**A picture containing drawing

Description automatically generated**

**The Coalition for the Rights of Refugees and Stateless Persons (CRSP)’s Submission to the Special Rapporteur on the human rights of migrants: Ending immigration detention of children and seeking adequate reception and care for them**

1. Please provide information on any legislation or policy that prohibits or restricts the use of immigration detention of children and their families in your country. Grateful if you could kindly submit the original text of the legislation or policy, accompanied by an English translation if it is in a language other than English, French or Spanish.

* Memorandum of Understanding on the Determination of Measures and Approaches Alternative to Detention of Children in Immigration Detention Centres, signed by seven government authorities on 21 January 2019: The MOU’s objectives are (1) to serve as common guidelines for government agencies and related agencies to resolve cases concerning migrant children detained at Immigration Bureau, and (2) to determine clear mechanisms and responsibilities among agencies to ensure that the rights of the child are protected in accordance of Thailand’s domestic laws and international obligations.
* Child Protection Act B.E. 2526. The objective of the law as presented in the note at the end of the Act, is for the children to receive suitable parenting, nurturing and development which in turn will promote the stability of the family institution, and prevent children from being abused, exploited or discriminated against.
* Immigration Act, B.E. 2522 (1979), Section 54 ([Unofficial Translation IMMIGRATION ACT, BE 2522 (1979)](https://web.krisdika.go.th/data/outsitedata/outsite21/file/Immigration_Act_B.E._2522.pdf)) stated that “in a case where there is an order to repatriate an alien from the Kingdom, while waiting for the repatriation to take place, the competent official shall have power to permit the alien to reside at a place provided that such alien shall have to come to meet the competent official on the date, time and place as prescribed, with bond or with bond and security, or the competent official may detain such alien at a place for however long as is necessary.” This gives the power to the competent official to permit the alien, including children, to reside at a place other than the detention.

2. Please provide information on existing non-custodial alternatives to immigration detention of children in your country (e.g. community-based reception solutions) and elaborate how these alternatives effectively enhance the protection of the rights of migrant children and their families.

Since the signing of the MOU mentioned above in January 2019, a number of refugee children and mothers have been released on bail from Suan Plu Immigration Detention in Bangkok. They were allowed to live in rented accommodation in communities with CSOs and UNHCR support. CSOs working for refugee rights and members of the Coalition for the Rights of Refugees and Stateless People (CRSP), such as Asylum Access Thailand, Caritas Thailand, Center for Asylum Protection, Jesuit Refugee Services, Host International, and Step Ahead provide legal support, case management, materials support, empowerment training, facilitation for schooling and regular reporting with the Immigration Detention. CRSP closely supports the Thai Government to ensure that refugee children are protected once released from the Immigration Detention.

Some of the refugee and migrant children were not allowed to live in communities. They have resided at the Government’s Bangkhen Mother and Children Center or at the Department of Children and Youth’s Home for Children and Family. IOM as well as CRSP members mentioned above provide support to the children and mothers who live in government shelters.

3. Please provide information on any existing good practices or measures taken in your country to protect the human rights of migrant children and their families while their migration status is being resolved, including inter alia their rights to liberty, family life, health and education(e.g. by ensuring effective access to inter alia adequate reception, healthcare, education, legal advice, family reunion).

Most of the rights protection for refugee and migrant children have been provided by CSOs as explained in item 2 above. The Government authorities, especially the Department of Children and Youth (DCY), facilitated the release of children and mothers from the Immigration Detention. The DCY receives regular case management reports from CSOs. This is still at an early stage of the implementation of the MOU. An SOP has been developed and approved by the Government. At present, implementation guidelines are being developed by DCY. There is a need to evaluate the implementation to date to improve the MOU implementation to be more systematic and child rights be seriously protected.

4. Please indicate any challenges and/or obstacles in the development and/or implementation of non-custodial alternatives to immigration detention of children and their families.

* The MOU still clearly allows children to be detained as a ‘last resort’. In the standard operating procedure for the MOU, it states that “Children shall not be detained, except in necessary and unavoidable circumstances, whereby they may be detained at the Immigration Detention Centres, as the last resort and for the shortest possible duration”.
* Children are still being arrested and detained despite the MOU.
* No more children in Suan Plu IDC which is the main IDC in Bangkok but children are still living in a detention-like environment, with no freedom of movement and limited access to basic services.
* Under the MOU, the majority of refugee children were released with their mother, but the mother has to pay Baht50,000 (over USD1,500) for bail, before being released. The bail payments were provided by CSOs fundraising to help the mothers as they cannot afford this. Besides, CSOs have to sign up as a guarantor for the mothers before they can be released.
* Fathers are not considered for release under the MOU, resulting in separation of family members. Mothers are put in a difficult situation where they have to raise the children and earn a living on their own.
* Refugee children who turned 18 are called back to be detained in the immigration detention.

5. What support could other stakeholders (other than your Government) provide to strengthen the development and/or implementation of non-custodial alternatives to immigration detention of children and their families that enhance the protection of their rights?

The government needs regular support from the UN agencies to monitor the implementation of the MOU to meet the international standards especially the CRC and Best Interest of the Child. Immigration Bureau staff should be supported with capacity building around child rights. DCY should be supported to have more resources both in term of personnel and funding to be able to work closely in a partnership with the Immigraiton Bureau, the relevant UN agencies and NGOs.

-------------------------------------------------

The Coalition for the Rights of Refugees and Stateless Persons (CRSP) is a joint effort of civil society organizations particularly local NGOs, academics, and lawyers with the objective of protection and promotion of the rights for urban refugees and stateless persons. The coalition activities focus on advocacy aimed at policy changes, protection mechanisms for refugees, and public awareness, and increased public participation in the effort to protect the rights of refugees and stateless persons in Thailand. The coalition’s focus areas are: The right to be recognized as a legal person, The right to be free from indefinite detention, The right to non-refoulement, The right to access to judiciary and fair trial, The right of survivors/victims of trafficking, The right to education, The right to freedom of movement, The right to highest attainable standard of health and The right to work