of its parameters is an important and essential dimension of children's rights. A wide array of regional and international legal instruments creates legal

obligations on states to give specific consideration to MACR (Cipriani, 2009). However, Malaysian, Thai and Indonesian regulations concerning ACR not only conflict with the provisions of international instruments but are also inconsistent with scientific knowledge in areas, such as criminology. Unfortunately, the legal system of Malaysia, Thailand and Indonesia in regards to MACR, disregards aspects of children's physical and mental growth and in many ways is contrary to contemporary trends in the global development of children's rights and the needs of the children.

The present study reviews Malaysian, Thai and Indonesian laws relating to MACR, particularly in regards to the definition of the child in the domestic legal systems and the age at which criminal responsibility is attributed to such persons. The aim of this study has been to consider a plausible definition of MACR, in light of both international legal considerations and Malaysian, Thai and Indonesian laws; more importantly is to determine an appropriate MACR in Malaysia, Thailand and Indonesia that corresponds with standards contained within international instruments, particularly the UNCRC.

#### **THE MACR UNDER THE MALAYSIAN LAW**

The MACR is essential in the protection of children's rights because it determines the age that a person is attributed criminal responsibility (Abiad and Mansoor, 2010). In Malaysia, the MACR is determined in Sections 82 and 83 of the Malaysia Penal Code. Section 82 provides that nothing is an offence which is done by a child under 10 years of age. According to Nasima, this section gives an absolute protection to the child <10 from being prosecuted and punished for his/her offence. The presumption that the child <10 is incapable of committing a crime is irrefutable. It means that no action will be taken against the child of this age who has committed a crime even if the crime is of a serious one. The presumption that the child <10 is incapable of committing a crime is based on the presumption that the child is incapable of understanding the nature and consequence of his/her act. The provision is adopted from the doctrine of *doli incapax* as applied in English Law with the exception of the differences of the age limit. Section 83 of the Penal Code provides conditional protection for a child between 10 and 12 years old unlike Section 82 that gives full protection for a child <10 who commits an offence as he is *doli incapax* (Nasima, 2005). According to Section 83, nothing is an offence which is done by a child >10 years of age and <12 who has not attained sufficient maturity of understanding to judge of the nature and consequence of his conduct on that occasion. As Nasima states, a child of this age is also

presumed to be *doli incapax* (incapable of committing crime) but the presumption is rebuttable depending upon his/her degree of understanding the nature and consequence of his/her act at the time of the commission of the crime. If it is prove that the child does not understand the nature and consequence of the crime that he/she has committed, he/she will not be held liable or otherwise. Otherwise, the children are considered as equal to the adults. However, the benefit of the doubt will always be given to the child (Nasima, 2005).

So in Malaysia, the MACR of children is 10 years for both males and females. According to Section 2 of the Child Act 2001, a child is defined as a person under the age of 18 years and for the purposes of criminal proceedings in the Juvenile Court (that was established under the Child Act 2001) means a person who has attained the MACR as prescribed in Section 82 of the Penal Code (Rashid, 2009). From the above provision, it can be said a child whose age is 12 years old but <18 years old may be held liable on criminal ground (Nasima, 2005). Therefore, in Malaysia, MACR can be divided into three different categories. First, complete immunity is available to a child <10 years of age (Section 82 Penal Code). Second, partial immunity applies to children between 10-12 years of age (Section 83 Penal Code). Lastly, the MACR >12 years of age is the same as that of adults irrespective of the kind of crime they have committed. Children of this last category are treated as adults for the purposes of criminal liability regardless the nature of the crime, although treated differently in terms of criminal procedure and the disposals available to the court (Dusuki, 2009; Abiad and Mansoor, 2010). However, a different criminal procedure (Child Act in 2001; particularly Part X and XIII on criminal procedure for children) and different court disposals apply to them (Child Act in 2001; Part X, Chapter 3, Sections 91-97). Despite the fact that their responsibility is the same as that of adults, the sentence applicable may vary. For example, children may not be sentenced to death, although an adult committing the same offence would be. Instead and depending on the state law in which the crime was committed, the child will serve a prison sentence and the period of detention will be determined by the Ruler (Section 97; Child Act in 2001) (Abiad and Mansoor, 2010). Despite the fact that children could be held equally liable as adults, they might not be subjected to equal mode of punishment (Dusuki, 2009).

Although, the Malaysian Penal Code stipulates 10 to be the age of attainment of criminal responsibility, children between 10 and <12 who have not shown sufficient maturity may be absolved from criminality. There is one more provision in the Section 113 of the

Evidence Act 1950 that provides an additional protection for boys <13 where they are presumed to be incapable of committing the offence of rape (Nayagam, 2009). As Nasima mentions, Section 113 provides absolute protection to a male child below the age of 13 will not be prosecuted for committing rape as it is legally presumed that he is incapable of having sexual intercourse. Nevertheless, the boy can be charged for attempted rape instead (Nasima, 2005). Children within these categories, if arrested on ground of any particular omission or commission of any criminal acts should be dealt by the other arm of the court for children, in accordance with the issuance of any of the protective orders under Section 30. Alternatively if the offence is petty, diversion, in a form of a caution from the police may be undertaken upon consultation with the family and social worker. Such procedure blends well within the principle of restorative justice. Should a child between 10 and 12 be charged, infancy may be invoked as a defence. Finally, children between 10 and 18 years may be liable for any criminal charges in the court for children, unless the offence is punishable with death whereupon the trial will be conducted in the High Court (Nayagam, 2009).

The following discussion will deal with the issue of determining who can be categorised as a child according to Islamic Law as applied in the Syariah Court of Malaysia. Section 51 of the Syariah criminal offence (Federal Territories) Act 1977 (Act 559) provides that nothing is an offence which is committed by a child who is not baligh. Baligh in Section 2(1) of the same Act, means the criminal responsibility of a person is determined upon attaining the age of puberty according to the Syariah Law but the Act does not specify an age limit. However in the Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560), a youthful offender is interpreted by Section 2(1) of the Act as an offender above the age of 10 and below the age of 16 years. The Islamic Family Law Act (Federal Territories) 1984 (Act 303) also contains provisions pertaining to the determination of the age of a child. Section 88(4) of the Islamic Family Law Act (Federal Territories) 1984 (Act 303) provides that: A person shall for the purposes of guardianship of person and property, be deemed to be a minor unless he or she has completed the age of 18 years old (Section 79 of the Islamic Family Law Act). The MACR in Islamic Law is based on understanding (idrak) and free-will (ikhtiyar) and its degree varies according to a person's age that there are three stages as follows (Nasima, 2005):

**Children under the age of 7 years:** As Nasima emphasis, this stage is absence of understanding when a child is

unable to distinguish between right and wrong (good or bad). A child offender of this age is given absolute protection by the Islamic Law. If a child at this stage commits any crime, he/she will not be accountable for any punishment either hadd (hadd is a crime punishable with a fixed punishment imposed as the rights of public or known as the right of God that mentioned in the text of the Quran and Sunnah), qesas (qesas is a crime punishable with a fixed punishment imposed as the rights of individual that mentioned in the text of the Quran and Sunnah) and ta'zir (ta'zir is left to the discretion of the judge to determine the punishment to be imposed on the offender) so long as he/she has not reached the age of 7 (Nasima, 2005).

**Children between the age of 7 and the age of puberty:** Nasima claims that this stage is infirm of understanding when a child is already able to distinguish between rights and wrong (good or bad) but not in a full way. If a child in this age commits a crime, the criminal responsibility has already begun; nevertheless, it is not similar with that of the adult particularly if the offence committed is of hadd or qesas type. The child will not be accountable for a crime of hadd or qesas but he/she should be disciplined with ta'zir punishment. The determination of this age is based on the hadith of the prophet which means: Teach your children to perform prayer when they reach the age of seven and beat them up (for failure to perform prayer) by the age of 10 (Nasima, 2005).

**Children above the age of puberty:** As Nasima states, this stage is full power of understanding, a person at this age is fully responsible for any crime that he/she has committed whether it is of a hadd, qesas or ta'zir. This stage begins when a person reaches 15 years old, according to the majority of jurists or 18 years old according to Abu Hanifah and the dominant view of the Malikis (Nasima, 2005).

Thus, it can be argued that the MACR in the Malaysian law begins at the age of 10 years. However, it is depending upon his/her level of understanding as to the nature and consequence of his/her act at the time of the commission of crime. When a child has reached the age of 12 but below the age of 18 the criminal responsibility is apparently clear with the exception to the crime of rape whereby in that case the criminal responsibility of a child begins at 13. Whilst in the Syariah Court, the criminal responsibility of a person is determined upon attaining the age of puberty according to Islamic Law. The discussion of Muslim jurists maintains that the criminal responsibility of the child begins at the age of 7 years and a person continues to be treated as a child

until the attainment of puberty. On the issue of determining the age of puberty, there are two main views; one is 15 years old and the other is 18 years old. Meanwhile, Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) interprets youthful as an offender above the age of 10 and below the age of 16 years. Thus, a study should be carried out to consider this discrepancy to prevent different standards imposed on children upon entering the criminal justice system (Nasima, 2005).

Arguably, Malaysian laws in regards with the MACR, are ambiguous, incomplete, insufficient and in conflict with the UNCRC. Although, Malaysia ratified the UNCRC on 17 February 1995, its delegates entered reservations relating to 12 of the Articles, generally on the grounds of inconsistencies with the state's constitution, national laws and national policies and subsequently, four of those reservations were removed leaving eight reservations altogether (Dusuki, 2009). However, Malaysia has accepted Article 51(b) of the UNCRC which states:

A reservation incompatible with the object and purpose of the present convention shall not be permitted

It seems that Malaysian's reservation to the UNCRC is incompatible with the purpose of the UNCRC and in such cases; Malaysia is required to implement the provisions of the UNCRC.

#### **THE MACR UNDER THE INDONESIAN LAW**

According to the International Bureau for Children's Rights (IBCR), the situation of children in the juvenile justice system is a matter of grave concern in Indonesia. There was no specific legal framework for children accused of a crime until 1997 when the Juvenile Court Act (Law No. 3, 1997) was enacted. That law provided specially for these children introducing a juvenile justice procedure for the first time and allowing the establishment of a specialist juvenile court. The juvenile court has still not been established, however and so children continue to be tried in adult courts, although under a special procedure for juveniles. The special procedure is intended to provide greater protection for children in the justice system. The law does not reflect the relevant requirements of the UNCRC because the law sets a very low MACR, 8 years (IBCR, 2006). As Mardite states in Indonesia, the Criminal Code does not establish a MACR for more serious crimes. In addition with the Juvenile Court Act, the concept of statutory crime is applied in a more general sense for all crimes perpetrated by children, although this

Act has been criticized for establishing the MACR at 8 years. According to Article 5 of the Juvenile Court Act, any child under the age of eight is free from all criminal responsibility. Under this Act a child is defined as a person under the age of 18 years who has never been married. However, the procedure for court hearings involving children is applicable for persons up to the age of 21 (Article 4). Chapter 5 of the Act states that in case the child has not reached 8 years old, he/she should be investigated by an investigator and the investigator will decide whether the child should be returned to his parents (in case his/her character can still be changed) or to the social department (if there is no hope to change his/her character) (Mardite, 2006).

Children's limitation of age is a critical aspect in a juvenile delinquency case because it is used to determine their legal status whether they can be categorized as a child or an adult. Certainty in the law regarding this is important for law enforcement on the front line in order to avoid an error in arrest, investigation, prosecution or judgment. This is very important because it is related to human rights protection. Regarding the limitation of age within Law No. 3, 1997, apparently Article 1(1) is in harmony with Article 4(1). Article 1(1) states that: A child is a person in a juvenile delinquency case who has reached 8 years old but has not reached 18 years old and never been married and Article 4(1) states that: The limitation of a naughty child who can be brought to the juvenile court is at least 8 years old but has reached 18 years old and never been married. Thus, the limitation of age shows that someone who can be considered a child who can be brought before the court is limited between 8 and 18 years old. A child under 18 years old but who has been married should be treated as an adult instead of a child. Therefore, he/she will not be processed based on the Juvenile Court Act but based on the Criminal Code. Comparing the limitation of age within the Juvenile Court Act with the limitation within Article 45 of the Criminal Code (no longer valid), it is apparent that in the Juvenile Court Act the maximum limitation age is higher. Within Article 45 of the Criminal Code the limitation was under 16 years old and there was no minimum age or distinction concerning whether the juvenile were married or unmarried (Mardite, 2006).

In terms of Indonesian track records on implementation of international law, the Indonesian government ratified the UNCRC by Presidential Decree No. 36, 1990. The government also issued Law No. 3, 1997 (the Juvenile Court Act) and Law No. 5, 1998 to ratify the convention against torture and other cruel, inhuman or Degrading treatment of punishment. The Indonesian government has also issued Law No. 39, 1999 on Human

Rights. In 2002 Law No. 23, the National Child Protection Act was issued by the House of Representatives and in 2006 a special law was adopted for the protection of witnesses and victims (UNICEF, 2010). All of these national law instruments were enacted to guarantee the protection of children's rights when such persons are subjected to the criminal justice system. The MACR which varies between institutions that handle children's cases, provides a concrete example of why issues pertaining to children should remain a priority (Mardite, 2006).

The CRC addressed many issues on children in its recommendations to Indonesia including its recommendation that the MACR be raised to an internationally acceptable level, the use of imprisonment only as a last resort, separation of juvenile and adult detainees, specially trained police units, improved conditions of detention and full implementation of international juvenile justice standards (CRC, 2004). While, a new draft of the juvenile delinquency law is being prepared and would raise the MACR from 8-12 years old, this is still lower than UNICEF's recommendation of 14 years of age (UNICEF, 2010). The IBCR claims that the MACR has not been changed and there has been little action to implement the other recommendations (IBCR, 2006). Moreover, Fagan has stated that both Malaysia and Indonesia have enacted domestic legislation to give effect to the UNCRC within their own countries. Both countries also have full panoply of laws within their domestic penal codes prohibiting and mandating conduct and prescribing punishments for failure to comply. Both countries have laws which allow for punishments that conflict with the provisions of the UNCRC (Fagan *et al.*, 2011).

#### **THE MACR UNDER THE THAI LAW**

According to Kalyanasuta and Suriyawong (2002), Thai law limits children's criminal responsibility by their age. Children <7 years old are not liable to criminal punishment. Those between 7 and 14 are not liable to any punishment either. However, the law gives the court option to use juvenile procedures, depending on the child's behavior, environment and other mitigating circumstances. This is to provide children with an opportunity to turn over a new leaf rather than punishing them severely as a deterrent. Above that age of 14 years and older, youths may potentially face criminal punishment but the court may use its discretion to reduce the sentence (Kalyanasuta and Suriyawong, 2002). Thus in the Thai legal system, a juvenile is any person <18 years of age. Children under the age of 7 years old have no criminal responsibility in Thailand. Children

between 7-14 years of age can be charged in court and can be given probation and cautions by the court. Children aged 14-18 years old can be charged in court can be imprisoned and can be placed in any training school deemed suitable by the court (Mustaffa, 2005).

In 2008, Thailand raised the MACR from 7-10 years old. Between the years 2006-2008, there were 1,083 children between 7 and 12 years of age charged with crimes, with 234 of them being children between the ages of 7-10 (Ratanadilok, 2010). Under Thai law, children aged 10 and younger are not punishable and the Criminal Code does not allow for any kind of punishment to be levied upon any person <14 years of age (Narkvichetr, 2003). While, Thai law sets the MACR at 10, it categorizes youthful offenders according to age group. Those aged 10-14 appear before a juvenile court judge but are not normally subject to legal punishment. They may be reprimanded but are usually returned to the care of parents or legal guardians on the condition that they do everything to prevent the child from further misbehaving. If the court feels it is inadvisable for the offender to remain at home, the youngster will be placed in the care of a court-appointed guardian or non-governmental organization. Offenders 14-18 years old face trial in juvenile court and if found guilty are handed over to remand homes and training centers where the focus is supposedly on rehabilitation. Courts determine the duration of their stay. Those over 18 but not yet 20 will be tried in adult criminal court and if found guilty will normally serve time in prison but be segregated from the rest of the population. Moreover, sentences may be significantly reduced or suspended at the judge's discretion. Thawatchai Thaikeo, the director-general of the Juvenile Observation and Protection Department said that his office will soon propose amendments to Sections 73 and 74 of the Criminal Code to increase the MACR from 10-12 in an effort to bring Thailand in to compliance with recommendations made by the CRC at its 18th session. Thailand has already endorsed the resolution. The CRC also stated that MACR should be uniformly applied across a given state. States which have varying legal frameworks concerning MACR depending upon the jurisdiction in which the action was committed, are in violation of the UNCRC. Due to this reason, the CRC recommends that legal age should be established for the attainment of majority and the state parties including Thailand review its legislation in order to bring it into conformity with the provisions of the convention (UN, 2000).

Although, the Thai government initially desired raising the MACR to 12, resulting legislation established a MACR of 10 years of age due to criticisms made by certain un-sympathetic parliamentarians. Attempts to

increase the MACR to 12 years old were modeled after many developed countries. Moreover, this change in the law was pushed forward by the needs to follow the suggestion of the UNCRC (Ratanadilok, 2010).

### CONCLUSION

From a legal perspective, a determination of the standard MACR requires putting aside different belief systems and exploring the convergence of views of different belief systems. The aim of this study is to study whether the MACR of children in Malaysia, Thailand and Indonesia correspond with MACR standards as contained in the UNCRC. The UNCRC as a whole can be adopted as a framework for all laws relating to children's rights. The UNCRC has been ratified by the majority of states including Malaysia, Thailand and Indonesia and forbids the punishment of offenders <18 years old by the UNCRC (Article 37 of the UNCRC). Ratification means that states parties to the UNCRC have committed themselves to promoting and protecting children's rights. They can therefore be held accountable before the international community and should ensure that their national laws are in accordance with the provisions of these treaties (Ramages, 2008).

Despite the progress that has been achieved by the national human rights institutions in Southeast Asia (Malaysia, Thailand and Indonesia) in order to improve children's protection, the region lacks an intergovernmental human rights mechanism. Although ASEAN has long been perceived as a promising avenue for regional monitoring and promotion of children's rights, it appears that human rights are not yet a priority on ASEAN's agenda. The establishment of a human rights mechanism under the auspices of ASEAN appears quite remote, despite the progress that has been made since the idea of human rights mechanism was first introduced in 1993. The protection and promotion of the human rights of children as set out in the numerous treaties and other existing instruments is principally a state obligation. By signing and ratifying international and regional treaties, states commit themselves to protecting and promoting children's rights. This commitment includes the development of strong legal frameworks that define and prohibit violations of human rights an element that is still missing 18 years after the entry into force of the UNCRC (Beaulieu, 2008).

While Malaysia, Thailand and Indonesia are state parties to the UNCRC in which Article 1 regarding the MACR notes: a child means every human being the age of 18 years, the existing domestic laws in those states set a lower MACR for children, as clearly demonstrated in this study. This study submits that the appropriate MACR in Malaysia, Thailand and Indonesia is the one

that corresponds with the standards contained within international instruments, particularly the UNCRC. It must be remembered that the justice system should be intensively applied and regularly evaluated and it should always emphasized the well being of the child and ensure that any reaction to child is always be proportion to the circumstances of both the offenders and the offense (Nasima, 2005).

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### REFERENCES

- Abiad, N. and F.Z. Mansoor, 2010. Criminal Law and the Rights of the Child in Muslim State. British Institute of International and Comparative Law, London, Pages: 196.
- Arts, K., 2000. Integrating Human Rights Into Development Cooperation: The Case of the Lome Convention. Kluwer Law International, Netherlands, Pages: 23.
- Beaulieu, C., 2008. Strengthening laws addressing child sexual exploitation. ECPAT International, pp: 1-150. [http://www.ecpat.net/EI/Publications/Legal\\_Reform/Strengthening\\_Law.pdf](http://www.ecpat.net/EI/Publications/Legal_Reform/Strengthening_Law.pdf).
- Bueren, G.V., 1998. The International Law on the Rights of the Child. Martinus Nijhoff Publishers, Hague, Pages: 57.
- CRC, 2004. Committee on the Rights of the Child. States Report Concluding Observations: Indonesia 24th Session, Office of the United Nations High Commissioner for Human Rights.
- Cipriani, D., 2009. Children's Rights and the Minimum Age of Criminal Responsibility (A Global Perspective). Ashgate, Farnham, Pages: 41.
- Dusuki, F.N., 2009. The convention on the rights of the child and the administration of Juvenile justice in Malaysia: An overview on the legal framework. Proceedings of the Human Rights and the Administration of Juvenile Justice: A Report of SUHAKAM's Conference Held in Conjunction with the Eighth Human Rights Day, September 9, 2008, Human Rights Commission of Malaysia, Kuala Lumpur, pp: 40-49.

- Fagan, R., L. Giovanni, A. Harris and T. Tannehill, 2011. Practical application of corporal (and capital?) punishment in the juvenile justice systems of Malaysia and Indonesia. Draft ITP juvenile justice paper v2, pp:1-13 <http://www.scribd.com/doc/53640282/Draft-ITP-Juvenile-Justice-Paper-v2>.
- Fortin, J., 2005. *Children's Rights and the Developing Law*. 2nd Edn., Cambridge University Press, Cambridge, Pages: 36.
- IBCR, 2006. Making children's rights work: Country profiles on Cambodia, Indonesia, Sri Lanka, Timor Leste and Viet Nam. International Bureau for Children's Rights, pp: 1-139.
- Kalyanasuta, K. and A. Suriyawong, 2002. The criminal justice system and community-based treatment of offenders in Thailand. 121st International Training Course Participant's Papers, pp: 265-293.
- Mardite, H., 2006. The Juvenile Justice System in Indonesia. Public Prosecutor, Metro Lampung District Prosecution Office, Sumatra, Indonesia, pp: 188-198, [http://www.unafei.or.jp/english/pdf/RS\\_No68/No68\\_16PA\\_Mardite.pdf](http://www.unafei.or.jp/english/pdf/RS_No68/No68_16PA_Mardite.pdf).
- Mustaffa, N., 2005. Punishing delinquents: Incarceration vs. Community Work, a study on juvenile justice systems in Malaysia, Thailand and Japan. *Young and Old in the Modern World*, pp: 87-94.
- Narkvichetr, K., 2003. Juvenile crime and treatment of serious and violent juvenile delinquents in Thailand. Department of Probation, Ministry of Justice, Thailand, pp: 128-138.
- Nasima, H., 2005. Juvenile delinquencies in Malaysia: Legal provisions and prospects for reforms. Proceedings of the 4th World Congress on Family Law and Children's Rights, March 20-23, 2005, Cape Town, South Africa, pp: 1-25.
- Nayagam, J., 2009. Strengths and weaknesses of the protection mechanism and support system for reintegration of children in conflict with law. Proceedings of the Human Rights and the Administration of Juvenile Justice Suhakam's Conference in Conjunction with Malaysian Human Rights, September 9, 2008, Suruhanjaya Hak ASASI Manusia Malaysia/Human Rights Commission of Malaysia, Kuala Lumpur, pp: 50-65.
- Ramages, K.A., 2008. Investigation the minimum age of criminal responsibility in African legal systems. Faculty of Law, University of the Western Cape, Cape Town, pp: 1-214.
- Rashid, M.Z., 2009. Juvenile Justice in Malaysia role of the department of social welfare. Proceedings of the Human Rights and the Administration of Juvenile Justice Suhakam's Conference in Conjunction with Malaysian Human Rights, September 9, 2008, Suruhanjaya Hak ASASI Manusia Malaysia/Human Rights Commission of Malaysia, Kuala Lumpur, pp: 32-39.
- Ratanadilok, K., 2010. Consequences of raising minimum age of criminal responsibility on Thai young offenders. [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1773548](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1773548).
- UN, 2000. Report of the committee on the rights of the child. States Reports, Concluding Observations: Thailand, Principal Subjects of Concern and Committee Recommendations, Fifty-fifth Session Supplement No. 41 (A/55/41). New York, pp: 71.
- UNICEF, 2010. Who are Children without Parental Care? UNICEF: The Communication Section of UNICEF Indonesia.