Assessment of Appropriate Alternative Care Choices for Children Without Primary Caregivers in Tsunami Affected Countries
Indonesia, Malaysia, Myanmar, and Thailand

International Social Service Philippines

Lourdes G. Balanon, Wilhelmina B. Dacanay, Ma. Lyra T. del Castillo, and Marilyn F. Manuel

Objectives

- Review and assess the existing child care services in the selected countries, including the national legal frameworks.

- Assess the current situation of orphanages and residential centers.

- Identify features of effective and useful care and support interventions for children including key components of successful community based programmes.

Objectives

- Assess and compare the various experience/models across the four countries and identify good practices and lessons learned, especially in relation to effective impact on the lives of children.

- Formulate recommendations, identifying sustainable and functional models of alternative care by focusing on community structures.

Objectives

- Assess the current situation of orphanages and residential centers (types location, admission procedures, facilities, number of staff, qualifications of staff, registration, monitoring and funding).

- Identify features of effective and useful care and support interventions for children including key components of successful community based programmes.

Objectives

- Assess and compare the various experience/models across the four countries and identify good practices and lessons learned, especially in relation to effective impact on the lives of children.

- Formulate recommendations, identifying sustainable and functional models of alternative care by focusing on community structures. Include existing challenges, lessons learned from the tsunami response, for policy making and cross-fertilization among UNICEF country offices.
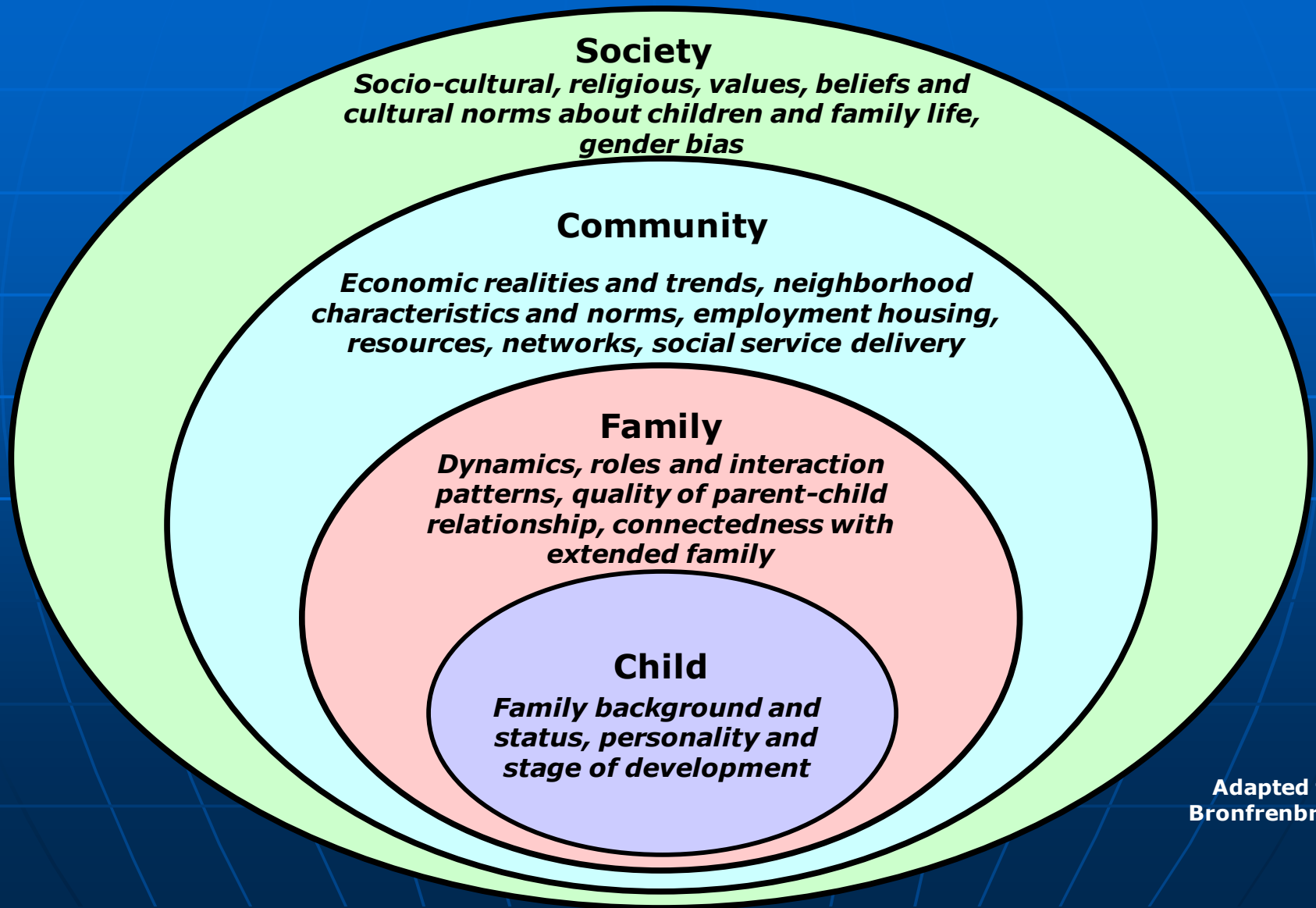
Methodology

- Desk Review
  - country reports to the UN Committee on the Rights of the Child, Annual Reports, brochures, studies/researches conducted, conference/seminar proceedings, legislations, decrees, rules, regulations and guidelines
- Visits to selected institutions
- Key informants interview

Limitations

- Time limitation – two months to visit 4 countries and write the reports
- Some important documents are in country's national language without translations
- Key informants interviews also limited due to language differences

The Ecological Framework

Society
Socio-cultural, religious, values, beliefs and cultural norms about children and family life, gender bias

Community
Economic realities and trends, neighborhood characteristics and norms, employment housing, resources, networks, social service delivery

Family
Dynamics, roles and interaction patterns, quality of parent-child relationship, connectedness with extended family

Child
Family background and status, personality and stage of development

Adapted from Bronfrenbrener

Continuum of Child Welfare Services

Child remains in the care of the family

Child in out-of-home care

SUPPORTIVE

SUPPLEMENTAL

SUBSTITUTIVE

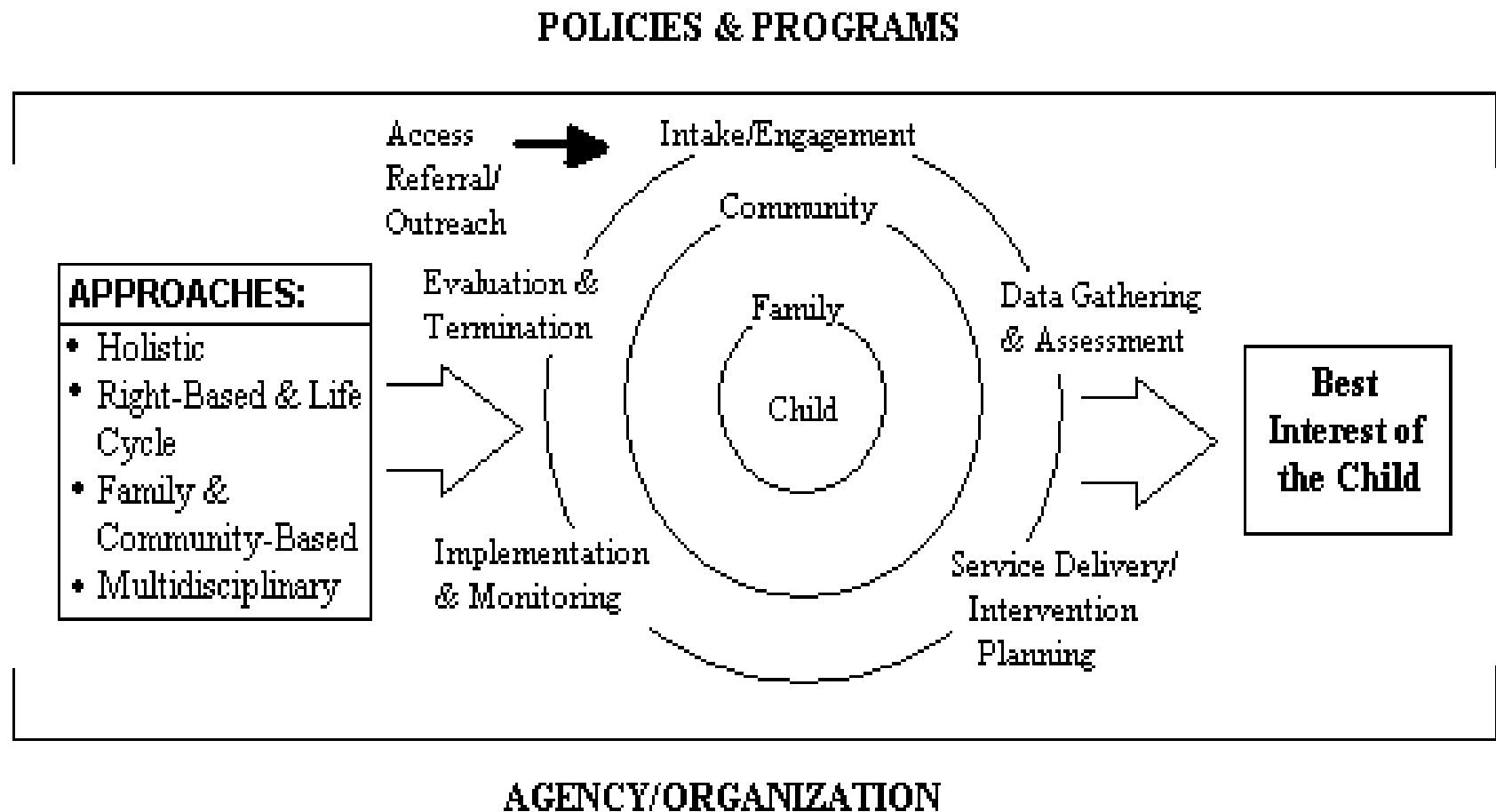| *"1st line" of defense*	*"2nd line" of defense*	*"3rd line" of defense*
Family remains intact but subject to stress e.g. marital conflict	**Parent-child relationship is somewhat impaired because a significant aspect of parental role is inadequately covered but with supplementation the child can continue to live at home without harm**	**Used when the situation is so damaging as to require either temporary or permanent dissolution of parent child relationship**
If the stress is permitted to continue, it might result in structural break such as separation		**Services are designed to provide substitute parental care for children**
Preserve or strengthen families	**Services are designed to augment or discharge some parental role inadequately covered**	**- temporarily**
		- permanently
Services: **Financial assistance, Family counseling, Parent education, Respite care**	*Services*: **Day care, Financial assistance/income maintenance, Protective services**	*Services*: **Foster Care, Residential care, Adoption, Legal Guardianship**

Case Management Framework

POLICIES & PROGRAMS

Access Referral/ Outreach → Intake/Engagement

Community

Family

Child

Data Gathering & Assessment

Evaluation & Termination

Implementation & Monitoring

Service Delivery/ Intervention Planning

APPROACHES:
- Holistic
- Right-Based & Life Cycle
- Family & Community-Based
- Multidisciplinary

Best Interest of the Child

AGENCY/ORGANIZATION

Policy Context (International)

Countries	Convention on the Rights of Children	Convention on Organized Transnational Crimes	Protocol on Trafficking in Person	ILO Convention 182	ILO Convention 138	The 1993 Hague Convention
Indonesia	Ratified 1990	Signed 12/12/00	Signed 12/12/00	Ratified 28/03/00	Ratified 07/06/99	
Malaysia	Accession Feb 1995	Signed 26/09/02		Ratified 10/11/00	Ratified 09/09/97	
Myanmar	Ratified 15/08/91	Ratified 29/01/04	Ratified 29/01/04			
Thailand	Ratified 12/02/92	Signed 13/12/00	Signed 18/12/01	Ratified 16/02/01	Ratified 11/05/04	Ratified 01/08/04

Policy Context (International)

- 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility

- Declaration on Social and Legal Principles relating to the Protection and Welfare of Children with Special Reference to Foster Placement and Adoption Nationally and Internationally

Policy Context (Regional)

- Bali Concord II- Vientiane Action Plan
- Declaration on the Commitments for Children in ASEAN
- ASEAN Declaration on HIV/AIDS
- ASEAN Declaration Against Trafficking in Persons Particularly Women and Children

Policy Context (Regional)

- ASEAN Tourism Agreement

- East Asia and Pacific Ministerial Consultation on Children

Findings

- All four countries have national laws and other related laws for the protection of children.

- Laws are in place but there are gaps in implementation

National Laws on Children and Other Related Laws

Country	Main Law on Children	Adoption	Foster Care	Guardian-ship	Residen-tial Care
Indonesia	Children's Welfare Law 1979	Law no 23 Other legislations covers both domestic and inter Country Adoption	No specific Law only Guidelines for Non-institutional Services to Neglected/ Abandoned Children	Law No. 23 Art 33-36 provides that an individual or institution can be appointed as guardian	
Malaysia	Child Act 2001	Adoption Act 1952 Registration of Adoption Act 1952	Child Act 2001	Child Act 2001 Islamic Family Law (Federal Territories) Act 1984	Care Centres Act 1993 Child Act 2001

National Laws on Children and Other Related Laws

Country	Main Law on Children	Adoption	Foster Care	Guardian-ship	Residen-tial Care	Others
Myanmar	Child Law 1993	Burmese Buddhist Law Registration of Kittima Adoptions Act, 1941			Provisions included in the Child Law	
Thailand	Child Protection Act 2003					Suppression and Prevention of Prostitution Act 1996

Findings

- Some provisions of the national laws are not harmonized with the UN CRC
  - Right to a name and a nationality (stateless children)
  - Right to a family
  - Some adoption processes are discriminatory
  - There are no venues for children to participate

Findings

- In all four countries, there are varying degrees and forms of family- and community-based programs such as adoption, foster care, guardianship, kinship care.

Findings

- In all four countries, residential care is the major response to children without parental care

Residential or Institutional Care
- Reception Centers or Child protection Centers
- Orphanages
- Training schools
- Boarding schools (*Pesantren*)
- Monastic schools
- Family / cottage system
- Children's homes (Panti)

Findings

- These institutions are large with approximately 200 to 300 children per institution.

- The children are moved from one institution to another

- Parental visits are not encouraged resulting in long-term institutionalization

Findings

- Limited or no case management
- Data not disaggregated by age, gender, category, and types of services provided
- Children admitted are orphans, abandoned, neglected, abused or whose parents are poor
- Inadequate specific services to address different types of problems of children

Findings

- Facilities are generally managed by government, NGOs and faith-based organizations

- Facilities are generally clean and safe but some need improvements-repair of buildings, sanitation and physical arrangements-dormitory type, central kitchen and dining room

Findings

- Foster care as a child welfare service is not clearly understood except in Thailand and Malaysia

- Term is interchangeably used for informal "adoption" or informal kinship care or guardianship

- Constraints are due to social, cultural and religious factors

The Practices of Alternative Care

Country	Adoption	Foster Care	Guardian-ship	Kinship Care	Residential Care
Indonesia	Domestic adoptions are encouraged Foreigners are allowed to adopt only in the country	Informal fostering of related and non-related children	"Guardianship" is interchanged with adoption		Preferred response to children without parental care
Malaysia	De facto adoption of Muslim children Adoption of non-Muslim children allowed	Foster families given subsidy by DSW			Children's homes managed by DSW and NGOs; moving to family/cottage system, standards used to authorize NGOs

The Practices of Alternative Care

Country	Adoption	Foster Care	Guardian-ship	Kinship Care	Residential Care
Myanmar	Three agencies are involved: Department of Social Welfare, Ministry of Health, Supreme Court Follows Burmese Buddhist law - Three types of adoption	Informal fostering or informal adoption		Orphans are usually looked after by the extended family	Children are moved from one institution to another Minimal parental visits Yadana foster home – a model of group care Beginning draft standards for institutional care

The Practices of Alternative Care

Country	Adoption	Foster Care	Guardian-ship	Kinship Care	Residential Care
Thailand	Allows inter-country adoption	An effective substitute for family care		Their culture supports a kinship care program	Big residential facilities

Findings

- Inadequate capability building activities focused on case management to meet specific needs of children

- There are on-going partnerships between and among GOs, NGOs, private sector, INGOs and UN agencies

Good Models

- Family support programs (Malaysia)
- Family-cottage type of care (Indonesia, Malaysia & Myanmar)
- Foster care and inter-country adoption (Thailand)

- Smart partnership (Malaysia)
- Corporate responsibility (Myanmar)

Challenges

- De-institutionalization
- Development of community-based services: family support, foster care and adoption within their socio-cultural, religious milieu
- Adopting standards of child care services by faith-based organizations

Challenges

- Professionalization of social work practitioners and para-professionals
- Promotion of the rights of a child to:
  - identity and nationality
  - belong to a family
  - express his/her views on matters related to his life

Recommendations

- Review of laws to harmonize with the Convention on the Rights of the Child
- Ensure enforcement of laws to protect the rights of children

- Improve existing conditions of institutions to have more family-like environment

- Develop and implement supportive, supplementary and substitutive services for children and families as an integral component of a comprehensive and holistic social welfare and development programs; institute a case management system

Recommendations

- Interventions must be developed at all levels – child, family, community and society taking into consideration the socio-cultural, religious, economic and political factors that affect the lives of children and families

- Develop and review standards on alternative parental care to ensure quality care and protection of the rights of children

- Capability building for professional social workers and child caregivers to enhance their knowledge and skills in case management

Recommendations

- Encourage collaborative partnership between and among GO, NGO, private sector, faith-based organizations, international agencies and all concerned stakeholders

- Improve data collection and management as a tool for planning and case management

- Advocacy on the rights of children, particularly on children's participation

THANK YOU!