

7. カナダ ブリティッシュ・コロンビア州

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本稿では、カナダ・ブリティッシュコロンビア州(以下、BC 州)の子ども保護システムについて、文献レビューを行い、1990 年以降の制度変遷とその成立過程を明らかにする。整理を行う項目は、Ⅰ. 現行子ども保護システムの概要、Ⅱ. 現行子ども保護システムの発展サイクルの分析、Ⅲ. 子どものマルトリートメント防止機関／家族支援機関、Ⅳ. 子どもの権利・当事者参画に関する団体・機関、Ⅴ. 子どものマルトリートメントに関するデータベース／データ・アーカイヴ、についてである。

1. 現行子ども保護システムの概要

(1) カナダ BC 州の特徴

カナダは 10 の州と 3 つの準州から成る国である。その中で、BC 州は、カナダ最西端の州で、人口 465 万 7,947 人、児童（年齢 19 歳まで）の総数は 95 万 7,532 人（BC 州統計局 2014）で、オンタリオ州に次いで 2 番目に多い。

国としての最高法は、「カナダ権利と自由の憲章」で、カナダの基本的人権が規定され、更にカナダ人権法、各州の人権法典、カナダ多様文化主義法等で、差別禁止事項、多様文化の保護事項などがこと細かく幾重にも規定されている(菊池 2016)。特に、1988 年に制定された「多様文化主義法」は、カナダの多様性を促進する国づくりに決定的な法的基礎を築いたといえる。この法律によって、カナダは全てのカナダ住民が経済的、社会的、文化的小および政治的に平等なアクセスと参加を支援することを定め、国内のあらゆる面において多様文化主義が実現するように共に貢献する、と定められている(菊池 2016)。

(2) BC 州における子ども保護制度関連法の概要

カナダでは、州政府と連邦政府は対等の関係にあり、その権限の分配については憲法(旧英領北アメリカ法)で定められている(森 2015)。カナダの行政府は、連邦、州および市の 3 つのレベルに分かれているが、児童福祉法は州レベルがベースになっているため、各州・各準州は、子ども保護の手続きについての独自の政策を有する。「英米とは異なり、連邦政府には児童福祉政策上の役割はなく、ファースト・ネーション⁴¹の保護区に通常居住する子どもを除き、連邦政府は児童福祉サービスに資金を出していない(Kozlowski, Milne&Sinha2014)」という状況である。

BC 州の子ども福祉に関する政策および手続きは、子ども家庭コミュニティサービス法(Child, Family and Community Services Act : CFCS)に基づいている。この法が最初に制定されたのは 1996 年で、ブリティッシュ・コロンビア州における子ども保護業務を手引きする主要な法律であり、子ども家庭コミュニティサービス法は、BC 州における子ども虐待が疑われる全てのケースについて報告を義務づけている。CFCS 法第 13 条によれば、年齢 0～19 才の子どもは次の場合、要保護となる。

41ファースト・ネーション (First Nations) は、とくにカナダに住んでいる先住民のうち、イヌイットもしくはメティ以外の民族のことである。

子どもが下記の状態に既になっている、あるいはその可能性がある場合：

- 子どもが親により身体的に傷つけられる
- 子どもが親により性的に虐待あるいは不当に利用されている
- 子どもが別の人間により身体的に傷つけられている、性的に虐待されている、または性的に利用されていて親にその子どもを護る意思がない、あるいは護れない
- 子どもが親に放置され、身体的に傷つけられている
- 子どもが親の行為により情緒的に傷つけられている
- 子どもが必要なヘルスケアを奪われている、あるいはその子の発育が治療可能な状態で、ひどく損なわれる可能性があり、かつその親が治療を受けさせる、あるいは治療を受けることを拒否している
- 子どもが放棄されている、子どもの親が死亡している、あるいは子どもの親がその子どもの世話をすることができない／世話をする意思がない、かつその子どものケアのために適切な備えがない
- 子どもの安全あるいはウェルビーイングが危うくなる状況にあつて、家に（ずっと）いない
- または子どもが管理者やその他契約による者のケアを受け、かつその子どもの親が契約失効時にケアを再開する意思がない、あるいは再開できない

(Kozlowski, Milne & Sinha, 子ども家庭コミュニティサービス法)

その他の関連法として、家族法 (Family Law Act : 2011)、養子縁組法 (Adoption Act : 1996)、乳児法 (Infants Act : 1996) および子どもと青少年代理人法 (Representative of Child and youth Act : 2006) があり、これらも子ども家庭福祉実践を動かす一助になっている。また、必要がある場合には、刑法 (the Criminal Code 1985) も用いられる。

(3) BC 州における子ども保護制度の概要

BC 州では子ども家庭省 (the Ministry of Children and Family Development : MCFD) が、州内の子どもの安全とウェルビーイングを護るための子ども家庭福祉を統治する。BC 州はサービス給付のエリアを 13 地域に分け、各 MCFD 事務所が、1) 早期 (Early Years) サービス、2) 特別なニーズのある子どもと青少年のサービス、3) 児童と青少年の精神保健サービス、4) 児童の安全サービス、5) インケアにある児童・青少年と家庭のサービスおよび養子縁組サービス、6) 青少年の司法サービス (MCFD, 2015) をベースとして、さまざまな子ども福祉サービスを提供している。

また、委任代行機関である先住民の機関が 22 あり、子どもの保護、後見人、里親や家庭サービスなどを行うさまざまな権限を持っている。州内には 429 ヲ所のサービス提供拠点があり、先住民の代表や先住民支援機関約 5,400 ヲ所ある地域サービス機関及び里親と協力し活動を行っている。

1) 「子ども保護対応モデル (Child Protection Response Model) 」

BC 州における子ども保護の対応システムは、区分対応モデル (Differential Response) である「子ども保護対応モデル (Child Protection Response Model) 」が用

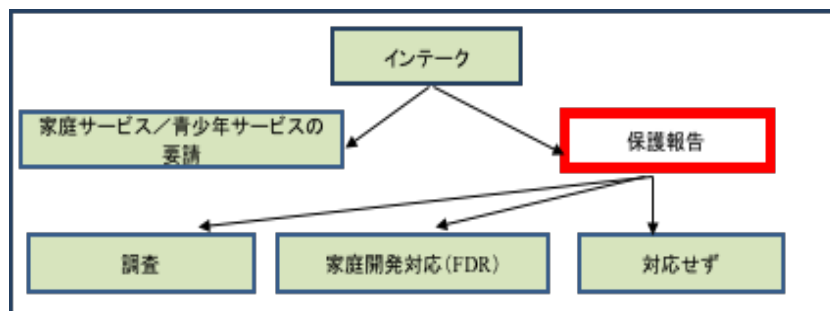
いられている。現行の「子ども保護対応モデル」(Child Protection Response Model)は、2012年4月に発効した。

その対応は、MCFDが通告や問い合わせを受けた時点のインテークから始まる。19歳以下の子どもや若者が虐待やネグレクトされている場合、子ども福祉ワーカー(child welfare worker)に通告しなければならない。共通番号(1 800 663-9122)で24時間受け付けている⁴²。

インテークでは、まず、それがサービスの要請なのか、子どもの保護に問題があるのかを判定する(図1参照)。MCFDがサービス要請の連絡を受けた場合、その家族や子どもあるいは青少年のニーズを満たすための適切な支援を決めるために、スクリーニングまたは情報収集を行う。子どもの安全が危険である場合、MCFDのスタッフはその問題が、1)対応せず、2)「家族支援対応」(Family Development Response:FDR)、または3)調査(Investigation)を必要とするか否かを判定し、トラックを区分する(この詳細は、訪問調査の報告を参照されたい)。

FDRとは、ストレングスモデルを基盤とした、協働的プロセスであり、子どもの安全に関する懸念が短期間の支援で解決できる場合に用いられる。一方の「調査」対応は、子どもの安全が切迫して危険である場合や、深刻な危害のリスクがある場合に採られる方法である。MCFDは、家庭維持、カウンセリング、障がいのある子どものための支援、スーパービジョンを受けるアクセス、家庭支援ワーカー等の直接サービスを提供するサービス事業者と契約している。すべての事例は「調査」または「家族支援対応(FDR)」のいずれかで対応可能であると考えられている。

図1 MCFDのインテークのプロセス



(Sashikata 2016)

2) 分離後の司法関与とタイムライン

子どもが分離された後7日以内に、省の職員がプレゼンテーション諮問(presentation hearing)に出席し、保護について説明を行う。判事が、子どもが省のスーパーバイズなしに家に帰ることができるかと判断した場合には、それ以上の裁判手続きは行われない。

しかし、子どもの安全に懸念がある場合、判事は2つの選択肢を持つ。省のスーパービジョンのもとで子どもを家に返す、もしくは、子どもを家庭に返さず、そのまま省のケアのもとに残すことである。どちらの場合でも、保護審判(protection hearing)が45日以内に行われる。

42 <http://www2.gov.bc.ca/gov/content/safety/public-safety/protecting-children/role-as-relative>

この間、ワーカーは、家族をアセスメントし、その子どもの包括的なケアプラン (plan-of-care) を作成する。

判事が子どもに保護が必要と決定した場合、以下の3つの選択肢がある。

- ・省のスーパービジョンのもと、(分離している場合は) 子どもを返すか家族に残す
- ・省のスーパービジョンのもと、子どもを親族などに他者に短期的に措置する。
- ・子どもを政府のケアに残し、省によって里親家庭に措置する。親族が里親家庭としてケアを提供することもある。

子どもがケアに残る場合、裁判所は、特定の人々(親族や他人)に対し、子どもと連絡を取り合うためのアクセス・オーダーを出す。(Province of British Columbia 2017, 筆者訳)

3) ケアプランへの家族の参画

子どもの福祉に関するプランを決定する過程では、家族や地域社会のメンバーを巻き込み、子どもや若者を保護し、家族のニーズに対応するための計画と合意を作り出すために、共同して意思決定を行う。この方法を用いることで、裁判所の関与が必要な事態を回避できることも多い。これらのプロセスは、子ども家庭コミュニティサービス法に記載されているように、自発的なものであり、秘密を守る形で行われる。この意思決定のプロセスや用いられる方法は、図2のように示されている。

4) 「ケアの連続性 (Continuum of Care) 」

親が子どものニーズを満たすことができないとみなされた場合、措置についての決定は、「ケアの連続性 (Continuum of Care) 」がベースになる。優先されるのは、子どもにとって侵襲の度合いが最も小さい代替的ケアに子どもを措置することである。混乱を引き起こす度合いが最も小さい選択肢は、その子どもがすでにもっている関係の拡大家族や家族の友人への措置である。これへの同意は自由意志で決められ、親はその措置を書面で承諾し、後見を持ち続ける。別のレベルで措置を講じる必要があれば、拡大家族が子どもの「一時保護」ができる場合には、公的な保護審問(裁判所)で判定される。



「家族法 (Family Law Act 2011) 」によれば、親権の次のレベルは「親権の移管」になり、ここで後見が親から一定の期間その子を保護する人へ親権が移る。期限が「親権の移管」の契約を超えれば、次の手順は別に設定された期間の「継続親権命令」

(Continuing Custody Order ; CCO) になる。CCO 後には、養子縁組の選択肢がある別の「親権移管」契約が決定されうる。

他方、拡大家族が選択肢とならず、子どもが責任者 (MCFD) のケアの下に置かれる場合、侵襲度合いが最も小さい選択肢は、「自発的なケア契約 (Voluntary Care Agreement) 」ないしは「特別なニーズ」契約である。「自発的なケア契約」においては、子どもは親と一緒に住んでいないものの、親は後見権を持ち続ける。保護に問題があり、子どもを家から保護する必要がある場合、ソーシャルワーカーが MCFD を代表して、法廷 (プレゼンテーション審問) に出て、期間限定で「暫定的親権命令 (Interim Custody Order) 」を申請する。この時、子どもがケアに置かれている間、同省が保護を引き受ける。「暫定的親権命令」期間が経過した時点で、次のレベルは「一時的親権命令」になる。同様に、この命令はプレゼンテーション審問によって決定される。「継続親

権」は継続してケアに置かれる必要がある子どものために用いられる。公的な「親権の移管」と養子縁組という選択肢は、ケアの連続性における究極の選択になる（Sashikata 2016）。

図2 意思決定の参画プロセス

Family Meeting	<p>You and your family and the people who support you, meet with a child welfare worker to discuss and agree on things like goals and plans. Family meetings can help you work through:</p> <ul style="list-style-type: none"> • child protection concerns • visiting schedules • voluntary care or special needs agreements, or • plans for your children to stay with friends or family. <p>Family meetings can also help you learn more about child welfare services. Your child welfare worker leads the process, and there is no neutral person involved to conduct the meeting.</p>	
Family Group Conference	<p>A Family Group Conference (FGC) is a special meeting of parents, children, extended family and those who feel like family to you. A conference helps you and your family come together to solve problems and to make sure your children get the care and support they need.</p> <p>The process is led by a skilled, neutral coordinator, but you as a family make decisions on your own. At the conference you and your family have private time to make a plan that builds on your strengths, and a child welfare worker approves it if it will keep your child safe. You do not need a lawyer to participate in a family group conference, although you may want a lawyer to review the plan before you sign it – to help make sure you’re clear about your rights and responsibilities.</p>	 <p>These processes (excluding the court process) are:</p> <ul style="list-style-type: none"> • Private and confidential • Voluntary • Led by a neutral person • Designed so that you can share your story and participate in the decision-making 
Traditional Decision-Making	<p>If you are from a culture that has a traditional way of solving family problems, this option might be for you. Using traditional decision-making, you work through any disagreements by following community or cultural traditions. For example, in some Aboriginal communities, elders may have a key role to play in guiding your family and your child welfare worker through a decision-making process. Talk to your child welfare worker and community elders about how these processes might work for you.</p>	
Mediation	<p>Mediation is a way of solving problems with the help of a neutral person (a mediator), who is not a child welfare worker. In mediation, you and your child welfare worker will meet with a mediator who will help you come to an agreement. Mediators are trained, skilled professionals. They are not on anyone’s side and their job does not involve judging or making decisions.</p> <p>Mediation is an option that may be used at any time when there are concerns about a child’s safety, even before a child is removed or after a court hearing. Anyone can request mediation. Although you do not need a lawyer for mediation, you may find it helpful to have a lawyer come with you and review the agreement that is developed.</p>	
Court	<p>When you go to court, a judge will make all the decisions about your case. This includes:</p> <ol style="list-style-type: none"> 1. where your child will live 2. how much time you can spend with your child, and 3. whether further hearings are needed to reach a final decision. <p>You need a lawyer if you go to court. He or she will make sure that the judge hears what you have to say about your case. Another lawyer will be there to present what the child welfare worker has to say.</p> <p>The judge may order a case conference – where you and the lawyers and the child welfare worker meet with the judge to try to settle things without having to go to trial. The judge may also adjourn the case so that you can use one of the collaborative decision-making processes. If family group conferencing, mediation or traditional dispute resolution do not work for you, or you are not satisfied with the outcome, you always have the option of going to court.</p>	

(Province of British Columbia)

2. 現行子ども保護システムの発展サイクルの分析

次にどのように現行の子ども保護システムが発展してきたのかについて、整理する。

(1) 先住民（ファーストネーション）への対応に関する経緯

1) 現行システムに至る背景、出来事、事件、世論等

カナダの子ども保護制度の発展において、先住民（BC州ではファーストネーションと呼ばれる）への対応の歴史は非常に重要なファクターである。

カナダ建国前の1863年、初の「先住民寄宿学校（Aboriginal Residential School）」がBC州に開校した。その後1980年代後期まで、ヨーロッパ人中心主義のキリスト教文化に同化させるための政策が実行された。この同化政策の目的は、カナダ国民から「先住民（インディアン）の文化をせん滅すること」であり、そのためには次の世代の子どもたちに先住民の文化を受け継がせないようにすることであった（Sashikata2015; 菊池2017）。

子どもや家族の文化的アイデンティティに全く配慮しない植民地化の取り組みによって、家庭から引き離されて寄宿学校に入居させられた先住民の子どもたちは、先住民の言語や生活習慣、精神世界、コミュニティの中で人間関係、先祖との繋がりなどを学び受け継ぐ機会を一切剥奪され、全く断絶された世代となってしまった。先住民としてのアイデンティティを剥奪され、先住民のコミュニティから断絶され、自分の親や親族ともコミュニケーションができなくなってしまった挙句に、白人の世界では相変わらず厳しい差別にさらされ、寄宿舎を出た後も路頭に迷うしかない状態であった（Sashikata2015; 菊池2017）。

2) 現行システムに至るまでの模索、検討された内容

この寄宿学校は、BC州では1984年に閉鎖されたが、カナダ国内で最後に閉鎖されたのは1996年のことであり、カナダの先住民とその子どもたちは、100年以上の間、過酷な同化教育を受けていたことになる。さらに、先住民のアイデンティティを剥奪するという重大な人権侵害を犯しただけでなく、当時の教会関係者が、寄宿舎に入っていた先住民の子どもたちを虐待していたことが明らかとなっている（Sashikata2015; 菊池2017）。

この虐待の実態は、教会関係者が隠蔽し、長期間に亘り表に出ることがなかったが、寄宿舎時代に虐待を受けていた先住民の子どもたちが年齢を重ねた1970年代になってその経験を語り始めたことから、明るみになった。それによれば、虐待はあらゆる分野におよび、身体的虐待、精神的虐待、性的虐待、そして「ネグレクト」など、辛く苦しかった子どもの時代が浮き彫りとなった。ある先住民によれば、これらの虐待のために死亡した先住民の子どもは5万人ほどにも及び、しかも、丁重に葬られることもなかったという。先住民による勇気ある告白は、カナダの市民を震撼させ、それによって、その後の政府の子ども養護政策と子どもの権利擁護に関する制度や法規に大きな影響を与えることになるのだが、これを機会に、子ども養護のために集団で住ませる「大寄宿舎制度」は、いくつかの例外を除き、基本的になくなるのである（菊池2017）。

3) 制定された新たなシステムや実践

BC州では1984年に最後の寄宿学校が閉鎖され、1991年には先住民が子ども福祉の権限委譲と予算配分を受けることが州政府によって議決された。これに続いて1996年に、上

述の子ども家庭コミュニティサービス法(CFCS)が発行された。これは同年にカナダ政府で批准された国連の子どもの権利条約に強く影響を受けたものとなった。同時に新たな養子縁組法が発行され、その内容には先住民による伝統的な養子縁組を認めることも含まれた。

2008年6月11日、当時のカナダ首相スティーブン・ハーパーが、カナダ議会で先住民に正式に謝罪をした。

「カナダ政府は、強制的に子どもたちを親から引き離し、コミュニティから引き離して教育をさせるシステム(レジデンシャルスクール)を作り上げた。その子どもたちの多くは、十分な食事も衣服も住居も与えられなかった。全ての子どもたちは、親の愛を受けながら育てられることもできず、祖父母の心のこもった世話を受けることもできず、コミュニティの世話を受ける事もできなかった。子どもたちが強制的に通わされた学校では、ファーストネーションズ(先住民のコミュニティ:インディアン)、イヌイト、メイトィの言語および文化は禁止された。悲劇的なことに、この学校に通った子どもたちの中には、学校を卒業することなく死亡してしまった者もいる。カナダ政府は、これらに対して謝罪をしたい」(菊池 2017, 一部筆者編集)。

その後、レジデンシャルスクールで何が起こったかの真実を掘り起こし和解のための政策を提言する「真実と和解委員会」が組織され、犠牲になった多くの先住民から聞きとりを行った。そして、そこで明らかになった真実に基づいて、先住民との和解を実現するための具体的な政策が実行されていく(菊池 2017)。

4) 制定された新たなシステムや実践についての運用後の評価と新たな課題の発見

今日、かつて先住民社会が持っていた子ども保護と養護の権限は、再び、彼らの手に戻っている。カナダがイギリスの植民地となってから、先住民社会から剥奪されていた彼らの伝統的な子育ての仕組み、部族で、そして社会で育てる仕組みは、再度彼らの権限となって戻ってきた(菊池 2017)。

しかし、歴史的に先住民の子どもや家族を収容したことは、世代感のトラウマをもたらしており、現在でも、先住民コミュニティは、家族や子どもに影響を及ぼす虐待や薬物中毒、メンタルヘルス、自殺の問題に苦しんでいる。また、先住民の子どもたちが保護される率は、カナダ全体の子どもに対し、統計上大きな比率を占めており、BC州の子ども福祉に大きな影響を与えている(Sashikata 2015)。BC州全人口の子ども(0~18歳)の総人口91万人(2011年)のうち、先住民の子どもは約8万人(2011年)と約8%である。しかし、インケアで生活する子どもの50~60%が先住民の子どもである。

バンクーバー先住民子ども家庭サービス協会(VACFSS)は、失われた先住民コミュニティの人間関係の絆(connection)、子育て文化(children)、生活の糧(resource)、独自のスピリチュアリティを支える言語(language)を回復するために、子ども保護、社会的養護など子ども家庭支援サービスの決定と実施の権限を先住民団体に委譲して設立された。州政府から先住民団体への子ども福祉に関する司法的権限委譲はカナダ全土に2,000以上存在する居留地で行われている。

権限委譲は単なる法的手続きには終わらず、先住民スタッフが州政府の法制度を運用して家族保全を実現できるようになることが目指された。2001年に正式な権限委譲がなされたのち、現在は先住民スタッフが中心となって自らの実践と行動から積み上げられたスキルをレビューしカナダにおける子ども福祉の課題を見出す段階に到達している（山下 2017）。

3. 子どものマルトリートメント防止機関／家族支援機関について

(1) 子どものマルトリートメント支援の概要

1) BC州における虐待予防の概要

カナダのBC州は、長年にわたり、子どもが実親家庭に留まるために必要な援助を家庭に対して行うためのシステムと共に、そのような援助を行っても実親家庭に留まることが困難な子どもに対するさまざまなシステムを構築している(大谷 2001)州である。

虐待予防の実践においては支援のニーズをもつ母子と家族にどのようにアクセスするかが第一の課題となる。BC州のビクトリア地区では妊産婦全てに向けた精神保健のポピュレーション・アプローチとして妊娠期からのユニバーサル・スクリーニングを、ハイリスク・アプローチとしてメンタルヘルスの問題や心理社会的にニーズをもつ妊産婦むけの集中的(Enhanced)支援プログラムを提供している。地域医療を担う Island Health Authority(バンクーバー島保健局)は両者のアプローチを包括して Right From The Start という妊娠期から2歳までの継続的なプログラムとして実施している(山下 2017)。

一方、ハイリスク・アプローチとしては、NPOが運営する薬物依存や心的外傷をもつ女性に対する個別の支援プログラムが用意されている。これらの取り組みの中には地域で薬物依存や非行の問題に対してアウトリーチ活動をしてきた支援機関がプログラムを立ち上げ、20年以上継続しているものもある(山下 2017)。

2) BC州における社会的養護の概要

現在、BC州においては、里親養育が社会的養護の主たる選択肢である。里親養育における専門的ケアには、提供するケアによって3つのレベルがある。これらのレベルは、子どものニーズと里親のスキルに基づいている。

レベル1の家庭は、標準的な里親家庭であるのに対し、レベル2と3は、より複雑なニーズを持つ子どものための里親家庭である。里親になると決める前に18時間の事前オリエンテーションへの出席が要求される。このオリエンテーションの後、3種類の資料を添えて申請しなければならない。選抜されると、家庭学習、医学的アセスメント、犯罪歴チェックおよびアセスメントの面接が行われ、これらが満たされていれば、その家庭は承認され、契約が結ばれる。「BC里親協会連合会(BC Federation of Foster Parent Associations)」とのパートナーシップで、MCFDは「里親ケア教育プログラム」を提供している。これは53時間の標準化されたトレーニングプログラムである。このトレーニングは無料で、リクルートされた里親の知識やスキルを高めることを意図したものである。

上記した通り、レベル2と3の里親の専門スキルはより高くなるので、報酬レートはそのスキルを反映する。2009年のデータでは、里親ケアの月間レートは次のとおりである。

表3 月間の家庭ケアの報酬 (MCFD、2009)

	基本月 間家庭 ケア	レベル1 専門ケア (子ども 1人当たり)	レベル2 専門ケア (子ども 1人)	レベル2 専門ケア (子ども 2人)	レベル2 専門ケア (子ども 3人)	レベル3 専門ケア (子ども 1人)	レベル3 専門ケア (子ども 2人)
年齢11 才以下	\$803.8 2	\$458.02	\$1,140.40	\$1,968.68	\$2,692.92	\$1,816.6 6	\$3,113.12
年齢12 ~19才	\$909.9 5	\$458.02	\$1,140.40	\$1,968.68	\$2,692.92	\$1,816.6 6	\$3,113.12

出典：<http://www.mcf.gov.bc.ca/foster/levels.htm?WT.svl=LeftNav> (Sashikata 2016)

ブリティッシュ・コロンビア州における養子縁組のプロセスはいくつかの政策および法令によって規定されている。

- 養子縁組法 (Adoption Act) -1996年に導入された養子縁組法は、養子縁組に関する問題点や、養子縁組に関する社会と養子縁組の開放性における変化を反映している
- 養子縁組法規定 (Adoption Act Regulation) -履歴表、法律改訂表、養子縁組機関規定、養子縁組料金規定、養子縁組規定
- 養子縁組機関規定 (Adoption Agency Regulation)
- 養子縁組料金規定 (Adoption Fees Regulation)
- 養子縁組法について -養子縁組法に関する一般情報
- 子ども家庭コミュニティサービス法-ブリティッシュ・コロンビア州における子ども達の安全とウェルビーイングを律する法律
- 秘密保持と情報へのアクセス-養子縁組法はブリティッシュ・コロンビアにおける養子縁組前の親と養子縁組される成人がお互いに確認する情報を得やすくしている
- ハーグ条約 -国際養子縁組に関する子どもの保護と協力
- 国際養子縁組 -国際的養子縁組は免許を受けた養子縁組機関4者を通じて完了し、ハーグ条約の諸条件に従わなければならない
- 養子縁組に関する実施基準とガイドライン-実施基準は、ブリティッシュ・コロンビア州の省による養子縁組サービスの提供に関する義務と役割を果たすため、職権を委譲する人に対し、必要な実践レベルを定めている。

出典：<http://www.mcf.gov.bc.ca/adaption/legislation.htm>:

また、MCFDによれば、養子縁組は数種類ある。

- 養子縁組の待機児童；「子ども家庭コミュニティサービス法」に準じた「継続親権命令」下にある子どもである待機児童の養子縁組
- 国家間／国際養子縁組
- 親戚／ステップ親養子縁組
- 直接措置養子縁組

- 原住民の子どもの風習的養子縁組

MCFD を通じて子どもを養子にするには、関心ある当事者が養子縁組ソーシャルワーカーとの初回面接後に申請できる。その後、医学アセスメントおよび犯罪記録調査を含む家庭調査のプロセスに入る。家庭調査が完了すると、ソーシャルワーカーはその家庭にあった子どもを探すためマッチングのプロセスを始める。マッチする可能性があるとして、その子どもと家庭が関係を構築するために、そしてその適合を判定するため、子どもと家庭の間で訪問する。これら措置前の訪問が満足なものであると判明したら、措置を講じることができる。

(2) 子どものマルトリートメント防止／家族支援サービスの発展サイクルの分析

早期介入を推進しても繰り返される不適切養育の過程を分析するとライフコースの中で妊娠・出産がターニングポイントとなることが明らかになる。そこで予防的介入のターゲットとして周産期の母子と家族が抱える困難が一層注目されるようになった（山下 2017）。

4. 子どもの権利・当事者参画に関する団体・機関について

(1) 子どもの権利擁護・当事者参画の現状（法律、規程、手続き、アセスメント等のツールや書式、データベースのアウトライン等）

カナダでは、1980 年頃から子どもたちが何らかの困難な問題を抱えたときに、あるいは今自分が置かれている状況に不平や不服があるときに、子どもたちの訴えを受けとめるシステムが複数用意されている。第一に、子どもたちは、さまざまな機会にそのような人権救済・権利代弁システムが存在することを知らされている。また、子どもたちは実際に自分自身でこのようなシステムにアクセスできる（許斐 1999）。

児童・家庭・コミュニティサービス法(CFCSA)の中には先住民の子どもの権利についての条項もあり、カナダのみならず全世界に広まった多文化主義を反映したものとなっている。また、BC 州において、子どもと青少年の権利擁護のよりどころとなる法律は、「子どもの権利：子どもと青少年の権利擁護法（Children’s Rights : Representative for Children and Youth Act）」（2006）である。この法は 2006 年に制定され、子どもと青少年の権利を擁護する団体として、「Representative of Children and Youth」がある（詳細は、訪問調査報告を参照されたい）。そのホームページによれば、子どものアドボケイトは次のことを行うことができる。

- 弁護：子ども、青少年や若年成人に選定されたサービスの理解やそれらへのアクセスを向上させるために弁護する
- 監視、見直し、監査および公共報告：子どもや青少年のために選定されたサービスに関し、監視、見直し、監査し、かつ、公に報告する
- 個別の見直しおよび調査の実施：見直し可能なサービスを受けている子どもの怪我あるいは死亡についての個別の見直しと調査を実施する

また、Representative of Children and Youthは、「子ども家庭コミュニティサービス法」および「青少年司法」に基づく下記のような支援について見直し、あるいは、調査する権限がある。

- 家族支援
- 子どもの保護
- フォスターケア
- 養子縁組
- 後見
- 障害のある子どもと青少年
- 幼少期の発達支援と子どものケアサービス
- 子どものためのメンタルヘルス・薬物中毒サービス
- 青少年司法
- 青少年および若年成人の成人への移行期における支援
- CLBC 支援：19 才から 24 才の誕生日までの若年成人向けの支援

BC 州では青少年自身が参加してのアドボカシー活動として社会的養護当事者のネットワーク (Federation of BC Youth In Care Networks) が 1993 年に設立され発展を遂げている (現地訪問調査報告参照)。

(2) 子どもの権利・当事者参画に関する組織や機関の発展サイクルの分析

1) 現行の子どもの権利擁護・当事者参画に至る背景、出来事、事件、世論等 (①「社会的発見期」)

カナダは、子どもの意見表明権、参加する権利、そして、自己決定権を子ども自身が行使できるように、様々な努力を支援してきた(菊池 2015)。

高橋 (1992) は、オタワで行われた「カナダの子ども：90年代の最優先課題」と題するシンポジウムに参加した際のことを次のように報告している。特に、印象に残ったこととして、「児童を『保護 (protection)』の対象とするだけでなく、『予防

(prevention)』の対象とすること、さらに、児童福祉の議論には可能なかぎり児童自身の『参加 (Participation)』を推進しようという姿勢」があったことを挙げている。実際に、この会議には、青年団体の代表や里親のもとで育った大学生、16歳の生徒まで多くの児童青少年が参加し、大人と同等の議論を展開していたとする。また、こうした議論を、単なる議論に終わらせるのではなく、最終的には政策提言まで徹夜に近い努力でまとめあげ、最終日には500人の参加者全員が国会に赴き、連邦政府の厚生大臣、国会の委員長、主要三政党の幹部に対して、詳しい報告をし、それぞれから回答を求めるというロビー活動を行っており、ここでも、参加者を代表して発言した四人のうち三人は、児童青少年であり、各政党の有力議員が熱心に報告を傾聴し、反応した (高橋 1992)。

2) 現状に至るまでの模索、検討された内容 (②「前駆期」)

1996年は国連子どもの権利条約が国内で批准された年でもあり、同じ年にスタートした新制度 (CFCS) のもとで、BC州の権利擁護とアドボカシーの取り組みが図られた。

3) 1)~2)を通じ、制定された新たなシステムや実践 (③「達成期」)

さらに、BC州では子どもの最善の利益と子どもの権利を守るために、子ども福祉サービスが適正に行われているかを見直し調査する代理人の権限を定めるRepresentative for Children and Youth Actが2006年に成立し、BC州での子どもの権利擁護とアドボカシーに関わる具体的な取り組みが充実することとなった。

5. 考察 (教訓等)

(1) 多文化主義社会の実現に向けて

カナダ全体でそうであるように、BC州でも先住民やその子どもに対するこれまでの歴史を謝罪・検証し、新たな制度・対応方法を作り上げている。この経緯によって、多様性を尊重する社会を実現するために、制度的にも底上げした方策がとられている。

日本においても、強い格差のみられる領域において、アファーマティブ・アクションのような方策を取り入れることも検討すべきであろう。

(2) 当事者の参画による計画・政策決定

さらに、当事者の参画についての考えや制度が推進されていると考えられる。この当事者の参画は、ケアプラン作成の意思決定から始まり、ケアを受ける間の代弁機能、措置解除後の若者による制度改善への参加など、すべてのフェーズで行われている。

日本においては、子どもの保護領域・社会的養護領域における当事者参画は、依然として十分な体制にない。今後、カナダのような当事者参画の実践を取り入れる意義は大きい。

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8. 大韓民国

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1. 現行子ども保護システムの概要

韓国は、戦後親を失った子どもの保護と急速な産業化を経て招いた児童問題を解決するために、残余的な児童福祉モデルに基づいて制度を成立している。残余的児童福祉モデルは戦争孤児、貧困児童、家庭崩壊による要保護児童など正常的な家庭から遺脱された一部の貧困児童と崩壊された家庭の児童を対象とした事後的なサービスを提供する形態である。公的の児童保護体系は、1961年児童福利法の制定を通じて実体化されたと言える。児童福祉の発展過程は大きく児童福祉サービスの機能と性格を中心に1960年代以前の児童福祉の初期として社会的救護段階、1960～70年代の児童福祉制度が打ち立てられた後、現われた選別主義の段階、そして、1980年代以降に児童福祉の転換期頃、政策対象の普遍主義への転換の試みが行われていたと評価される。特に2000年以降は普遍主義への対象の拡大が定着される制度転換期と分けることが出来る。つまり、韓国の児童福祉は、制度成立の初期には低レベルの公共扶助と入所型養育施設への対応、また国内で保護できない児童は海外入養⁴³を中心に行われており、その以降、産業化と経済成長が急速化にと進められて普遍的福祉へのニーズが向上され、働く女性と児童のための保育サービス、家庭内の問題と虐待された児童のための相談と保護サービスが発展するようになった。しかし、韓国の児童保護体系を担う部署は保健福祉部（児童対象の保護関連の業務）と女性家族部（青少年対象の保護政策）に分けられる二元体系を構成している。また、学校生活の中での危機児童に対しては教育部が保護業務を担っている。そのため、部署間の関連の業務を処理していくためのネットワークの脆弱性は子ども保護システムの機能を阻害させる現状でもある⁴⁴（リュウ他 2015）。

（1）子ども保護と関わる法律体系

韓国の児童福祉の法律体系は、児童福祉法を基本とし、児童福祉と関わる多数の法律が一部の児童福祉の下位領域で補完的制定されている。児童福祉法が基本となる法律であるが、1961年児童福祉法が制定されて過去の1981年の児童福祉法に改正された当時には、施設保護を中心に制定された。以降、社会環境の変化と児童福祉に対するニーズが多様化になることにあわせて児童福祉法を部分的に改正及び補完されたため、基本法として体系が整っているとは言いづらい。現在まで、制定されている児童福祉関連の法律は、社会福祉サービスと関わっており、子ども養育と家庭の所得を支援する児童手当などの制定されていない状況である。現在、児童福祉と関わる法律体系を<表1>に整理した。

⁴³ 養子縁組

⁴⁴ リュジョンヒ、パクセキョン、イジュヨン、パクジユン、He Lijun・Morita Akemi・Yu Jianming(2015)少子化を乗り越えるための児童保護体系に対する国際比較研究：韓中日の比較を中心に、韓国保健社会研究院,p4

表 1 韓国における児童福祉と関わる法律体系

構成体系		主な内容	
児童福祉基本法		児童福祉法	児童福祉に関する基本事項
児童福祉特別法	直接関連法律	乳幼児保育法	乳幼児保育
		片親家族支援法	片親家族福祉
		入養特例法	養子縁組、手続きなど
		母子保健法	母子保健
		失踪児童保護支援法	失踪児童保護
		少子化・高齢化基本法	少子化対策
		家庭暴力防止法	家庭暴力被害の児童への対応
	間接関連法律	国民基礎生活保障法	貧困家庭児童
		緊急福祉支援法	危機家庭の児童への緊急支援
		青少年基本法	青少年福祉の基本事項
		青少年保護法	青少年保護
		社会福祉事業法	社会福祉事業と施設運営
		保護少年法	非行少年
		保護観察法	非行少年の保護観察
		障害者福祉法	障害児の福祉に関する事項
		児童虐待犯罪法	被虐待児対する保護及び加害者の保護処分

オジョンス・ジョンイクジュン（2008）「児童福祉論」より加筆

（2）韓国の子ども保護システムの構成及び機能

韓国の子ども保護システムは‘保護を要する児童’とされる選別的な対象に養育者を代わりにする代理的保護及び支持的・補足的サービスを提供することを優先とする。児童福祉法の第 15 条 1 項により、自治体の長が管轄区域内で生じる保護対象児を発見したり保護者の依頼がある場合、児童の利益を最優先する原則に従って保護措置をしたりすることになっている(図 1)。

保護対象の児童とは保護対象の児童保護者がいない或は虐待された場合など、その保護者が児童を養育するのに不適當であったり養育する能力がない場合に規定している。(児童福祉法第 3 条 4 号)

措置類型として、家庭復帰や縁故者の代理養育の措置を優先実施できるように指針を提示しており、これが出来ない場合には家庭委託や、児童福祉施設及び治療施設の入所、入養を実施している。ただし、児童と保護者の相談・指導後、家庭復帰や縁故者の家庭に代理養育を措置することを優先とし、家庭委託が出来ない場合は施設入所を実施している⁴⁵。

45 児童の保護者及び縁故者が保護養育が出来るように支援方案を模索、家庭委託(日本の里親に当たる)の保護養育を積極的に推進し、満 2 歳未満の要保護児童は家庭委託に優先配置(ただし、児童福祉法で児童保護による流れあるいは優先順位を定めるわけではなく、単に「児童分野事業案内」で“家庭保護の優先”を指針として定めている。)

児童保護体系の主な施設の機能は次のようである。発達危機にさらされて家庭から離される必要がある児童を一定期間或いは長期間にわたって保護施設での日常生活を営む形は養育施設、一時保護及び保護治療施設、自立支援施設などがある。一方、脱施設化の影響で施設保護を止揚し家庭のような環境での児童保護の方案として家庭委託と入養が社会的養護としてあげられている。

社会的養護と係る機関①は、要保護児童と直接かかわりがある。家庭委託支援センターは、家庭委託センターは委託親の開拓及び配置、心理治療、キズナ形成のための様々なプログラムの運営、広報活動を行っている。また、児童保護専門機関は、児童虐待に関する介入・一時保護、相談、治療など、日本の児童相談所の機能を行っている。児童福祉施設は、児童養育施設、児童一時保護施設、児童保護治療施設、児童職業訓練施設、自立支援施設、児童短期保護施設、児童相談所、児童専用施設、児童福祉館、共同生活家庭(グループホーム)、地域児童センターなどがある。

社会的養護と係る機関②は、要保護児及び社会的養護と係る機関①と関わっているものである。特にドリームスタート・センターは満 12 未満の脆弱階層の児童を対象とし、保健、福祉、保育(教育)を揃えたオーダーメイド型統合サービスを果たしている。地域児童センターは、放課後、ケアが必要な地域社会児童の健全な育成をするため、保護・教育、遊び、保護者と地域社会の連携など、総合的な福祉サービスを提供している利用施設であり、全国 4113 か所(2015 年基準)の施設がある。特に、ドリームスタート・センターと地域児童センターは、児童保護専門機関との連携で虐待危険群の発掘及びモニタリングを行っている。また、韓国の児童福祉サービスは、要保護児童に対する支援政策と脆弱階層(低所得家庭)の児童に対する支援政策に分けられており、社会的養護と関わる支援サービスは以下のようなものである。

結縁事業：施設保護児童、家庭委託世帯児童、少年少女家庭などの児童と地域社会の近隣との結縁を通じて物質的・情緒的支援をし、近隣との社会統合的な雰囲気を助成し、児童の健全な育成を図ることが目的である。運営機関の子ども財団は結縁後援者が対象児に提供した後援金を、縁対象者の

個人口座に振り込む。

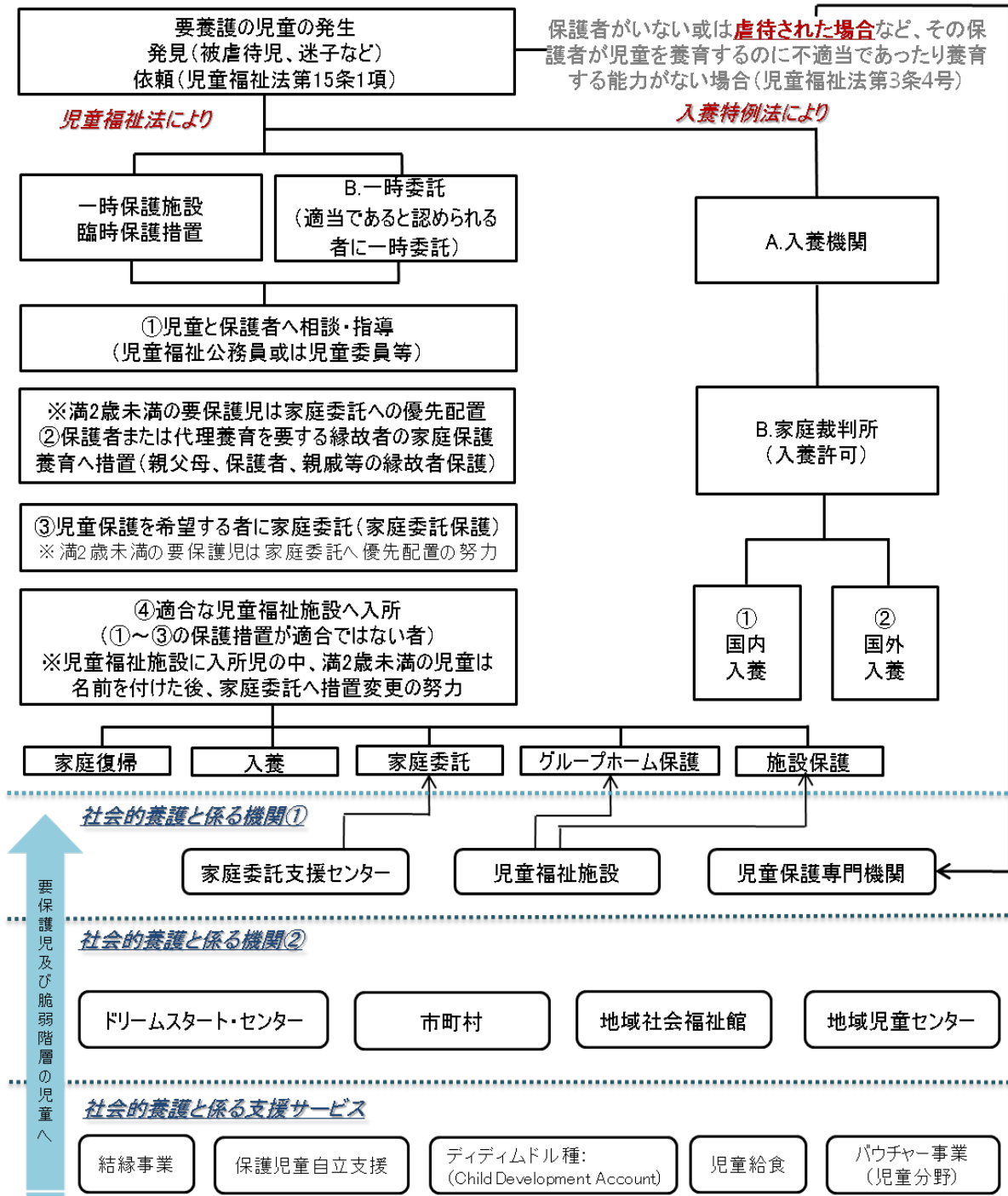
保護児童自立支援：保護対象児童の自立縦鼻や力量強化および保護終了後の安定的な社会進出と自立させることが目的である。現在、7 か所の市・道で自立支援専担機関が運営されている。

ディディムドル種：児童発達支援口座(CDA : Child Development Account)

低所得児童の社会進出の時、学費、就職、住居を備えるのに、所要される初期費用を築くための資産形成(Seed Money)を積極的長期的支援する必要がある。そのため、要保護児童(入所児)、受給者家庭の児童、家庭復帰児童、入養(要保護児童に限り)などを対象とし、「①基本マッチング積立：児童が後援者及び保護者の助けなどの積立の際、国家(自治体)が月 3 万ウォン内で 1:1 マッチング支援②追加積立：積立最高限度の 3 万ウォンを積立した児童は、月 47 万ウォンないで追加積立が可能であり、追加積立に対する国家のマッチングはない」などの支援を行う。

バウチャー事業：政府が提供するサービスに対する支払いの認証券であり、そのサービスを選択的に買うことができるよう、一定の購買力を与えるものである。児童分野では、乳幼児発達支援及び 児童情緒発達 サービス、児童・青少年心理支援サービス、児童・青少年のインターネット中毒治療サービス、多文化家庭の児童発達支援サービスなどがある。

要保護児童への対応



＜図1 韓国の児童保護システム＞
 2016年保健福祉部の児童分野事業案内より、加筆・再構成

2. 現行子ども保護システムの発展サイクルの分析

(1) 現行システムに至る背景、出来事、事件、世論 (①「社会的発見」)

韓国における児童保護事業は、戦後、孤児や浮浪児童を保護するために国家や国内外の民間団体が多くの児童施設を設立して応急救護を始めたことが出発である。これは、韓国社会福祉の根本になるものであり、1950～60年代の全国社会福祉施設は592箇所の中、472箇所が児童保護施設で約8割を占めていた⁴⁶。従って、60年代以前までは児童福祉は国家の責任の原則や専門化されたサービスを提供されることが出来なく、貧困児童を対象に民間と海外援助に頼り、運営される社会救護事業のようであった。1960年代初期には生活保護法と児童福利法が制定されて要保護児に対する国家責任の原則が初めて法制化されたものの、当時の福祉立法のほとんどが政権の正当性を確保するためのものであり、経済成長に否定的な影響を及ぼさないようにその限界が持たれている⁴⁷。そのため、児童福祉の場合も公的費用の最小化と要保護児の発生予防を政策の基調としており、家庭保護を強調されて家庭の責任を強調することにより、政府の児童保護に対する負担を減らして経済成長の投資の妨害を阻むための残余的モデルをとっていると解釈できる。しかし、経済成長による産業化、都市化、核家族化、価値観の変化などは児童福祉のニーズを多様化させて貧困児童、非行児童、障害児などの問題のみではなく、低所得層あるいは一般家庭で放置された児童問題など幅広い児童問題が登場された。つまり、要保護児童のみではなく、一般家庭児童まで児童福祉の対象が普遍化される必要がある声が高まった。この背景から1981年児童福利法を改正して児童福祉法を制定して現行の児童保護体系の基調となる根元を整備することができた。さらに、2000年の前後を起点に韓国は少子化・高齢化問題をはじめ、社会経済的に急変する内・外部的な与件に対応して児童保護体系の法制度的な多様な変化を経験されつつあった。特に1997年の韓国通貨危機(IMFによる韓国救済)は、家長の失職による家庭経済の危機、それによる家庭不和、家庭暴力の増加は家族崩壊、貧困児童の問題など、危機にさらされている児童をもたらす原因であった。そのため、社会福祉体系が整えられつつあるにもかかわらず、相変わらず社会的な問題になる話題が現れており、さらに少子化による国家経済人材の不足は児童福祉の全般的な見直しが必要と指摘された。

(2) 現行システムに至るまでの模索、検討された内容 (②「前駆期」)

1981年の児童福祉法の制定は、公的の児童保護体系への転換となる。この法律は選別的に制限された一部の保護対象ではなく、すべての児童を対象とする保護と福祉に対する国家の責任を明らかにし、サービスの専門家と多様化を進める児童保護システムを整えることができるようにした。これによって既存の大型の施設保護方式は次第にグループホーム(共同生活家庭)や家庭委託などの在宅保護と地域社会内の保護方式に転換する脱施設化の

46 ゴンケジュン・パクヒョンソン・オソンハン・イサンギョン・イヒョンジュ (2003) 児童福祉論、p106

47 ジャンインヒョプ・オジョンズ(2001) 児童青少年福祉論、ソウル大学出版部

政策的働きが行われた⁴⁸。特に 1991 年、国連の児童の権利に関する条約の批准は、施設保護から地域社会内での在宅保護の保護方式に保護形態の多様化と専門化を明らかにするきっかけを与えた。韓国の公的な社会的養護の代表的な形は入養、施設保護（養育施設、グループホーム）、家庭委託がある。入養の場合、児童に永続的な家庭を滞京することができる理想的な保護装置であると言えるが、韓国では国内入養が多く活性化されたとは言えない。また、施設保護の場合、多くの児童を施設で保護していく方式が家庭と類似な養育環境ではないことから批判となる点となり、国連児童権利委員会の勧告を契機に保護基準に適切な家庭に保護対象児童を一定期間委託する家庭委託の方案が模索された。2000 年に家庭委託支援センターをモデル事業として運営されて 2003 年には全国的に拡大して行われた⁴⁹。また、2000 年代には児童の人権と権利、そして虐待被害児童に対する保護と児童の安全などが社会的な争点となり、2000 年度に行われた児童福祉法の再改正を通して虐待被害児童に対する保護と予防体系を整え、児童保護専門機関を民間に委託して児童虐待の予防と保護が行われた。

（3）（1）～（2）を通じ、制定された新たなシステムや実践（③「達成期」）

2000 年以降には、児童保護への法的・制度的側面や実践的側面での変化・発展が速やかに行われていた。何よりも児童福祉の対象が要保護児童の中心から一般対象児童へ拡大されており、児童政策の普遍主義的性格が強化された点である。2004 年には児童保護政策を国家全般にわたって進めていくための児童福祉法の改正が行われ、児童政策調整委員会と実務委員会を設置・運営することができる法的根拠を整えた。この委員会を通じて“子ども保護育成総合計画”、“子ども安全総合計画”及び“貧困児童・青少年総合計画”など児童保護総合対策が部署全般にわたって施行された。施設保護サービスでは児童福祉法上の児童福祉施設の種類及び機能を拡大・改正して施設サービスの多様化と社会化の根拠を整えることができた⁵⁰。これは、家庭のようは環境で保護していく小規模グループホーム（共同生活家庭）や家庭委託、在宅保護サービスの重要性と地域社会に基づく地域児童センターなどを勧めることが出来る基盤を持たせ、2005 年の児童福祉法の改正から家庭委託保護の法的な根拠が整えられた。⁵¹

また、2011 年には入養促進及び手続きに関する特例法を入養特例法として改編して児童の家庭保護を優先し、入養の進行手続きで国家の公式的な管理・監督の機能を強化するようにしており⁵²、2012 年には、市郡区（市町村）家庭委託支援センターの設置根拠ができて保護対象児童の自立を支援するための根拠も整えられた。一方、2013 年では児童虐待に

48 イヒョンジュ・カンヘギョ・ソムンヒ・ジョンギョンヒ・ユドン Chol・ジョンゼフン・イソンギョン・ノオンジョン・ヒョンミョンヒ（2003）公共扶助と社会福祉サービスの体系分析及び再編方案、韓国保健社会研究院、p38-40

49 ただし、韓国の家庭委託の展開は 1990 年代から韓国養父母協会、韓国福祉財団（現、子ども財団）が自主的に家庭委託事業を行った。

50 ジャンインヒョプ・オジョンズ（2001）児童青少年福祉論、ソウル大学出版部

51 2006 年からは家庭保護のケースが施設保護のケースを上回りはじめた（国連児童権利協約 3・4 次国家報告書 P87）。

52 イオンギョ・キムヒョンテ・オソンハン・ジョンギョンウン・ジョンミンギ（2014）児童保護制度の評価及び改編方案に関する研究、光州大学産学協力団・保健福祉部 p23

よる児童の死亡事故で虐待に対する政策的な関心が高まり、児童虐待の犯罪と被害児童の保護手続きを強化した「児童虐待犯罪の処罰に関する特例法」が議決され、従来、儒教的思想による‘家庭内しつけ’と児童虐待の間のずれを社会的に重大な犯罪として認識して国家が積極的に介入する契機を与えた⁵³（表2参照）。

（４）制定された新たなシステムや実践についての援用後の評価と新たな課題の発見（④「振り返り期」）

以上のように韓国の児童保護体系は、新たな対応体系に発展していくために多様な努力と試みが行われつつあるものの、具体的な事業と成果に現われてきたとは言えない。韓国の児童保護体系は多様な関連法案の制定を通じた変化への試みにもかかわらず、実際の児童福祉には相変わらず要保護児童の問題に取り組んで事後的で残余的な性格の事業を中心になっているためである。さらに、韓国の児童保護体系の主管部署は保健福祉部（児童対象の保護関連の業務）と女性家族部（女性、青少年の対象の保護対策）、学校生活の中の危機児童に対する保護と関わる業務は教育部（教育福祉事業）が所管しており、設置・運営している保護サービスの提供主体が複雑である（図2参照）。ただし、児童において、発達危機の状態の多様性やリスクに対する個別性を考慮したらサービス内容の多様性は、ある程度肯定的な評価にもつながるとも言える⁵⁴。最後に今後の課題について以下のように整理する⁵⁵。

一つは、危機にさらされている児童に対しての保護を国家の責任性のあることを明確にして児童保護体系の公共性を確保すべきである。これまで韓国の児童保護体系で保護対象の児童の入養や虐待児童の保護と関わる業務などは主な機能と役割が民間機関による政府の委託運営方式に提供されてきた。このなか、国家は民間機関を選定して管理する方式で保護を要する児童に対する国家の責任を制限的に義務移行してきたと見られる。従って、児童保護体系の公共性を強化していくための具体的で長期的なロードマップが必要である。

二つは、保護対象の児童の個別性や基本属性の特性などに対して複数の事業主管部署から多様な窓口がある。サービス提供における多様性の可能性はあるが、保護業務に関する一致となる責任の所在が不在し、サービスの破片的・分節的などの連携性の欠如が伺えるため、組織的につながっていくような半案が必要である。

3. 子どものマルトリートメント防止機関／家庭支援機関について

（１）子どものマルトリートメント支援の概要

53 イョンギョ・キムヒョンテ・オソンハン・ジョンギョウン・ジョンミンギ（2014）児童保護制度の評価及び改編方案に関する研究、光州大学産学協力団・保健福祉部 p24

54 リュジョンヒ、パクセキョン、イジュヨン、パクジュン、He Lijun . Morita Akemi . Yu Jianming(2015)少子化を乗り越えるための児童保護体系に対する国際比較研究：韓中日の比較を中心に、韓国保健社会研究院,p89

55 リュジョンヒ、パクセキョン、イジュヨン、パクジュン、He Lijun . Morita Akemi . Yu Jianming(2015)少子化を乗り越えるための児童保護体系に対する国際比較研究：韓中日の比較を中心に、韓国保健社会研究院,p89~95

韓国における子どものマルトリートメントに対する支援や対応を行っているところは児童保護専門機関である。設立根拠は児童福祉法第45条と46条に基づき、国家（保健福祉部）による設立された中央児童保護専門機関と地方自治体による設立された地域児童保護専門機関がある。日本では子どものマルトリートメントを担う主な機関が児童商談所であり、行政機関であれば韓国の児童保護専門機関は民間委託機関である。

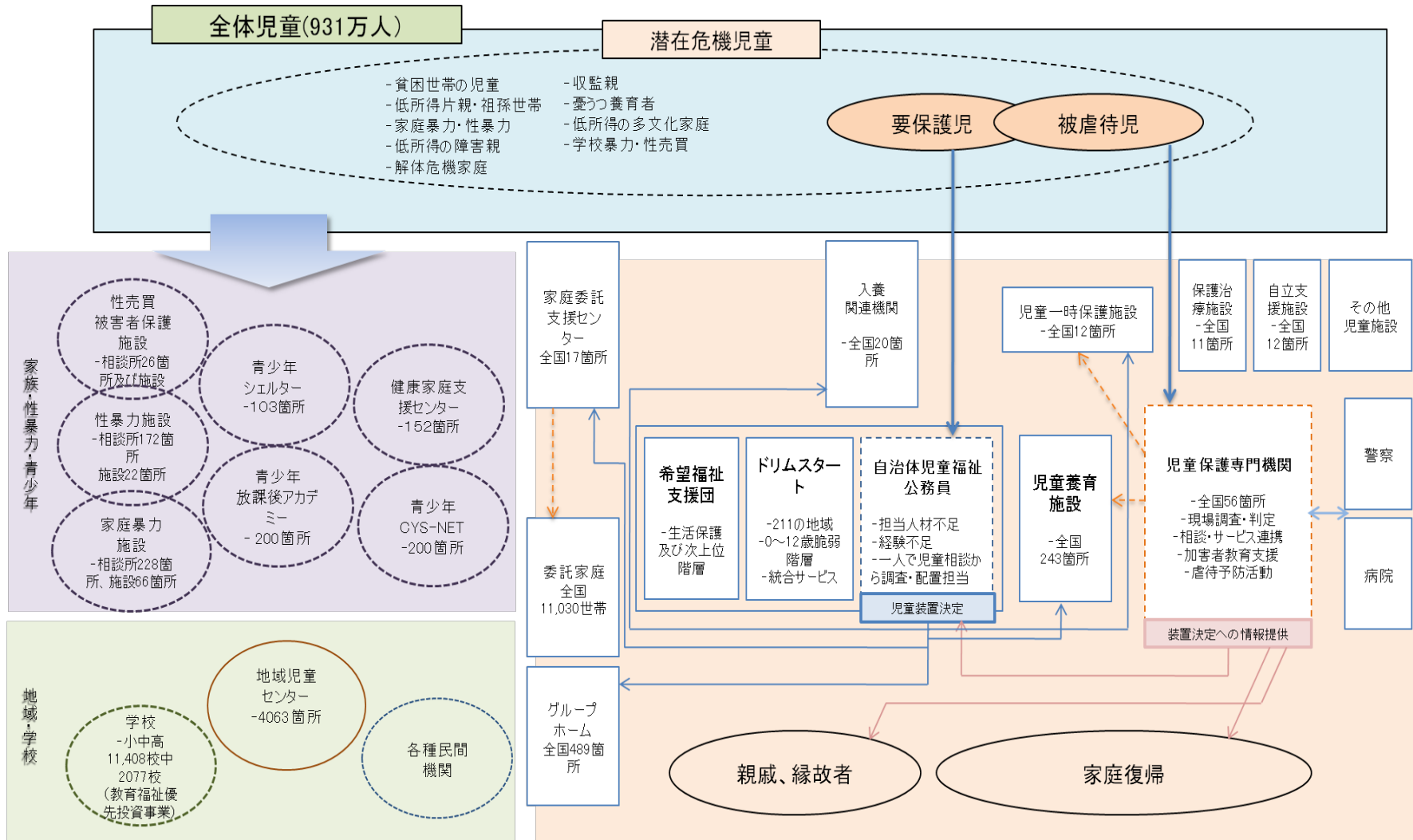
中央児童保護専門機関は、児童虐待予防及び被虐待児に対する保護を目的に児童虐待予防の広報及び教育、研究及び政策提言、地域児童保護専門機関及び被虐待児一時保護施設の職員に対する職務力量強化などの事業を行っている。地域児童保護専門機関は、虐待された児童の発見、保護、治療、依頼などのために必要な事項に対する介入などの事業を行っている。また、2014年の児童虐待犯罪の処罰等に関する特例法の制定により、申告虐待義務者の申告の強化、親権制限に対する請求要請権者の拡大、現場調査及び事後管理の強化、児童虐待予防教育の義務化などが加わった。特に、司法の介入が入って児童保護専門機関の相談員は、児童虐待現場への出動の際、警察官との相互同行が義務化された(図3)。

表2 2000年以降、児童保護体系の変革

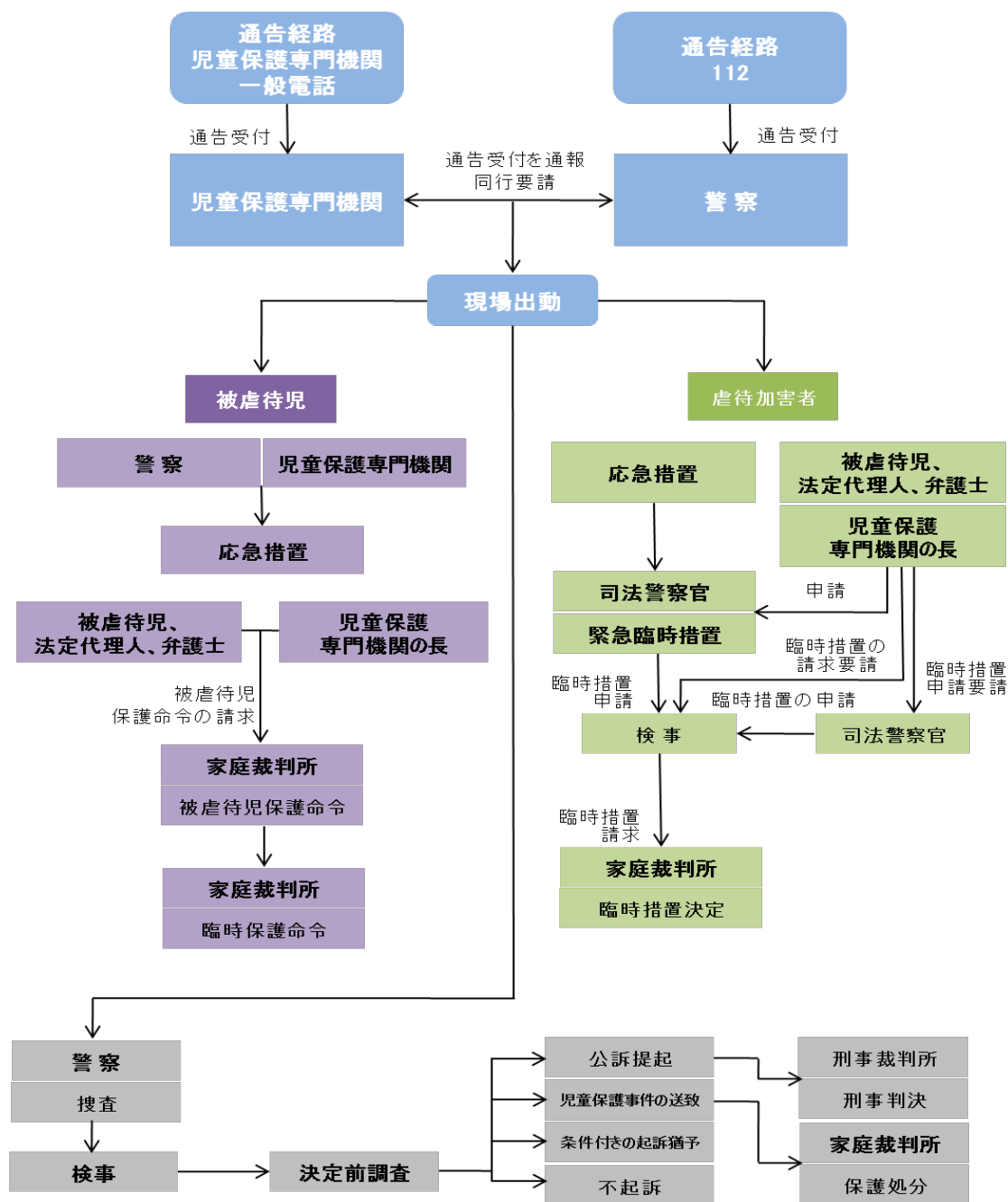
年度	内容
2000	児童福祉法改正：児童保護専門機関の設置・運営
2001	委託家庭のカテゴリーを親戚に拡大
2003	家庭委託支援センターの設置、児童安全総合対策
2004	児童福祉法改正：児童政策調整委員会の設置及び児童保護事業の活性化、地域児童センターの法制化および共同生活家庭、児童福祉施設の種類の追加
2005	失踪児童などの保護及び支援に関する法律制定 児童安全管理課の新設、給食の拡大
2006	児童権利モニターリングセンターの設置、地域児童情報センターの設置
2007	希望スタートモデル事業実施(16箇所)：2008年ドリームスタートの名称変更 ディディムドル種：児童発達支援口座(CDA：Child Development Account)実施
2008	保健福祉家族部新設：児童青少年政策統合推進
2009	青少年及び家族業務を女性部へ移管（現在は女性家族部）
2011	児童福祉法の改正：児童総合基本計画、児童総合実態調査の根拠、入養促進及び手続きに関する特例法を入養特例法に変更
2012	児童福祉法の改正：市郡区（市町村）家庭委託支援センター設置根拠及び保護児童自立支援の根拠
2013	児童虐待死亡事件の発生により、児童福祉法の改正、児童虐待犯罪の処罰などに関する特例法の制定

イヨンギョ他（2014）により一部修正・加筆

＜図2 韓国の児童(青少年・家族)の保護体系の構成＞



* バクセキョンのほか(2014、2015)で修正後、再引用



＜図3 児童虐待事件の対応の流れ＞

（２）子どものマルトリートメント防止／家庭支援サービスの発展サイクルの分析

１）現行システムに至る背景、出来事、事件、世論（①「社会的発見」）

韓国は、児童虐待が社会的問題に認識された歴史は長くはない。児童虐待が深刻な社会的問題であることは認めながらも実際、発生する虐待事件の事例に対しては儒教的文化の影響で寛容な接近となり、その問題を家族内の問題に考えられ、家族内での解決を期待する傾向が多かった。児童虐待に対する法的対応は1981年児童福祉法からはじまり、児童虐待の禁止行為を違反したものを取り調べることは可能であるが、虐待による危険にさらされ

た児童の緊急分離や虐待加害者に対する措置などの積極的で専門的な介入をするための制度的な装置は整えられなかった⁵⁶。その以降、児童虐待と関わる法的・制度的な働きかけは、1993年韓国児童虐待予防協会からの児童虐待防止法の試案の発表や、学会や民間団体などの積極的な運動などの児童虐待に対する民間の動力から刺激をうけた。さらに、1998年4月に放送された「ヨンフン君・ボランちゃんの児童虐待事件」は、これまで専門家集団を中心に論議してきた児童虐待の問題を世論と国民の関心を得ることができ、児童虐待の防止をするための法的な介入の必要性が高まった⁵⁷。このように韓国における被虐待児保護事業は、2000年以前は民間団体を中心に行われており、法律的根拠や政府の支援は不備であった。

しかし、2000年の児童福祉法の改正により、児童を虐待から保護するための体系を構築に焦点を当てて児童虐待の概念を明確にして虐待に対する申告対応や児童保護専門機関の設置のための法的根拠を整えることができた。その以降、速やかに中央及び地方の伝達体系を確立して児童虐待に対する24時間申告システムを運営しながら児童虐待に対する取り組みを行いつつある。一方で、残酷な児童虐待死亡事件も増加している。児童虐待に対する対応を政府主導に変えた2000年から2012年までの児童虐待による死亡事件は141件であった⁵⁸。特に、漆谷継母による児童虐待死亡事件(2013)や蔚州入養の児童虐待死亡事件(2014)は、社会的イシューとなって韓国社会で児童虐待の深刻性に対して目覚めらえるきっかけとなり、児童虐待に対する政府の疎かな対応が批判されて虐待加害者の強力な処罰と児童虐待の発生の際、公的機関が積極的に介入して虐待被害を防止して被虐待児を保護することができるような新たな立法が要請された。

2) 現行システムに至るまでの模索、検討された内容 (②「前駆期」)

韓国で児童虐待に対する対応は、大きく政府レベルの児童虐待への対応と民間レベルの対応に分けることができる。1980年代以降は、1985年ソウル特別市立児童商談所が設立・運営していた児童権益申告所、1989年設立された非営利組織である韓国児童虐待予防協会、1991年開園したナムムの家、1992年ソウルYMCAから作られた青少年シムト(シェルター)、そして社会福祉法人グッドネイバーズが1996年城南市ではじめた相談事業などを通じて多様な児童虐待に対する対応が民間から主に展開された³⁾。一方で、政府レベルの対応は、2000年1月「児童福祉法」の改正からはじまった。この改正には、初めて児童虐待の定義が含まれ、国家と地方自治体は児童虐待の発見、保護、治療に対する速やかな対応や児童虐待予防を担う児童保護専門機関の設置を規定している。

児童保護専門機関は中央機関と地域機関と分けられ、中央児童保護専門機関の場合は、地域児童保護専門機関の円滑な業務遂行をするためのスーパービジョン及びモニターリング、法律諮問などを支援し、児童虐待事業と関わる研究やプログラム開発、政策への提言などを行うこととなっている。

56 李培根(1997) 児童虐待の問題と対策方案、保険福祉フォーラム、8、p29-36

57 パクジョンラン、ショホンラン(2001) 児童福祉論、ヤンショウオン、p214

58 Kim, Jihae., Chung, Ickjoong, Lee, Heeyoun, Kim, Kyunghye (2013) "Analysis of Newspaper Articles on Child Abuse DeathsKorean", Journal of Social Welfare, Vol. 65, No. 2, pp. 131-154

中央児童保護専門機関の業務内容

- ①地域児童保護専門機関に対する支援、
- ②児童虐待予防事業とそれに関連する研究及び資料の発刊、
- ③効率的な児童虐待予防事業を行うための連携体系の構築、
- ④児童虐待予防事業のためのプログラム開発及び評価、
- ⑤相談員の職務教育、児童虐待予防と関わる教育及び広報、
- ⑥児童保護専門機関の電子システムの構築及び運営、
- ⑦その他、児童虐待予防事業と関わる業務

一方で、地域児童保護専門機関は、児童虐待への対応に密接と関わる第一戦の機関で申告受付、相談、介入、事後管理などを行うこととなっている。

地域児童保護専門機関の業務内容

- ①児童虐待の申告受付、現場調査及び緊急保護、
- ②被虐待児と虐待加害者のための相談と教育、
- ③児童虐待予防の教育及び広報、
- ④被虐待児の家庭に対する事後管理、
- ⑤児童虐待事例判定委員会の設置と運営及び自体事例会議の運営、
- ⑥その他、児童虐待予防事業と関わる業務がある。

また、児童虐待に対する申告義務者を設けて児童虐待の発見や予防に努めている。申告義務者は、職務上、児童虐待を認知する可能性が高い職群（教育、医療、福祉施設や公務員などの約 21 職群）を決めて児童虐待犯罪の処罰等に関する特例法の第 10 条により、“申告義務者は職務を行いながら児童虐待犯罪を気付いたり疑いがあったりする場合、児童保護専門機関または捜査機関に申告すべきである”と規定している。この申告義務者は、児童福祉法の第 26 条の義務教育により、年 2 回義務的に児童虐待に関する最新の情報や知識、関連法令などを習得しなければならない。義務教育に関する担当機関は児童保護専門機関がになっていることとなっている。

3) 1)～2)を通じ、制定された新たなステムや実践 (③「達成期」)

2015 年、全国 56 か所の児童保護専門機関を通して児童虐待と申告された事例は 19, 214 件であり、そのなか、緊急児童虐待の疑い事例及び児童虐待の疑い事例は 16,651 件である。2001 年 4,133 件であったことから 5 倍くらい増加されている。これは 2000 年以降、児童虐待に関する法的条項が整えられて児童保護専門機関が設置・運営されたことなど、児童虐待に対する取り組みを国が積極的に担い、その対応が行われていることから児童虐待に対する国民的な関心が増加されて申告が持続的に増加されたと評価される。しかし、児童虐待による死亡事件は度々発生されて 2014 年児童福祉法の改正（児童虐待の処罰と保護手続の強化など）と児童虐待犯罪の処罰などに関する特例法が施行された。この特例法は、児童虐待犯罪の処罰及びその手続に関する特例と被害児童に対する保護手続及び児童虐待加害者に対する保護処分を規定することにより児童をほごして児童が健康な社会構成員に成

長できるようにすることを目的としている（特例法第1条）。詳細には、総6章全文、64条と附則に構成されて“児童虐待加害者の処罰”に関する部分（第4-9条）と“児童虐待犯罪の処理に対する司法手続き”に関する部分（第10-58条）に2つの領域に構成されている。つまり、この特例法は“児童虐待犯罪”といった概念を用いて児童虐待が犯罪であり、刑事処分の対象となることを明確している一方で被害児童の保護をするための児童虐待事件の処理をするための司法手続きにおける多様な特例を規定している。従って、同法は児童虐待防止をするための総合的な対策と制度の樹立・施行をするための法律ではないが、従来、児童保護専門機関や行政機関を中心に行われる児童虐待に対する対応方式と異なり、児童虐待を犯罪に構成し、これに対する司法手続きによる処理を前提とし多様な特例規定を整えていることから今後児童虐待事件の処理において画期的な変化を生じる意味ある立法であると評価されている。

以上の特例法は、児童虐待に対する懲罰的な介入のみではなく、治療的介入も強化した。主な内容として親権制限及び喪失、現場調査制度の改善（児童保護専門機関の現場調査の権限と警察官との現場同行）、申告義務の強化及び拡大（申告義務の職群を拡大及び申告義務違反の罰則強化）、応急保護措置保護制度、治療プログラムの履修命令、申告電話番号を112と指定（警察犯罪申告番号と統合）などがあげられる。

4) 制定された新たなシステムや実践についての援用後の評価と新たな課題の発見（④「振り返り期」）

先述の「児童虐待犯罪の処罰などに関する特例法」によって児童虐待の申告事例数の増加、児童保護専門機関と警察官との現場同行の増加、児童保護のための隔離措置の増加が現れており、67%のケースが家庭裁判所から臨時保護命令を受けられていた⁵⁹。この特例法は児童福祉に大きな変化を与えた。

その内容は、児童虐待は“犯罪”といった認識への強化、関連機関の共助体系の構築、情報共有とデータベースの構築、法的支援の強化（弁護士、法的代理人など）、虐待加害者の治療命令、児童保護専門機関などの専門配置職員の増員などが挙げられる。特に、児童虐待は‘犯罪’といった認識を明確したことは、国家と自治体が児童虐待を犯罪として指摘しており、児童虐待に対する国民の認識を変えるための教育を実施するように規定しているなか、特例法によって、児童権利と暴力に対する多様な政策的・制度的努力が児童虐待に対する社会的認識を改善するのに役に立つと期待されている⁶⁰。また、児童保護専門機関の職員に法的権限が与えられていることは、児童虐待犯罪申告の時、現場に警察と児童保護専門機関が同行するような体系となり、これまで児童保護専門機関の法的権限の制限（民間委託運営の限界）により、現場調査の限界を緩和したと評価している。

一方で、特例法の施行によって児童虐待申告数が増えて積極的な予防、介入が認められているにも関わらず、臨時保護機関及び専門家の不足、治療サービスの専門家及び基盤の不足、児童保護専門機関の職員不足などが今後の課題である。

59 ホナンソン・ゴユンソン（2015）韓国児童虐待犯罪の処罰をするための特例法における施行以降の問題点と改善方案、矯正福祉研究、37、pp.1-19

60 ホナンソン（2014）韓国児童虐待の犯罪の処罰などに関する特例法の意味と課題、童光（子ども財団）p3-24

4. 子どもの権利・当事者参画に関する団体・機関について

(1) 子どもの権利擁護・子ども参画の現状（法律、規程、手続き、アセスメント等のツールや書式、データベースのアウトライン等）

韓国で児童の基本的な権利についての内容は、子ども憲章と青少年憲章で示している。子ども憲章には全文と11条項となり、無差別原則と人間尊厳性が含まれており、健全な家庭での保護、栄養、教育、文化、虐待と労働からの保護、障害児童の保護などに関する権利が明示されている。青少年憲章には青少年の主体的な営みと自律性を強調する内容であり、生存の保障と成長の権利、差別されない権利、暴力から保護される権利、学びの権利、文化芸術の権利、情報接近の権利、民主的参加の権利などが示されている。この憲章は、韓国社会における児童に対する約束と決心を示して宣言的意味が強い。

一方で、韓国は1991年に国連の児童権利協約を批准してから1994年、2000年、2008年の3回にわたって国家報告書を提出して国連児童権利委員会から審議を受けており、委員会の勧告事項から児童権利の増進をするためみに多角的な取り組みを行われている。このなか、韓国は2006年の児童権利モニタリングセンターを国策研究機関⁶¹に委託してモデル事業を開始して2009年から本格的な事業を行っている。

1) 児童権利モニタリングセンター

① 主な事業内容

i. 韓国の児童権利のモニタリング及び広報

：児童権利モニタリングセンターは、一般措置及び児童の定義、一般原則、市民的権利と自由、家庭環境及び代理保護、基礎保健及び福祉、教育余暇及び文化活動など8つの領域ごとの児童権利侵害事例を見つけて児童権利を持続的にモニタリングを実施する。半期ごとに児童権利に関する広報物（会報など）を発行して宣伝活動を展開する。

ii. 追加報告書の作成

：追加報告書の作成をするために、児童権利と関わる法・政策変化を分析し、国連の児童権利委員会からの勧告事項が行われたかを点検して今後補完すべきのところを導き出す。

iii. 児童権利の増進をするための法・制度の改善課題の発掘

：児童権利と関わる法・政策などの制度改善をするために、民／官合同の児童権利増進の実務協議会を構成して運営する。実務協議会は定期的に会議を開き、効果的で持続的な運営が出来るようにする。

② 事業方法

i. 国内の法・政策資料及び統計資料の分析

：政府部署の多様な資料に基づき、散っている児童権利と関わるデータ、活動と予算、プログラム評価、欲求査定などの情報収集をして分析する。

ii. 国際文書

：国連の児童権利協約の移行と関わる国際文書を持続的に分析する。

iii. 効果的な児童権利モニタリング体系の構築

61 韓国保健社会研究院である

: 韓国の児童権利に対する効果的なモニタリング体系の構築をするために、児童権利オンブズパーソンと児童権利増進の実務協議会を活用する。児童権利に関する専門家に構成される児童権利オンブズパーソンと児童権利増進の実務協議会は専門的なモニタリング体系の構築に大きな役割を果たすことが出来ると期待される。

2) 児童権利指標

2003年政府は、児童権利の水準を捉えて協約移行をするに当たって基礎資料として活用するために「児童権利始業」を開発した。指標は国連児童権利委員会が提示した8つの領域を参考して①人口、②生存と健康、③家族、④市民的権利と自由、⑤教育、⑥社会福祉、⑦文化と余暇、⑧特別保護と構成されている。2006年には現行の統計体系が児童権利の全般にわたって収集が上手く出来ないことを認め、40個主な児童指標(Key Indicators)を作り出した。児童指標を児童発達段階ごとに早期介入、養育プログラム開発など長期的児童政策の樹立と各種の児童福祉事業の基礎資料として活用されている。

(2) 子どもの権利・当事者参画に関する組織や機関の発展サイクルの分析

1) 現行の子どもの権利擁護・当事者参画に至る背景、出来事、事件、世論等 (①「社会的発見」)

韓国は、急激な経済成長による産業化のなか、児童の権利は権利主体として認識されるより、保護対象者として親の代理満足的手段としてそして国家人材の未来資源として認識されやすい傾向があった。しかし、1991年に国連の児童権利協約を批准してから協約の当事国になった韓国は児童権利に対する社会的な関心を持つようになった。国連児童権利協約によれば、協約に批准した国は批准後2年以内にそして、その以降には5年ごとに協約移行に関する国家報告書を出して審議を受けるようになっている。韓国は1994年、2000年、2008年の3回(2017年5・6次国家報告書を提出予定)にわたって国家報告書を提出して国連児童権利委員会から審議を受けており、その過程の試行錯誤を通じて児童の権利実現をするために関連の法律を整備したり制度を改善したりするなど、児童権利の増進を高めるために多角的な得組を展開されつつある。そのなか、児童権利モニタリングセンターは、国連児童権利協約の効果的な移行点検を通じてモニタリングの実効性の確保と長期的な発展方案を整えて究極的には児童権利を増進するために設立された。

2) 現行に至るまでの模索、検討された内容 (②「前駆期」)⁶²

韓国において児童権利モニタリングに対する初めての議論は、2002年韓国児童権利学会が「児童権利モニタリング」をテーマにし、学術大会を開催してからである。この学術大会では、東アジアと太平洋地域の国々及びヨーロッパの国々の児童権利モニタリングの現況を紹介して児童権利モニタリングの実行体系としてNGOと児童によるモニタリングの法案を提案した。さらに、韓国児童権利学会は児童権利保護をするための各国のモニタリングの体制分析を主題に、外国の児童権利モニタリングの遠泳体制を通じて国内の常設モニタ

⁶² キムソンクオン他(2007)UN 児童権利協約の移行対するモニタリング事業に関する研究の「要約」を参照してまとめた

リング機構の設置法案を模索した。一方で、政府主導で行われた児童政策に対するモニタリングは 2004 年の国連児童権利協約の移行方案研究（保健福祉部/セーブ・ザ・チルドレン 2004）から本格的に施行された。この研究報告書には児童権利協約の歴史的な発展過程を示し、韓国の児童権利協約の移行現況と問題点を 8 つのクラスターごとに指摘してこの改善方案を提示してある。

また、韓国児童団体協議会(2004)は児童が成長している生活環境に対するモニタリングを行った。大学生、教師、親、児童関連機関の従事者をモニタリングの要員として教育させ、それぞれの決まっている領域でモニタリングを施行していた。2005 年には、韓国児童団体協議会と児童権利学会が韓国の国連児童権利協約の移行モニタリング研究を行っており、韓国の主な児童政策に対する総括的な分析報告書を出して国連児童権利委員会の勧告事項を中心に児童権利増進をするための必要な政策的措置を提案した。

このように、韓国の児童権利モニタリングに関しての働きかけは民間や学術団体からであった。児童権利のモニタリングと関わる研究はモニタリングの概念、内容、体系などのモニタリングの概念を理解する研究と児童関連の政策をモニタリングする研究にわけ、二つの形に行われており、モニタリングの概念と運営体系に対する議論は外国の運営事例を通じてその概念と役割を整理して韓国への導入を検討した。

3) 1)～2)を通じ、制定された新たなステムや実践 (③「達成期」)

2006 年韓国政府は、児童権利モニタリングをするための独立機構として、‘児童権利モニタリングセンター’を設置して運営を行った。このセンターは、児童権利協約の移行事項をモニタリングして法・政策などの制度の開発及び改善をするために、市民団体の関係者をはじめ、民間を中心に児童権利オンブズパーソン制度を導入して運営している。児童権利オンブズパーソンは、モニタリング活動を通じて児童権利の侵害事例を見つけて法・政策などの制度を改善するために努めており、児童関連の民間専門家と障害、多文化、施設などの特性別に構成されている（第 1 期（2006）大人 21 人/児童 10 人、第 2 期（2010）大人 10 人/児童 10 人、第 3 期（2012）51 人）。また、国家人権委員会⁶³は、児童権利条約の移行と関わる諮問機構として‘児童人権専門委員会’を運営しており、児童の権利増進をするために、児童権利の侵害事例に対する勧告、人権相談、人権教育、広報、研究事業などを積極的に推進している。

一方で、政府は児童権利の実態をモニタリングするために 2003 年‘児童権利指標’、2006 年には‘児童指標’、‘青少年人権指標’など、韓国の状況を合わせる主な児童に関する権利指標を開発した。政府は、これらの指標の収集と配布を担っており、児童関連の国策研究機関、民間団体、研究者に委託して指標を収集して国民に公表している。児童権利指標の時系列の変化を持続的にモニタリングしており、2008 年にこの結果に基づいて児童政策を評価し、‘児童政策 5 年の計画’の樹立と児童権利モニタリングに活用している。合わせて、国家人権委員会は、この児童権利指標を用いて児童福祉施設を評価してある。

⁶³ 公的機関によって児童権利モニタリングセンターを運営することであれば国家人権委員会は、“国家人権委員会法”といった特例法によって国家の全般にわたって国民の人権に関して法的に保障される独立的なモニタリングシステムである。

4) 制定された新たなシステムや実践についての援用後の評価と新たな課題の発見(④「振り返り期」)

韓国は、1991年に国連児童権利協約を批准してから協約の当事国になり、児童権利に対する多様な取り組みを展開してきた。国家の児童関連の政策及び児童が生活している環境に対する評価、分析、提案と児童権利の問題に関する情報の収集と確認、活用などを包括する体系的な一連のすべての活動を意味する児童権利モニタリングを持続的に推進してきた。児童権利モニタリングセンターは、最初は常設モニタリング機構の設置法案を模索されたが、モデル事業をはじめ、委託事業として設置、運営されてモニタリングの実効性を確保するために調査権を持つ常設機構を通じた効率性ある推進ではなかったものの、保健福祉部の自体的に多くの努力をしたことは事実である。また、持続的に児童権利オンブズパーソンを選定していた。特に、児童の児童権利オンブズパーソンを委嘱して児童の視覚で児童自らの権利モニタリングをしたことは児童参画に対する重要性を強調している国連児童権利委員会の見解を最大に反映したモニタリングをしていたと評価できる。しかし、国連児童権利委員会から以下のような恐れを指摘していた。一つは、センターが法的地位を持っていないこと、保健福祉部から予算を策定されていること、二つは、センターは、児童権利オンブズパーソンが積極的に児童権利違反を監視及び調査して陳情を受け付けることができる権限がないこと、三つは、センターの任務権限は韓国が施行する年例成果評価によって異なる可能性があり、センターの独立性と持続性に影響を及ぼす恐れがある。

以上の問題から今後課題は、児童権利モニタリングセンターの独立性を保障されるために現在の委託制度が改善されるべきであり、委託形態の運営が派生をすることができる問題点を検討して委託運営の限界を補完できる法案が必要である。また、児童権利モニタリング機構をどこに設置するかのような権限を与えるか、そして、児童権利モニタリングセンターの機能と運営方式に対する法的根拠の整備と適切な人材配置と財政支援が挙げられている。

5. 子どものマルトリートメントに関するデータベース/データ・アーカイヴについて

(1) 子どものマルトリートメントに関するデータベース/データ・アーカイヴの概要

韓国における子どものマルトリートメントに関するデータベースに対するシステムは、被虐待児、その家族及び虐待加害者に関する情報、児童虐待予防事業に関する情報などを管理するために児童福祉法第28条の2項(児童虐待情報システム)に基づき、構築された「国家虐待情報システム」がある。2002年の初期、構築をはじめ、ハードウェア及びソフトウェアが継続にアップグレードされつつあり、中央児童保護専門機関が管理・運営をして中央及び地域児童保護専門機関、保健福祉部の担当者、警察などが用いている。国家児童虐待情報システムの運営・管理の目的は、児童保護専門機関の効率的な業務遂行をするためにコンピュータなどの情報処理能力をもつ装置による処理される資料の記録・保管・削除及び情報検索などに関して必要な事項を決めることにより国民の権利と利益を守ることであると明記している⁶⁴。主な内容は、対象者管理(被虐待児及び虐待加害者)、事例管理、事業管理、統計管理、業務管理、サイト管理などに区分して管理している(表3)。

⁶⁴ 保健福祉部・中央児童保護専門機関(2015)国家児童虐待情報システム使用指針、p1

1) 現行システムに至る背景 (①「社会的発見」)

<表1>のように多数の法的根拠に基づいて推進している韓国の児童保護事業は、多様化あるいは複雑のみだはなく、主管部署も保健福祉部と女性家族部に二元化されている。また、児童政策調整委員会、中央部署及び自治体、児童保護専門機関、入養関連機関、児童福祉施設、児童相談所などのような児童保護の関連機関と医療機関、警察、消防署など、多くの機関が関わっている。特に、公とともに民間が混合された体系に事業が行われている。しかし、事業主体のあいだ、円滑な連携がないまま、需要者(児童)中心がなく機関や施設中心の相違な伝達体系を営んでおり、事業の分離性の問題が提起されたり適切なサービス提供の不可や正確な児童保護体系に対するモニターリングが出来なかつたりすると指摘されている⁶⁵。そのため、児童保護事業及び児童保護政策においてこのような事業の不連携性、モニターリングの問題を解決するための案のなか、一つは情報管理的な側面として個別提供サービス、個別提供機関中心の情報管理から離れた児童中心の統合的で体系的な情報管理、そしてすべての手続きに必要な情報及び書式などを保存するためのデータベース化、情報共有と連携、持続的な統計管理が必要とされて“情報管理”を児童保護に対する質高いサービスを提供できるような方法として提示している。現在韓国では児童保護と関わるデータを管理して業務を支援していくため、使用されている情報管理システムは、民間で用いて民間で管理及び運営している家庭委託統合電子システム、国家児童虐待情報システム、入養情報統合管理システム、自立支援統合管理システムと民間で用いて公で管理及び運営している社会福祉施設情報システム、主に公で用いて公で管理及び運営している幸福 e オンシステム、失踪児童などの位置情報システム及びプロファイリングシステムがある。従って、以上の背景から韓国の子どものマルトリートメントに関するデータベースの構築は、社会福祉全体の情報管理への取り組みとして生み出されたものである。

2) 現行システムに至るまでの模索、検討された内容 (②「前駆期」)

国家児童虐待情報システムは2001年度にはじめて開発されて2011年には最構築を行い、現在まで運営しているところである。しかし、児童虐待問題における大きな変化を与えた「児童虐待犯罪の処罰等に関する特例法の施行による業務処理の手続きが現在のシステムに反映していないため、児童虐待予防事業のなか、児童及び虐待加害者などに関わる重要な手続き及び調査内容などに対する記録・保管の漏れが懸念されている。この特例法の施行に合わせて事前に保健福祉部、法務部、児童保護専門機関、警察署などの児童虐待予防事業の関連機関が協力案及び業務手続に対する協議を行ったものの、児童虐待情報システムは既存のシステムを補足・補完している状況であり、業務効率性の増大をするために全面的なシステムの再構築が模索・検討されている。

3) 1)～2)を通じ、制定された新たなシステムや実践 (③「達成期」)

最近、児童虐待情報システムは児童福祉法が改正(2014. 01)されることによって関連の条項(28条2項)が新設されており、児童虐待情報システムの構築・運営に対する法的

65 キムミシユク・ヤンシンヨン・キムギヒョン・ハテジョン(2013) 児童保護体系における連携性の向上案、韓国保健社会研究院、p9-11

な義務が強化された。現在「国家児童虐待情報システムの前面改編が行われ、2017年2月が始まった。

主な内容としてまず、「児童虐待犯罪の処罰等に関する特例法(2014)」による児童虐待に対する業務プロセスの再設計が行われた。児童虐待と関わる全国児童保護専門機関、連携機関の業務プロセスの現況分析によって改善方案を導き出しており、効果的な業務プロセスと方法を定義し、これを体系的で段階的に情報システム反映することにより、制・改正された特例法と児童福祉法に適切な業務遂行の標準化を果たしている。業務標準化及び改善された情報システムを通じて効果的な業務処理環境の構築と児童虐待の業務遂行の質的向上が期待されている。

また、業務管理の機能を通じて事例に対する業務量の管理及び管理監督を通じて事例担当者の燃え尽きの予防と事例に対する質的の向上を果たしている。システムの再構築から多次元的な統計データや報告書の提供により、効果的な児童虐待の予防政策への検討及び分析が可能となるように改善されている。

4) 制定された新たなシステムや実践についての援用後の評価と新たな課題の発見(④「振り返り期」)

韓国における子どもの案るトリートメントに関するデータベースに対するシステムは、「児童虐待犯罪の処罰等に関する特例法(2014)」の制定により、業務上の警察署、119安全申告センターなどと多くの関連性を持つようになった。検察／警察調査システム及び119安全システムとの相互連動が必要されているが、円滑に結び付けられてなく、ただし、国家児童情報システムは地域警察署の担当者にも入力や照会権限が与えられており、虐待現場の調査内容を入力と照会ができる。また、児童虐待による施設や家庭委託などに入所される時、施設ごとの単位業務の個別個別性や運営機関中心のため、必要な情報を当該施設や機関システムに連携して伝えることが出来なく、有線で伝達することにより他機関とのスムーズなつながりを持たない限界があげられている。

一方、政府は2016年を児童虐待を絶滅するためのシステムを構築する年として宣布した。この取り組みの中、ビッグデータを活かした危機児童の常時発掘体系を構築する‘児童幸福支援システム’を提案した。このなかで国家児童虐待情報システムと連携して虐待加害者の特性の分析や危機児童の予測及び早期発見・支援をするためのデータ分析への取り組みが行われる予定である⁶⁶。

6. 考察(教訓等)

韓国における児童保護体系は、戦後民家主導の福祉展開から現在の公的福祉まで多様な社会、経済、政治的な変化の中で、変遷してきた。しかし、韓国全体における社会福祉領域のなかで、児童福祉の位置づけは成熟していたとはいえなく、先述のように多くの課題を抱えていた。

ここでは、韓国の児童保護体系の取り組みの中で、民間福祉の取り組みを教訓として述べておく。

66 保健福祉部(2016)児童虐待防止対策(案)、児童政策調整委員会会議資料

韓国の児童保護体系は、戦後親を失った子どもの保護と急速な産業化を経て招いた児童問題を解決するために、残余的な児童福祉モデルに基づいて制度を成立している。次第に公的保護体系は、多様な関連法案の制定を通じた変化への試みているものの、要保護児童の問題に取り組んで事後的で残余的な性格の事業を中心になっている。一方で、この小さい政府を志向している韓国の公的保護体系は、民間福祉の活性化に動機付けを与えたとも言える。特に児童福祉領域は戦後海外援護団体や民家施設の母体が現在までの社会福祉法人として展開してきており、歴史のあるノウハウを通じて公的保護体系ができない漏れを補完している（例えば、児童虐待への対応は1985年から民間福祉団体からしてきた。また、児童権利の指標は子ども財団が独自の指標開発して独自で公表、2008年児童青少年権利センターのモデル事業を始めたが制度化されずに現在は民間法人の支援から運営、民間主導のモデル事業の活性化など）。言い換えると、残余的福祉モデルが、むしろ民間福祉の発展を生じた結果もある。確かに民間福祉の実践は、行政の硬さに比べて多様なアイテムを用いてアクション的である評価している。しかし、政権の交代による予算の切れや財源の問題、人手不足などによる慢性的な課題を抱えている。従って、先述したように国家は民間機関を選定して管理する方式で国家の責任を制限的に義務移行してきたことは国家の責任の不在が明確であり、そのためには公共性を強化と民間福祉の内実に充実化していくための具体的で長期的なロードマップが必要である。

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表3 国家情報システムの項目構成

項目	小項目	詳細項目	
対象者管理	児童カードの管理	被虐待児の個人情報や 虐待内容を管理 - 児童カード情報、事例管理現況、被害児童の備考、変更履歴	
	虐待加害者カードの管理	虐待加害者の個人情報及び加害内容を管理 - 虐待加害者カード、事例管理現況、告訴・告発の履歴、親権喪失及び制限、加害者の備考、変更履歴	
事例管理	事例管理現況	- 事例管理リスト及び照会	
	申告受付書	- 相談・申告基本情報、相談・申告者、警察通報、児童の事項、虐待行為の疑い者の事項、申告内容、再申告の可否、誤認申告の可否など	
	現場調査書	緊急/一般の児童虐待の疑い事例に対する調査書の管理 - 基本情報、調査対象者及び調査内容、調査者所見、移動情報、被害児童リスクスクリーニング尺度、加害者情報及び加害者のリスクスクリーニング尺度など	
	事例判定	基本情報（スクリーニング尺度）、事例判断の情報	
	措置結果		- 措置結果
			- 緊急/臨時措置（リスクスクリーニング尺度）
			- 告訴/告発/事件処理
			- 親権制限/停止/喪失
	サービス		- 事例介入の関連、提供サービス計画のリストなど
			- サービス提供
	事例終結	- 終結日、終結事由、介入目標達成程度、事後管理計画など	
	事後管理	- 児童と加害者の情報、事後管理日/区分/提供対象	
移管管理	- 他、児童保護専門機関への移管、必要な時、機関間事例連携		
事例担当者管理	担当者指定及び変更		
事例会議録管理	機関、自体/事例判定委員会/外部機関の連携会議に対する会議録のリスト、審議事例の管理など		
スーパービジョン管理	スーパーバイザーに提供されたスーパービジョンの登録、管理など		
事業管理	地域資源管理	機関情報、担当者情報、地域資源の連携内容など	
	教育事業管理	教育内容、人数、資料、評価及び添付資料など	
	広報事業管理	広報類型、内容、評価及び添付資料など	
	協力事業管理	協力体系構築、連携、セミナー実績管理など	
統計管理	統計照会	申告受付書、現場調査、事例判定、措置結果、サービス提供日誌、事例終結、事後管理、教育事業など	
	報告書照会	自治体などに統計報告をするための報告書の照会など	
業務管理	お知らせの事項	お知らせの事項の掲示	
	資料室	資料室の掲示	
	教育/行事申請	教育及び行事の申請、管理	
	メール管理	情報システムの資料者メール、リスト、受/発信管理	
	機関文書の受/発信	児童保護専門機関の文書（公文）、リスト、受/発信管理	
サイト管理	アカウント管理	自身の情報 所属センター情報	
	使用者管理 (Administrator)		

保健福祉部・中央児童保護専門機関（2015）国家児童虐待情報システム使用指針により

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I. Overview of the child protection system (Legal aspect)

The study of the child protection system in Thailand is needed to understand the development of Thai family system as well as the political and social changes affecting the Thai family system. In this part, it is to inform the history of parental culture in Thai society, 100 years history of Thai family law dating back from Thailand important events to the significant change, that is, the Child Protection Act B.E. 2546 (2003) It's considerable that this act is the turning point of the child protection now.

From past to present, issues of child problems in Thai society have been immensely complex due to a number of their connection and correlation with other problems. Basically, prior to seeking a comprehension of the child protection system in Thailand, there shall be essentially a comprehension of Thai society system relating to the child by addressing to the smallest unit of society i.e. "family system". Referring to a definition of "*Child*" in Thai regime, the "*Child*" means the child whose parents bring up rightfully in the family and filiations between parents and child must materially be subject to the obedience principle. Parents have a duty of care and govern their own child, as the persons giving birth by natural filiations. It is remarkable that an exercise of parental power usually appears punishment process that is lack of a rule of how much the parents have parental power over the child and how its method is. In absence of such rule, it engenders maltreatment against the child in various families with natural righteousness. According to a Thai proverb 'tether the cow and hit the child' (This proverb is equal to 'spare the rod, spoil the child' in English language.) as the advice in bringing up children, it means that hitting is to punish the child in any ways. So, there is not any rules to control this punishment which possibly leads to the righteousness of family violence. In addition, such social system emphasizes on an authoritative relationship in which the parents are superior to the ward, in other words kids as the younger must obey and comply with the adult of older age. As a result, the child has none of authority and has to encounter risk of physical and mental abuse by people around the child and those who exploit the child. (Promchotchai, 2014)

Thailand and the child protection prior to enactment of Child Protection Act B.E. 2546 (2003)

The law relating to the child from the past to the present

In 1908 – The former statutes of law relating to the child appeared after Criminal Law in the 127th of Rattanakosin era/B.E. 2451 (1908) stipulated the act done by the child below 7 years old was not considered as an offense and it deserved special exemption, the act done by the child during 7–18 years old, his/her parents are responsible for his/her behavior instead and there was a prohibition of sexual intercourse or indecent act to the girl below 12 years old regardless of consent. In addition, the provision of law prevented abandonment by stipulating a prohibition to abandon the child below 9 years old including the unlawful sale of the child; otherwise the offender must be penalized by imprisonment and fine. Nevertheless, the enforcement of such provisions of law in objective manner appeared less satisfactory result because such sale of the child to be slave, utilized, treated as sexual sensual pleasure or exchanged for paying a debt. Thus, the period of pre-revolution of the country's government regime from absolute monarchy to democracy,

As for ensuring security of the child, it appeared in the reign of King Rama IV (1900– 1910) before the revolution of government regime by emphasizing on education and public health for the child including charity for the child in the foster home set up by the aristocracy in that period. Thus, in the period of post-revolution of the government regime (Promchotchai, 2014)

In 1932 a legislation of Civil and Commercial Code on rights of parents and child stated that *“Parents exercising parental power has a right to punish the child in a reasonable manner for disciplinary purpose.”* In fact, such provision of law caused some practical problems i.e. questions about scope of punishment and characteristics of acts classified to be reasonable punishment among different attitudes of parents in each family. There was also none of other criteria to be compared and applied to measure such right's reasonableness.

During 1934–1957, social rearrangement brought about the child rearing into 2 categories i.e. ordinary child and orphan. The *“Orphan”* means the unaccompanied child. The law provided a penalty against his/her parents in case of any child was found as tramp, vagrant, homeless, unearned, annoyed wandering or misbehaved which unfit to their age. The official has a duty to confine the child to be picked up by his/her parents and to punish them by penalty fine. In absence of the parents, the child would be referred to the specific school established for occupational education until the child attains his/her majority. The public sector carried out the charity activities for the child in parallel to public health policy which focused on care of mother and child's health in order to increase population. Policy in such period aimed at founding political power

and arranging for social orderliness.

In 1961, an important economic change of the country arose when the government enacted the 1st national economic development plan B.E. 2504 (1961) focusing on investment of economic infrastructure of the country such as construction of highway, railway, dam for irrigation, improvement of water supply, generating electricity by hydropower. Government viewed sole economic development could not bring about a better quality of life of the people because realization of human values and cultural values in Thai society did not escalate with the economic expansion. A lot of social problems happened from the huge migration from rural area to urban area and the gap between poor people and wealthy people. One of those social problems was the child problem, in the meantime a beginning phenomenon of social acknowledgment of the child being the nation's future in connection with political and economic stability and of violence and possible risks in the future. As a result, the public sector paid attention to solve it urgently anyway. However, at that time, child protection management appeared in the law merely aimed at control and enforcement which was only possible way of the solution at the end point.

From the abovementioned situation, during 1977–1997 there had been increasing number of the child activists in Thai society. The child activists raised several problems that were unseen by the society to public awareness such as tramp children, child labor, child prostitute and problem of judicial process in relation to the child etc. Most of all activists were regardless of whether the policymaker would acknowledge them or not. By such social problems, in 1982 many NGOs working for the child assembled as, so called “child working group” that included Foundation for Child Development, Foundation for Children, Foundation for Slum Child Care, Duang Prateep Foundation, Holt Sahathai Foundation, YMCA Association and Population and Community Development Association to be a network of coordination on policy, operational direction of child rights, freedom and welfare and campaign to disseminate information about child condition for public awareness especially highlighting essential and urgent cases to bring about support and cooperation of public sector and others based on optimum benefit of the child. Moreover, there were regular activities among academics and activists, delegates of government agency for correspondence and learning about experiences of working out for the child. (Promchotchai, 2014)

The assembly to carry out activities for the child was funded by UNICEF. In May 1987 the UN agency requested National Youth Bureau and National Council for Child and Youth Development for drafting a Convention on the Rights of the Child. In one following month UNICEF arranged the 1st publication of the draft Convention in Thai language. During August - November 1988 the child working group implemented a plan to disseminate and campaign to encourage Thailand to be a

signatory of the Convention. National Council for Child and Youth Development in collaboration with the child working group and NGOs working for child and juvenile organized a seminar to push Thai Government directly recognized the Convention draft. At last, public sector and private sector worked together to provide several meetings and seminars on related child issues in more frequent manner. During 1987–1990 malnutrition of the child was highlighted.

The international context also influenced definition and handling the child problems in Thai society. The UN General Assembly had a resolution to recognize the draft Convention on the Rights of the Child on 26 January 1989. Thus, a number of countries had been actively encouraged to become its signatories since 26 January 1990 until the Convention on the Rights of the Child (“CRC”) entered into force legally on 2 September 1990. Thailand, eventually, became the signatory by accession of CRC on 27 March 1992 which had its effect to Thailand on 26 April 1992. To become the signatory of CRC was under mechanism to push the State to expedite solving the child problems on urgency basis in every side. In setting a target for operation, the Ministry of Public Health’ s statistics in 1989 revealed that one-fourth of the juvenile in range of 15–19 years of age were prostitute. During 1996–1998 approximate 300–500 children were abandoned and under care of 21 foster homes nationwide providing foster for newborn to below 18 year-child. Those abandoned children came from 3 main sources i.e. hospital, public places and nursery or caregiver. Consequently, child operation of Thailand to implement CRC focused on 4 main issues i.e. child prostitute, tramp child and underprivileged child, child labor and maltreatment against the child in particular child in the Juvenile Observation and Protection Center.

II. Analysis of the development cycle of the child protection system

(1) Events, incidents, public opinion etc. leading to the present system

(1. Social discovery phase)

Child Protection in Thailand

The term of child protection as defined in the Child Protection Act means assistance for support, protect and promote the child to be patronized, reared, instructed and developed as well as to behave properly, not be risky to offend, be responsible to the society, have safety away from being maltreated and discriminated unfairly. Its target included 3 groups of the child below 18 years old i.e. the impoverished and unsupported child, the child being risky to offend and the child survivor of maltreatment.

The three significant situations leading to the child protection in Thailand are composed of:

1) Child violence problem in Thailand

Before the Child Protection Act, during 1997–2003 Thailand had encountered child problems arising out of the changing Thai society i.e. insanitary, lack of educational opportunity, abandonment by parents or guardian, survivor of domestic violence, livelihood in decadent environment or situation of being risky and perilous to occurrence of other problems etc. These problems had not diminished but escalated into higher quantity and transformed into new form of problems which were more difficult for management. Furthermore, change of family size and structure caused increasing number of single family which had over half of whole families. Such change brought about a different nature of the child rearing in comparison to the past. Another trend was a rising number of children being under care of foster/alternative center. Most of them had quality below standard. Although the aged people provided care to the offspring, some problems were found i.e. gap between ages, comprehension and lack of skill in rearing child and juvenile. Child and juvenile who were offenders in various offenses increased in each year. An information of the Juvenile Observation and Protection Centers nationwide regarding child and juvenile offending in 2006 (January–July) revealed 25,320 persons (Department of Juvenile Observation and Protection, 2006). In some years, its number might be diminished as a result of the drug addict suppression policy which endeavored to limit number of the offenders relating to the drug addict by a principle change from the addict being the offender to the addict being the patient instead. But number of child and juvenile in Juvenile Observation and Protection Centers were still high in consideration of appropriateness of supportive system and mechanism in terms of both physical area and related personnel. Such group of child and juvenile have largely faced problem of rehabilitation system in Juvenile Observation and Protection Centers. This was factor of the child in judicial process being inaccessible or lack of protection of rights as it should be. An information reflected an intensified trend of concern i.e. the child who are offender have lower age and the principle of multi-disciplinary action under Criminal Procedural Law revealed that a number of offenders were in record of being those who experienced or were former survivor of violence, in other words anger and pressure forced them to retaliate regardless of the consequential effect in the future.

A lot of children in family and school system who were classified into the child having normal livelihood began to have problems of stress and pressure from competitive environment. Some children were increasingly abnormal in their mind and emotion. Meanwhile, many children had intimate relationship with friend of opposite sex and developed to have sexual intercourse during the age of study until occurrence of undesired pregnancy and abortion etc. With reference to UNICEF's information in 2003, it was found out the mean of Thai youngster of 15–19 years

of age who delivered the child was at 70 per thousand people. In the meantime, the mean of Asia continent was at 56 per thousand people and the global mean was at 65 per thousand people. This reflected Thailand was in top ranking of Asia countries having the problem of undesired pregnant youngsters. Even though a number of academic institutes had provided monitoring system to provide care and help to students including data collection and home visit, a system had not yet set up to help and solve the problem on time. Many academic institutes had spent most of the time to carry out revolution of teaching and studying, competition and upgrade of the school's standard until they failed to develop a system of helping their own students. Accordingly, many children in a number of academic institutes had lonely struggled.

2) The impact of the economic crisis since 1997 onwards

From impact of the economic crisis since 1997 onwards, Thailand had to reduce the annual budget in some parts which caused recession of budget allocation for the child development in the year-end of 1997 including a slowdown of the child and juvenile development projects. In addition, a changed mechanism of local administration pursuant to the Decentralization Act B.E. 1999 made a change of the management of lunch meal and supplementary food (milk) projects both budget and operation which affected spread of opportunity and coverage of access into the public sector's the lunch meal project. As a result, so many poor in remote areas did not receive support of the lunch meal on regular basis and then quality of the child's nutrition interrupted. Moreover, a number of local administration authorities did not emphasize on issues of "the child" or other social issues as their important issues. Accordingly, in each area a definite database of the child had not been set up for further planning to provide assistance and protection in appropriate way. The assistance provided to the child focused on individuals and the nature of urgency or impromptu which did not catch up with the actual problems. Meanwhile, measure and mechanism enabling accession into the child and providing appropriate protection had been less. During the time, none of instrument had been put in place to systemize a screening process in order to isolate the child in need of urgent assistance away from ordinary child who did not face detrimental problems and to protect a lot of children being vulnerable to have problem in the near future. Moreover, none of systematic database was provided to point out actual circumstances of the child. Although civil groups were around the child such as family, school, community and local people who were enthusiastic to set aside the child from various social problems such as drug addict problem, during the time they have not been able to unite to create a comprehensive and standard system for the child protection. As a result, Thai society had not yet created and developed the child protection system in wide-

range preventive approach.

3)The ineffective law and related authorities

From the aforementioned situations, it is still appeared the child abuse news in the newspaper. Only small group of children could approach organization and person whom the child' s family expected to help obtain fairness at the end. The actual fact was that numerous children lonely encountered the problems and did not have capacity to share and call for help to anybody. Consequently, in general nobody got access and could help these children on time and in appropriate way. In addition, none of agency/organization was in charge of designing a standardized system for the child protection. Nature of assistance provided to Thai children were in manner of disperse, up to public attention and restricted to specialized capacity of the organization working for the child. Although several organizations assembled to form a loose network so called "child working group" as mentioned above, each of these organizations had its own core missions. Movement of working in this way and of this kind was not sufficiently systemized. Moreover, there was none of definite database of Thai children to illustrate what condition that child and juvenile were living in or what impact they were facing.

(2) Search for the present child protective system, preliminary considerations

(2. Precursor phase)

It was essential to provide care in all dimensions which was not limited to charity or giving and legal measure to arrest the youth offenders only. There must be protection, prevention and assistance of the child pursuant to basic rights of the child, as all factions concurrently agreed to have a mechanism that facilitate and support government agencies and private sectors to take these actions for the most effects. Accordingly, concerned government agencies, academics and NGOs cooperated to draft the Child Protection Act based on a draft of CRC and Constitution of the Kingdom of Thailand B.E. 2540 (Section 53 and 80). It could be seen that this law on child and juvenile adhered to the optimum benefit of the child together with basement from their family. This law was, for the first time in Thailand, originated in the year-end of 2002 and approved by the cabinet in 2003 until having its legal effects on 30 March 2004, so called "Child Protection Act B.E. 2546 (2003)".

In addition, from works of Mr. Sanpasit Kumprapan, Chairman of the board of Center for the Protection of Children' s Rights Foundation (2003) leded to questioning current number, situation of the child and what form of assistance should be provided i.e. (1) We did not know how the child' s current condition was; (2) How we could know the child' s whereabouts (how to access into the child); (3) How we could know what kind of service that the child and his/her

family need; (4) What services should be provided; (5) who involved in responsibility in providing service; (6) Who was the inspector of the provided service; (7) Who was the person who audit quality or intervene in case of the service problem arisen; (8) Who provided work system and personnel, developed personnel to prepare for carrying out legal duties and (9) Where was resource came from. These fundamental questions were a part of conceptual development to be the child protection system and pushing for setting up a child protection mechanism as stipulated in Child Protection Act B.E. 2546 (2003) in the end.

Mechanism of administration under Child Protection Act B.E. 2546 (2003)

Child Protection Act B.E. 2546 (2003) was considered as a significant progress of solution in relation to the child protection in Thailand because this was the core substantive law proclaimed to the public. Issues of various distressed and detrimental situations encountered by the child would be no longer matters of the individuals or responsibility of the individuals or family only. These would be common responsibility of the public sector, family and society. In providing a mechanism to determine role and responsibilities of personnel working for the child both public sector and private sector would be able to get access to assist, support, remedy, rehabilitate and protect the child facing problems at soonest. In such mechanism, the provincial child protection committee would function to delegate the public sector, the private sector and the civil society sector in order to provide care and assistance to children and juveniles in the local area systematically and under the relevant rules. Such mechanism would work out in these following 4 divisions i.e.

(1.) Mechanism of agency/organization to be a part of compliance with the law including 7 government agencies i.e. Ministry of Social Development and Human Security ("MSDHS"), Ministry of Education, Ministry of Justice, Ministry of Interior, Ministry of Public Health, Social Welfare Bureau, Bangkok Metropolitan Authority and the court of justice

(2.) Mechanism of practitioner and participation of every sector including competent official (appointed by MSDHS), welfare guardian, home of first admission, foster home, Protection, Occupational Development and Rehabilitation Center, NGOs, social workers, Protector under Section 48, executives of the local administration authorities (Provincial Administrative Organization, Sub-district Administrative Organization, Municipality, Sanitation District, Bangkok Metropolitan Authority and Muang Pattaya Authority), Chief of Division, Administration Division in both central part and regional part, community, civil society, family

(3.) Mechanism of fund and budget including Child Protection Fund, Fund Administration Committee, Operational budget of the Permanent-General Office, MSDHS

(4.) Mechanism of administration in the form of Child Protection Committee divided into 2 levels i.e. national level called “National Child Protection Committee” and in the provincial level called “Provincial Child Protection Committee” and “Bangkok Metropolitan Child Protection Committee”

In the overview of the child protection in Thailand comprises from national level to local level participating in moving forward the child protection work.

- 1) **National level:** National Child Protection Committee determines strategy and policy for implementation by 4 main government agencies’ mandate i.e. MSDHS, Ministry of Education, Ministry of Justice and Ministry of Public Health.
- 2) **Provincial level:** Provincial Child Protection Committee determines strategy and policy for implementation by Provincial Social Development Office, Shelter for Children and Families, Foster Home, One stop crisis center (“OSCC”), hospitals, Probation Office, Vocational Training Center, Juvenile Observation and Protection Center, NGOs in the area, police stations, schools.
- 3) **Local level:** local administration authorities have their mandate to implement policy with participation of social volunteer in the community to assist operation in the local area.

Each agencies/organization would work out the child protection works together by systematic coordination that includes notification, referral, co-proceeding of assistance, protection and prevention in form of multi-disciplinary arrangement.

**(3) New systems and practices established through (1.-2.-3. Achievement phase)
Phenomenon on administration and operation after Child Protection Act B.E. 2546 (2003) came into force**

As for Child Protection Act B.E. 2546 (2003) came into force, Thailand has legislated several laws relating to the child encountering various problems, taking risks and all children. A note was its trend was in preventive manner rather than passive solution such as the Protection of Victims of Domestic Violence Act B.E. 2550 (2007), the Child and Youth Development Promotion Act B.E. 2550 (2007), the Act on International Cooperation in Civil Matters regarding Breach of Custody Rights B.E. 2555 (2012), the Juvenile and Family Court and Procedure of Juvenile and Family Court Act.

At that time, many government agencies were established after the Child Protection Act came into force i.e. 1) the provincial shelters for children and families, Bureau of Anti-trafficking in Women and Children, Department of Social and Welfare Development were established all over the country in 2008 under Child Protection Act B.E. 2546 to be the 24 hours service-place of first admission,

temporary shelter for children and families who faced problems until they were unable to live with their family or community such as sexual abused, woman survivor of domestic violence, unmarried pregnant, abandoned etc. They have needed assistance, protection, rehabilitation, adjustment of occupational process and legal measure to enable child and family to pass critical situation on preliminary basis before referral to receive appropriate assistance and relevant actions before reuniting with their family and community. 2) OSCC or Hotline number 1669 provided in government hospital in every province was mandated to be a focal point of providing assistance to child and woman who were victims of violence, of referral for physical and mental health in care of physician, psychologist, social worker and multi-disciplinary team as well as referral to other related agency/organization. OSCC encouraged people in the society to participate by reporting of the concerned matters of child, family and community, as people have role of helping hand to surveillance for public benefits.

(4) With regard to the newly established systems and practices, evaluation and discovery of new issues after implementation (4. Review phase)

After the Child Protection Act, In September 2005, a seminar on assessment of the officials of classes 1-3' operation implementing child protection involved several main issues i.e. strategic analysis, study on strong point, weak point, chance and obstacle in carrying out work after the Act came into force. It found out several strong points i.e. the officials' administration and operation resulting from definite provisions of law that provided role, duties and powers of the officials, the Act contributing creation of system, mechanism and measure of child management to be more standardized, ruled and regulated in carrying out works such as making record or report in writing, taking definite actions to provide screening process to ensure assistance provided to the child on time. In the operational actions, such strong points included the officials having good attitudes to take actions, operation being quick, various sectors participating more and more in management, making broader networking, having variety of ideas from multi-disciplinary team to provide proper assistance and protection of the child. (Wechayachai, 2011)

It found out some weak points of administration and operation under the Act such as related ministries being not comprehend and emphasize on implementing the law, some provinces being lack of arrangement or assignment for protection in emergency, child protection mechanism in each level being not connected one another, being lack of disseminating information about the Act, some officials being not comprehend role and responsibilities under the Act, the practitioners being lack of knowledge, skill, the multi-disciplinary disuniting carrying out the work because each of them having still adhered to his/her own target.

A study on guideline of operation of the child protection system through role of the National Child Protection Committee had findings of problems as follows: (Wechayachai, 2011)

(1) Child protection works of Thailand was still lack of definite and united “leading flag”

To apply mechanism of the National Child Protection Committee as the core and leading mechanism to move carrying out missions was unable to create “flag” to determine direction that was definite and had unity. Even though such mechanism was deemed as a good way by wide range of brainstorming and included several related agencies/organization and resources in many fields of work, its meeting like steering committee was highly formal. In any grand forum chaired by the Minister of MSDHS and participated mostly by public sector, the participants’ opinions and comments were usually scarce.

(2) Mechanism became burden of sole Ministry

Current core mechanism of child protection that was originated from MSDHS’ s responsibilities, MSDHS became take responsibility of all issues beyond health problems and education which had very broad range and so complication. As a result, several related agencies/organizations were not participatory in the child works as it should be.

(3) Essence of the meetings being lack of main strategy and systematic follow-up

Most issues and agendas of the child protection meeting of the National Child Protection Committee usually were approval of regulation, manual and guideline that were subordinate to their superior law. Although such elements are necessary for detailing how to carry out the work, they were spent too long time. The meetings were still lack of discussion and determination of main strategy and the intensive encouragement to collect comments were missing.

(4) To create participation in the provincial mechanism being not spread and radical

The provincial mechanism comprised with delegates of various government agencies attending the meeting. Sometimes the attending delegates have frequently taken turn; therefore, follow-up has not fully been effective and issues in the meeting have not been applied or developed in the child protection works in their own area.

(5) To develop instrument for systematic strength

It was lack of actions to create and develop effective instruments for implementation such as manual, guideline of carrying out works, fund-raising to carry out works, potential development by training, development of output to be new form and means of carrying out works and providing key performance indicators in carrying out the works by the provincial mechanism.

(6) The child protection mechanism in local level being lack of variety

An empowerment or supportive system in the local mechanism was less. The

extensions of target groups were limited to government agencies and were not done to NGOs and community organization in respect of organizational potential development and personnel development. Such mechanism did not emphasize on adequate participation of other supportive parts as it should be for example private business entities that could provide resources support.

(7)Lack of significant national database for child development

Data collection and database in the national level that were not in unity and lack of management system was obstacles to create quality child protection system. As for a verification of child information should include evident and qualitative database in benefit of planning that being suitable in the area and the national level. At present, none of host organization was in charge of providing the child database of Thailand; therefore, data collection were scattered and statistical in service provider of agencies/organizations but it was not centralized to visualize situation or definite scope of the child problems both in quantitative and qualitative manner. The existing information mainly was analogical and not sufficiently proper to make forecast in relation to problems and direction in the future and also to provide precise and sufficient illustration for planning for example:

- Collection of the child data in each agency was not systematic, as the Ministry collected only data from service users relating to its own works.
- Quantify of some child groups was not certain such as the tramp child who always move around all the time. Concept of data collection was different such as figure collection of different age of children.
- The information about maltreated child and abandoned child as supposed to report pursuant to intent of law was not found, collected and analyzed on quantity of problems and to be guideline for their systematic solution from both OSCC and competent official in various areas and regions.

The aforementioned information in conformity with UNICEF' s proposal (2011) which pointed out some challenges in application of law into practicing in actions i.e. none of system to provide regular follow-up and report about the child protection problems; therefore, there were hindrances of providing child protection in timely and appropriate manner. The efficient child protection system relied on building technical knowledge and capacity together with financial support for services in order to prevent, follow up and response to the child abuse. But these actions were being separately done. As a result, it caused not only hindrances of monitoring on situation as a whole but also hindrances of developing

means of enough prevention as well as providing assistance in timely and appropriate manner to boys and girls who are victims or taking risk of violence, abuse and exploitation.

Furthermore, most families in Thailand were unable to access into family support services where such families were in hardship. In January 2006, the Commission of the child' rights had suggestions to Thailand that *“the Government had limited potential to provide the social welfare series in sub-district level or community level.”* The NGOs' report addressed to the Commission added more explanation in the subject of a need for preventive service that *“had better provide welfare service in parallel with developing quality of the service by focusing on poor family, family at risk, family whose member being sick of HIV/AIDS or impacted by AIDS and family whose caregiver was the aged person. Basis services for the child should highlight operation in active and preventive manner by indicating the child at risk and engage operation before the child fell into detrimental situation. In addition, there would have improvement of accession into service by adding number of personnel and training to personnel”* .

Current and future of development of the child protection of Thailand

After the Child Protection Act has come into force for over 14 years, current operation of the child protection has been in objective manner. Situation of the child problems of Thailand has not relatively changed and decreased due to various social problems. In respect of support and solution to ensure protection, the competent officials of the child protection have began comprehension and carried out works his/her own role. In addition, their working is systematic without overlapping of joint operation in multi-disciplinary team especially MSDHS determined policy of *“development of quality of child and juvenile' s life”* which was the agenda-based or urgency basis in 2017.

Furthermore, NGOs have powerfully carried out the child protection works such as *“Center for the Protection of Children' s Rights Foundation”* that has handled preventive works in every level such as disseminate information about the accurate child rearing, potential development of official and practitioners in the child protection in sub-district level, community protection and child protection school, recruitment of the child guard members who carry out notifying the incident, disseminating news and being mobile development of the child. Besides, the organization having significant role persistently in the child protection is UNICEF which works out in collaboration with Thai government, private sector, NGOs, juvenile group, local community and children in order to promote and protect rights of every children in Thailand by involving in development of the national strategy, funding to support operation of personnel development, providing database of the child protection.

Current policy and strategy relating to development of the child

protection system of Thailand focus more on the preventive approach. Current significant policy in connection with prevention of the child problems are as follows:

1) As regards the policy and strategy on the prevention and solution of violence against child and juvenile (2014–2019), MSDHS has so far carried out, throughout 3 years, organizing the workshop for providing plan of actions in the provincial level in order to support plan of actions in such level, organizing training and setting up curriculum to train teach and lecture parents in almost every region of the country.

2) The strategy on the prevention and solution of teenage pregnancy (2015–2024 focuses on reinforcement of integration and cooperation of government agencies, regional network and civil society to render knowledge, advice and assistance to teenage pregnant and her family to sustain their life peacefully in the society, to add more radical and equal access into efficient services, to develop and apply efficient new knowledge and technology into carrying out the works, to monitor situation and problems and to make assessment of operation in line with strategy and plan of actions of main ministries for example to enhance life skill and sex education to teenagers that has been mainly implemented by Ministry of Education, to promote family and community's role in the child rearing, building good relations and communicating about sexual health condition of teenagers that has been mainly implemented by MSDHS, to develop a quality and amicable system for general health and reproductive health services that has been mainly implemented by Ministry of Public Health.

3) Draft strategy on promotion and protection of child and juvenile in the use of online devices B.E. 2560–2564 that has been collectively done by working group including Child and Juvenile Media Institute, Department of Children and Youth, MSDHS and network of public sector, private sector and NGOs. This draft is deemed as new development dimension of Thailand to determine measure for solution of child and juvenile's detrimental use of internet technology which endanger to the child's behavior and learning quality.

4) As for the policy, strategy and measure on anti-trafficking in human being (B.E. 2554–2559), (1) for prevention, it is hosted by MSDHS, having purpose to get people to realize and cooperation in keep surveillance to the problem of anti-trafficking in human being and get family and community to pay attention to the offspring rearing; (2) for prosecution, it is hosted by Royal Police Bureau, Office of Prosecutor-General and Courts of Justice, having purpose to get cooperation in prosecution against the offender and efficient law enforcement; (3) for protection and assistance, it is hosted by MSDHS, Ministry of Foreign Affairs (by Department of Consular Affairs, Royal Police Bureau and Ministry of Labour; (4) for development of policy and implementation policy, it is hosted by MSDHS

and Ministry of Foreign Affairs, having purpose to promote and expand cooperation constantly with domestic and international networks in every level and (5) for information development and administration, it is hosted by Royal Police Bureau and MSDHS, having purpose to indicate progress of carrying out the works and follow up the survivor's condition and the situation of trafficking of human being.

5) Policy and guideline on prevention and protection for the youth in academic institute, hosted by Ministry of Education.

6) Guideline on rearing and care with non-violence in every surroundings, as appeared by UNICEF, Thai Health Promotion Foundation, World Vision in television media, document and internet in relation to the child rearing. Such media contents have influence on a part of Thai people who pay attention to adjustment of their surroundings to reduce risks of violence against the child.

7) Draft national strategy on the child protection which was approved by the national child protection working group in 2016.

III. On agencies providing services to prevent child maltreatment / for family support

“Violence against children” means the child being treated by adult no matter who such adult is in or out of family in unacceptable manner along with social and culture context in that period as a result of the child being detrimental, injured, physically and mentally impacted as well as being neglected to supply basic needs such as food, health care and rearing (Assawapak, 2009) . Under the Child Protection Act B.E. 2546, “child maltreatment” is defined as any act or omission against the child results in derogatory freedom or physical or mental detriment, sexual abuse, coercing the child to act or behave in the manner probably causing physical or mental detriment or against the law or good moral irrespective of consent of the child.

Thailand has still continually encountered situation of the child maltreatment. The statistic included its 3 forms i.e. physical maltreated, abandoned and sexual abuse. As for the statistic in 2013 indicating children and women who were physically maltreated took the OSCC services, number of maltreated children was approximately 19,229 people or around 53 people per day. Such figure has tended to be continually increased. A preventive operation that would be successful relied on social and legal instrument, working out with multi-disciplinary team and public realization among people in the society. Aside from the Child Protection Act B.E. 2546 (2003), the Protection of Domestic Violence Victims B.E. 2550 (2007) was provided afterwards to make use of available form, means and procedure which were different from the general criminal proceeding and to take proper action against the perpetrator maltreating the child in the same

family. In addition, other developed laws in connection with actions towards the child maltreatment include the Juvenile and Family Court and Procedure of Juvenile and Family Court Act. B.E. 2553 (2010), the Criminal Procedural Code (on child inquiry part), the Penal Code (on measure of safety and penalty parts), the Civil and Commercial Code (on family and guardian parts), the Anti-trafficking in Persons Act B.E. 2551 (2008) [its new legislation, the Anti-trafficking in Persons Act B.E. 2560 (2017)].

The agencies/organizations having roles in prevention of the child maltreatment and in raising public realization among people in the society are government agencies, private sector and international organization. The agencies/organizations having roles in protection and assistance of the survivors and in taking legal proceeding against the perpetrators are mainly government agencies in multi-disciplinary arrangement.

Analysis of the developmental cycle of preventive services for child maltreatment.

(1) Background, events, incidents, public opinion etc. leading to the present support system (1. Social discovery phase)

During pre-2003 period, assistance of the maltreated child had been passive manner. Many researches in Thailand suggested prevention, family support and focusing on multi-disciplinary services. Most researches also indicated coordination among agencies/organizations engaging in the child assistance was so important but there was still lack of coordination with related agency/organization to provide more continual and efficient assistance (Chinlumprasert, 2003). In establishing agencies/organizations to carry out prevention of maltreatment and assistance of the maltreated child, their background or originated situation must be explored for better understanding. Such agencies are government agencies like nationwide hospitals and shelters for children and families which are under supervision of MSDHS.

1) *OSCC in hospitals*

Formerly, before setting up One Stop Crisis Center ("OSCC") in various hospitals, Child Protection Division, Department of Public Welfare (currently, its name is changed to Child and Youth Protection Division, Department of Children and Youth, MSDHS) reported that two girls below 15 years old per day in average were raped. In such period, carrying out assistance and preventive works for the maltreated child had been passive manner and come from referrals of policemen, family members and teachers. None of the assistance system had put in place. Where a child entered into the hospital, such child was treated like other patient under normal system without existence of the official providing proper care, keeping confidentiality of the child/service user and taking various legal proceedings. As a result, after the end of medical treatment, none of any unit

or division was in charge of making referral or coordinating resources for further holistically care and assistance. Sometimes, the child was pushed into the original environment which has ever maltreated him/her.

From the aforementioned circumstances, the cabinet resolution on 29 June 1999 approved an establishment of the one stop crisis center for violence-affected children and women in government hospitals and private hospitals and determined 25th November of every year to be the day for the elimination of violence against women and children. Accordingly, Ministry of Public Health implemented such policy by directing various subordinate hospitals to establish the one stop crisis center for violence-affected children and women in area of the advanced level-hospital and the general hospital so called "Reliance Center or OSCC" since 2004. Then, in 2006 onwards it has been expanded to the community hospitals all over the country. In the OSCC's operation, comprehensive medical service for children and women both physically and mentally were provided in the OSCC's location without any referral to other section for treatment. Moreover, the OSCC coordinated with other public and private agencies/organizations to provide aid and protection of child and youth welfare and also organized meeting to plan for assistance of children and women in association with other professionals in the multi-disciplinary team which includes internal team and referral to external hospital (Chiangmai Provincial Public Health Office, online).

2) *Shelters for Children and Families*

The situation of child maltreatment had persisted; meanwhile development of the country encountered problem of the anti-trafficking in persons by which children and women were deluded to service as prostitute in core provinces. After the Anti-trafficking in Persons Act B.E. 2551 (2008) took its effect, assistance of such group of children and women was objectively provided. "Shelters for Children and Families" were set up to be temporary accommodation prior to return to their family or domicile and to be service unit for distressed people similar to the emergency home for children, women, families and social affected by state authority in various forms. Most of the service users were referred by hospital, police, family and his/her own. The Shelters were originally set up in 1994 in 9 provinces i.e. Bangkok, Chonburi, Nakornsawan, Phuket, Ubol Ratchatani, Chiangmai, Narathiwat, Udonthani and Songkhla under supervision of Child Protection Division, Department of Public Welfare, Ministry of Labor and Social Welfare. The revolution of official system in 2002 originated Ministry of Social Development and Human Security ("MSDHS") which was set up pursuant to the Act on Organizations of Ministries, Sub-Ministries and Department. As a result, the Shelters were shifted to be the subordinate of Bureau of Anti-trafficking in Women and Children, Department of Social and Welfare Development, MSDHS (Prear Shelter for Children and Families, online).

In initial state, area of such operation was limited to only 9 provinces which were core provinces in each region and had huge number of population in top-ranking of the country. Moreover, some of those provinces were the tourism provinces where violence against children and women were abundant. In later stage, quantity of the service users increased and this violence problem took place in every province. By a policy on reducing steps of referral of the service users to other provinces; therefore, the Shelters for Children and Women were set up in additional 15 provinces from 2004 onwards, until the Shelters provided in every province of the country.

Roles of the Shelters for Children and Families include aid and protection for children, juvenile, women and distressed people's family members by providing temporary accommodation, food, supply of utensil kits and other necessary stuff, medical treatment and impromptu relief of the distress as well as other assistances on appropriate basis in order to get away from crisis moment of their life until they can sustain life by self-reliance, self-confidence and stability. The Shelters are also the place of first of admission and the specific agency of providing care and assistance to the maltreated child under the Child Protection Act B.E. 2546 (2003), being temporary shelter under the Anti-trafficking in Persons Act B.E. 2551 (2008). Besides, during 2007 role of the Shelters for Children and Families added a mission of integral part of "Prachabodi Center" which was in charge of taking notification and the rapid mobile unit to provide urgently assistance to the social affected.

The Shelters' operations were carried out in small-sized scale, resulted by addition and change of policy and laws in relation to works. The study found out several problems of its operation i.e. most assistance still limited to providing temporary shelter, inefficient intervention of social workers or psychologists, officials neither having knowledge on operation for the maltreated people, delay of coordination and working interruptedly with the multi-disciplinary team because each professional having his/her full-time tasks of responsibility, insufficient knowledge of the multi-disciplinary team and operational officials working out child protection and most works carried out in passive manner (Ponnitidolwat, 2009)

(2) Search for the present support system, preliminary considerations

(2. Precursor phase)

During pre-2011 period, operation of protection and assistance had separated between hospitals and the Shelters for Children and Women with a view to taking notification, different problems of the process of assistance provided to service users and inefficient coordination and referral. Later on, integration of works were done and developed into the form of "One Stop Service Center" in 2011 when

the Prime Minister directed the Office of Economic and Social Development Commission (“OESDC”) to organize a meeting in the subject of “Moving Forward Development of Children and Women” in 4 main issues i.e. unprepared pregnancy (teenage mother), trafficking in persons, child labor and violence against children, women, elderly and disabled, to provide improved public services in the form of One Stop Service Center for efficient service and referral, to adhere integration of working together among government agencies, NGOs, foundation and civil society to determine frontline, referral, responsible agency/organization in each issue, definite connection. Besides, the IT system was applied in data collection, referral from taking the case to final stage of providing service to ensure follow-up and assessment through the IT system. The MSDHS was assigned to be the focal point of coordination among related agencies/organizations. The OESDC and Ministry of Information and Communication Technology were assigned to develop the information system to be suitable for the aforementioned operations as well as to connect such information with Ministry of Interior in the last goal.

(3) New systems and practices established through (1.-2.-3. Achievement phase)

- OSCC’s operation has been expanded to the local administration authorities, meanwhile community official were trained. At last, OSCC (One Stop Crisis Center) or called the Social Assistance Center were established.
- Better coordination in carrying out works due to definite target
- Flexible working and access into obvious target groups
- Public relations to raise public awareness on violence

(4) With regard to the newly established systems and practices, evaluation and discovery of new issues after implementation (4. Review phase)

During 2012–2015 MSDHS had carried out missions for children and juveniles under organizational structure in the Division level which divided duties, role and responsibilities in policymaking and academics to be separated from taking policy into practice to enhance expertise in specific works. But, with a view to limitation, the actual carrying out of the works could not completely separate both. Consequently, overlap and inefficiency of moving forward overall missions towards target groups of children and juvenile in correlation and integration manner had arisen. Accordingly, unification and upgrade of various children and juvenile agencies/organizations were done to be “Department of Children and Youth” .

Department of Children and Youth became a policy and operational government agency having missions to promote and develop potential of children and juvenile, to protect and ensure rights of children and juvenile, to promote welfare of

children, juvenile and family by determination of policy, measure and mechanism to promote and support government sector and private sector and by follow-up and assessment of operation in line with the determined policy and measure for their better quality of life and security in livelihood.

Department of Children and Youth had 2 significant divisions i.e.

- 1) **Child and Youth Protection Division:** has mandate to protect child and youth welfare and to ensure rights of child and youth pursuant to the Child Protection Act B.E.2546 (2003), the Apartment Act B.E.2558 (2015), laws relating to child and youth, Convention on the Rights of the Child, international obligation, agreement and cooperation, global social change, to develop system, measure, mechanism and form of protection of child and youth, to prevent, solve and protect rights of child and youth, to administer the child protection fund, to provide aid and protection of welfare of child, youth and social affected. The Division comprises with one sub-division and 5 sections i.e. General Administration Sub-division, Protection System Development Section, Rights Assurance and Protection Section, Child Protection Fund Administration Section, Secretary to National Child Protection Commission Section and Shelters for Children and Families Coordination Section. In addition, central agencies located in the regions include 77 Shelters for Children and Families.
- 2) **Development, Promotion and Welfare for Child, Youth and Family Division:** has mandate to promote, develop and arrange welfare for child, youth and family pursuant to the National Child and Youth Development Promotion Act B.E. 2550 (2007), the Child Protection Act B.E.2546 (2003) and international agreements on promotion and development of the child and youth. The Division has a duty to promote development of child, youth and family by proceeding essentially in every dimension from primary age, to develop the child and youth for readiness for global social change and for comprehension of cultural diversity, and to coordinate working out with network among public sector, private sector, foundation, locality, community, academic institute, religious institute and business operators which have complicated missions to be able to enter into agreement of joint operation and seek way of works to facilitate optimum benefits of every child and youth.

IV. On organizations and agencies associated with children' s rights and participation of families

1. Current situation of children' s rights and participation of families (i.e. legislations, rule and procedures, practical tools and forms, and the outline of database)

Thailand became a signatory of "Convention on the Rights of the Child" on

27 March 1992 and the Convention has been effective to Thailand since 26 April 1992 onwards. Nevertheless, Thailand made reservation in 3 clauses i.e. personal status, refugee status and educational arrangement for child development. Then, in 1997 Thailand withdrew the third reservation on education with a view to Thailand's education had variety and been available for everybody without discrimination. In 2010, Thailand withdrew the reservation on personal status due to development in several issues i.e. birth registration, naturalization, education and sanitation. Furthermore, a withdrawal of another reservation on refugee status has been pending due to a study on this issue. Nevertheless, Thai government in collaboration with UNHCR and NGOs has provided protection of refugees' rights and welfare in conformity with humanitarian and human rights principles. With reference to the 8th national economic and social development plan (1997–2001) which focused on human as the center of development; therefore, carrying out child-related work emphasized more on the child by keeping in mind of optimum interest of the child. Besides, the plan emphasized on strengthening the family in order to enable the family to bring up the child in good quality, also emphasized on the child's fundamental rights and services in compliance with Constitution of Kingdom of Thailand B.E. 2540 (1997) and various international treaties bound by Thailand. Nowadays, Thailand emphasized increasingly on providing aid and development of child and juvenile especially the child facing hardship and needing special care. However, in viewing as a whole, various problems still exist and are of concern in Thai society in particularly the child facing abuse, maltreatment, drug addition, offending, tramp, AIDs–infected, AIDs–impacted, abandonment and disadvantage.

Mechanism in moving forward the child's rights in Thailand includes 1) Legislative 2) Executive which has direct responsibility in rearing or care of child and juvenile by law 3) Judicial 4) Private sector/people which are independent and whether they are juristic person or not. For Thailand, these independent organizations/entities are extremely significant to moving forward the child's rights.

Although Thailand has government agencies engaging joint operation of the child works, this study mentions about “Center for the Protection of Children's Rights Foundation (CPCR)”, an NGO having the most significant role in working out for the child's rights by moving forward on policy, law, guideline for solution of violation of the child's rights in national and international levels and development of a guideline on carrying out the child works in Thailand for over 36 years. Furthermore, the Foundation's personnel taking position of UN committee member on the rights of the child has had significant role in working out the policy for the child's benefits and pushed for legislating laws on child protection or Child Protection Act B.E. 2546 (2003) in Thailand, as well as acted as adviser and counselor concerning the child protection works of a number of

government agencies and civil society.

2. Analysis of the developmental cycle of organizations and agencies associated with children' s rights and participation of families

(1) Background, events, incidents, public opinion etc. leading to current children' s rights and participation of families (1. Social discovery phase)

During pre-1992 period, Thai people' s knowledge and realization on the child' s right was less due to a belief that "the child is the parents' property" . After Thailand' s implementation to Convention on the Rights of the Child, a part of Thai people came to know that their actions violate the child' s rights such as the child abandoned by his/her parents in babies' home, punishment beyond reasonable its cause by teacher, raped child, child labor or even child being arrested and detained in the prison after offending. In another important point, the media still used wording like "Child maltreatment news" to create their selling point and popularity. At that time, society' s situation was abusive and affected the child more and more until United Nations provided Convention on the Rights of the Child to protect the child in 4 main issues i.e. right to survive, right to protection, right to development and right to participation. As a result, the Foundation tackled various detrimental problems to solve violation of the child' s rights by disseminating accurate knowledge, raising awareness of the child' s rights in Thai society and forming mechanism and cooperation among related sectors i.e. government agencies, private sector, people, family and society in order to accomplish a goal of creating society caring the child, protecting the child and preventing violation of the child' s rights.

(2) Search for the present situation, preliminary considerations (2. Precursor phase)

In a period when news in relation to the child and exhaustive situation of violence against the child and of legal proceedings against perpetrator were prevalent, in the year 1981 a project (related CPCR) was firstly established under the Foundation for Children' s works which related to laws and assistance of the maltreated child. Until 1996, Center for the Protection of Children' s Rights Foundation (CPCR) was formally registered as an independent foundation. CPCR carried out missions of assistance, guard, protection and care provided to the abused children from newborn to below 18 years old such as physical assault, sexual harassed, deluded and forced prostitute, unfair employment and improper rearing. Up to present, CPCR has been considered as the first NGO working out comprehensively the child protection in Thailand pursuant to Child Protection Act B.E. 246 (2003).

The CPCR' s five missions are set forth below:

- To assist, guard and protect the child being maltreated, raped, neglected and exploited in all forms;

- To patronize and bring up the child so as to obtain education and rehabilitation by multi-disciplinary team that involves social services, medical and legal measure on systematic and comprehensive manner; therefore, by establishing Baan Raek Rab and Baan Oan Rak (in conformity with the Place of First Admission and the Center of Development and Rehabilitation as stipulated in Child Protection Act B.E. 1546 (2003)) to be shelters of the children;
- To move forward policy, law and guideline for solving violation of the child' rights in national and international levels;
- To research for developing knowledge, system for the child rearing and development, instrument and mechanism for assisting and protecting the children;
- To share knowledge, provide training for skill development to related personnel such as social worker, teacher, psychologist, parents and guardian

Nature of CPCR' s works divided into:

1) **Protection of the child' s rights:** lawyer, social worker and psychologist of the Foundation, parents and guardian providing assistance and protection of the abused child and providing assurance of adequate security through multi-disciplinary process including medical unit, legal unit and social service unit (for 300 abused children / damaged children (per year)).

2) **Rehabilitation:** carry out this work for the physically and mentally maltreated children, children in situations of physical assault, sexual harassed, deluded and forced prostitute, unfair employment that greatly affect body, mind, emotion and society of the children and their family especially mental health problem. If the children have not been improperly rehabilitated, such children would not be able to live peacefully with other people or would be repeatedly harmed or would become the perpetrator who would maltreat other people in the future.

At present, the place of first admission and the center of development and rehabilitation provide the child care to both children in and out of the facilities (other foster home, special education center, vocational training center, foster family) for approximate 150 persons.

3) **Child and family development:** support carrying out activities, mechanism and system in promoting, developing and preventing the child from violation of rights. Its works include child and juvenile development, parents and guardian development, teacher development, community network development and district-level agencies/organization network development. Functioning of works focuses on self-defense against detrimental situation, appropriate treatment of parents, guardian and teachers to the children, and focuses on creation of

activities, mechanism and system in promoting, developing and preventing the child from violation of rights in various government agencies, school and community and development of the information center in relation to the abusive children as well as support of academic work/research in benefit of carrying out works in any field.

- Child development activities include the good touch, bad touch activity, the sex education activity, the juvenile development activity
- Family development activities include the parents classroom for adjustment of the child's aggressive behavior, the parents classroom for guarding the child from sexual threat and promoting appropriate sexual behavior of the child's aggressive behavior and the search for happiness of parenthood activity.
- School development activity include the child protection school project
- Community development activities include the family relation activity, the family relationship development activity, the family service center activity, the parents network development activity and the juvenile relation development activity. Approximate 3,000-5,000 children and families in each year pass these activities.

(3) New systems and practices established through (1.-2.-3. Achievement phase)

Throughout duration of carrying out works, CPCR has helped not only guard, protect and care Thai children for their safe livelihood, but also help raise awareness and realization of Thai society based on nature of truth of several problems in relation to violation of the child's rights and forming mechanism and cooperation among related sectors i.e. government agencies, private sector, people, family and society in order to accomplish a goal of creating society caring the child, protecting the child and preventing violation of the child's rights.

1. Development of multi-disciplinary network for carrying out child protection works in every level:

- Developing potential of official and practitioners of the child protection in sub-district level

From experiences of carrying out CPCR works in various provinces and learning joint operation, personnel in several provinces can provide assistance and protection in their own areas accurately and appropriately under related procedure and laws. But most functioning only restricts to personnel in Maung district area. As a result, where any incidents arisen in district area or sub-district area, personnel in such areas usually have limitations in response to the child problems in such areas. Although development of leaders' potential in sub-district level provided in some areas, there have been lack of coordination and referral to multi-disciplinary team in district level and province level. It is necessitate to provide development of the leaders' potential in district level and

sub-district level for more knowledge and skill in assistance and protection of the child along with the process from beginning step, fact-finding, verification, follow-up, protection of welfare, support for the child development, rehabilitation, and reunification to the society. Accordingly, CPCR in cooperation with MSDHS by 10 Shelters for Children and Families in 10 provinces determine plan of actions in the development of the officials and practitioners' potential of child protection in sub-district level and coordinate with related agencies/organizations in district level and province level i.e. hospital, police station, local administration authority and civil society.

Result of operation in pilot provinces include formation of the sub-district child protection committee and working group comprehending better about the child protection process, survey of screening individual child in the area by cooperation of public health volunteer helping acknowledge of nature of the child's problems and provide assistance and protection of the child, even in complicated cases. Moreover, working groups are able to report the incident to the Shelter for Children and Families and the provincial social development and human security for taking actions. In addition, working groups are able to learn more about working with multi-disciplinary team, coordination and referral to various agencies/organizations.

2. **Realization of the child' rights:** as to a change of attitudes being fundamental to social change, CPCR' s functioning include campaigning to add more knowledge and realization to the child' s rights such as training for knowledge enhancement, creating materials being easily comprehensible in every levels from children supposing to know their own rights, family adjusting attitudes and means of the child rearing into accuracy way, community communicating about torture, maltreatment and violation of the child' s rights which are not personal affairs, mass media communicating the society to refrain from violation of the child' s rights.
3. **Involvement of people in the society into child protection:** from a concept of the child protection which relates to everybody in the society, people are involved in participation in the child protection as "the child guard" which means adult having his/her child in care, adult working in connection with child and family or common people can be the child guard who jointly care and protect to ensure safety, rearing being suitable to their age, development and fundamental rights. Actions in line with this concept include mobile volunteer for child development, fund-raising for child development, building public realization in child protection by raising realization in people' s mind for guarding and protecting the child. It is

so important for the caretaker to adjust relationship between himself/herself and the child in the following 3 issues i.e. secure attachment, trust and empathy. All of these must be disseminated and communicated with other people in the society.

4. **Participation in developing the draft of Child Protection Act and other related laws:** from experiences in working with multi-disciplinary team, problems of legal mechanism, legal gap and implementation could be seen.

(4) With regard to the newly established systems and practices, evaluation and discovery of new issues after implementation (4. Review phase)

A support for building the society caring the child is a principle of CPCR functioning. Its keys to success include joint operation, working out among related sectors such as government, NGOs and civil society. It can be started from creating realization to the child's rights which differ from the adult's, collectively pushing the laws which are preventive and rehabilitated because such laws impact extensively to the society and are instrument in performing duties, carrying out works of officials and related personnel. Development of works and projects can be learnt from CPCR's functioning.

Nevertheless, building realization to the child's rights in every level of the society in equilibrium manner has still been challenging in carrying out the child protection works in Thailand. In the meantime, other challenges include number of abandoned children being more increasingly, the society's attitudes towards the child offenders being still negative and presence of the employment of foreign children in Thai society. Accordingly, all related sectors i.e. government, private sector, civil society and people must intensively work out together in cooperative manner to set the active plan of actions in relation to the aforementioned issues.

V. Issue of database in relation to abuse/maltreatment

1. Outline of databases / data archives on maltreatment (ie: items, methods, indicators for assessment & evaluation)

Nowadays many related agency/organization emphasize on creation and utilization of database in conformity with the Post-2015 Development Agenda and Sustainable Development Goals: SDGs) that included percentage of children aged 1-14 years who experienced any physical punishment by caregivers in the past month; number of detected and non-detected victims of human trafficking per 100,000 by sex, age and form of exploitation.

At present MSDHS, Ministry of Public Health, Ministry of Justice and Ministry of Justice work out together on the database development until single updated database is provided for those who are interested in study can get access

easily and conveniently into Thailand Domestic Violence Information Center's website, <http://www.violence.in.th>. The data report cases from case walk in/website/call center and Mobile application, This database comprises with 4 indicators i.e. nature of violence, nature of solution, challenging violence against women and children and prevention plan.

2. Analysis of the developmental cycle of databases/ data archives concerned with maltreatment.

(1) Background leading to present databases (1. Social discovery phase)

Since Thailand became the signatory by accession of CRC, it's needed to report the situation of child maltreatment to other members. and the organization related to child protection system need databased for plan strategies. Therefore, from past to present, issue of child maltreatment data have been developed.

- During 2000 - 2003

The information system of child maltreatment was not established.

- 2004 - 2006

The data was collected by secondary data from hospital/ Community Hospital.

- 2008 - 2015

The data was collected by website through OSCC program.

- 2015 -

The OSCC program has develop to present.

(2) Search for the present system, preliminary considerations (2. Precursor phase)

In the past, the information about maltreated child and abandoned child as supposed to report pursuant to intent of law was not found, the MOPH report (43 Folder report) wasn't separate number child maltreatment form other injury case report, collected and analyzed on quantity of problems and to be guideline for their systematic solution from both OSCC and competent official in various areas and regions where they received report of such kind of incidents. Database in this regard was mainly made and kept by only Ministry of Public Health. Accordingly, planning for determining policy depended on each Ministry's information existed and collected by their own to satisfy the performance indicators of each Ministry. Moreover, to get access into relevant information was difficult and the publicly disseminated information was not up-to-date and much.

(3) New databases established through (1)-(2) (3. Achievement phase)

OSCC database was utilized to be reference information of Thailand. Most data collections by computerized system were carried out in the hospital where OSCC located. The staff who have been trained about OSCC programs has been note-taker in every stage of carrying out service works throughout the process i.e.

history taking that was categorized by group of children and women and by type of violence, forensic medicine assessment, preliminary family assessment, follow-up of care in agency/organization and home visit. Such information was normally kept as confidential and merely disclosed in the form of statistical report. Problems of getting access and up-to-date of relevant information were also found.

Besides, there was a database of child protection monitoring and response, so called (Child Protection Monitoring and Response System - CPMRS) which was a pilot project, funded by UNICEF and operated by Office of Promotion and Protection of Children, Youth, the Elderly and Vulnerable Groups (In the past). The CPMRS was an information system designed to identify the child below 18 years old (including non-Thai national) who is survivor or at risk in various levels from ignorance, maltreatment and exploitation. The CPMRS comprised with two connected sub-systems i.e. Child Protection Monitoring System - CPMS and Child Protection Response System -- CPRS. CPMRS helped enable related persons and people in the local area to 1) identify the child who needed protection and special care or the child who was in risky family and environment; 2) plan and determine means of assistance provided by related agency/organization in community, sub-district and province 3) follow up and assess constantly the child protection system for carrying out the works efficiently based on academic concept and participation of every sectors including child and juvenile and for raising every sector's attention and emphasis on the child protection. (GPCR, online)

(4) Evaluation of effectiveness, problems, and issues and discovery of new issues after implementation of the present database (4. Review phase)

From databases have been established, a new plan for follow-up, assessment and database system i.e.

- 1) Promoting collection of statistics and outcome for comparing occurrence and decrease of all forms of violence, to carry out processing, synthesis and analysis of information, research work in connection with violence against children and women, and to follow up and make assessment of related agency/organization's operation in both central part and regional part
- 2) Creating one set of indicators to be an instrument to measure the violence's impact towards children and women in individuals, family and society levels and to make assessment of plan and project
- 3) Establishing the information center and the network in relation to violence both in central part and regional part together with to provide database that collect related important information in every aspect for those who are interested in study, researcher, survivor of violence and common people enabling to search for various data such as statistic, related law, means of assistance and therapy

4) Follow up and make assessment of carrying out assistance to children and women experienced violence. The derived and collected information will be further utilized to determine policy and plan of actions for prevention and assistance.

VI. Implication (including “lessons”)

From the abovementioned information, it can be viewed that operation of child protection in Thailand has increasingly their clarity, development of mechanism and quality system for taking actions. Most of all, they are outcome of collective thinking and active actions taken by unity of both public sector and private sector. Accordingly, the current child protection works have several purposes and operations as follows:

- **Mechanism being accessible to every child:** Thailand has developed mechanism for carrying the works in every level from family to community and to local in order to provide surveillance on conditions of child and family, to indoctrinate new attitudes in Thai society that violence against the child is not the family affairs anymore, but it must be people in the society’ s shared responsibility towards the nation’ s future (child).
- **Resources, personnel and network of operation to provide radical and equal services to the child and their family:** at present, the curriculum for development of personnel working for the child protection is not only limited to competent official by law, it extends to cover teacher, volunteer, family and juvenile and the services could be provided by not only the public sector but also private sector.
- **The shared responsibility covering national, provincial and community levels:** although this shared responsibility can be moved forward by attempting to raise public awareness of the necessity for the child protection in particular in community level and of the strategy for operation of the child protections in various ministries and NGOs such as UNICEF engaging in building capacity of the local administration authorities, communities and families to order to develop and protect collectively child and juvenile.

Currently, Thailand has developed the child protection in various dimensions both in term of policy and the authorities as well as strengthened Thai society as “*the child protection society*” which is composed of helpful skills and child participation, attitudes toward children, the supportive authorities and officers in protecting the child, law, the follow-up, the child protection service.

However, the child problems are still challenging to the management of child protection system. Regarding the child protection system in Thailand, it's concluded that this protective process should be reviewed regularly as for the dynamic progress of Thai society.

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10. フィリピン

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Abstract

The Philippines established the foundation for upholding the rights of Filipino children through the Child and Youth Welfare Code issued as Presidential Decree (PD) 603 in 1979. The Code contains provisions articulating both the rights and privileges of children and the responsibilities of the State [and its institutions] towards children and youth. The promotion and protection of children's rights was later reinforced and integrated in the Philippine Constitution and the Family Code⁶⁷ both issued in the year 1987.

The Philippine National Government, along with other countries, ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1990. This was followed by the ratification of the Optional Protocols on the sale of Children, Child Prostitution and Child Pornography in 2002 and on Children in Armed Conflict in 2003.

In response to its commitments, the National Government developed a comprehensive and integrated approach to children's development along the areas of survival, protection, development and participation entitled the Philippine Plan of Action for Children (PPAC) 1991–2000. This was followed by the Philippine National Strategic Framework for Plan Development for Children for 2001 to 2025, more popularly known as Child 21, which serves as a guide for stakeholders in designing their plans and programs for children towards the realization of child rights in the 21st century.

Child 21 is translated into operational 5-year action plans known as the National Plan of Action for Children (NPAC). One of the goals identified under the 2nd NPAC (2011–2016) focuses on child protection, specifically, said goal is stated as *“children are safe and free from violence, abuse, neglect and exploitation”*.

Moreover, the Special Protection of Children Against Abuse, Exploitation and Discrimination Act or Republic Act (RA) 7610 was issued on 17 June 1992 to ensure the protection of the rights of the child and provides penalties for its violation. Said Act is a comprehensive law for stronger deterrence and special protection measures for children against abuse, exploitation, and discrimination

⁶⁷ Issued through Executive Order (EO) 209, the Family Code deals with the family as an institution and contains provisions which aim to promote the best interests of the child.

and for children in especially difficult circumstances, in situations of armed conflict and those belonging to indigenous cultural communities.

Aforementioned Plans and legislation was, and is still, enforced through the synergy among the executive, legislative, and judiciary branches of the government along with the local government units (LGUs), nongovernment organizations (NGOs), media, and the civil society.

Analysis

1. Social Discovery Phase

The Special Protection of Children Against Abuse, Exploitation and Discrimination Act, commonly known as RA 7610, was drafted and enforced in response to the country's ratification of the UNCRC. Along with other prevalent issues in the Philippines, the Act deals with issues raised under the UNCRC, specifically:

a. Commercial Sexual Exploitation of Children (CSEC)

The Philippines is a known source, transit and destination country for women and children trafficked for sexual exploitation and forced labor purposes. Although there is no available [accurate] data on the problem magnitude nor the number of trafficked victims, concerned NGAs and NGOs estimate that about 60,000–100,000 children are sexually exploited.⁶⁸ CSEC involves pornography, trafficking and prostitution.

b. Children at risk (CAR) in the Streets

Commonly driven by poverty, children take to the streets to generate additional income for the family. Children at risk in the streets, estimated at 246,000, face exposure to substance abuse, accidents, sexual exploitation and its accompanying infections/disease, and involvement in organized crimes.

c. Working Children

Much like CAR in the streets, poverty forces children to work to augment their respective family income. The worst forms of child labor are in mining and quarrying, deep sea fishing, agriculture, sugarcane plantation, domestic work, pyrotechnics and commercial sexual exploitation.

d. Children in Conflict with Law

Based on the Juvenile Justice and Welfare Council, the CICL numbered 5,297 in December 2006 which is the initial year of implementation of RA 9344 or the Juvenile Justice and Welfare Act of 2006.⁶⁹

68 CRC@20. A Summary Report on the 20 years of the Convention on the Rights of the Child in the Philippines.

69 Ibid.

e. Children of Indigenous Peoples (IPs).

Most of the children belonging to the indigenous cultural communities have limited access to basic social services for education, health and nutrition due to the distance of their residences and poverty. Further, IP children are often victims of bullying and discrimination.

f. Children in Situations of Armed Conflict (CSAC)

The Philippines is affected by the Moro and communist insurgencies in different regions.⁷⁰ Tensions between the Government and non-State groups such as the Moro Islamic Liberation Front (MILF), Abu Sayyaf Group (ASG), and New People's Army (NPA) have led to displacements, undermining the welfare. Moreover, the State and non-State groups have been involved in recruiting and using children in armed conflict, and other identified grave violations against children.⁷¹ CSAC covers children involved in armed conflict (CIAC), children affected by armed conflict (CAAC), and internally displaced children (IDC)

2. Precursor Phase

Prior to the issuance of RA 7610, the Ateneo University Human Rights Center studied the harmonization of the UNCRC and Philippine laws. Further, a review of existing legislative frameworks was conducted on defining the minimum age of sexual consent, compulsory education and discernment as well as the effect of residential care on displaced children, gender socialization, and indigenous peoples' (IPs) children.

The Local Government Code of 1991 was also considered as it mandated the autonomy of LGUs. Specifically, it places the main responsibility for providing basic health, nutrition, early child development, and other basic social services to the LGUs. This places the LGUs as strategic and convergent points for all interventions designed to address children's rights and issues.

In particular, the RA 7610 is a comprehensive law that encompasses the following: (i) formulation of a comprehensive program on child abuse, exploitation and discrimination, (ii) child prostitution and other sexual abuse, (iii) child trafficking, (iv) obscene publications and indecent show, (v) working children, (vi) children of indigenous cultural communities, (vii) children in situations of

70 The Moro conflict exists mainly in Mindanao in the fight for the Bangsamoro homeland instigated by MNLF, MILF, Abu Sayyaf Group. Meanwhile, the communist insurgency is spread throughout the archipelago and instigated by the NPA.

71 The seven (7) Grave Child Rights Violations (GCRVs) are (i) killing, (ii) maiming of children, (iii) recruitment or use of children in armed conflict, (iv) rape and other forms of gender-based violence, (v) abduction of children, (vi) attack on schools, hospitals, places of worship, evacuation centers and public places where children are usually found, and (vii) denial of humanitarian access to children

armed conflict and other acts of abuse, neglect, exploitation and other conditions prejudicial to the child' s development. The following definitions are used based on the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases:

- a. Child shall refer to a person below eighteen (18) years of age or one over said age and who, upon evaluation of a qualified physician, psychologist or psychiatrist, is found to be incapable of taking care of himself fully because of a physical or mental disability or condition or of protecting himself from abuse.
- b. Child abuse refers to the infliction of physical or psychological injury, cruelty to, or neglect, sexual abuse or exploitation of a child.
- c. Cruelty refers to any act by word or deed which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being. Discipline administered by a parent or legal guardian to a child does not constitute cruelty provided it is reasonable in manner and moderate in degree and does not constitute physical or psychological injury as defined herein.
- d. Physical injury includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe injury or serious bodily harm suffered by a child.
- e. Psychological injury means harm to a child' s psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of said behaviors, which may be demonstrated by a change in behavior, emotional response or cognition.
- f. Neglect means failure to provide, for reasons other than poverty, adequate food, clothing, shelter, basic education or medical care so as to seriously endanger the physical, mental, social and emotional growth and development of the child.
- g. Sexual abuse includes the employment, use, persuasion, inducement, enticement or coercion of a child to engage in, or assist another person to engage in, sexual intercourse or lascivious conduct or the molestation, prostitution, or incest with children.
- h. Lascivious conduct means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or

buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person.

- i. Exploitation means the hiring, employment, persuasion, inducement, or coercion of a child to perform in obscene exhibitions and indecent shows, whether live or in video or film, or to pose or act as a model in obscene publications or pornographic materials, or to sell or distribute said materials; and

3. Achievement Phase

An effective child protection system is comprised of existing legal provisions (legislations), institutional and policy frameworks, and governance vis-à-vis action plans implemented by primary stakeholders.

a. Policy and Legislative Measures

As aforementioned, the LGUs are at the forefront in the promotion and protection of children. To this end, respective LGUs are expected to craft the Local Code for Children (LCC). The LCC provides for the operationalization and localization of national policies as well as the provisions in the UNCRC.⁷²

On the other hand, national government agencies (NGAs) and NGOs are encouraged to draft their respective Child Protection Policy (CPP). The CPP is a measure to ensure that public servants, as well as child rights advocates/workers, consistently abide with child protection measures and discourage violations of the rights of the child. To date, NGAs with CPPs include the Council for the Welfare of Children (CWC), Department of Social Welfare and Development (DSWD), CHR, Department of Agriculture (DA), Department of Education (DepEd), Department of Health (DOH), and the National Council for Disability Affairs (NCDA).⁷³ Meanwhile, NGOs with CPPs include Plan International, Children International, and Educo.

Policy guidelines and standards were also issued to ensure child-friendly management of reports and cases. This includes the Protocol on Case Management of Child Victims of Abuse, Neglect and Exploitation, the Child

72 The first Local Code for Children was enacted by Davao City in 1996. The LCC is one of the four (4) gifts for children; the other three are the Local Investment Plan for Children, the Local Development Plan for Children and the State of the Children Report.

73 Thru the DepEd CPP, Child Protection Committees (CPCs) have been organized in schools to protect students from bullying, discrimination and abuse.

Protection Standards (for trafficking), the Prosecutor' s Manual on Handling Child-Related Cases, and the Guide for Media Practitioners on the Reporting and Coverage of Cases Involving Children⁷⁴.

b. Programs and Strategies

The PPAC (1991–2000) was formulated incorporating explicit measures for the implementation of the UNCRC. In 05 November 2000, EO 310 adopted the Child 21. The vision of Child 21 is translated into clear, actionable and time-bound plan in the NPAC.

One of the accompanying documents of the NPAC is the Comprehensive Program for Child Protection (CPCP) crafted by the Committee on the Special Protection of Children (CSPC). Formulated by the DSWD and the Department of Justice (DOJ), in coordination with other NGAs and NGOs, the CPCP aims to protect children against child prostitution and other sexual abuse, child trafficking, obscene publications and indecent shows or other acts of abuse and circumstances which endanger survival and normal development.

Specifically, the 3rd CPCP (2012–2016), an accompaniment of the 2nd NPAC, contributes to the achievement of the latter' s goal that “children are protected from abuse, neglect, violence and exploitation” . Its emphasis is on building and strengthening a multi-level child protection system, putting in place an improved and comprehensive data base and monitoring system as well as infusing a culture of care and protection for children.

Other plans issued thereafter are as follow:

1. *National Strategic Framework for Action to End Violence Against Children (VAC)*. With shared vision, goals and strategies as the 2nd NPAC and built on the CPCP, the framework summarizes cross-cutting issues as well as settings with specific recommendations/ strategic actions on policy, legal and regulatory system, social protection, information management, monitoring and evaluation.
2. *National Strategic Plan against Trafficking in Persons (2004–2010)* for the prevention, protection, recovery and integration of trafficked persons including children.
3. *National Framework of Action Against GSEC (2001–2005)* which provides guidance in the formulation, implementation, and monitoring of policies

⁷⁴ Drafted to raise media awareness on issues concerning the rights of the child and at the same time reinforce journalistic standards, specifically, the confidentiality clause is meant to protect the child's right to privacy and to prevent the child from trauma, social stigma, and further suffering arising from inappropriate publicity or approaches to media coverage

and programs relevant to child trafficking, pornography and prostitution.

4. *National Program Against Child Labor (2001–2004, 2007–2015)*. Along with that, the Department of Labor and Employment (DOLE) implements the following programs: Child Labor-Free Barangay/Establishment, HELP ME Convergence, project Angel Tree, and Sagip Batang Mangagagawa.
5. *Philippine Time-Bound Program on Eliminating the Worst Forms of Child Labor (2002–2007)* which provides opportunities for education, livelihood, and training on basic life skills for children in prostitution, mining and quarrying, domestic service, pyrotechnics, agriculture and deep sea fishing.
6. *Comprehensive Program Framework for Children in Armed Conflict* adopted through EO 138 which established the Monitoring, Reporting and Response System (MRRS) for Grave Child Rights Violations (GCRV) in Situations of Armed Conflict (SAC).

c. Governance (Mechanism)

Child Friendly Governance is defined as “*Governance that provides the enabling mechanisms for the creation of a true child-friendly society that is sensitive to the needs of the child, and where all sectors interact and cooperate to produce holistic, integrated, and sustainable strategies that promote child rights*”. This further implies that the best interest of the child should be foremost in the agenda of the government at all levels.⁷⁵

It is imperative for the National Government to lead in building partnerships among NGAs, NGOs, LGUs and the community to prevent and address child protection issues. Towards this end, the following structures have been established and institutionalized in the Philippines:

1. Local Government Units: Municipality/City

The multi-level child protection system in the Philippines starts from the barangays [of the LGU] to the national level. As previously stated, LGUs play a key role in resolving social issues and addressing other barriers in the promotion, provision and protection of the rights of children and women.

Barangay Council for the Protection of Children (BCPC). As provided in the law, barangays are encouraged to organize the BCPC which draws up and implement plans for the promotion of child and youth welfare in the barangay to effectively address issues of abuse, violence, and exploitation of children.⁷⁶

⁷⁵ 2010 State of the Filipino Children Report. Child-Friendly Governance: Focus on Resource Allocation

⁷⁶ The mandate for the Local Councils for the Protection of Children (LCPCs) dates as far back as 1949 under the Civil Code of the Philippines and reiterated under PD 603. Their tasks are to (i) Foster the education of every child

Under RA 7610, case/s of child abuse may be reported to the BCPCs.

City/Municipal/Provincial Council for the Protection of Children (CCPC/MCPC/PCPC). Act as the main source of support [human, financial and technical] to the BCPCs. It is primarily responsible for spearheading advocacy and social mobilization, situation analysis, program development, modeling of innovative approaches, partnership and alliance building, monitoring and impact assessment of interventions, annual reporting of children's situation.

2. Regional Committee/Sub-Committee for the Welfare of Children (RCWC/RSCWC)

The main task of the 18 RCWC/RSCWCs is to assist the CCPC/MCPC/PCPC in all advocacy and programming efforts for child protection. More importantly, under the auspices of the Regional Development Council (RDC), the RCWC/RSCWC can recommend policies and strategies to address region-specific issues and/or concerns for children.⁷⁷

3. Council for the Welfare of Children (CWC)

PD 603 established the CWC with the mandate to coordinate the implementation and enforcement of all laws as well as to formulate, monitor and evaluate policies, programs and measures for children. The CWC Board provides policy guidelines and directions on all children's concerns including child protection.

Existing committees under the CWC are as follows: (i) Committee on Family and Alternative Parental Care (ComFAPC), (ii) Committee on Children and HIV/AIDS (ComCHA), (iii) National Committee on Children and Youth Participation (NCCYP), (iv) Communication Committee (ComCom) and (v) Committee on Children in Need of Special Protection (CNSP). Under the latter, the following sub-committees were organized to address more specific issues and/or concerns on children: (i) Sub-Committee on Children with Disabilities (SC-CWD), (ii) Sub-Committee on Sexual

in the barangay; (ii) Encourage the proper performance of the duties of parents, and provide learning opportunities on the adequate rearing of children and on a positive parent-child relationship, (iii) Protect and assist abandoned or maltreated children and dependents, (iv) Take steps to prevent juvenile delinquency and assist parents of children with behavioural problems so that they can get expert advice, (v) Adopt measures for the health of children, (vi) Promote the opening and maintenance of playgrounds and day-care centres and other services that are necessary for child and youth welfare, (vii) Coordinate the activities of organizations devoted to the welfare of children and secure their cooperation, (viii) Promote wholesome entertainment in the community, especially in movie houses, and (ix) Assist parents whenever necessary in securing expert guidance counselling from the proper governmental or private welfare agencies.

⁷⁷ There are currently 18 geographical regions in the Philippines consisting of several provinces, cities and municipalities. One RCWC/RSCWC is established per region. The RCWC/RSCWC is created under the Social Development Committee (SDC) of the respective RDCs. The RDCs are the regional coordinating bodies for all concerns and issues confronting a specific region.

Abuse and Commercial Sexual Exploitation of Children (SC-SACSEC), (iii) Subcommittee on Children Affected by Armed Conflict and Displacement (SC-CAACD), (iv) National Network on Street Children (NNSC), and (v) National Child Labor Committee (NCLC).

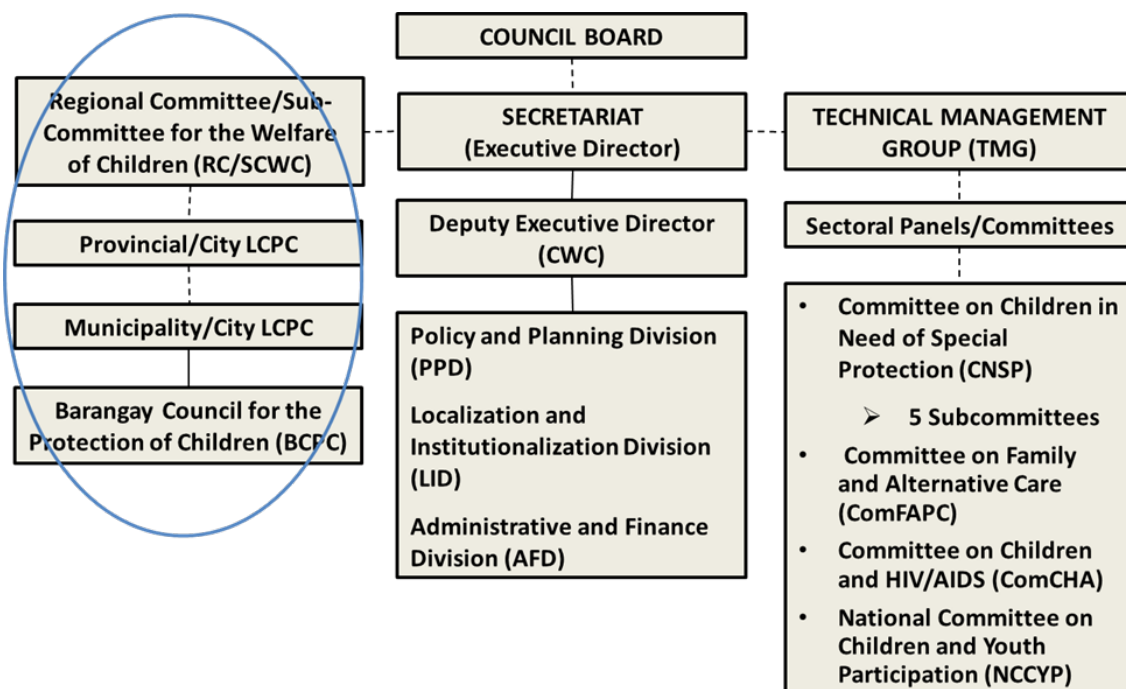


Figure 1. CWC Organizational Structure Establishing the Link to the LCPCs

Other agencies/mechanisms involved in the enforcement of the Act, particularly child abuse cases, include the following:

1. In 1995, EO 275 was issued to create the Committee for the Special Protection of Children (CSPC)⁷⁸ composed of national line agencies to assess, implement and monitor the aforementioned policy. It was strengthened through EO 53 as the body principally responsible for coordinating and monitoring the investigation and prosecution of cases involving violations of RA 7610 and other child-related criminal laws. Further, it is also responsible for the formulation and monitoring of the GPCP. The CSPC is chaired by both Secretaries of the DOJ and DSWD.
2. The DSWD plays a vital role in the management of child abuse cases and other violations of children's rights. Several legislations mandate the DSWD to lead in the policy formulation, planning, development, implementation, monitoring and evaluation of programs and services towards addressing these cases. Further, DSWD manages Crisis Intervention Units

⁷⁸ Also referred to as Special Committee for the Protection of Children (SCPC) in other documents.

(CIUs), residential care and temporary shelter units for [child] victims of abuse.

The CIUs provide emergency services to victims of abuse on a 24-hour basis which includes counseling services, stress debriefing, financial assistance to defray medical expenses in case the victim needs immediate treatment and medical attention, transportation assistance, and temporary shelter. Through the CIU, working arrangements with appropriate government, non-government, professional and civic organizations are established for the benefit of the clients. Aside from that, there are social welfare and development agencies (SWDA) registered, licensed, and accredited by the DSWD that provides services to children victims and also operated residential and community-based [care] facilities.

3. Women and Children Protection Center (WCPC) of the Philippine National Police (PNP) which directs and formulates strategies and projects for the functionality of Women and Children's Protection Desk (WCPD), supervise, monitor and evaluate the same as well as having the responsibility to investigate sex crimes against children. The establishment of WCPDs in police stations as well as increasing awareness of the community has encouraged reporting of abuses, thus the increase in statistics.
4. The Department of Health (DOH), together with the University of the Philippines (UP) Manila, Child Protection Network (CPN)⁷⁹, national and local government agencies and non government organizations, has established 79 Women and Children Protection Units (WCPUs) nationwide.⁸⁰ To date, said WCPUs have served and cared for a total of 47,814 abused and high-risk children [and their families].⁸¹ Meanwhile, the National Bureau of Investigation (NBI) and the PNP opened centers for medico-legal evaluation.
5. Bantay Bata 163 is a program managed by the ABS-CBN Foundation that provides shelter, therapy and quality home care for rescued children until family reunification.⁸²

79 The CPN is an NGO that supports the training of Child Protection Professionals including judges, prosecutors, social workers, and the police and ensures accessibility of services for abused children through the establishment of WCPUs. In 2011, DOH recognized the training given by CPN as the required training of WCPU physicians.

80 A WCPU is a unit composed of multi-disciplinary team of trained physicians, social workers, mental health professionals and police providing comprehensive medical and psychosocial services to women and children victims of violence. DOH AO 2013-0011.

81 Taken from the Message of the CPN Executive Director Bernadette J. Madrid, MD.
<http://childprotectionnetwork.org/executive-directors-message>

82 Bantay Bata 163 is a child welfare program of ABS-CBN Foundation that not only rescues and rehabilitates sick and abused children, but also provides shelter, therapy and quality home care for rescued children until they can be reunited with their family. Description taken from Official Facebook Account
<https://www.facebook.com/Bantay-Bata-163-359475654597/>

6. Child Rights Center (CRC) of the Commission on Human Rights (CHR) created in 1994 ensures that status, rights and interests of children are upheld in accordance with the Constitution and international instruments like the UNCRC.⁸³

4. Review Phase

Despite the Special Protection Act, programs and mechanisms, the number of children victims of abuse, neglect, exploitation and other abuses is still increasing (*refer to Table 1. Violence Against Children by Case Type*). This may mean that current initiatives are still lacking or may be poorly implemented or managed. However, it should also be noted that service delivery is affected by the rapid growth of population which spreads programs, services and budget allocation thinly.⁸⁴

Additionally, the geographical configuration of the country, natural and man-made disasters (i.e. sieges related to armed conflict), decentralization of programs and services, and increasing poverty give rise to both economic and social problems. Further, rapid technological advancement, urban migration and congestion, and increased participation of women in the labor force, among other developments - have both positively and negatively affected families specially children.

a. Policy and legislative issuances

The 2005 and 2009 Concluding Observations of the UN Committee on the Rights of the Child on the Philippine Periodic Reports on the UNCRC implementation confirmed that the Philippines has a fairly strong legal basis for child protection but lack consistent and effective enforcement of laws. Additionally, existing penalties and fines are insufficient to deter perpetrators.

The following table shows the cases of child rights violations. Moreover, according to the 2015 National Baseline Study on Violence Against Children (VAC), three (3) out of five (5) children are abused, physically and psychologically, and bullied while almost one (1) of five (5) is sexually exploited.

83 The Commission on Human Rights is an independent constitutional body which monitors the compliance of the government with national and international [treaty] obligations.

84 In 1990, the population of children was 28.69 million and by 2007, it has ballooned to 38.2 million. This is excluding the number of unregistered children who are mostly from the Autonomous Region in Muslim Mindanao (ARMM).

Table 1. Violence Against Children by Case Type

Type of Crime	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Total Cases	7,113	7,430	6,217	5,978	6,505	8,504	9,787	13,313	14,221	15,028
Rape	3,019	3,027	2,739	2,136	2,402	2,935	3,040	3,356	3,623	3,355
Incestuous Rape	225	183	188	183	218	229	211	144	183	253
Attempted Rape	293	244	224	169	213	221	251	288	257	253
Acts of lasciviousness	1,089	1,056	932	719	699	874	918	1,111	1,194	1,227
Physical Injuries/Maltreatment	1,939	1,884	1,207	1,168	1,137	1,450	2,368	3,628	3,204	3,566
Kidnapping	42	109	50	23	26	17	37	34	31	56
RA 9208(Child Trafficking)	0	0	0	3	59	68	0	124	88	103
Others	0	0	0	321	130	35	90	56	173	795
Others Forms of RA 7610	239	594	606	882	1,092	2,082	2,118	3,689	4,561	4,025
Child Trafficking	15	18	44	48	0	0	0	0	0	0
Child Labor	48	22	17	5	6	1	6	3	3	4
Child Prostitution	41	37	8	14	15	12	12	7	7	7
RA 9262	-	0	41	50	33	52	60	87	88	84
Other forms of child abuse	135	517	496	765	1,038	2,017	2,040	3,592	4,463	3,930
Other Related Crimes	267	333	271	374	529	593	754	883	907	1,395

*Source: As reported under Violence Against Children Section, p. 94
Child Poverty in the Philippines. UNICEF and PSA. Philippines. 2015.*

The cases continue to rise despite the following legislations enacted in support to and/or to amend the RA 7610 to provide for stronger measures for the protection of children:

1. RA 9262 issued on 08 March 2004 or the Anti-Violence Against Women and their Children Act which provides protective measures for women and children victims and prescribes penalties. To further support it, a Joint Memorandum Circular (MC) of the Department of the Interior and Local Government (DILG), DSWD, Department of Education (DepEd), DOH and the Philippine Commission on Women (PCW) provides for the Guideline in establishing a VAWC desk in every barangay.
2. RA 9344 or the Juvenile Justice and Welfare Act provides protection rights for children at risk and children in conflict with the law from prevention to rehabilitation & reintegration.
3. Working Children. RA 7658 prohibits the employment of children below fifteen (15) years of age in public and private undertaking. Issued on 19 December 2003, the Act for the Elimination of the Worst Forms of Child Labor empowers relevant NGAs to protect and save children from hazardous working environment provided it is within their mandates. Following that, RA 10631 or the “Batas Kasambahay” prohibits the employment of minors in domestic services. According to the 2011 National Survey on Children, an estimated 2.1 million children aged 5–17 years old were engaged in child labor. Of said number, 61.90% were working in hazardous environments. They

are distributed in the following industries - agriculture (58.4%), services (34.6%), and industry (7.0%).⁸⁵

4. [Child] Trafficking. The Anti Trafficking in Persons Act or RA 9208 issued in 2003 amended by RA 10364 or the Expanded Trafficking in Persons Act of 2012. The latter expands RA 9208 to institute policies to eliminate trafficking in persons especially women and children, establishing the necessary institutional mechanisms for the protection and support of trafficked persons, providing penalties for its violations and for other purposes. From 2005 to July 2014, there have been 136 convictions with the number of persons convicted at 154 under violation of RA 9208 as amended by RA 10364.⁸⁶
5. RA 9775 or the Anti-Child Pornography Act provided clear definition of what constitutes child pornography and its corresponding penalties. Tasked to coordinate and monitor the implementation of said Act is the Inter-Agency Council Against Child Pornography (IACACP). Key items of the Act include the criminalization of grooming⁸⁷ and mandatory reporting of business establishments and internet service providers (ISPs) upon discovery that their servers or facilities are being used to commit offences related to child abuse materials.⁸⁸
6. RA 10627 or the Anti-Bullying Act which protect learners from bullying, discrimination and abuse.
7. EO 138 issued in 2013 institutionalizing the Monitoring, Reporting and Response System (MRRS) on the GCRVs in the Context of Armed Conflict (CAC). The primary objective of said system is to prevent the occurrence of GCRVs and ensure provision of appropriate intervention in situations of armed conflict. A designated hotline is managed by the CWC to receive reports of GCRVs.

b. Program

The special protection measures for children need to be strengthened for compliance, enforcement and implementation. Specifically, the 2nd NPAC Mid-Term report states that the following is needed:

85 As reported in the 2nd NPAC Mid Term Report, CWC, 2016

86 Situationer of the Filipino Children as presented by Dir. Marijoy Segui, CWC Deputy Executive Director in the 4TH Philippine National Children's Conference (PNCC) on May 2016

87 RA 9775, Section 3. Grooming is the act of preparing a child, or someone who the offender believes to be a child, for sexual activity or a sexual relationship by communicating any form of child pornography. It includes online enticement or enticement through any other means

88 RA 9775, Section 9

1. Establishment of a more forceful and systematic monitoring mechanism to deter the trafficking of children, for purposes of sexual exploitation and labor.
2. Mandatory training of law enforcement officials, prosecutors, and judges on child protection concerns.
3. Ensure timely and adequate investigations of all cases of child abuse and violence within a child-friendly procedure.
4. Provision of free legal support services and protection during case proceedings and access to adequate counseling.
5. Conduct of a comprehensive qualitative and quantitative study to assess the causes, nature and extent of commercial sexual exploitation and pornography.

c. Governance

In the Third and Fourth Country Report to the UNCRC, the Philippines cited the creation of structural conditions conducive to the promotion, protection and fulfillment of human rights, especially children, as its biggest long-term challenge. Additionally, the 2015 Research on Violence Against Children recognized that there are gaps in the capacity and resources, limitations in scope, and challenges in sustainability of the current protection system

Aside from the strong partnership and collaboration among multi-level structures, the functionality of the said structures is necessary for the effective implementation of programs and services for children. Based on the 2015 Child Friendly Local Governance Audit (CFLGA), of the 1,436 audited LGUs, 1,097 reported having functional MCPC/CCPC. Meanwhile, 1,006 LGUs reported that more than 50% of their BCPCs are functional.⁸⁹ Despite that, child protection system remains ineffective and the following reasons contribute to this:

1. Lack of awareness and clarity of the role of LCPCs. Further, the issuance of new laws and programs created additional demands on the LCPCs to handle child protection in terms of [technical] capability and fund allocation.
2. The devolution of services resulted to great diversity in the actual implementation of programs and services. In a recent interview, the Secretary of the Department of Budget and Management (DBM) mentioned that LGUs are not allocating and utilizing enough funds for social services (only 25% of LGU budget).⁹⁰ In the 2015 CFLGA Results, 1,099 LGUs reported

⁸⁹ An Analysis of the 2014 and 2015 CFLGA, Obtinario, 2016

⁹⁰ “Local Governments not spending enough on social services – budget chief”, by Aika Rey published on 27 February 2017.

<http://www.rappler.com/nation/162338-diokno-lgu-spending-social-services>

allocating 0.01% – 4.99% of their total budget for children; however, these were for programs such as supplemental feeding and scholarship grants.⁹¹

3. Children are not included in the priority agenda of the LGU. The Local Chief Executive (LCE) plays an important role in mobilizing the LGU towards child rights promotion and protection.

In the same way, CWC recognizes the need to strengthen the institutional capacity of the RCWCs/RSCWCs. The assessment of said structure noted that it was unable to conduct regular meetings nor was it able to carry out monitoring of children's situations in the LGU using child well-being indicators.⁹²

At the national level, a Convergence of Councils and Committees for Children, led by the CWC, was created to for collaboration and coordination of efforts. Members include the GSPC, Early Childhood Care and Development Council (ECCDC), IACAT, Inter-Agency Council Against Child Pornography (IACACP), the Juvenile Justice and Welfare Council (JJWC), National Nutrition Council (NNC), National Child Labour Committee (NCLC), National Council on Disability Affairs (NCDA), and the National Council for Children's Television.

On another note, more than half or 43 provinces of the 81 total/targeted provinces have an established WCPU. Additionally, 1,216 LGUs reported the issuance of an Ordinance establishing VAWC Desks in their locality. However, there is no report yet regarding its functionality.

5. Database

The Subwaybay Bata Macro Monitoring System (SBMS) under the CWC, which has 209 indicators, provides general and aggregated situationer of children on both national and regional levels. It supports the development of the Philippine Report on the Progressive Implementation of the UNCRC and the annual State of the Filipino Children Report (SOFCR). SBMS input is taken from the data generated by the Philippine Statistical System⁹³ and reports provided by CWC member and partner agencies. The following figure illustrates the data flow for the SBMS.

The Results Based Monitoring and Evaluation System (RBMES), also managed by the CWC, provides information on progressive performance and annual reporting on the goals of the 2nd NPAC and its expected results. Additionally, The CWC has proposed to harmonize the SBMS and RBMES into one system.

91 An Analysis of the 2014 and 2015 CFLGA, Obtinario, 2016

92 Mid-Term Report, 2nd NPAC, CWC, 2016.

93 Include, among others, population and household surveys, national demographic health survey, national nutrition survey.

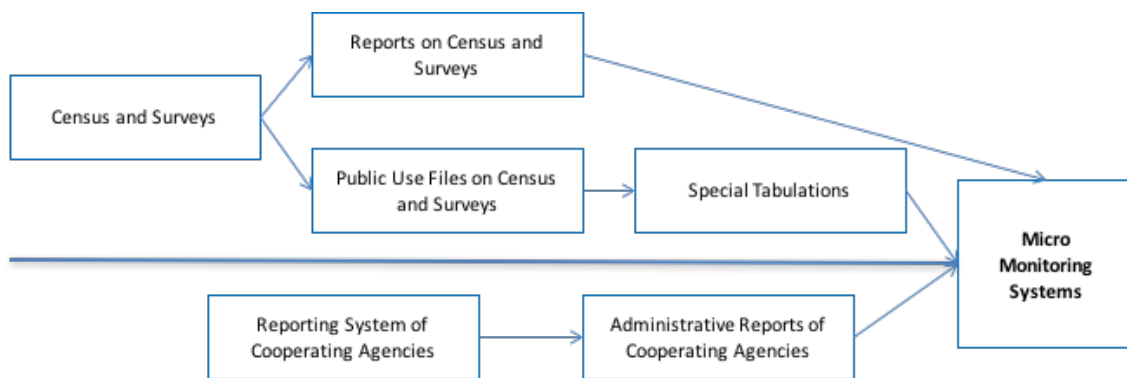


Figure 2. Subbaybat Macro Monitoring System Data Flow ⁹⁴

The CPN developed the Women and Children Protection Management Information System (WCPMIS) software which is capable of generating accurate data on child abuse cases which includes individual case management, process and official reports, and research. For example, the Philippine General Hospital (PGH) CPU alone has 15,399 reported cases of child abuse.

Despite the aforementioned monitoring and database systems in the country, there are still gaps in the available data and information on children that leads to concerns in formulating evidence-based programs and strategies. Gaps include the following:

1. Data consolidation. A systematic strategy to consolidate data is lacking. There are notable inconsistencies between data generated at the national and sub-national level. Reported cases are mostly based on the respective office's assisted/served cases. One concern on this is the possibility of double reporting.
2. Emphasis should be given on the establishment of a database or databank for children statistics that will ensure availability of accurate data for drafting appropriate interventions. One oft cited concern is the non-availability of disaggregated and age-specific population and/or report/s on child-specific concerns.
3. Critical indicators/data on children are not included in data collection of concerned agencies, i. e. children belonging to minorities and indigenous groups, child poverty, and the like.

Future development/s

1. Corporal punishment. Two out of three parents practice corporal punishment to discipline their children. According to studies, this affects and harms the child's physical, emotional, psychological and social well being, however, its practice is considered normative in the Filipino culture. A

⁹⁴ Administrative reports include LGU-level data

proposed bill, introduced in 2011, promotes positive and non-violent forms of discipline in different settings including at home, in school, various institutions, at work, and in detention centers.

2. Minimum age of criminal responsibility (MACR). There is a pending bill in the legislative branch of the government which proposes the lowering of the MACR from 15 to 9 years old. With said proposal, more children will be subjected to judicial proceedings.
3. Age of statutory rape. The proposed amendment to RA 8353 to raise statutory rape from 12 years old to 16 years old is a measure to protect children from sexual abuse. According to the PNP and DOH data, children aged 13-15 years old are the most recorded victims of sexual abuse.
4. Children left behind. An estimated three to six million children have parents who are either Overseas Filipino Workers (OFWs) or imprisoned.⁹⁵ These left behind children become at-risk to abuse, exploitation, early sexual activities leading to early pregnancies and substance abuse. To date, no program has been developed to address the phenomenon of children left behind and its effect on the emotional, physical and psychological development of the child.
5. Along with the 3rd NPAC, the CWC will lead the development of a multi-sectoral plan for violence against children to address the issues and gaps identified in the 2015 research.

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