

Situation Analysis of Women and Children in Malaysia 2020



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Situation Analysis of Women and Children in Malaysia

2020



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ACWC

Commission on the Promotion and Protection of the Rights of Women and Children

AIDS

Acquired Immune Deficiency Syndrome

ASEAN

Association of South East Asian Nations

B40

Bottom 40 per cent of wealth quintile

CAT

Convention against Torture

CEDAW

Convention on the Elimination of all Forms of Discrimination Against Women

CERD

Convention on the Elimination of All Forms of Racial Discrimination

CESCR

International Covenant on Economic, Social and Cultural Rights

CRC

Convention on the Rights of the Child

CRPD

Convention on the Rights of Persons with Disabilities

CSAM

Child Sexual Abuse Materials

CSE

Comprehensive Sexuality Education

CSO

Civil Society Organisation

DHS

Demographic Household Survey

DOSM

Department of Statistics Malaysia

DSW

Department of Social Welfare

DTP

Diphtheria, Tetanus, and Polio

ECE

Early Childhood Education

ECD

Early Childhood Development

ECCD

Early Childhood Care and Development

EFA

Education for All

EPU

Economic Planning Unit

FGM/C

Female genital mutilation or cutting

GBV

Gender-based Violence

GC

General Comment of a human rights treaty body

GDP

Gross Domestic Product

GII

Gender Inequality Index

GOM

Government of Malaysia

GPA

Grade Point Average

GR

General Recommendation of a human rights treaty body

HDI

Human Development Index

HIV

Human Immunodeficiency Virus

HPV

Human papillomavirus

ICCPR

International Covenant on Civil and Political Rights

ICERD

International Convention on the Elimination of All Forms of Racial Discrimination

ICESCR

International Covenant on Economic, Social and Cultural Rights

ICT

Information and Communications Technology

IEP

Inclusive Programmes

ILO

International Labour Organization

IMF

International Monetary Fund

(I)NGO

International Non-governmental Organization

JAG

Malaysian Joint Action Group for Gender Equality

JPNIN

Department of National Unity and Integration

KAP

Kurikulum Bersepadu Orang Asli

KSPK

Standard National Pre-school Curriculum

KRI

Khazanah Research Institute

LGBTI+

Lesbian, Gay, Bisexual, Transgender and Intersex and other sexuality, sex and gender diverse persons

LPPKN

National Population and Family Development Board

MAPO

Council on Anti-Trafficking in Persons and Anti-Smuggling of Migrants

MCMC

Malaysian Communication and Multimedia Commission

MESTECC

Ministry of Energy, Science, Technology Environment and Climate Change

MWFC

Ministry of Women and Community Development

MDG

Millennium Development Goals

MEB

Malaysia Education Blueprint

MHM

Menstrual Hygiene Management

MIS

Multiple Indicator Survey

MOE

Ministry of Education

MOH

Ministry of Health

MRRD

Ministry of Rural and Regional Development

NCD

Non-communicable Disease

NEP

New Economic Policy

NGO

Non-Governmental Organisation

NHMS

National Health and Morbidity Survey

NHRAP

National Human Rights Action Plan

NPW

National Policy on Women

NRD

National Registration Department

NTP

National Transformation Program

OA

Orang Asli

OBB

Outcome Based Budgeting

OECD

Organisation for Economic Co-operation and Development

OOSC

Out of School Children

OSCC

One-Stop Crisis Centre

PISA

Program for International Student Assessment

PPR

People's Housing Project

RM

Malaysian Ringgit

RNI

Recommended Nutrient Intakes

SCAN

Suspected Child Abuse and Neglect

SDGs

Sustainable Development Goals

SEIP

Special Schools Integration Programmes

SEN

Special Educational Needs

SitAn

Situation Analysis

SOMSWD

Senior Officials Meeting on Social Welfare Development

SOP

Standard Operating Procedure

SPM

Sijil Pelajaran Malaysia

SRH

Sexual and Reproductive Health

STB

Sekolah Tunas Bakti (Approved School)

STD

Sexually Transmitted Diseases

STEM

Science, technology, engineering, and mathematics

STI

Sexually Transmitted Infections

TB

Tuberculosis

TIMSS

Trends in International Mathematics and Science Study

UDHR

Universal Declaration of Human Rights

UN

United Nations

UNDAF

UN Development Assistance Framework

UNDRIP

United Nations Declaration on the Rights of Indigenous Peoples

UNESCO

United Nations Educational, Scientific and Cultural Organization

UNFPA

United Nations Population Fund

UNHCR

United Nations High Commissioner for Refugees

UNICEF

United Nations Children's Fund

UPSR

Ujian Pencapaian Sekolah Rendah

USD

United States Dollar

VAC

Violence Against Children

VAW

Violence Against Women

WASH

Water, Sanitation and Hygiene

WHA

World Health Assembly

WHO

World Health Organisation

WSSS

Water Supply, Sewerage, and Sanitation

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Sarina (name changed to protect identity), 17, with her one-year-old child. Sarina got married in 2016, when she was 15 years old. Her husband, 18, is a fisherman. They live with Sarina's parents in a slum settlement built on water in the state of Sabah.

Executive Summary

1. INTRODUCTION

The Situation Analysis (SitAn) presents a broad assessment and analysis of the situation of children and women in Malaysia, and the realisation of their rights, identifying gaps and priority areas in which action should be taken to accelerate progress. The immediate purpose of this report is to inform the strategic planning discussions for the development of the UNICEF–Government of Malaysia (GOM) Country Programme 2021-2025 and other planning processes, such as UNSDCF (UN Sustainable Development Cooperation Frameworks – previously UNDAF), for which UNICEF and the GOM are already undertaking preparatory work. The SitAn will also support national planning and development processes, in particular the GOM's 12th National Development Plan 2021-2025.

Within this context, the broader purpose of the SitAn is to update knowledge and understanding of the country situation with respect to the rights of children and women, to analyse the capacity of duty bearers at all levels to meet their obligations in the fulfilment of these rights and to make specific recommendations for future action, programme interventions and policy directions. This SitAn aims to take stock of Malaysia's gains and successes in the implementation of the rights of children and women within Malaysia, while highlighting key challenges, deprivations and groups of children and women that remain left behind, including those affected by structural inequities.

The methodology included a comprehensive review, synthesis and examination of available data from a variety of sources. The assessment of child outcomes relied primarily on a review of key administrative and survey data, government reports, academic literature, reports by research institutions and non-governmental organisations (NGOs), and key laws, policies and strategies. To ensure the collection of relevant data and the generation of accurate and relevant findings, six experts were commissioned to produce specialised reports in the following sectors: poverty and socio-economic analysis; health and nutrition; early childhood development and education; child protection; and the rights of refugee, stateless and migrant children. One legal specialist was also recruited to carry out a comprehensive analysis of laws and policies relating to children in Malaysia, across all sectors. In addition, a number of stakeholder engagement exercises were carried out in 2018 and 2019 to inform the focus and content of the report. These exercises involved a wide range of key Government representatives, NGOs, civil society organisations (CSOs), development organisations and adolescents and young people across the country.

Adolescent engagement in the development of the SitAn

Adolescents across the country were engaged throughout the research and drafting of the SitAn. This included a large, external workshop carried out in Kuala Lumpur in September 2018 involving around 100 participants from the Government, UN bodies, NGOs, academia, child rights advocates, and a number of young people who were advocates from marginalised groups (young refugees and persons with disabilities). In addition, a series of three consultations took place involving 129 adolescents in the peninsula (Selangor), Sabah (Kota Kinabalu) and Sarawak (Kuching). The consultations provided a space for adolescents to identify priority issues affecting children and adolescents in Malaysia and to carry out causal analyses in relation to these issues. This group represented diverse populations, and marginalised and vulnerable groups of adolescents were specifically targeted, including refugees and asylum-seekers, undocumented migrants, adolescents with disabilities, adolescents from poor urban communities, indigenous adolescents and adolescents with experience of alternative care. Feedback from the consultations were used to help identify priority areas for the report, develop causality analyses and validate the report's findings. Adolescent voices were also captured through a range of U-Report polls, which are referenced throughout this report.

2. CONTEXT

Malaysia is a culturally diverse upper-middle-income country that, in recognition of its economic development and progress, is soon to be ranked as a high-income country.¹ Its child population is estimated to be 9.3 million² out of a total population of 32.6 million.³ A number of demographic and socio-economic trends have impacted – both positively and negatively – on the realisation of children’s rights, and these trends should be factored into responses to children and women over the coming years. These include:

Malaysia has an **ageing population**: By 2039, Malaysia will be an ‘aged society’ (14 per cent of the population will be aged 65 and above).⁴

Malaysia has seen **rapid rates of urbanisation**, with the balance shifting from three in four members of the population living in rural areas in 1957 to three in four living in urban areas in 2017.⁵ It is predicted that, by 2050, 87.9 per cent of the population will live in urban areas.⁶ This places Malaysia well above the anticipated 2050 regional average of 66 per cent.⁷

Malaysia is a major destination country for many **children, families and persons on the move**, including those who have travelled from Southeast and South Asia, the Middle East and from African countries and those who travel within Malaysia. It is crucial that the Government of Malaysia (GOM) develops and tailors legal and programme frameworks to support children and families on the move.

Persistent gender inequality remains a barrier to the fulfilment of women’s and girls’ rights and to the acceleration of economic development overall.⁸ Malaysia’s gender gap index was 0.676 in 2018, an improvement from 0.692 in 2016 (the lower the GII, the fewer the disparities between men and women in a country and the lower the cost to human development). This places Malaysia 13th out of 18 countries in the East Asia and the Pacific Region, for which data are available, and highlights the need for additional efforts to promote gender equality alongside broader development efforts.⁹

Malaysia’s **economic growth and socio-economic transformation** has delivered positive results for many and the GOM has recorded significant progress in reducing poverty, reporting that income poverty rates fell from 50 per cent in 1970 to 16.5 per cent in 1990, and to 0.4 per cent in 2016.¹⁰ The official multi-dimensional poverty rate was also reported to have fallen from 1.1 per cent of households in 2014 to 0.86 per cent in 2016.¹¹ However, **Malaysia’s poverty line has been set very low** and is not consistent with the cost of living.¹² A more meaningful poverty line, commensurate with countries with similar average income, would see Malaysia’s poverty rate include around 20 per cent of the population.¹³

Despite substantial economic growth and considerable progress in reducing poverty, Malaysia is also a country with **growing social disparities and inequities**, with vulnerable groups not benefitting from economic progress.



Malaysia has developed a strong governance and administrative framework for children and women, though gaps remain. In the past, the governance structure faced criticism that power, authority and financial control were too centralised, residing at the federal level and limiting development and implementation of programmes, policies and services at the local level.¹⁴ The federal structure and the predominance of central government is set out in the 1957 Constitution, though the Constitution also vests certain powers at state and local levels.¹⁵

While **Government expenditure** has increased in key sectors, Malaysia trails behind global and regional averages: overall, public social protection expenditure increased in recent years, but expenditure continues to sit below Vietnam and Singapore in the South East Asian Region, which itself sits far below the OECD average of 21 per cent of GDP.

Malaysia's 11th Plan 2016-2020 sets out an **economic planning framework** and focus areas to further economic development and enhance wellbeing of persons in the country. The plan takes a human-centred approach to development and focuses on, among other areas, uplifting the bottom 40 per cent of the population.

Though Malaysia has made some reservations to provisions in key international human rights conventions and despite some notable gaps, it has made considerable progress towards developing a comprehensive and protective **legal, policy and institutional framework** for children and the realisation of their rights. The key law – the Child Act 2001 (amended most recently in 2016) – provides a strong framework for the protection of the rights of children, though gaps remain. Children and women are also provided protection through a range of different laws, policies and sector strategies. However, Malaysia has a dualist legal system; inconsistencies between civil law, which is applicable to non-Muslims, and Islamic law, which is applicable to Muslims, remain and can result in reduced protection to children and women in some areas.

Finally, children and children's rights in Malaysia are threatened by a number of **risks**. These include but are not limited to: the consequences of climate change; impacts of urbanisation; environmental degradation and pollution; and challenges in social cohesion. Many of these risks cross over and interact to increase children's vulnerabilities to harm, especially for the most vulnerable groups of children.

- 1 Khazanah Research Institute (KRI), 'The State of Households 2018,' October 2018, http://www.krinstitute.org/assets/contentMS/img/template/editor/FullReport_KRI_SOH_2018.pdf p. 152 cited in United Nations Special Rapporteur on extreme poverty and human rights, 'Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019', 2019.
- 2 Department of Statistics Malaysia (DOSM), 'Children Statistics 2019', 26 November 2019.
- 3 Department of Statistics Malaysia (DOSM), 'Children Statistics 2019', 26 November 2019.
- 4 The UN and WHO define an ageing society as one in which more than 7 per cent of the population is 65 years old or more, an aged society as one in which more than 14 per cent of the population is 65 or more and a super aged society as one in which more than 21 per cent of the population is 65 or older.
- 5 World Bank World Development Indicator; Yaakob, U., Masron, T., & Masami, F., *Ninety years of urbanization in Malaysia: a geographical investigation of its trends and characteristics*, J Ritsumeikan Soc Sci Humanit, 2010, 4(3), pp. 79-101.
- 6 UNDESA, 'Population Division, Urban and Rural Areas 2009', <https://www.un.org/en/development/desa/population/publications/pdf/urbanization/urbanization-wallchart2009.pdf>, accessed 29 November 2019.
- 7 UNDESA, 'Population Division, Urban and Rural Areas 2009', <https://www.un.org/en/development/desa/population/publications/pdf/urbanization/urbanization-wallchart2009.pdf>, accessed 29 November 2019.
- 8 For instance, if female labour participation increases by 30 per cent, the national GDP can potentially increase by seven per cent to 12 per cent (KRI, 2018). Increasing the share of women in the labour force is a remedy for Malaysia's ageing population.
- 9 World Economic Forum, *Global Gender Gap Report 2018*, http://www3.weforum.org/docs/WEF_GGGR_2018.pdf. The report includes the following countries in the East Asia and the Pacific Region: New Zealand, Philippines, Lao PDR, Australia, Mongolia, Singapore, Thailand, Vietnam, Indonesia, Myanmar, Brunei Darussalam, Cambodia, Malaysia, China, Fiji, Japan, Korea, Rep. and Timor Leste.
- 10 Economic Planning Unit (EPU), Mid-term review of the Eleventh Malaysia Plan 2016-2020, 2018.
- 11 EPU, Mid-term review of the Eleventh Malaysia Plan 2016-2020, 2018; Malay Mail, "How Malaysia is measuring poverty levels and how it can do better", 6 September 2019, <https://www.malaymail.com/news/malaysia/2019/09/06/how-malaysia-is-measuring-poverty-levels-and-how-it-can-do-better/1787753>, accessed 4 December 2019.
- 12 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019, p. 2.
- 13 KRI, 'The absolute vs relative poverty conundrum', June 2019, pp. 5-6, http://www.krinstitute.org/assets/contentMS/img/template/editor/Views_The%20Absolute%20VS%20Poverty%20Conundrum.pdf, accessed 4 December 2019.
- 14 Kai Oswald, 'Power Distribution and Decentralisation in New Malaysia', 29 August 2019, https://www.iseas.edu.sg/images/pdf/ISEAS_Perspective_2019_66.pdf, accessed 3 December 2019.
- 15 Judhiana Abd. Ghani, et al, *Fiscal Decentralisation and Economic Growth in Malaysia: A Market Preserving Federalism Perspective*, Jurnal Ekonomi Malaysia 53(1), 2019, pp. 153-170; Kai Oswald, Power Distribution and Decentralisation in New Malaysia, 29 August 2019, https://www.iseas.edu.sg/images/pdf/ISEAS_Perspective_2019_66.pdf, accessed 3 December 2019.

3. EQUITY AND CHILDREN LEFT BEHIND

Considerable progress has been made in Malaysia to improve life chances and childhood experiences for millions of children across the country. However, there remain groups of children that do not enjoy the benefits of these gains, who are being left behind their peers, and who are rendered invisible or marginalised through lack of legal status or the application of discriminatory laws, exclusion from data collection systems, social stigmatisation and by virtue of policy vacuums, which all impact on their ability to access essential services and realise their rights.

Indigenous children

Malaysia is home to large indigenous minority populations: it was estimated in 2017 that indigenous persons represented 13.8 per cent of the country's population.¹³⁶ Laws introduced in Sarawak and Sabah during British colonial rule recognising indigenous land rights and customary law are still in place; however, they are not properly implemented.¹³⁷ The Orang Asli (OA) do not enjoy the same legal protections in the peninsula as in Sabah and Sarawak, with customary tenure not legally recognised in Peninsular Malaysia.¹³⁸ Further, OA populations lag behind in terms of accessing social, economic and cultural rights. Land security is a pressing issue facing OA communities: their customary way of life is under threat by development projects, which cause destruction of their lands, impacting on livelihoods and food security.¹³⁹ Issues associated with water supply persist, including disruptions and contamination of water supplies, with impacts on health and nutrition outcomes of OA children.¹⁴⁰

Programmes aimed at addressing the development needs of OA communities have suffered from lack of a common vision and direction that is shared between the Government and OA communities, a lack of a coordinated approach between the many agencies involved and insufficient competent staff 'on the ground'.¹⁴¹

Children from poor households

Many children who are not living in extreme poverty are nonetheless vulnerable to poverty and deprivation. If the poverty line in Malaysia were doubled, the percentage of children living in poverty would immediately increase to 15 per cent. If a poverty line was used that was in line with other countries with comparable GDP per capita, Malaysia's poverty rate would be closer to 20 per cent.¹⁴² In 2016, the B40 (bottom 40th percentage of the wealth quintile) comprised 2.7 million households in Malaysia.¹⁴³ Poverty and deprivation in Malaysia have been identified as a drivers of child labour, child marriage and poor health and nutrition outcomes.¹⁴⁴

Children with no, uncertain or vulnerable legal status

Stateless, undocumented, refugee and migrant children lag far behind their peers in Malaysia, due to exclusion from the systems and policies that have benefitted other children. Common to these groups is their invisibility – limited data and knowledge, exclusion from mainstream policies and lack of policies and legal frameworks designed to meet their specific needs have caused these children to fall behind and become marginalised.

It is very likely that children who have no, uncertain or unfavourable legal status, including stateless, undocumented, refugee and migrant children, experience exclusion from services and significant poverty and deprivation. The continued exclusion of these children and their families from a wide range of social services places them at elevated risk of monetary and multi-dimensional poverty, and their exclusion from official datasets makes the extent of this impossible to assess with confidence.¹⁴⁵

¹³⁶ International Work Group for Indigenous Affairs (IWGIA), *Indigenous World 2019*, p. 275, https://www.iwgia.org/images/documents/indigenous-world/IndigenousWorld2019_UK.pdf, accessed 9 December 2019.

¹³⁷ IWGIA, *Indigenous World 2019*, pp. 276-78.

¹³⁸ IWGIA, *Indigenous World 2019*, pp. 276-78.

¹³⁹ United Nations Malaysia, *Policy brief: Leaving no-one behind: Ensuring a prosperous nation through inclusivity and wellbeing for all* (2019), p. 11.

¹⁴⁰ United Nations Malaysia, *Policy brief: Leaving no-one behind: Ensuring a prosperous nation through inclusivity and wellbeing for all* (2019), p. 11.

¹⁴¹ United Nations Malaysia, *Policy brief: Leaving no-one behind: Ensuring a prosperous nation through inclusivity and wellbeing for all* (2019), p. 12.

¹⁴² Ravallion, *Has Malaysia virtually eliminated poverty?* (2019), available at: <https://economicsandpoverty.com/2019/01/21/has-malaysia-virtually-eliminated-poverty/>

¹⁴³ Malaysia B40 Action Plan, 2018, p. 1.

¹⁴⁴ Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019.

¹⁴⁵ Submission by UNICEF Malaysia to UN Special Rapporteur on Extreme Poverty and Human Rights, June 2019.



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Joy Emmanuel Mbabazi, 5, with his mother at the Borneo International Marathon 2017. Joy was born with tetra-amelia syndrome, a condition characterised by the absence of all four limbs.

Children with disabilities

Until very recently,¹⁴⁶ Malaysia collected very little data on disability in household surveys. As a result, there are limited reliable prevalence data on children with disabilities.¹⁴⁷ The limited data on children with disabilities reinforces their limited visibility and makes it difficult to assess their access to services, support and protection. Overall, children with disabilities do not experience equitable access to services in Malaysia, including education, healthcare and social protection.¹⁴⁸ Despite a number of legal developments which provide a protective framework for children with disabilities, the 'medical model' is still the dominant approach used in Malaysia for understanding disability.¹⁴⁹ This has helped maintain a situation where children and young people with disabilities remain 'passive recipients of services'¹⁵⁰ with no sense of them having individual agency. Children with disabilities also face stigmatisation and there is limited understanding in communities about disability.¹⁵¹

Lesbian, gay, bisexual, transgender and intersex (LGBTI+) children

Limited data are available about LGBTI+ children in Malaysia. However, the legal, policy and social environment in Malaysia inevitably leads to challenges and barriers for these children. The criminalisation of same-sex relationships restricts access by LGBTI+ children to information and services, and likely fuels intolerance and stigmatisation. The criminal legal framework can also be used to punish those with non-conforming gender expression for impersonation-related crimes.¹⁵² This criminal framework and the impact of Syariah law and conservative religious teachings relating to LGBTI+ persons can have a very negative impact on the mental health and physical well-being of these children in Malaysia.

146 In 2018, UNICEF commissioned the UNICEF/Washington Group Child Functioning Module into Bahasa Malaysia in order to encourage the collection of data on children with disabilities in the 2019 Census, which is currently underway.

147 UNICEF, *Issue Brief, Children with Disabilities in Malaysia*, 2019.

148 UNICEF, 'Children out of School – Malaysia: The Sabah Context', 2017, p. 25. <https://www.unicef.org/malaysia/media/896/file/Out%20of%20School%20Children.pdf>, accessed 26 November 2019.

149 UNICEF, *Childhood Disability in Malaysia*, 2017.

150 Abdullah, Hanafi and Hamdi, *The rights of persons with disabilities in Malaysia: the underlying reasons for ineffectiveness of Persons with Disabilities Act 2008*, 2017.

151 UNICEF, *Childhood Disability in Malaysia*, 2017, p. 75-77.

152 UNESCO, *From Insult to Inclusion: Asia Pacific Report on school bullying, violence and discrimination on the basis of sexual orientation and gender identity*, 2015, p. 19.

4. OVERVIEW: PROGRESS AND GAPS IN THE REALISATION OF CHILDREN'S RIGHTS IN MALAYSIA

The GOM has made strong progress in a range of areas, including substantial progress in reducing extreme poverty, reducing maternal and child mortality, reducing some communicable diseases, and achieving near-universal access to safe water, sanitation and hygiene. However, in other areas, progress has been slow or has reversed, and is not on track to meet the Sustainable Development Goals (SDGs) and national development goals. The GOM will need to accelerate progress in these areas to ensure that children in Malaysia survive and thrive and that their rights are fulfilled.

Poverty, inequality and social protection for children

On the whole, Malaysia has made considerable progress in reducing the overall **incidence of extreme poverty**, as measured by the proportion of the population living below the national poverty line. However, the poverty line is inappropriately low for an upper-middle-income country that is soon to be a high-income country.¹⁵³ If a similar poverty line was used to other countries with comparable GDP per capita, Malaysia's poverty rate would be closer to 20 per cent.¹⁵⁴ Similarly, if poverty were measured in relative terms, the number of children living below the poverty line would jump from 0.35 per cent to 12.6 per cent, or 1,166,120.¹⁵⁵

Poverty and deprivation vary across the country and across population segments. While poverty rates in urban areas may be lower than in rural areas, income inequality is higher in urban locations.¹⁵⁶ This indicates the presence of pockets of poverty and segments of society that are deprived and whose situation has not been captured by the overall view of urban areas. A recent

study showed that seven per cent of children residing in Kuala Lumpur's low-cost flats are living in poverty, even though the city's absolute poverty rate is officially zero.¹⁵⁷

In urban and rural Sabah, poverty rates are around four and 13 times the national average respectively.¹⁵⁸ In Peninsular Malaysia, extreme poverty exists on a more localised scale with hotspots in northern Kelantan, Terengganu and Hulu Terengganu that are close to three times the national average.¹⁵⁹

The poverty rate among female heads of households is still higher compared to male heads of households, though this gap reduced from 0.4 percentage points in 2009 to 0.1 percentage point in 2016.¹⁶⁰

It is likely that children who are undocumented and/or stateless experience higher rates of poverty and deprivation in Malaysia. The continued exclusion of these children and their families from a wide range of social services places them at elevated risk of poverty, although their exclusion from official datasets makes the extent of their vulnerability almost impossible to assess.¹⁶¹

In Malaysia, there are around 100 **social protection programmes** spread across 20 Government agencies.¹⁶² Despite this, there are gaps in coverage, along with fragmentation and funding shortages. As of 2017, Malaysia's expenditure on social protection was lower than in all Southeast Asian countries for which data was available. In addition, expenditure on social protection has not risen in step with the GDP.¹⁶³ Much of Malaysia's social protection expenditure does not adequately cover poor households. The largest proportion of expenditure

153 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019.

154 Ravallion, *Has Malaysia virtually eliminated poverty?*, 2019, <https://economicsandpoverty.com/2019/01/21/has-malaysia-virtually-eliminated-poverty/>, accessed 4 December 2019.

155 UNICEF, 'Introducing and Costing a Child Grant in Malaysia', UNICEF Malaysia Working Paper 2017; UNICEF Malaysia Country Office; Calculations based on DOSM, *Household Income and Basic Amenities Survey*, 2016.

156 Baker, Judy L.; Lee, Marcus, World Bank, *Achieving a system of competitive cities in Malaysia: Main report*, 2015, <http://documents.worldbank.org/curated/en/709061475743434007/Main-report>, accessed 10 December 2019.

157 UNICEF, *Children Without*, 2018.

158 DOSM, *Household income and basic amenities survey report* (2017), Department of Statistics Malaysia: Putrajaya.

159 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019.

160 DOSM, *Household Income & Basic Amenities Survey Report* 2016.

161 Submission by UNICEF Malaysia to the UN Special Rapporteur on Extreme Poverty and Human Rights, June 2019.

162 Nixon, S. et. al., 'Fostering inclusive growth in Malaysia', OECD Economics department working papers, 2017, p. 16.

163 Nixon, S. et. al., 'Fostering inclusive growth in Malaysia', 2017, p. 16.



Children fly kites in a slum settlement in the state of Sabah. Much of Malaysia's social protection expenditure does not adequately cover poor households.

is for pension payments to retired civil servants, which benefit only a small proportion of relatively well-off households.¹⁶⁴

As the Special Rapporteur on extreme poverty and human rights has said, Malaysia should now turn its attention to ensuring 'a **comprehensive social protection floor** for all its citizens and providing essential support for non-citizens.'¹⁶⁵

Health

On the whole, Malaysia has seen progress in key maternal and child health outcomes over the past 50 years and has achieved or is on track to achieve many sustainable development goals in this area, including those relating to **maternal and infant mortality**. However, it is essential that data relating to 'invisible', uncaptured populations, such as indigenous peoples, stateless persons and undocumented migrants are taken into account in national datasets, so it is possible to assess the health outcomes of these more marginalised populations.

While rates of **childhood immunisation** are high in Malaysia,¹⁶⁶ a concerning trend is a rise in the extent of vaccine refusal among the population, resulting from misinformation and scepticism around vaccinations. This is thought to have led to an upsurge in vaccine preventable diseases such as measles, diphtheria, and pertussis, which were previously well controlled.¹⁶⁷

Malaysia has also reduced the burden of many **communicable diseases**, including malaria and HIV and many childhood diseases, though others persist, including HPV as a primary cause of cervical cancer among women, which remains the third most common cancer in Malaysia, and the second most common cancer among women aged 15 to 44 years old.¹⁶⁸ Tuberculosis (TB) has remained persistent, and other diseases, such as dengue, have emerged.¹⁶⁹ Ministry of Health (MOH) data indicate that TB cases have increased by 13 per cent among children under 5, from 244 cases in 2014 to 277 in 2017. In recent years, the main disease burden has shifted to **non-communicable diseases** which now

¹⁶⁴ Nixon, S. et. al., 'Fostering inclusive growth in Malaysia', 2017, p. 16.

¹⁶⁵ Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019.

¹⁶⁶ Rates of childhood immunisation was 95 per cent in 2017. Kusnin F., Immunisation Programme in Malaysia, Vaccinology 2017. (Paper presented at the III International Symposium for Asia Pacific Experts, 2017, Hanoi, Vietnam.)

¹⁶⁷ The Star, 'Health Ministry: Misinformation has caused a huge spike in vaccine-preventable diseases, 22 January 2019, <https://www.thestar.com.my/news/nation/2019/01/22/health-ministry-misinformation-has-caused-a-huge-spike-in-vaccinepreventable-diseases>, 10 December 2019.

¹⁶⁸ HPV Information Centre, Malaysia: Human Papillomavirus and Related Cancers, Fact Sheet 2018.

¹⁶⁹ WHO, Malaysia-WHO Country Cooperation Strategy, 2016-2020.

account for 73 per cent of all deaths among the general population.¹⁷⁰ Overweight and obesity are emerging problems among both the child and adult populations.¹⁷¹

Limited progress has been made in relation to **health issues affecting adolescents**, including access to **sexual and reproductive health (SRH)** and **mental health and substance abuse**. Less than 60 per cent of adolescents have basic knowledge of reproductive organs.¹⁷² Only 12 per cent of 13-17-year-olds who had sex reported using condoms in a recent survey, and only 10 per cent reported using another form of contraceptive (12 per cent of boys and seven per cent of girls).¹⁷³ The adolescent fertility rate is steadily increasing, having reduced from around 78 per cent in the 1960s to 13.41 per cent in 2017, though it rose from 12.75 per cent in 2007.¹⁷⁴

Young people are vulnerable to a number of **sexually transmitted infections (STIs), including HIV**. The proportion of reported HIV-infected persons under the age of 25 increased from 15 per cent in 2012 to 20.4 per cent in 2015.¹⁷⁵ Since 1990, the profile of the HIV epidemic in Malaysia has shifted, with the proportion of female/male infection increasing from 1:99 in 1990 to 1:4 in 2013.¹⁷⁶

Rates of **depression and anxiety** among adolescents increased between 2012 and 2017.¹⁷⁷ Suicidal ideation, planning and attempts by adolescents also increased between 2012 and 2017.¹⁷⁸

In terms of ensuring universal access to healthcare, Malaysia does not have **social health insurance**, but its subsidised public health system means it has relatively low incidences of catastrophic health expenditure among households. Nonetheless high out of pocket payment as a percentage of expenditure is an ongoing concern.¹⁷⁹ Disaggregated data reflect disparities in progress against health-related SDGs at the sub-national level. The under-5 mortality rate is higher among **minority groups**: in 2012, the under-5 mortality rate among OA populations

was 21.7 per 1,000 live¹⁸⁰ births compared to 7.6 per 1,000 live births overall. The Malaysia-WHO Country Cooperation Strategy notes that improvement of child (and maternal) health requires attention to social-cultural determinants.¹⁸¹ Prevalence rates (NHMS 2016) for incomplete vaccination suggests vaccination coverage is **higher among those in urban areas** (5.3 per cent) compared to those in rural areas (2.9 per cent). Those who were least likely to have completed their primary vaccination were those with mothers without formal education (18.0 per cent) and those without Malaysian citizenship (10.9 per cent), including children of migrant workers, refugees, asylum-seekers and stateless children, who had lower vaccination rates.

Malaysia should work to ensure a **strong, multi-sector and coordinated response** to adolescent health issues, including addressing limited access to SRH, exposure to HIV and STIs, rising mental health issues and significant rates of substance abuse among adolescents. Efforts should also be made to ensure that groups who are excluded from accessing free healthcare, including undocumented, stateless and refugee children and families have access to quality and tailored healthcare information, support and services. Action should also be taken to address the rising rates of vaccine refusals.

Nutrition

Child malnutrition is a continuing problem in Malaysia, and the country is not on track to meet key national and international development targets in this area. Under-5 stunting rates are high and persistent, at 20.7 per cent in 2016, compared to 17.7 per cent in 2015 and 11.3 per cent in 2011 (average stunting among upper-middle-income countries was 6.9 in 2016).¹⁸² The prevalence of underweight among the under-5 was 13.7 per cent in 2016, up from 12.9 per cent in 2006. The prevalence of wasting among the under-5 was 11.5 per cent in 2016, up from eight per cent in 2015.¹⁸³ Rates of **obesity and overweight** are an increasing concern among the general population, and especially for adolescents:

170 WHO, *Malaysia-WHO Country Cooperation Strategy, 2016-2020*, p. 4.

171 WHO, *Malaysia-WHO Country Cooperation Strategy, 2016-2020*.

172 Tey, Nai P. 'The State of the Youth in Malaysia', *Population Statistics Malaysia 2018*, 2019, p. 129.

173 MOH, *National Health and Morbidity Survey Adolescent Health and Nutrition Survey: Infographic booklet*, 2017, p. 7.

174 UNDP, Adolescent fertility rate (births per 1,000 women ages 15-19) – Malaysia, East Asia & Pacific.

175 Tey, Nai P. 'The State of the Youth in Malaysia', *Population Statistics Malaysia 2018*, 2019, p. 130-131.

176 Tey, Nai P. 'The State of the Youth in Malaysia', *Population Statistics Malaysia 2018*, 2019, p. 130-131.

177 MOH, *National Health and Morbidity Survey*, 2017.

178 MOH, *National Health and Morbidity Survey*, 2017.

179 1.44 per cent of households experience expenditure > 10 per cent of total household expenditure/month, and 0.16 per cent > 25 per cent, WHO, *Malaysia-WHO Country Cooperation Strategy, 2016-2020*, see also Section 3.2.1.

180 Government of Malaysia and United Nations Malaysia. *Malaysia Millennium Development Goals Report 2015*. United Nations Malaysia, Kuala Lumpur, January 2016.

181 Malaysia-WHO Country Cooperation Strategy, 2016-2020.

182 World Bank, World development indicators, <https://datacatalog.worldbank.org/dataset/world-development-indicators>

183 World Bank, World development indicators.

Malaysia has the second highest rate of obese children aged 5 to 19 (12.7 per cent) in ASEAN.¹⁸⁴ In 2016, 24.9 per cent of women of reproductive age suffered from **anaemia** and the prevalence of anaemia among pregnant women was 37.1 per cent.¹⁸⁵

While child malnutrition is a widespread problem, it is likely that it affects **particular vulnerable groups** more acutely, including children from poor urban households, from ethnic minority groups and children who are affected by migration, including refugee and stateless children, though data are limited. Several small-scale studies carried out recently indicate that malnutrition is particularly prevalent among OA children.¹⁸⁶

The Government has shown commitment to addressing child nutrition issues. Malaysia's master plan for nutrition includes the National Plan of Action for Nutrition of Malaysia III 2016-2025, which aims to enhance nutritional status, reduce diet-related NCDs and strengthen food and nutrition security; and the National Strategic Plan for Non-Communicable Diseases 2016-2025, which provides a roadmap to reduce the preventable and avoidable burden of NCDs by year 2025.

Strong, sustained, multi-sector and coordinated action will be required in order for Malaysia to meet global and national nutrition targets.

Water, sanitation and hygiene (WASH)

Malaysia is **on track to meet key SDG goals relating to water, sanitation and hygiene (WASH)**. WASH outcomes in Malaysia have improved, and most of the population has access to at least basic, if not safely managed water and sanitation.¹⁸⁷ However, **some disparities exist**. Families living in informal settlements, in small coastal villages and traditional 'long houses' and vulnerable groups such as refugees and stateless persons, including, for instance, former Filipino refugee families in Sabah, experience poor access to WASH.¹⁸⁸

Menstrual Hygiene Management (MHM), an element of WASH that is crucial to the rights of girls, is also an issue of concern. Social behaviours and beliefs around menstruation form a web of disgust, mistrust and stigmatisation that can harm girls' self-esteem and opportunities when they are menstruating, with some girls staying away from school while on their period.¹⁸⁹ Poverty may also play a role, with some girls unable to afford the cost of sanitary products. Discrimination against transgender persons in relation to WASH is also a concern.¹⁹⁰ Transgender children who menstruate are likely double-burdened by the poor availability of, access to and quality of MHM.

The GOM should address disparities faced by children, women and families in informal settlements or in rural areas, and discrimination faced by transgender children and young people in their access to WASH. The GOM should also take action to address the stigmatisation of menstruation, along with measures to ensure access to affordable sanitary products.

Education and early childhood care and development (ECCD)

Malaysia has made strong progress in improving access to schooling at all levels; however, some challenges remain in ensuring adequate coverage and access to quality ECCD, preventing drop outs from secondary school and ensuring quality of educational provision and improved learning outcomes.

National **pre-school enrolment** for children aged 4+ and 5+ combined has improved and stood at 84.3 per cent in 2017, up from 72.4 per cent in 2010.¹⁹¹ However, the limited supply of day-care placements is a concern: 13,500 childcare centres are needed to provide universal childcare by 2020, assuming 59 per cent of women are needed to return to the workforce.¹⁹²

184 UNICEF, *Children Without*, 2018, p. 50.

185 MOH, *National Health and Morbidity Survey*, 2016.

186 Mas-Harithulhadihli-Agus, Hamid, & Rohana AJ, *Rural child malnutrition and unsuccessful outcome of food basket programme: does ethnicity matter?*, 25:1-16, 2018, <https://www.ncbi.nlm.nih.gov/pubmed/30041543>, accessed 10 December 2019; Yen WC, et al, *Weight and height faltering in the indigenous children (Orang Asli) of Peninsular Malaysia during the first 2 years of life*, Asia Pac J Clin Nutr. 2018;27(4):886-892.

187 UNICEF and WHO, Joint Monitoring Programme, *Progress on household drinking water, sanitation and hygiene, 2000-2017: Special focus on inequalities* (2019).

188 UNHCR Global Focus, *Filipino Refugees in Sabah*, 2016, <http://reporting.unhcr.org/node/9993>

189 Malay Mail, 'Too poor to buy sanitary pads, period poverty remains problem in Malaysia', 18 November 2018. <https://www.malaymail.com/news/life/2019/11/18/too-poor-to-buy-sanitary-pads-period-poverty-remains-problem-in-malaysia/1810859>, accessed 10 December 2019.

190 Office of the Human Rights Commissioner, Statement at the conclusion of the official visit to Malaysia by the Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Leo Heller, 27 November 2018.

191 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

192 Government Transformation Programme, *The Roadmap 2.0, Catalysing Transformation for a Brighter Future*, Jabatan Perdana Menteri.



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Children in a national school in Malaysia gather for a rehearsal of their year-end sports day.

Generally, **enrolment in primary and secondary education** in Malaysia is high and the enrolment rate has increased at every grade since 2013.¹⁹³ Enrolment in primary education is the highest among all levels of education, most likely because it is the only level that is compulsory under the Education Act. Enrolment in **secondary education** is lower than for primary levels and the enrolment rate drops by 10 per cent between lower and upper secondary education.¹⁹⁴ **Higher education** is provided by a mix of public, private, international, and religious institutions. According to the Department of Statistics Malaysia (DOSM), there is greater enrolment of women in tertiary education, with 12.3 per cent of the female population achieving a Bachelor's degree compared to 10.4 per cent of males. There has been an increase in enrolments in Technical and Vocational Education and Training (TVET) from 113,000 in 2010 to 164,000 in 2013,¹⁹⁵ though TVET enrolments remain low compared to school enrolments.

Quality concerns in education remain, indicated by poor outcomes in international and national standardised tests, though there was some improvement in learning outcomes according to the 2018 Program for International Student Assessment (PISA) results.

The Ministry of Education (MOE) reported in 2017 that **enrolment of children with disabilities** in education increased to 74,694 in 2017, from 56,406 in 2013. However, there are concerns that quality inclusive education is not being provided in practice, and many children with disabilities are missing out on quality education.

There are a number of complex **gender disparities** in relation to education in Malaysia. In 2017, the expected years of schooling among females (14 years) was one year higher compared to males (13 years).¹⁹⁶ Findings from a pilot study¹⁹⁷ found that male students showed a higher risk of dropping out at primary level than female students (2.4 per cent per cent compared to 1.9 per cent). The gender discrepancy is even more pronounced at secondary level where 7.5 per cent of male students are at risk of dropping out compared to 3.7 per cent of female students.¹⁹⁸ At the tertiary level, there is evidence of 'gender streaming' in subjects with women being underrepresented in Science, Technology, Engineering and Maths (STEM) courses.¹⁹⁹

193 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

194 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

195 Tey, Nai P. 'The State of the Youth in Malaysia', *Population Statistics Malaysia* 2018, 2019, p. 137.

196 UNDP, *Human Development Report: 2018 Statistical Updates*, 2018, <http://hdr.undp.org/en/composite/GDI>

197 Garis Panduan Mengurus Murid Berisiko Cikir, GPMB: SEE MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018 p. 118.

198 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

199 DOSM, *Statistics on Women Empowerment in Selected Domains, Malaysia*, 2017 <https://www.dosm.gov.my/v1/index.php?r=column/pdfPrev&id=SGMzVDh0cVUwK0t6SGN6UzhwN1dmdz09>, accessed 10 December 2019.

The **rights of OA children to education** is explicitly protected in law,²⁰⁰ as is the duty to make indigenous languages available in government schools, if this is reasonable and practicable and if parents of at least 15 pupils in the school so request.²⁰¹ However, OA children lag far behind in access to education and in learning outcomes, with significant rates of drop out after primary school being a key issue, seriously limiting human resource development within the OA communities.²⁰²

The **Malaysia Education Blueprint 2013-2025** (MEB) was launched in 2013 and covers pre-school to post-secondary education. The blueprint sets out the requirement that Malaysian education should be on par with that of developed nations.

The GOM should take **effective and immediate action to improve the relevance and quality of education** for children, and it should also take immediate and effective action to improve access to education for children with disabilities, through the provision of quality inclusive education. The supply and quality of Early Childhood Education (ECE) should also be a matter of priority for the Government, along with ensuring that access barriers are removed, particularly for children in more remote areas. Action should be taken to address the cultural relevance and improve access and quality of educational provision for OA children.

Child protection

Malaysia has made some strong progress in developing a comprehensive child protection and child justice framework for children who are at risk or victims of violence, abuse, neglect and exploitation and for those in conflict with the law. However, gaps remain.

Despite the fact that there are no baseline data on violence against children (VAC) and no Multiple Indicator Survey (MICS) or Demographic Household Survey (DHS) to provide a clear picture of VAC in Malaysia, it is clear that children and adolescents in Malaysia are exposed to **violence, abuse, neglect and exploitation** in the home, in schools, in the community and in institutions,

such as alternative care settings and in detention. Data from 2017 found 71 per cent of children aged one to 14 years reported experiencing violent discipline (74 per cent of boys and 67 per cent of girls).²⁰³ 25.3 per cent of adolescents (aged 10-19) stated in 2017 that they had been physically attacked (31.4 per cent of boys compared to 19.3 per cent of girls).²⁰⁴ 16.2 per cent of adolescents reported experiencing bullying within the past 30 days, with boys bullied more than girls.²⁰⁵ Four in 10 adolescents reported experiencing verbal abuse in the home. Between 2010 and May 2017, 22,134 children were reported to have been sexually abused, 13,272 children were reported to have been raped and 6,014 were reported to have been sexually molested; most were girls.²⁰⁶ These data indicate that Malaysia should take urgent and sustained action to address violence and abuse against children.

Data are limited on the extent and nature of **exploitation of children**, though there were 512 girls and 206 boys in government shelters for trafficked children from 2015 to June 2019, indicating that children in Malaysia are exposed to exploitation.²⁰⁷ Also, several reports highlight key concerns over child labour in the nation, including that many foreign-born children are exploited through child labour, particularly in agriculture / palm oil plantations.²⁰⁸

Children and adolescents are also at risk of exposure to **harmful practices**. Data on female genital mutilation or cutting (FGM/C) are not available but anecdotal evidence suggests that the practice is widespread. A recent study found 99.3 per cent of 605 participants had undergone FGM/C.²⁰⁹ Child marriage is lawful, with different legal implications for non-Muslims and Muslims. Non-Muslims can marry under civil marriages or customary practices. The National Registration Department (NRD) recorded 409 underage marriages from 2008 to September 2018 under civil law (non-Muslims) and 11,424 cases of underage Muslim marriages from 2008 to June 2018, though these figures may involve double counting, and the figures for civil law marriage only include children who are registered.

200 Section 17, Aboriginal Peoples' Act 1954 (No. 134).

201 Section 17, Aboriginal Peoples' Act 1954 (No. 134).

202 UN Malaysia, *Leave no-one behind: Ensuring a prosperous nation through inclusivity and well-being for all*, 2019.

203 UNICEF global databases, 2017, based on DHS, MICS and other nationally representative surveys.

204 MOH, *National Health and Morbidity Survey*, 2017.

205 MOH, *National Health and Morbidity Survey*, 2017.

206 Free Malaysia Today, '22,000 children sexually abused since 2010', 27 July 2017, <https://www.freemalaysiatoday.com/category/nation/2017/07/27/22000-children-sexually-abused-since-2010/>, accessed 10 December 2019.

207 JKM Statistics, 2015-2019.

208 See, for example, *Children in the Plantations of Sabah*, 2017, <https://www.earthworm.org/uploads/files/Children-in-Plantations-of-Sabah-2017-report.pdf>, accessed 10 December 2019.

209 Rashid A, Iguchi Y, *Female genital cutting in Malaysia: a mixed-methods study*, BMJ Open, 2019, p. 9.



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A girl in a village in Sabah.

Notably, there are insufficient data to measure Malaysia's progress toward achieving **universal birth registration**. Children from **ethnic minority groups** are over represented in statistics relating to children who are identified as in need of care and protection. Compared to general population demographics for 2017, disproportionately more Indian children and fewer Chinese children are being found to be in need of care and protection. This may be a question of actual rates, or of reporting, identification and referral. In each of the years between 2013 and 2017, **more girls than boys** were found to be in need of care and protection.²¹⁰ This could be because girls are more likely to be in need of care and protection, or because they are more likely to report or be referred for circumstances that lead to a care or protection finding.

Some positive developments have occurred in strengthening **child justice and child protection systems**. For example, it has been reported that interagency collaboration between Suspected Child Abuse and Neglect Teams in hospitals and those working in child protection in the Department of Social Welfare (DSW) has improved. Services such as One-Stop Crisis Centres and Suspected Child Abuse and Neglect Teams within hospitals strengthen the response to children who are victims and witnesses by working with police, the DSW, the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO), the Immigration Department of Malaysia and National Strategic Office of the Council on Anti-Trafficking in persons and

Anti-Smuggling of Migrants.²¹¹ However, critical gaps in the response to child victims and witnesses to domestic violence remain, including: failure to adopt a rights-based approach, lack of adequate data collection, lack of adequate skills among professionals due to poor training and awareness, and gaps in the legislation, including to bring the minimum age of marriage to 18 for all children.²¹²

It is essential that the GOM take **effective, multi-sector action** to address VAC, including addressing the gaps in law, and ensuring criminal laws, child protection laws and child justice laws are consistent with international child rights standards; improving data collection on VAC; and strengthening the child protection system, including the social welfare workforce. The Government should also work to remove access barriers to birth registration, and to ensure that children who are stateless, undocumented or refugees have access to tailored child protection systems and services.

Participation

Formal structures for youth participation in Malaysia include the **National Council for Children**, and **Children's Representative Council** of Malaysia. **Child Forums and Conferences** are also conducted on a national level, supported both by the Government and Non-Governmental Organisations. **Social media** is also a growing avenue to facilitate child participation. Despite these tools and avenues, there are still significant **barriers to participation** that arise in practice. This is because not all facets for participation are readily available to children, and often are not as easily accessible to certain groups. **Children with disabilities** appear to be particularly vulnerable to exclusion from participation. Further, it is not clear to what extent children enjoy meaningful participation in decisions affecting them.

It is essential that data are collected on access to participation forums and tools, particularly among more vulnerable groups. Research should be carried out, in particular, to assess access barriers to participation avenues for all children, and to assess how meaningful child participation is, in terms of ensuring that the voices of children are captured on issues that are of concern to them, and that these voices are able to inform the policy and programming space.

210 DOSM, *Children Statistics*, 2017.

211 UNICEF and ASEAN, *Ending Violence against Children in ASEAN member States*, 2016, p. 113.

212 Women's Aid Organisation, *Where's the Child?*, 2019, <https://wao.org.my/wp-content/uploads/2019/04/Wheres-the-Child.pdf>, pp. 126-7.

5. PRIORITY ISSUES FACING CHILDREN

The situation analysis identified a number of priority areas in which Malaysia is falling behind or in which progress is reversing. It is imperative that the GOM address these issues as a matter of priority and accelerate progress in these areas. This is necessary to ensure that Malaysia is on track to meet key SDGs and national development targets and ensure that children in Malaysia survive, thrive and develop to their full potential.

The triple burden of malnutrition

Malaysia is currently experiencing a triple burden of malnutrition, characterised **by high and persistent rates of stunting and wasting, overweight/obesity and anaemia.**²¹³ The triple burden of malnutrition causes severe and long-lasting damage during periods of rapid growth and development, in particular during the 1,000 first days of life, and during adolescence. Child malnutrition is a pervasive problem, though rates of malnutrition are particularly high among certain groups, including OA children for poor families.

Rapid economic development and urbanisation have contributed to a **transition from an active lifestyle and wholesome foods to poor levels of physical activity and diet with lack of nutritional content** and excess consumption of foods high in fat, salt and sugar.²¹⁴ The relatively high cost of nutritious food, poor maternal nutrition, including high rates of maternal anaemia and iron deficiency among pregnant women and limited access to healthcare in some communities are underlying causes, while limited multi-sector work at the national level and gaps in the regulation of poor quality and unhealthy foods underpin poor nutrition outcomes among children.

The GOM should promote a **multi-sector, coordinated approach** to addressing the triple burden of malnutrition, focused on addressing the interplay of causes and key determinants. In particular, it could:

- Strengthen the legal environment e.g., relating to advertising of breastmilk alternatives, breastfeeding / expressing rights for women at work.
- Incentivise healthy eating, through tax initiatives and other fiscal policies.



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Boy in a national school in Malaysia. Part of Malaysia's national development targets include ensuring that children in Malaysia survive, thrive and develop to their full potential.

- Raise awareness among children and adolescents on health, healthy eating, and the importance of and guidelines around physical activity.
- Ensure increased emphasis on physical education in secondary schools, support the MOE and other relevant Ministries to develop and maintain infrastructure and resources for physical education and ensure the promotion (and removal of cost and other access barriers) of extra-curricular physical activity programmes.
- Support and promote healthy meals within schools and raise awareness of the benefit of healthy meals.

²¹³ Global Nutrition Report, *Nutrition Country Profile: Malaysia*, 2018.

²¹⁴ WHO, *How Teens Eat in Malaysia*, 2018, <https://www.borneomarathon.com/kurangmanis>

- Carry out research on the poor nutritional outcomes of groups of children who are particularly impacted, e.g. OA children, and devise a plan to address the key causes of poor nutrition among these groups.

Adolescent health

Adolescence (10-19 years) and young adulthood 'coincide with major changes and health problems and determinants of health in later life'.²¹⁵ Adolescence also offers considerable opportunity for health gains through prevention work and other targeted interventions. Malaysia's progress in the realisation of health rights of children falls behind on issues affecting adolescent girls and boys, with increasing numbers of adolescents facing a range of health challenges. Data (from the NHMS 2017) indicate that adolescents have **poor access to SRH** information and services, one of the consequences of which is rising rates of teenage pregnancy, which is a health risk to girls that can also impact on their rights to education and social and cultural acceptance, exposing them to increased risk of child marriage to avoid the stigma of childbirth outside of marriage. Malaysia has also experienced rising rates of **mental health issues**, including anxiety and depression between 2012 and 2017, along with increases in reports of suicide ideation, planning and attempts among adolescents and rising rates of **substance abuse** (NHMS 2012 and 2017).

A mix of inter-related factors has driven poor adolescent health outcomes in Malaysia. Limited access to SRH services, limited comprehensive sexuality education in schools, social and cultural norms that stigmatise sex outside of marriage and the stigmatisation of mental health issues have resulted in limited knowledge and awareness among adolescents and imposed barriers on their access to services.

The factors affecting adolescent health are complex and multisectoral, stretching beyond the health sector.

The GOM should take sustained action on adolescent health issues as part of a broader, multi-sector strategy on adolescents. This could include:

- Strengthening the capacity of health providers to deliver adolescent- and youth-friendly services, particularly sexual and reproductive health and mental health services, along with substance abuse information and services.
- Raising awareness among children and adolescents and the adults in their lives about mental health concerns, prevention and support services.
- Support the development of school counsellors, and ensure that they have the skills and knowledge to provide effective advice and sign-posting to services for adolescents with SRH and mental health needs.
- Provide training to schools on the identification, prevention and response to mental health challenges among adolescents.
- Strengthen comprehensive sexuality education, and other life skills education to support adolescents to avoid risky behaviour, and to equip them with knowledge for protective behaviours.
- Support communication and awareness raising activities to address gender discriminatory stereotypes around sexuality and the stigmatisation of pregnancy of unmarried girls and women.
- Work to amend the legal provisions that criminalise suicide and abortion, to help in de-stigmatising mental health issues and ensure access to safe abortion for adolescent girls and women.

Equitable access to early childcare and development (ECCD)

Quality ECCD is crucial: the rapid brain development and growth that takes place during this age band (0-5 years) provides an important opportunity for optimising a child's development through holistic education, care, health, nutrition, protection and stimulation interventions.²¹⁶ While pre-school enrolment rates have increased in recent years, **access is not yet universal**, with enrolment rates among 4- and 5-year-old children around 85.5.²¹⁷ Assessing equitable access to ECCD in Malaysia is challenging due to the limited data that are available on the attendance of children in childcare centres and the lack of disaggregated data by gender and other characteristics in pre-school enrolment data.²¹⁸ However, it does appear that children from poor families and OA children are likely to face access barriers. Children in more remote areas also likely face access barriers due to the limited ECCD places in some areas.

Efforts should be made by the GOM to **ensure universal and equitable access to ECCD**. In particular, the GOM could:

- Increase the number of affordable ECCD places across all areas of Malaysia, to ensure equitable access.

²¹⁵ Patton, G., C., et. al., *Health of the world's adolescents: A synthesis of internationally comparable data*, The Lancet, 2012, p. 1665.

²¹⁶ UNESCO AND UNICEF, 'Early childhood care and education', *Asia-Pacific end of decade notes on education for all* 2012, p. 1.

²¹⁷ MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

²¹⁸ Government Transformation Programme, *The Roadmap 2.0, Catalysing Transformation for a Brighter Future*, Jabatan Perdana Menteri.



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Students receiving exam results. While some students excel in their studies, Malaysian students as a whole performed below average in reading, mathematics and in science in the 2018 PISA assessment (an international standardised test).

- Provide partly or fully subsidised ECCD places to children from poor households.
- Improve the supply and quality and ensure the cultural relevance of ECCD for OA children.
- Ensure that inclusive ECCD programmes are available for children with disabilities, and that quality, tailored support to parents/carers of children with disabilities is available and accessible.
- Improve quality monitoring of ECCD services and make this information available publicly, to reassure parents considering enrolling their children.
- Improve the knowledge base on parenting in Malaysia, and on the needs and challenges facing parents/carers in the delivery of quality and nurturing caregiving.

Quality of education and learning outcomes

Pupils' performances in **international standardised tests** provide some evidence of challenges in ensuring **quality** of education provided in Malaysian secondary schools. Malaysian students performed below average in reading, mathematics and in science in the 2018 PISA assessment, with some countries that spend less on education ranking considerably higher.²¹⁹ This suggests that the considerable Government spend on education in Malaysia may not be allocating funds to factors that have the biggest impact on learning outcomes.²²⁰ In addition, there are significant concerns over **inequality** of education and learning outcomes across genders and in relation to rural/urban (and urban poor) divides, as well as for children from ethnic minority groups.²²¹

219 OECD, Country Note, Programme for International Student Assessment, Malaysia, 2018, p. 10, https://www.oecd.org/pisa/publications/PISA2018_CN_MYS.pdf, accessed 9 December 2019.

220 Ministry of Education Malaysia, *Malaysia Education Blueprint 2013-2025*.

221 See Part 3.5.3.



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Twins Malina and Malini, 13, participate in a game conducted at their school. Innovative, engaging programmes and activities help to increase student engagement in schools.

A 2013 report by World Bank²²² noted the **poor quality of teachers** as one barrier to improving quality and learning outcomes in Malaysia. The report noted the lack of autonomy at schools as another challenge, finding that rigidity in the syllabuses and their delivery impeded quality learning; the high degree of centralisation in the education system was also found to have impeded the efficient production and distribution of education services.²²³ An assessment conducted following the 2011 report found that students in Malaysia were falling behind because they lacked the opportunity to develop Higher Order Thinking Skills.²²⁴ In the adolescent consultations, participants mentioned quality education as an important issue and noted in particular that teaching is 'too exam orientated' and 'too theoretical' or not practical.²²⁵

It is crucial that the GOM **prioritise improving the quality of education** provision across all levels of education. In particular, it could:

- Continue to strengthen the national curriculum to provide higher quality education, in line with international standards, and ensure the relevance of education to the modern market and society.
- Make curricula responsive and inclusive to ensure continued enrolment and engagement across ethnicities and religious groups.
- Strengthen teacher training and recruitment of quality teachers.
- Strengthen inspection and quality assurance of national curriculum and of teaching.
- Increase student engagement through innovative, engaging school programmes, activities and clubs.

Inclusive education

Inclusive education entails 'recognition of the need to work towards 'schools for all' – institutions which include everybody, celebrate differences, support learning, and respond to individual needs.'²²⁶ Primary education is

²²² World Bank, *Malaysia's economic monitor: High performing education* (2013).

²²³ World Bank, *Malaysia's economic monitor: High performing education* (2013).

²²⁴ TIMSS, 'Encyclopaedia, Malaysia,' <http://timssandpirls.bc.edu/timss2015/encyclopedia/countries/malaysia/>, accessed 10 December 2019.

²²⁵ UNICEF Children Adolescent Consultation, Peninsula (Selangor), Sabah (Kota Kinabalu) and Sarawak (Kuching) in November 2019.

²²⁶ The Salamanca Statement emerged from the 1994 the Salamanca World Conference on Special Needs Education, <http://unesdoc.unesco.org/images/0009/000984/098427eo.pdf> 4, 10 December 2019.

compulsory in Malaysia and children with disabilities have the right to access education with 'reasonable accommodation' to meet their individual needs. However, **a tiered system exists** where most children with disabilities do not realise their right to a quality, inclusive education, but instead experience segregated (as in special) education or integrated education systems.²²⁷

Available data suggest that **one in three children with disabilities is out of school** compared with one in seven of their peers without disabilities.²²⁸ The enrolment rate of children with disabilities in *mainstream* schools is rising, though it remains low at 50.49 per cent in 2018, compared to 40.9 per cent as at 2017.²²⁹ Additional barriers to education for children with disabilities are often encountered by children from rural areas and those who come from lower economic backgrounds, and their invisibility is often compounded by unsupportive parental attitudes and societal stigma among their peer group and the community.²³⁰

The Malaysia Education Blueprint 2013-2025 includes a target relating to inclusion of children with special educational needs in education, but commentators have noted that the target (at 75 per cent) is low. While there is a somewhat **restrictive institutional framework** around education for children with disabilities, including around diagnosis, it appears that **social and cultural knowledge, perceptions and attitudes** towards children with disabilities and their education create **demand-side barriers** to enrolment and impede the realisation of their education rights.²³¹

In order to ensure the right to education for all Malaysian children, it is imperative that the GOM **prioritise the development of quality, inclusive education** and ensure that barriers are removed for children with disabilities accessing inclusive education. It could:

- Strengthen the legal framework to support children with behavioural difficulties as children with disabilities.
- Ensure the supply of trained, skilled teachers in mainstream schools and increase their capacity to deliver quality, inclusive education and ensure the supply of quality support staff for children with disabilities.

- Raise awareness of disability in the community to address stigmatisation and ignorance around children with disabilities and their access to education and other services.
- Strengthen support and accessibility measures for children with disabilities to attend school.

Violence, abuse and neglect of children (VAC)

Available data indicate that **children in Malaysia are exposed to violence, abuse, neglect and exploitation** across a range of settings. Children report exposure to corporal punishment in the home and in schools, exposure to sexual violence, peer violence/bullying and exposure to emerging forms of violence such as online bullying and exploitation.

One of the challenges relating to VAC is that the current **legal framework** does not provide adequate protection to children. For example, corporal punishment of children is not illegal in the home or in schools. Further, policy measures to address VAC, including regulations to prohibit corporal punishment in schools and the implementation of the Plan of Action on Child Online Protection 2015-2020 has not been publicly reported, and the Task Force meant to support its implementation is not yet active. One of the other difficulties is that **data** are limited, including data on violence against women in particular. It appears that **social and cultural norms** and approaches towards violence against children, including sexual violence, can enable VAC – due to fear or risk of stigma, children, women and their families are encouraged to handle cases informally, rather than through formal procedures.

The **gender disparities** in relation to physical violence as compared to reporting of children in need of care and protection are revealing. More boys (adolescents) report being involved in physical attacks, according to the National Health and Morbidity Survey (NHMS) 2017, but more cases involving girls are referred for being in need of care and protection. This could suggest that girls tend to be subject to different forms of violence and abuse, or that forms of violence and abuse against girls are more likely to be detected.

227 MOE, *Malaysia Education Blueprint 2013-2025*.

228 UNICEF, *Issue Brief, Children with Disabilities in Malaysia*, 2019.

229 MOE, *Annual Report 2016, Malaysia Education Blueprint 2013-2025*.

230 UNESCO, *Policy guidelines on inclusion in education*, 2009, <https://unesdoc.unesco.org/ark:/48223/pf0000177849>, accessed 10 December 2019.

231 UNICEF, *Childhood Disability in Malaysia*, 2017.

The GOM should take **coordinated, multi-sector action to address VAC** in all of its forms, including the following:

- Develop a multi-sector, integrated national strategy and action plan on the prevention, response and support for victims of VAC and Violence Against Women (VAW) and the strengthening of child protection systems.
- Strengthen the legal framework for VAC, to ensure all forms of VAC are criminalised.
- Raise awareness of positive parenting and non-violent discipline techniques.
- Provide support within schools to identify children at risk of VAC, and safeguarding procedures to address this.
- Provide support to schools to prevent, identify and address bullying through the development and implementation of anti-bullying policies.
- Strengthen data collection and analysis in relation to VAC and VAW, making sure more marginalised groups are included in the data.

Child marriage

Child marriage, which is defined as marriage in which at least one person is below the age of 18 years, is prohibited in international law.²³² While data on child marriage in Malaysia are incomplete, **it likely affects thousands of adolescents, predominantly girls.** Those from rural areas are more at risk than their peers in urban locations.

Child marriage is driven by a permissive legal framework, social, cultural and religious perceptions and attitudes towards adolescent relationships and sexuality and the shame associated with sexually active adolescents 'perpetuates the practice of child marriage'.²³³ Child marriage is lawful, with different legal implications for non-Muslims and Muslims. Non-Muslims can marry under civil marriages or in line with their ethnicity/customary practices. Girls between the ages of 16 and 18 may only marry with a license granted by the Chief Minister (or equivalent). In August 2018, Selangor State increased the minimum age of marriage for girls from 16 to 18 years and the Department of Syariah

Judiciary has produced a comprehensive Standard Operating Procedure (SOP) to encourage states to impose a stricter procedure before permission to marry can be given.²³⁴

Malaysia practices decentralisation of jurisdiction in marriage administration. Muslim marriages are governed under the Islamic Family Law (Federal Territories) Act 1984 and Enactment of Islamic Family Law in states, which provide that applications for marriages under the age of 18 years old for boys and under the age of 16 years old for girls must get approval by the Syariah Court.

As for non-Muslims, section 10 of the Law Reform (Marriage and Divorce) Act 1976 provides that the minimum age of marriage is 18 years old. However, girls who have reached the age of 16 years old are allowed to get married with the consent (license) granted by the State's Chief Minister.

Besides that, customary marriages are solemnised and registered under their own Customary Laws which is under Majlis Adat Istiadat in Sarawak and Native Court Enactment 1992 in Sabah.

In Malaysia, child marriage likely affects thousands of adolescents, predominantly girls, with those from rural areas more at risk than those in urban locations.

²³² Article 16(2), CEDAW: The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory; see also article 24(3), CRC.

²³³ Federation of Reproductive Health Associations, Malaysia and Asian-Pacific Resource and Research Centre for Women, *Country Profile on Universal Access to Sexual and Reproductive Health: Malaysia*, 2015, p. 8.

²³⁴ Parliamentary Questions, Hansard, 21-31 October, Dato' Sri Azalina Othman Said [Pengerang] asked the Minister of Women to specify when the Ministry will make amendments raising the minimum age limit of marriage to 18 years which is under the jurisdiction of the Federal Government through the Islamic Family Law (Provinces) Act (Federal) 1984 and the Family Law Enactment / Ordinance of Islam in various states as well as the Law Reform Act (Marriage and Divorce) 1976.

Where adolescents are sexually active and girls become pregnant, this brings to the fore attitudes towards adolescent relationships, such that girls and boys may be encouraged/required to marry.²³⁵ Young persons' lack of knowledge about contraception also increases the risks of adolescent pregnancy, an underlying cause of child marriage.²³⁶ Gender inequality is also a key driver.

The current GOM is seeking to strengthen the legal and policy framework against child marriage. The Federal Government is in the process of amending the Islamic Family Law (Federal Territories) Act 1984 to increase the minimum age of marriage for Muslim women to 18 years old (the minimum age for Muslim men is already 18 years old). While for non-Muslims, the Government is in the process of enacting a standard operating procedure (SOP) to strengthen the procedure for underage marriage application by taking into account the development, health and welfare of the underage applicants.

The GOM should consider the following actions to prevent and respond to child marriage:

- Strengthen the legal framework to prohibit marriage under the age of 18 years in all legal systems, without exception (or at least greatly restrict the circumstances in which exceptions can be granted and a high minimum age below which exceptions cannot be granted).
- Raise awareness among children and adolescents and the adults in their lives about the negative consequences of child marriage.
- Strengthen sexual health education and youth-friendly services to reduce adolescent pregnancy, which is a key driver of child marriage.
- Facilitate birth registration and documentation among invisible and vulnerable groups as a protection against child marriage.
- Strengthen data collection and analysis in relation to child marriage, making sure invisible groups are included in the data.

Female genital mutilation/cutting

FGM/C refers to any procedure that involves the partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons.²³⁷ While the practice of FGM/C varies in nature, it is often a painful and traumatic procedure that is linked to short, mid-term and long-term health consequences, such as infections, haemorrhaging, depression, birth complications and infertility.²³⁸

Data on the practice of FGM/C in Malaysia are not available, meaning it is not possible to assess the degree to which children in Malaysia are protected from FGM/C. However, anecdotal evidence suggests that **the practice is widespread**.²³⁹ The practice in Malaysia is less severe than in many other contexts and does not involve removal of tissue; a drop of blood is considered a requirement for the fulfilment of the ritual.²⁴⁰

The drivers of FGM/C in Malaysia are primarily the **cultural and religious belief** that it is required by Islam.²⁴¹ However, different and inter-connected reasons for the practice have been documented, including the need to control a girl's sexuality and protect her virginity, and for hygiene and cleanliness.²⁴² **FGM/C is not prohibited by the legal framework** in Malaysia, and there have been no directions issued in relation to the practice by the Malaysian Medical Council. Instead, a 2009 ruling from the Fatwa Committee of Malaysia's National Council of Islamic Religious Affairs made 'female circumcision' obligatory for all Muslim women, unless it is harmful.²⁴³

The GOM should consider the following actions to address FGM/C:

- Prohibit FGM/C in law.
- Improve data and understanding of the prevalence of FGM/C, making sure invisible groups are included in the data.
- Strengthen gender rights awareness, and awareness raising on the harms of FGM/C to girls.

235 Federation of Reproductive Health Associations, Malaysia and Asian-Pacific Resource and Research Centre for Women, *Country Profile on Universal Access to Sexual and Reproductive Health: Malaysia*, 2015, p. 8.

236 UNICEF, *Child Marriage in Malaysia* (working paper), 2018, p. 30.

237 WHO, *Eliminating Female genital mutilation: An interagency statement OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO*, 2008.

238 WHO, *Eliminating Female genital mutilation: An interagency statement OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO*, 2008.

239 Rashid A, Iguchi Y, *Female genital cutting in Malaysia: a mixed-methods study*, BMJ Open 2019, p. 9.

240 Rashid A, Iguchi Y, *Female genital cutting in Malaysia: a mixed-methods study*, BMJ Open 2019, p. 9.

241 Rashid A, Iguchi Y, *Female genital cutting in Malaysia: a mixed-methods study*, BMJ Open 2019, p. 9.

242 Rashid A, Iguchi Y, *Female genital cutting in Malaysia: a mixed-methods study*, BMJ Open 2019, p. 9.

243 The Malaysian Insight, "Why is Malaysia still practising female genital mutilation?", <https://www.themalaysianinsight.com/s/36377>



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Reza (name changed to protect identity), 19, finishes a metal piece in a workshop at the Malaysian Prison Department, Henry Gurney School in Keningau, Sabah.

Children in institutions

Children in Malaysia may be placed in institutions as a form of alternative care, in the context of immigration or within the criminal justice system. The negative impacts of institutionalisation on children's development and rights is well documented; according to international standards, deprivation of liberty should be a last resort in the case of children,²⁴⁴ and institutional care as a form of alternative care is also considered harmful to children. Data in relation to children in institutions in Malaysia is incomplete, and a review of the data is scheduled for 2020.²⁴⁵ Data from 2014 to 2016 show no pattern of decreasing use of institutions over this short period of time, though there was a general dip in institutionalisation in 2015.²⁴⁶

Children in Malaysia may also be detained in **correctional institutions** if they are found to have committed a criminal offence or in immigration detention. A 2013 study by UNICEF found that pre-trial and post-trial detention rates in Malaysia were moderate, though 52.7 per cent of children held in pre-trial detention had been accused of non-violent, property offences.²⁴⁷

When children are detained for being **beyond control**, they can no longer be deprived of their liberty in an Approved School (STB). However, children may be placed in institutions such as probation hostels or centres (though the Child Act 2001, as amended in 2016, enshrines the principle that it is desirable to place children in family care).²⁴⁸ The definition of 'beyond control' is sufficiently broad so that children can be

244 Article 37(b), CRC.

245 UNICEF Malaysia Country Office.

246 DOSM, Children Statistics, 2017.

247 UNICEF, Ministry of Women, Family and Community Development, The Malaysian Juvenile Justice System: A Study of Mechanisms for Handling Children in Conflict with the Law, 2013.

248 Section 46(3) and 46(5), Child Act 2001, as amended 2016.

detained for disobedience, running away from home, engaging in romantic or sexual relationships or using drugs or alcohol.²⁴⁹

When children are **detained for immigration purposes** in Malaysia, they are likely to spend an average of five months in one of the 14 immigration detention centres in Malaysia in which conditions are said to be ‘appalling’.²⁵⁰

The placement of children in institutions and detention **suggests a lack of alternatives**, such as parenting programmes, psycho-social behavioural programmes and diversion, or a lack of knowledge or confidence in alternatives.

The GOM should work to reduce and prevent institutionalisation and detention of children in all contexts, and in particular should:

- Improve the legal framework to promote alternatives to institutionalisation and to limit use of institutionalisation for children in need of care and protection or who are ‘beyond control’.
- Improve data and understanding of institutionalisation, including the drivers and circumstances of placement in institutional care.
- End immigration detention of children and develop family-based community options and ensure deprivation of liberty is always as a last resort and for the shortest appropriate period of time.
- Introduce and strengthen diversion and alternative (non-custodial) sentencing measures.
- Train and sensitise child justice workers on child-friendly justice and the harms of deprivation of liberty of children.

The climate crisis and environmental degradation

Malaysia is expected to experience increased impacts from temperature rise, rainfall, floods and droughts.²⁵¹ In addition to these threats, Malaysia is already experiencing significant deforestation rates²⁵² that risk reducing children’s nutritional intake, as well as urbanisation²⁵³ and waste production rates²⁵⁴ that are producing increased pollution, negatively affecting children’s health, as it continues on the path of development. These climate and environmental impacts have the potential for negative consequences on every child rights sector and appear driven by a combination of **industrial actions**, as well as **social and industrial behaviours** outside of Malaysia. In 2018, the Government announced an immediate ban on the import of plastic waste.²⁵⁵

The GOM could take the following actions to respond to climate change:

- Improve the legal framework for protection of the environment, including through signing international agreements.
- Development of ‘green’ fiscal policies that incentivise sustainable industries and disincentivise environmental degradation.
- Engage in social behavioural change activities to discourage burning waste and plastic use, and to encourage sustainable behaviours.
- Work together with adolescents and young people to help drive climate action in the country.

249 UNICEF, Ministry of Women, Family and Community Development, *The Malaysian Juvenile Justice System: A Study of Mechanisms for Handling Children in Conflict with the Law*, 2013.

250 Save the Children, *Unlocking Childhood*, 2017, p. 37.

251 Office of the Human Rights Commissioner, State at the conclusion of the official visit to Malaysia by the Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Leo Heller.

252 Global Forest Watch, 2019, <https://www.globalforestwatch.org/>, accessed 10 December 2019.

253 MOESTECC, Malaysia, *Third National Communication And Second Biennial Update Report To The UNFCCC*, 2018.

254 Kaza, S., Yao, L., Bhada-Tata, P. and Van Woerden, F., *What a waste 2.0: a global snapshot of solid waste management to 2050*, 2018.

255 Recycling International, ‘Malaysia bans import of plastic waste’, 18 October 2018: <https://recyclinginternational.com/plastics/malaysia-to-ban-import-of-all-plastic-scrap-within-three-years/17628>

6. ENABLING ENVIRONMENT FOR CHILDREN: GAPS AND CHALLENGES

It is clear from the recent actions to strengthen the legal framework for protection of children that there is strong political will in Malaysia to implement most aspects of the CRC and to meet SDG commitments, though reservations are still in place and limitations continue to exist. However, a number of cross-cutting barriers and bottlenecks were identified in the GOM's ability to improve outcomes for children and further the protection of their rights.

Enabling environment

Gaps in the legal and policy framework

A number of **gaps in Malaysia's legal framework** have impacted negatively on the protection of children's rights and have underpinned poor outcomes for children in a number of areas. Criminal laws that permit corporal punishment and the placement of children 'beyond control' in probation centres, permissible laws on child marriage and the low minimum age of criminal responsibility have resulted in reduced protection of children under the law. There are also gaps in national policies and strategies, particularly those issues that require strong, multi-sector responses, such as in relation to adolescents, child protection / prevention of violence against children and laws to protect certain children from discrimination (e.g. LGBTI+ children and children who are undocumented, stateless or refugees).

Governance and coordination

While Malaysia has a governance framework and institutions that support the implementation of children's rights, **limited multi-sector working and coordination** between government departments at the national level appear to have impaired the ability for the GOM to respond effectively to some issues, particularly those deprivations that require a multi-sector and multi-pronged approach.

Fragmentation of services and programmes across multiple government agencies is also a barrier to effective, integrated and holistic programming and service delivery.

Approaches have tended to focus on immediate causes without addressing the **broader determinants or drivers** of deprivations, which may account for the overall appearance of progress, but risks leaving vulnerable groups behind.

Financing

Inadequate budget allocations are a significant barrier, impacting on a range of issues and populations, for instance in the financing of social protection programmes. In the health sector, there appear to be gaps in the effective coordination of the public and private systems, leading to challenges of **sustainable financing**.

Inequality and disparities

Large inequalities and disparities exist in the enjoyment and fulfilment of rights for children within **invisible** and **vulnerable groups**, including children from poor households, stateless children, refugee children, undocumented migrant children, unregistered children, children with disabilities, LGBTI+ children and indigenous children. Many of these inequalities stem from **enabling environment level decisions**, including laws and policies that have disparate impacts in relation to these groups.

Data and information management

There are **limited publicly available data** relating to birth registration, violence against women and children, child trafficking and child labour. Without disaggregated data on these and other indicators, it is not possible to determine to what extent children are facing rights deprivations, but it also creates considerable challenges for the Malaysian Government to plan interventions and effectively target resources to address inequalities. It also limits the transparency and accountability of the GOM to achieving key international and national development targets.

Invisibility is a problem. It appears that some children are systematically excluded from data collection systems, including children who are undocumented, children who are born to foreign parents and refugee children. This reinforces the invisibility of these groups of children: without data on their needs and situation, it is impossible for the Government to plan and target resources effectively. It also renders the Government essentially unaccountable for the outcomes of these groups of children.

Social norms

Social behavioural norms appear to have strong influences at the systems level. In the area of child protection, female genital mutilation/cutting and corporal punishment are prohibited under the CRC and other international standards but are permitted and practiced in Malaysia, reportedly with significant public attitudinal support.

National priorities and child rights

Malaysia's reservations to key international instruments

and policies and laws that exclude certain groups of children from legal status and services (e.g. refugee, undocumented and stateless children), minimise protection to them (e.g. children with disabilities) and criminalise others (LGBTI+ children) suggests an opposition on the part of the GOM to extending all rights to all children.

Supply side constraints

Resource constraints

Key to the effective implementation of child rights is the availability of adequate numbers of **qualified, skilled and competent professionals**. In Malaysia, the professionalisation of the social welfare workforce remains a challenge and there are gaps in the availability of quality and skilled teachers and school support staff, which is likely having a negative impact on educational

quality and the support offered to children in school to respond to violence, bullying and mental health and substance abuse issues.

Geography and physical access

There are some concerns about **equitable access to services based on geographic location**, with many services, including child protection and social welfare services, based in urban areas, creating accessibility challenges for children residing in rural or more remote communities.

Inadequate service provision

Analysis in a number of areas of this SitAn has revealed **inadequate coverage of services**. For example, there are too few childcare places for children, such that (primarily) women are unable to re-enter the workplace after having children, as there is no affordable childcare for their children to attend. Other service areas also require strengthening: for example, as an effort to prevent mental health difficulties, the GOM has increased access to crisis helplines and has strengthened supportive initiatives such as the Healthy Mind Programme and screening/interventions in secondary schools. This report has also noted the need to develop **targeted services**, including, in particular, for children in vulnerable groups, including children with disabilities.



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Children rehearsing for a performance in a national school. Malaysia has made great strides in its economic development, and in so doing, it has raised the standard of living of the majority of its people.

There is strong political will in Malaysia to implement most aspects of the CRC and to meet SDG commitments, though reservations are still in place and limitations continue to exist.

Demand side constraints

Financial access

Food insecurity appears to be one of the factors contributing to malnutrition among children. The underlying cause for Malaysia's rising rates of child malnutrition especially is the limited availability of healthy food at a more affordable price than junk food, or the ability to afford enough food at all, during and after pregnancy and for children. Further, women from the poorest economic groups may have far more **limited access to proper diet and dietary supplements**, including iron, while pregnant, leading to anaemia and childhood underweight.

Financial barriers also restrict access to ECE and to healthcare services for undocumented or stateless children and families.

Social, cultural and gender norms

Dominant social and cultural norms, practices and beliefs can **limit reporting and impede help-seeking behaviours and access to services**. Gender norms may also be used to justify violence against children and could make it less likely for cases involving children to come to the attention of authorities for support. This seems particularly acute in relation to boys, who report greater rates of violence than girls but are less frequently referred as children in need of care and protection. Further, social norms and cultural attitudes may be used to justify violence against children, including corporal punishment, FGM/C and harmful practices such as child marriage.

Barriers to education for **children with disabilities** are often encountered by children from rural areas and those who come from lower economic backgrounds, and their invisibility is often compounded by unsupportive parental attitudes and societal stigma among their peer group and the community.¹³⁶

Limited knowledge, awareness and understanding

Limited awareness among the population may be contributing to poor health and nutritional outcomes

among children. For example, bad eating habits and lack of knowledge on food preparation, processing, and child feeding practice has contributed to an inadequate composition of meals taken by individuals within the household. However, this is caused and compounded by advertising of unhealthy food and breastmilk substitutes, and by the obesogenic environment, in which unhealthy foods are cheap and widely available. While **misinformation** leads to lack of knowledge, the abundance of unhealthy foods makes poor eating choices convenient, more practical, and often less expensive.¹³⁷

There is also a **lack of understanding** among some families of the importance of early childhood development and education.¹³⁸ Also, limited awareness of SRH, associated with limited access to quality comprehensive sexuality education in schools, also place barriers to adolescents accessing SRH information and services and can result in risky behaviours.

Physical access barriers

Unbalanced regional development affects access to education, health and other services. For instance, physical access to public kindergartens among rural households in Sarawak is the lowest among the states in Malaysia. Nearly 16 per cent of rural households in Sarawak are located five or more kilometres away from public kindergartens. Physical access to public secondary schools is even more challenging: Nearly two in three rural households in Sarawak are located more than four kilometres away from public secondary schools, which could explain why Sarawak has the lowest completion rate for secondary schools in the country.¹³⁹ Further, in some locations, critical services such as health services or birth registration are limited to infrequent mobile service delivery, making it challenging for parents in these areas to access services or comply with the law.¹⁴⁰

Quality

There remain some gaps in the **quality of service provision** in Malaysia. For instance, quality provision of education and ECCD is a key issue that limits the ability of children to reach their full potential.

136 UNESCO, *Policy guidelines on inclusion in education*, 2009, <https://unesdoc.unesco.org/ark:/48223/pf0000177849>

137 New Straits Times, 'Ban junk food ads, gov't urged', 18 August 2019, <https://www.nst.com.my/news/nation/2019/08/513741/ban-junk-food-ads-govt-urged>; New Straits Times, 'Environment drives childhood obesity', <https://www.nst.com.my/news/2016/08/168955/environment-drives-childhood-obesity>, 29 August 2016.

138 EPU, Mid-term review of the Eleventh Malaysia Plan 2016-2020, 2018.

139 DOSM, Vital Statistics, Malaysia, 2017, https://www.dosm.gov.my/v1/index.php?r=column/cthemByCat&cat=165&bul_id=NXRCRDh0RENGeU13bC9EdzJ1cUFtZz09&menu_id=L0pheU43NWJwRWVSZklWdzQ4TihUUT09

140 Malay Mail, 'Sabah NRD Defends setting up of mobile unit to help register births in remote locations', 25 January 2019, <https://www.malaymail.com/news/malaysia/2019/01/25/sabah-nrd-defends-setting-up-of-mobile-unit-to-help-register-births-in-remote-locations/1716396>, accessed 10 December 2019.

7. CONCLUSIONS AND IMPLICATIONS

Overall, Malaysia has shown good progress across all child outcome areas; however, the SitAn identified a number of areas in which Malaysia is falling behind or in which progress is reversing. These include: the triple burden of malnutrition, adolescent health, equitable access to quality ECCD, quality of education and improved learning outcomes, inclusive education, violence, abuse, neglect and exploitation of children, child marriage, FGM/C, institutionalisation of children and the climate crisis and environmental degradation.

It should also be noted that any progress made by the GOM in improving the situation of children should be considered against disparities and inequalities experienced by vulnerable groups. There remain groups of children that do not enjoy the benefits of the progress made by the GOM in furthering children's rights and who are being left behind their peers. These include indigenous children, children from poor households,

stateless, undocumented, refugee and migrant children, children with disabilities and LGBTI+ children. These children are rendered invisible or marginalised through lack of legal status or the application of discriminatory laws, exclusion from data collection systems, social stigmatisation and by virtue of policy vacuums, which all impact on their ability to access essential services and realise their rights. Further, patriarchal social norms reflected in and reinforced by gender discriminatory legislative and policy frameworks continue to fuel and perpetuate gender inequalities.

It is imperative that the Government of Malaysia address these issues and disparities as a matter of priority and accelerate progress in these areas. This is necessary to ensure that Malaysia is on track to meet key global development goals (SDGs) and national development targets and ensure that children in Malaysia survive, thrive and develop to their full potential.



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Youth playing futsal in Kuala Lumpur. They are part of a youth programme run by KL Krash Pad, a teen and youth centre located in the capital city's Chow Kit area to meet the needs and rights of vulnerable and at risk inner-city adolescents and young people.

A number of cross-cutting barriers and bottlenecks to the full realisation of children's rights were identified. The following are the key conclusions drawn from these cross-cutting issues, and the future implications of these:

1

Gaps in the **legal and policy framework** limit protection, respect for and fulfilment of the rights of children in Malaysia. These gaps act as a structural barrier to the realisation of the rights of children in Malaysia. The implications for future actions are:

- Withdrawing Malaysia's reservations and declarations to the CRC and other international instruments would lead to greater clarity over the commitment to these rights, and stronger implementation of all rights on the ground, given concerns that the existing reservations undermine non-discrimination; an underpinning principle of the CRC.
- Amending the Child Act 2001 and associated legal framework to ensure the prohibition of corporal punishment in all settings, to remove status offences, including being 'beyond control' and to prohibit child marriage would draw the legal framework in line with international standards, and would improve child outcomes where the legal framework acts as a barrier.
- Developing a National Action Plan for Child Protection / Children to strengthen the organisation and mandate for delivery of better, and better coordinated and integrated, actions for children.

2

System-based limitations in the social welfare and child protection systems lead to gaps in the planning and delivery of social and child protection services.

- Social welfare workforce strengthening is a key pathway to better implementation of laws, policies and programming across all children's rights, particularly when working in partnerships across all agencies, including health, nutrition, water, social protection, child justice and child protection.

3

Primary services have reached a good level of coverage in many outcome areas, but **secondary and tertiary services** are lacking, leaving more vulnerable children behind.

- While good progress has been made in ensuring adequate coverage of primary services, it is essential to continue to strengthen higher levels of intervention to ensure that children are not left behind. For example, while the basic level of health delivery may be strong, disparities may exist in access to health interventions for some groups.
- There is a need for professionally trained social workers to support delivery of many services, including child protection and related services and to address family and community-based child protection in a multidimensional way.

4

The **changing global, regional and country context** has added dimensions to old challenges and have created new concerns.

- Significant challenges in nutrition have led to a triple burden of malnutrition which sees perpetuation, and even worsening of stunting and wasting and micronutrient deficiencies, as well as obesity, much of which is linked to changing lifestyles and the obesogenic environment, even as groups remain undernourished.
- Escalating environmental degradation and climate change continues to emerge as a key theme for future sustainability and implementation of the rights of all women and children.

5

In all outcome areas, **vulnerable groups** are not being afforded full access to their rights under the CRC, and are most affected by some of the critical emergent developments such as environmental concerns, adolescent health concerns and nutritional deprivations, and are suffering poorer outcomes as a result.

- Failure to protect the rights of vulnerable groups is a serious failing that will be demonstrated by missed targets under the 2030 SDG Agenda. In order to address this, steps would ideally be taken to address the causes of discrimination and disparity at all levels and for all vulnerable groups, including children from poor households, children with no or uncertain status (including stateless children, refugee children and undocumented migrant children), children with no birth registration, children with disabilities, LGBTI+ children and indigenous children.

6

There are **significant data gaps** relating to child outcomes that prevent a comprehensive analysis and understanding of the situation for children and women in Malaysia, with many groups rendered essentially **invisible**.

- Stateless, undocumented, refugee and some indigenous groups remain invisible in the data, preventing a true understanding of outcomes for children and women in Malaysia.
- Without accurate, disaggregated data, it is not possible to measure progress towards the SDGs and other international, national and local targets. Proper, fit-for-purpose data and case management systems are essential to address this gap.
- At present, it is reported that undocumented, stateless and some migrant children are not 'counted' in a number of different data sets. Including these children in data sets used for planning is important as it is essential to have a complete picture of all children in Malaysia in order to measure progress towards the SDGs accurately.



A child standing behind a small wooden fence at his house in Kampung Numbak, Sabah, Malaysia.

1

Introduction and Context

1.1. INTRODUCTION

This situation analysis (SitAn) is a human rights-based assessment and analysis of the situation of children and women in Malaysia that is equity-, gender- and risk-informed. The SitAn was developed following a comprehensive analysis of existing data sources and engagement with key stakeholders.

The immediate purpose of the SitAn is to inform the strategic planning discussions for the development of the UNICEF–Government of Malaysia (GOM) Country Programme 2021-2025 and other planning processes, such as UNSDCF (UN Sustainable Development Cooperation Frameworks – previously UNDAF), for which UNICEF and the GOM are already undertaking preparatory work. The SitAn will also support national planning and development processes, in particular the GOM's 12th National Development Plan 2021-2025.

Within this context, the broader purpose of the SitAn is to update knowledge and understanding of the country situation with respect to the rights of children and women, to analyse the capacity of duty bearers at all levels to meet their obligations in the fulfilment of these rights and to make specific recommendations for future action, programme interventions and policy directions. This SitAn seeks to take stock of Malaysia's gains and successes in the implementation of the rights of children and women within Malaysia, while highlighting key challenges, deprivations and groups of children and women that remain left behind.

It is hoped that the SitAn will facilitate a greater understanding of the public policy environment and UNICEF's strategic positioning and added value in supporting the policy and programming environment in Malaysia.

The specific objectives of the SitAn are to:

01

Improve the understanding of decision-makers, partners and all other stakeholders of the current status of children's rights in Malaysia and the causes of shortfalls and inequities, as the basis for recommending actions.

02

Support national planning and development processes including influencing policies, strategies, budgets and national laws to contribute to an enabling environment for children that adheres to human rights principles and gender equality, particularly with regard to universality, non-discrimination, participation and accountability.

03

Strengthen regional and national capacities to monitor the situation of children, principally regarding vulnerable and disadvantaged groups and how their specific rights are being met.

04

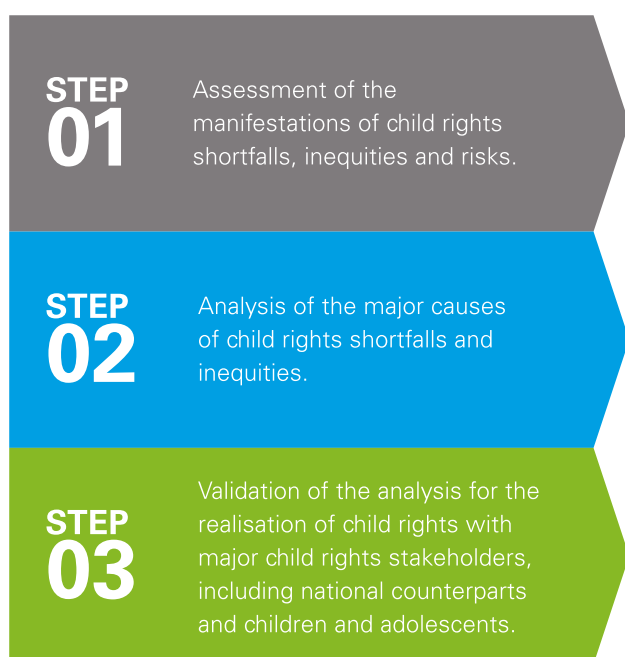
Contribute to national research on disadvantaged girls and boys and leverage UNICEF's convening power to foster and support knowledge generation.

05

Strengthen the knowledge base to enable assessment of the contribution of development partners, including the UN, in support of national development goals.

1.1.1. Conceptual framework

The conceptual framework for the SitAn is grounded in the relationship between outcomes for children and the immediate, underlying and structural determinants of these outcomes, and is adapted from the conceptual framework presented in UNICEF's SitAn Procedural Manual and UNICEF's Technical Note: Risk Informed Situation Analysis. According to this guidance, the development of the SitAn has included three procedural components:



Assessment of child outcomes

The SitAn adopts a rights-based approach for conceptualising child outcomes according to rights categories contained in the United Nations Convention on the Rights of the Child (CRC) and for measuring child outcomes against key rights standards and indicators, particularly the SDGs.

The report covers three main groups of rights and development goals: health and healthy environments (health, nutrition, water, sanitation and hygiene and climate change and environmental degradation); learning and development rights (parenting, early childhood development, education and access to technical-vocational training); and protection rights (protection from violence, abuse, neglect and exploitation, birth registration, harmful practices). Where possible and appropriate, the needs and outcomes of children at different life stages are examined, reflecting that child-related SDGs apply and are realised differently throughout the different phases of a child's life and that particular age categories of children are more vulnerable to certain child rights deprivations and inequities.

The aim of the child outcomes assessment component of this SitAn is to identify trends and patterns in the realisation of children's rights against key international, regional and national development targets; and any gaps, shortfalls or inequities in the realisation of these rights and targets. The assessment employed an equity approach, highlighting trends and patterns in outcomes

The report has taken an equity-based and risk-informed approach, which systematically examines patterns of inequities (relating to gender, location, household wealth, disability, citizenship status, disaster risk and ethnic groups) in the realisation of children's rights, including understanding their immediate, underlying and structural causes. The SitAn uses, in particular, the analytical approaches noted in the UNICEF's New Generation Situation Analysis. Essential elements of a risk-informed, rights-based, equity-focused and gender-sensitive SitAn include:

Disaggregated assessment of the status of and trends in the realisation of children's rights, including vulnerability to hazards;

Investigation of gender disparities in child outcomes and how gender inequalities affect girls and boys differently;

Analysis of the immediate, underlying and structural causes of the disparities and vulnerabilities across various groups; and

Policy and programmatic recommendations to address the disparities and accelerate progress towards achieving the Sustainable Development Goals (SDGs), fulfilling human rights obligations – in particular the Convention on the Rights of the Child (CRC) – and reducing vulnerability to hazards.



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Sitting in the open, children gamble with money in a slum settlement in the state of Sabah.

for different groups of children, and identifying and assessing disparities in outcomes according to key identity characteristics and background circumstances (e.g. gender, geographic location, socio-economic status, age, or disability).

Following an initial assessment of child outcomes and several stakeholder engagement exercises (see 1.1.2. below), a number of priority issues were selected in which progress for children in Malaysia is not on track and/or has reversed. The selection of issues was informed by an analysis of the data, but also by a range of stakeholder engagement exercises, including a large two-day multi-sector stakeholder prioritisation exercise carried out in Kuala Lumpur involving a range of Government, (I)NGO, academic and youth representatives, and a U-Report¹⁴¹ poll carried out among 318 adolescents and young people in 2019.

Analysis of causes, barriers and bottlenecks and enabling environment

The report involved an analysis of immediate, underlying and structural causes of deprivations affecting children, using the following techniques:

Bottlenecks and barriers analysis: A structured analysis of the bottlenecks and barriers that children / groups of children face in the realisation of their rights, with reference to the critical conditions/determinants¹⁴² (enabling environment, supply, demand and quality) needed to realise equitable outcomes for children and women. The bottlenecks and barriers analysis also encompassed:

- An analysis of the enabling environment, to examine broader policy, legal, administrative, institutional and budgetary issues (at national and local levels) and social norms which influence the realisation of the rights of women and children and the reduction of inequalities; and
- A capacity-gap analysis to understand the capacity constraints (e.g. knowledge; information; skills; will/motivation; authority; financial or material resources) on the part of stakeholders who are responsible for / best placed to address rights shortfalls and inequalities.

An examination of the general enabling environment for children was also carried out (see Part 5), identifying capacity gaps and challenges in the legal, policy,

¹⁴¹ U-Report is a social platform created by UNICEF, available via SMS, Facebook and Twitter where young people express their opinion and be positive agent of change in their communities. For more information, see UNICEF “U-Report”, <https://www.unicef.org/innovation/U-Report>

¹⁴² Based on the 10 critical determinants outlined in Table 3 on page 20 of UNICEF’s SitAn Procedural Manual.

administrative and budgetary frameworks and processes; service delivery systems; systems to provide and ensure quality; and the impacts of socio-economic and cultural factors on demand for services. A gender lens was applied to this analysis, to ensure understanding of gender-related barriers and bottlenecks leading from/to and perpetuating gender inequalities. An understanding of the enabling environment for children and women is important in identifying concrete recommendations for strengthening the GOM's capacity for addressing challenges facing children, and also for conceptualising and responding to systemic strengths and challenges in the development of programmes targeting children.

Validation of findings

Throughout the development of the SitAn, a series of stakeholder engagement exercises were carried out in order to inform the content of the SitAn, in particular to inform the selection of priority issues, and to provide feedback on its findings. The purpose of this was to ensure that the report's content and findings are relevant to the situation 'on the ground' and that stakeholders feel a sense of ownership of the report's findings and implications arising from these findings.

1.1.2. Methods

This SitAn involved a comprehensive review, synthesis and examination of available data from a variety of sources. The assessment of child outcomes relied primarily on a review of key administrative and survey data, government reports, academic literature, reports by research institutions and NGOs, and key laws, policies and strategies.

In order to ensure the collection of relevant data and the generation of accurate and relevant findings, six experts were commissioned to produce specialised reports in the following sectors: poverty and socio-economic analysis; health and nutrition; early childhood development and education; child protection; and the rights of refugee, stateless and migrant children. One legal specialist was also recruited to carry out a comprehensive analysis of laws and policies relating to children in Malaysia, across all sectors. The experts carried out a desk review, along with a number of key informant interviews and focus group discussions with relevant Government Ministries, Departments and Agencies, (I)NGOs, academics and other experts. Key informant interviews and focus group discussions were carried out across the peninsula, Sabah and Sarawak, including in Kuala Lumpur, Selangor and Penang.

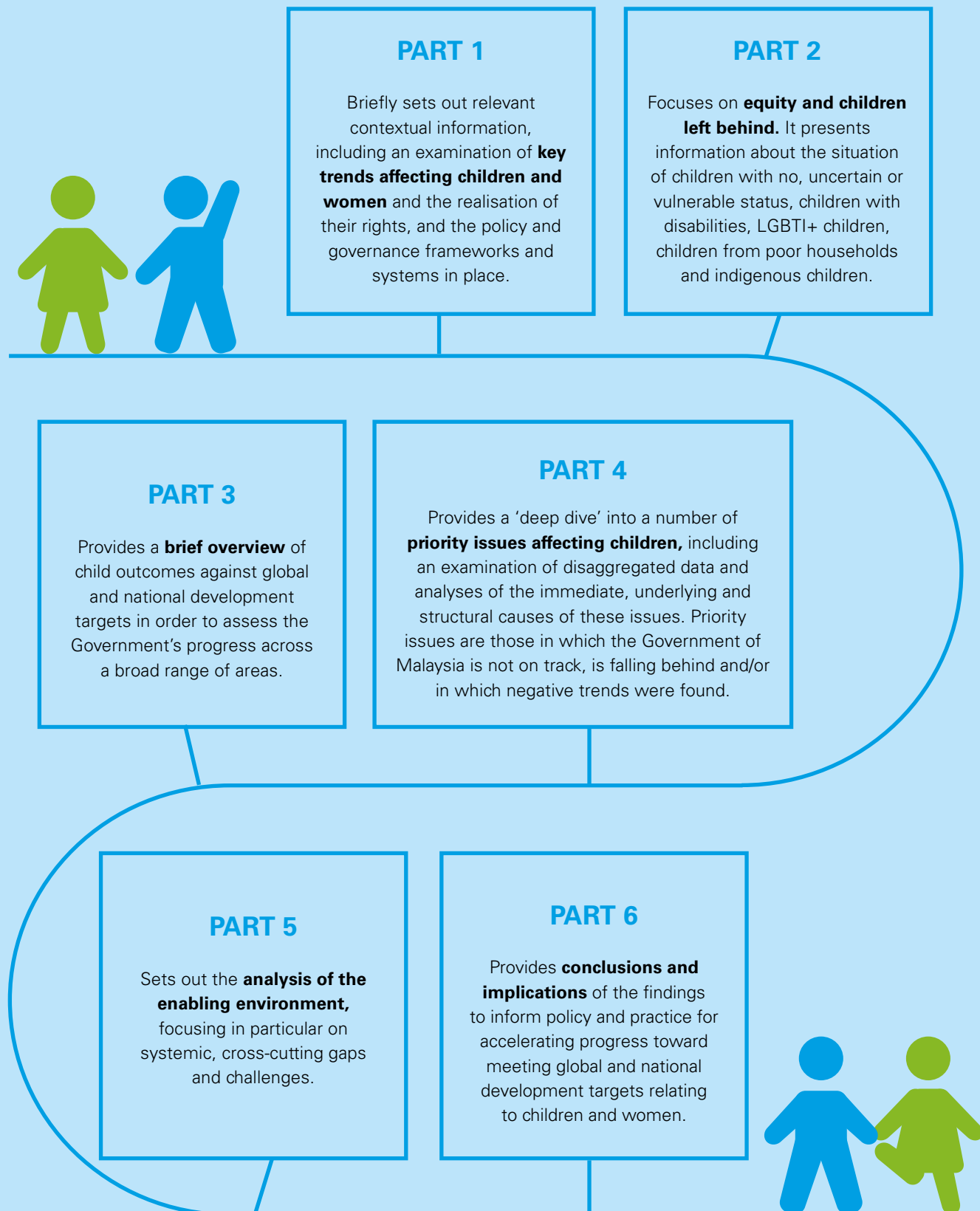
In addition to this, a number of **stakeholder engagement exercises** were carried out in order to inform the focus and content of the report. This included a number of internal UNICEF workshops in 2018 and 2019 (linked to UNICEF's Country Programme Development process), along with a large, external workshop carried out in Kuala Lumpur in September 2018 involving around 100 participants including representatives from Government, UN bodies, NGOs, academia, child rights advocates, and a number of young people who were advocates from marginalised groups (young refugees and persons with disabilities).

In November 2019, a series of **three consultations took place involving adolescents** in the peninsula (Selangor), Sabah (Kota Kinabalu) and Sarawak (Kuching), which fed into the development of this report. The consultations provided a space for adolescents to identify priority issues in Malaysia and to carry out causal analyses in relation to these issues. Adolescents identified recommendations for addressing the priority causes of key deprivations, using the social ecological model. In total, 119 adolescents took part in the consultations: 52 in Selangor, 35 in Kuching and 32 in Kota Kinabalu. This group represented diverse populations within Malaysia, and marginalised and vulnerable groups of adolescents were specifically targeted. Among participants, six had disabilities, 43 were from indigenous communities, two had experience of alternative care, six were undocumented migrant children, 10 were refugees and two were from among the urban poor community (from People's Housing Project, PPR).

1.1.3. Limitations

The analysis of causes and determinants of rights shortfalls relied heavily on published reports. As such, findings are limited to the availability of existing data and materials. In some areas, the lack of recent, quality, published data was a limitation, and it is important to note also that, as discussed throughout this report, several (vulnerable) groups of women and children are not included in official data, compounding their marginalisation. Further, it is worth noting that available data are not always disaggregated in a manner that enables an examination of the equity and gender dimensions in the realisation of children's rights.

Structure of the Report



1.2. BACKGROUND

Malaysia is a culturally diverse upper-middle-income country that, in recognition of its economic development and progress, is soon to be ranked as a high-income country.¹⁴³ Though Malaysia has made some reservations to provisions in key international human rights conventions and despite some notable gaps, it has made considerable progress toward developing a comprehensive and protective legal, policy and

institutional framework for children and the realisation of their rights. However, Malaysia is also a country with growing social disparities and inequities, persistent gender inequality, a fast ageing population, and many stateless or undocumented children and families and other vulnerable groups who have not benefitted from its socio-economic growth, and who have not been encompassed by Malaysia's legal, policy and institutional frameworks for children.

FIGURE 1: Map of Southeast Asia



Source: United Nations¹⁴⁴

¹⁴³ Khazanah Research Institute (KRI), 'The State of Households 2018,' October 2018, http://www.krinstitute.org/assets/contentMS/img/template/editor/FullReport_KRI_SOH_2018.pdf p. 152, cited in United Nations Special Rapporteur on extreme poverty and human rights, 'Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019,' 2019.

¹⁴⁴ UN Geospatial Information Section, <https://www.un.org/Depts/Cartographic/english/htmain.htm>

1.2.1. Demographic context

Malaysia is located in South East Asia in the South China Sea. It is spread across two similarly sized regions – Peninsular Malaysia and East Malaysia – and has a total land area of 328,000 square kilometres. In November 2019, the population was estimated to be 32.6 million,¹⁴⁵ making Malaysia the 44th most populous nation in the world and representing an increase from 17.54 million¹⁴⁶ in 1989 – an average annual increase of 1.79 per cent. The child population in November 2019 was estimated at 9.3 million.¹⁴⁷ Malaysian population growth is set to steady over the next 21 years to a population of 41.5 million and an anticipated annual growth rate of 0.8 per cent.¹⁴⁸ Malaysia has 13 states and three federal territories, the most populous of which is Selangor, located on Peninsular Malaysia, with a population of 6.57 million¹⁴⁹ people. The regions of Sarawak and Sabah in East Malaysia are also areas of significant population with a combined 6.74 million¹⁵⁰ inhabitants. As of 2019, 76.6 per cent of the population of Malaysia lived in urban areas and cities,¹⁵¹ with the capital Kuala Lumpur the most densely populated.

According to the Malaysian Department of Statistics (DOSM), in 2019, Putrajaya had the largest proportion of children as a percentage of the population (at 38.8 per cent of the population), followed closely by Terengganu at 36.0 per cent and Kelantan at 35.6 per cent.¹⁵² The state with the lowest proportional child population was Pulau Pinang at 23.1 per cent.¹⁵³

Malaysia is ethnically diverse; in 2010, the population comprised 67.4 per cent Bumiputera, 24.6 per cent

Chinese, 7.3 per cent Indian, and 0.7 per cent other ethnicities.¹⁵⁴ The country is home to large indigenous minority populations. It was estimated in 2015 that indigenous persons represented 13.8 per cent of the country's population.¹⁵⁵ The indigenous peoples of Peninsular Malaysia, collectively known as Orang Asli, represent around 0.7 per cent of the population of Peninsular Malaysia. Sarawak and Sabah in East Malaysia have much higher populations of indigenous persons, accounting for 70.5 per cent of the population in Sarawak and 58.6 per cent of the population in Sabah.¹⁵⁶ The majority (61.3 per cent) of the population of Malaysia is Muslim, 19.8 per cent is Buddhist, 9.2 per cent is Christian, 6.3 per cent is Hindu and 1.3 per cent of the population practices Confucianism, Taoism, or other traditional Chinese religions.¹⁵⁷

Key demographic trends

Ageing population

Malaysia has an ageing population: in 2050, it will have fewer children and more elderly citizens. Demographic trends show that Malaysia was already an 'ageing society' in 2018, when seven per cent of the population was aged 65 years and above and the child population was around 23 per cent.¹⁵⁸ By 2039, Malaysia will be an 'aged society' (in which 14 per cent of the population will be aged 65 and above).¹⁵⁹ As shown in Figure 2, the share of child population in terms of percentage of the total population has shrunk over the past 50 years, from 43.8 per cent in 1957 to 23.8 per cent in 2017. By 2050, it is projected that the child population will only just exceed the population aged 65 and over. The elderly population, aged 65 and above, has continued to rise from 2.8 per

145 Department of Statistics Malaysia (DOSM), 'Children Statistics 2019', 26 November 2019.

146 The World Bank, Data, <https://data.worldbank.org/country/malaysia>, accessed 11 July 2019.

147 DOSM, 'Children Statistics 2019', 26 November 2019.

148 DOSM, 'Population Projection (Revised), Malaysia, 2010-2040', 04 November 2016, https://www.dosm.gov.my/v1/index.php?r=column/cthemeByCat&cat=118&bul_id=Y3kwU2tSNVFDOWp1YmtZYnhUeVBEdz09&menu_id=L0pheU43NWJwRWVSZklWdzQ4TlhUU0T9, accessed 6 December 2019.

149 DOSM, 'Demographic Statistics First Quarter 2019, Malaysia', 15 May 2019, <https://www.dosm.gov.my/v1/index.php?r=column/pdfPrev&id=Mno2WGO3QUdmaUM3c3lONzN0aW9tZz09>, accessed 11 July 2019.

150 DOSM, 'Demographic Statistics First Quarter 2019, Malaysia', 15 May 2019.

151 United Nations DESA/Population Division, 'United Nations: World Urbanisation Prospects 2018, Country Profiles: Malaysia', <https://population.un.org/wup/Country-Profiles>, accessed 11 July 2019.

152 DOSM, 'Children Statistics 2019', 26 November 2019.

153 DOSM, 'Children Statistics 2019', 26 November 2019.

154 DOSM, 'Population Distribution and Basic Demographic Characteristic Report 2010 (Updated: 05/08/2011). These statistics did not provide a detailed breakdown in relation to the diverse ethnicities of Sabah (e.g. Kadazan-Dusun, Bajau and Murut), Sarawak (e.g. Iban, Chinese, Malay, Bidayuh, Orang Ulu, Melanau) and Orang Asli.

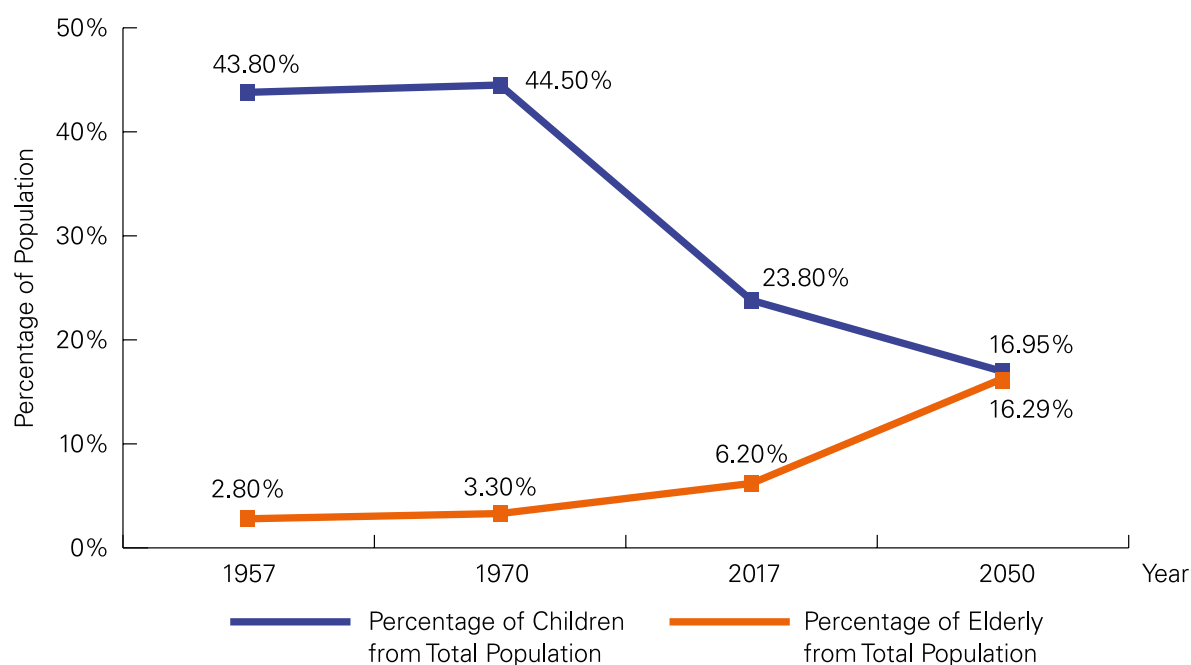
155 International Work Group for Indigenous Affairs, *Indigenous Peoples in Malaysia*, <https://www.iwgia.org/en/malaysia>

156 International Work Group for Indigenous Affairs, *Indigenous Peoples in Malaysia*.

157 DOSM, 'Population Distribution and Basic Demographic Characteristic Report 2010 (Updated: 05/08/2011).

158 Prof Dato' Dr Tengku Aizan HAMID, DPSK, Malaysian Research Institute on Ageing, 'Ageing in Malaysia', https://www.un.org/en/development/desa/population/events/pdf/expert/29/session3/EGM_25Feb2019_S3_TengkuAizanHamid.pdf, accessed 18 September 19.

159 The UN and WHO define an ageing society as one in which more than 7 per cent of the population is 65 years old or more, an aged society as one in which more than 14 per cent of the population is 65 or more and a super aged society as one in which more than 21 per cent of the population is 65 or older.

FIGURE 2: Proportion of children and the elderly in Malaysia, 1957-2050

Source: DOSM and UNDESA 2017¹⁶²

cent in 1957 to 7 per cent in 2018.¹⁶⁰ It is projected that the percentage will increase to 16.3 per cent in 2050.¹⁶¹

The two main factors contributing to Malaysia's ageing society are increasing life expectancy and declining fertility rates.¹⁶³ National life expectancy has increased over the past 50 years, from around 59 years in 1960 to 75.5 years in 2017.¹⁶⁴ By 2050, the average Malaysian will be expected to reach 80 years old.¹⁶⁵ Though life expectancy has increased, the fertility rate has decreased over the past 50 years, from around six children per woman in 1960 to 1.9 in 2017 and is projected to be around 1.7 in 2050.¹⁶⁶ The total fertility rate has been

below the replacement level of 2.1 since 2013.¹⁶⁷ The declining fertility rate has also contributed to a smaller average size of household: the average household size has reduced from 5.2 persons per household in 1980 to 4.2 in 2017.¹⁶⁸

Urbanisation

Malaysia has also seen rapid rates of urbanisation, with the balance shifting from three in four members of the population living in rural areas in 1957 to three in four living in urban areas in 2017.¹⁶⁹ The rate of urbanisation is expected to slow over the next 30 years but it is predicted that, in 2050, 87.9 per cent of the population

¹⁶⁰ DOSM, Mid-Year Population Estimates 2017.

¹⁶¹ DOSM, Sarawak at a Glance, 2017; Malaysia and UNDESA, 2017 *World Population Prospects: The 2017 Revision, Data Booklet*, 2017; UNDESA, 2017 *World Population Prospects: The 2017 Revision, Key Findings and Advance Tables*. Working Paper No. ESA/P/WP/248.

¹⁶² DOSM, Sarawak at a Glance, 2017; Malaysia and UNDESA, 2017 *World Population Prospects: The 2017 Revision, Data Booklet*, 2017; UNDESA, 2017 *World Population Prospects: The 2017 Revision, Key Findings and Advance Tables*. Working Paper No. ESA/P/WP/248.

¹⁶³ Muhammed Abdul Khalid, *Income Security for Older Persons in Malaysia*, 2016, <https://www.unescap.org/sites/default/files/SDD%20Working%20Paper%20Ageing%20Income%20Malaysia%20v1-1.pdf>, accessed 11 Oct 2019.

¹⁶⁴ DOSM, Sarawak at a Glance, 2017; UNDESA World Population Prospects 2019, custom data acquired via website.

¹⁶⁵ DOSM, Sarawak at a Glance, 2017; UNDESA World Population Prospects 2019, custom data acquired via website.

¹⁶⁶ DOSM, Sarawak at a Glance, 2017; UNDESA World Population Prospects 2019, custom data acquired via website.

¹⁶⁷ DOSM, Official Portal, "Vital Statistics, Malaysia, 2018", 12 December 2019.

¹⁶⁸ Siti Norlasiah, *Population and Family Policies in Malaysia*, 2014, http://familyrepository.lppkn.gov.my/389/4/Population_and_Family_Policies_in_Malaysia_Full_paper.pdf; DOSM, Mid-Year Population Estimates 2017.

¹⁶⁹ World Bank World Development Indicator; Yaakob, U., Masron, T., & Masami, F., *Ninety years of urbanization in Malaysia: a geographical investigation of its trends and characteristics*, J Ritsumeikan Soc Sci Humanit, 2010, 4(3), pp. 79-101.

will live in urban areas.¹⁷⁰ This projection places Malaysia well above the anticipated 2050 regional average of 66 per cent and gives it the second highest projected rate for the region, behind Singapore, which has already reached 100 per cent.¹⁷¹ Most of the urban areas in Malaysia are in the peninsula, with Sabah and Sarawak containing far more rural-dwelling populations.¹⁷² Statistics relating to distribution of children between urban and rural areas are not publicly available.

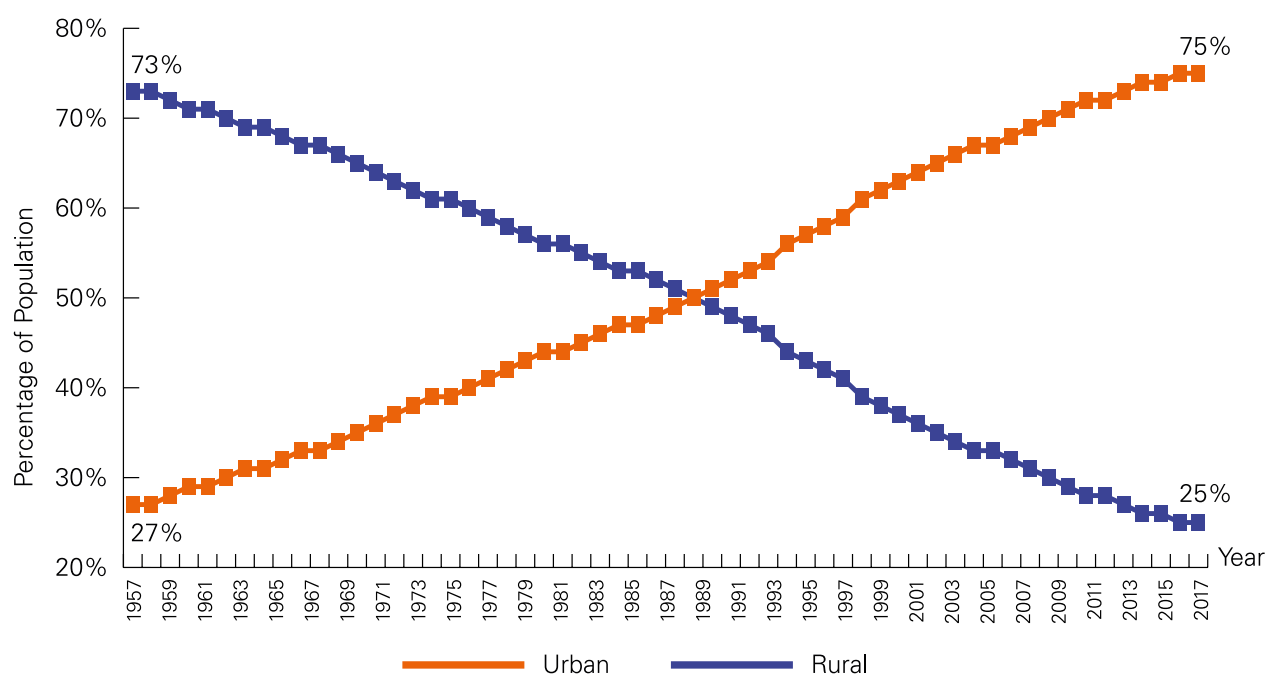
When factoring rural/urban demographics into this analysis, it is important to acknowledge that the so-called rural/urban divide may distract from more telling comparators, including affluent rural versus poorer (bottom 40 per cent) urban areas, or different geographic 'ruralities', such as forest or interior locations.

Children and families on the move

Malaysia is a major destination country for many children, families and persons on the move, including those who have travelled from Southeast and South Asia, the Middle East and from African countries. Children and families in Malaysia who are on the move, or who are affected by migration fall into a number of categories (categories for those who are stateless are set out in Section 2.2):

- Those who migrate to Malaysia through formalised immigration visa processes, including those who are seeking economic or educational opportunities;
- Those who are seeking protection and refuge from violence, persecution and other rights violations;
- Those who are 'undocumented', having entered Malaysia outside of a regularised process, including

FIGURE 3: Urban and rural population in Malaysia, 1957-2017



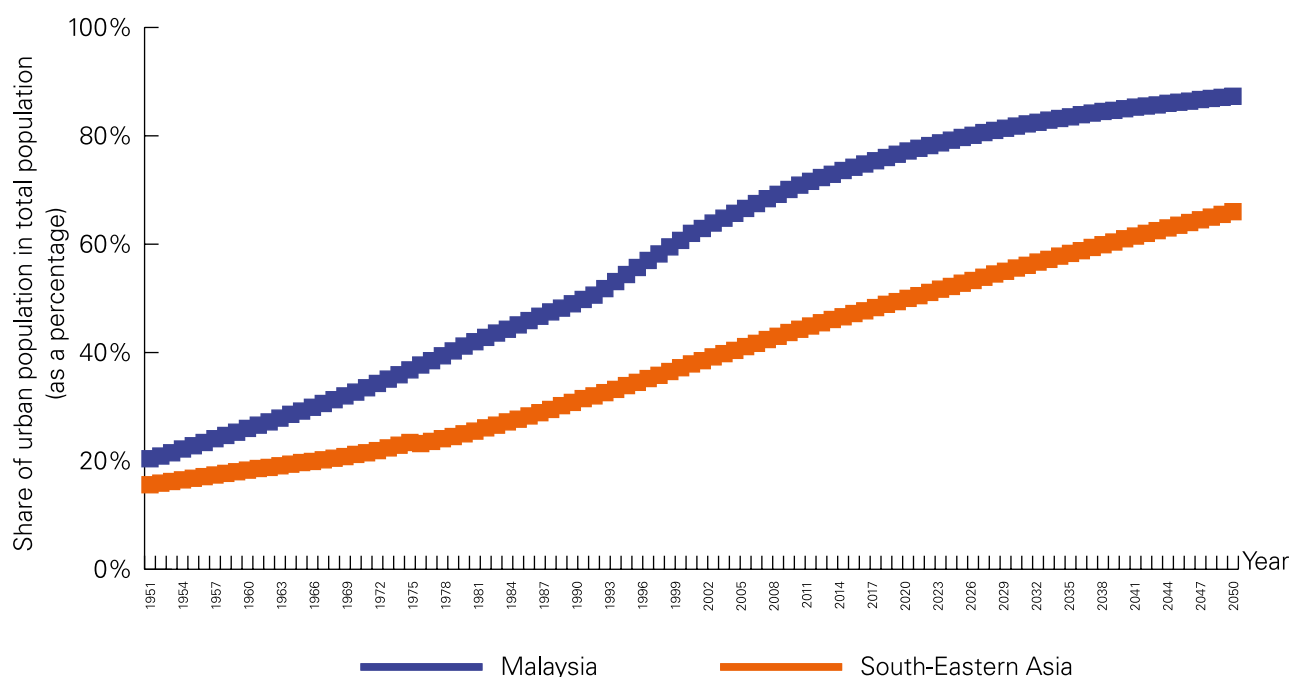
Source: World Bank World Development Indicator; Yaakob et al 2010¹⁷³

170 UNDESA, 'Population Division, Urban and Rural Areas 2009', <https://www.un.org/en/development/desa/population/publications/pdf/urbanization/urbanization-wallchart2009.pdf>, accessed 29 November 2019.

171 UNDESA, 'Population Division, Urban and Rural Areas 2009', <https://www.un.org/en/development/desa/population/publications/pdf/urbanization/urbanization-wallchart2009.pdf>, accessed 29 November 2019.

172 See, e.g. ASEANUP, 'Market Analysis Malaysia', <https://aseanup.com/market-analysis-malaysia/>, accessed 7 December 2019.

173 Yaakob, U., Masron, T., & Masami, F., *Ninety years of urbanization in Malaysia: a geographical investigation of its trends and characteristics*. *J Ritsumeikan Soc Sci Humanit*, 2010, 4(3), pp. 79-101.

FIGURE 4: Urbanisation rate in Malaysia and Southeast Asia,¹⁷⁴ 1951-2050Source: United Nations DESA 2018¹⁷⁵

those who may have been trafficked or smuggled into Malaysia, and including those who are born in Malaysia to parents who are not documented;¹⁷⁶ and

- Those who originate from within Malaysia: inter-state migration accounted for 28.5 per cent of all migration in Malaysia in 2018; Selangor received the most internal migrants, with Kuala Lumpur having the most leave. 19.8 per cent of internal migration was from rural to urban with 6.3 per cent from urban to rural.¹⁷⁷

Between 2010 and 2017, the number of documented foreign workers in Malaysia increased from 1.7 million to 2.2 million. At the end of 2018, there were thought to be an estimated two to four million additional workers

in Malaysia who were working without documented migration status. The predominant countries of origin of foreign workers are Indonesia, Nepal, Bangladesh, India and Myanmar, with smaller numbers from elsewhere in Asia.¹⁷⁸ International migrants in Malaysia constitute 14.4 per cent of the population.¹⁷⁹

Malaysia is not a signatory to the 1951 Refugee Convention or its Protocol.¹⁸⁰ As a result, refugees in Malaysia are treated as 'illegal immigrants'. At the end of October 2019, 177,800 refugees and asylum seekers were registered with UNHCR in Malaysia, of which 46,340 were children.¹⁸¹ As shown in Figure 5, the vast majority of refugees in Malaysia come from Myanmar.¹⁸²

174 Defined in this chart by the UN DESA regions: Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand, Timor-Leste and Vietnam.

175 UNDESA, *Population Division, World Urbanisation Prospects 2018* (Malaysia), available at <https://population.un.org/wup/Country-Profiles/>, accessed 17 January 2019.

176 IOM, *Malaysia*, available at: <https://www.iom.int/countries/malaysia>, accessed 4 December 2019.

177 DOSM, *Migration Survey Report 2016*, <https://newss.statistics.gov.my/newss-portalx/ep/epProductFreeDownloadSearch.seam>, accessed 4 December 2019.

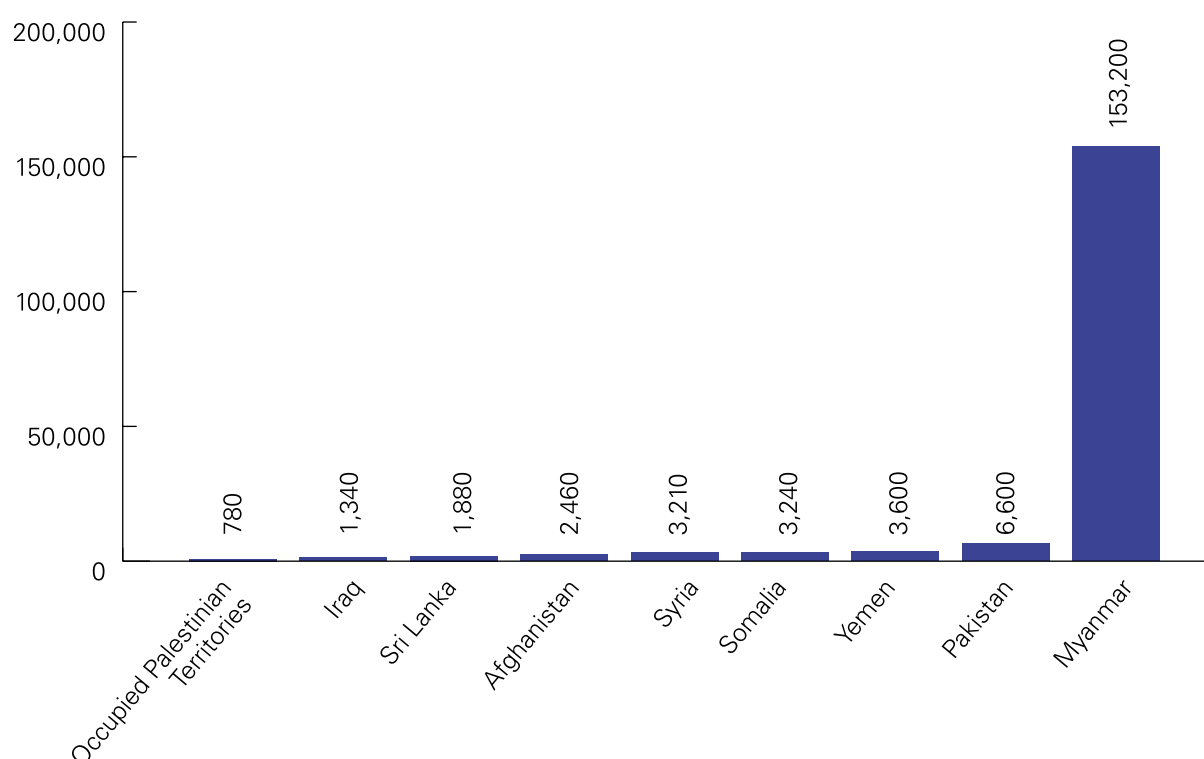
178 IOM, *Malaysia*, available at: <https://www.iom.int/countries/malaysia>

179 IOM, *Malaysia*, available at: <https://www.iom.int/countries/malaysia>

180 UNHCR, 'Ending Statelessness in Malaysia' 2019, <https://www.unhcr.org/uk/ending-statelessness-in-malaysia.html>, accessed 18 September 2019.

181 UNHCR 'Figures at a Glance in Malaysia', 2019, <https://www.unhcr.org/uk/figures-at-a-glance-in-malaysia.html>, accessed 4 December 2019.

182 "Figures at a Glance in Malaysia" UNHCR 2019.

FIGURE 5: Refugee and asylum seekers in Malaysia by origin, 2019 (persons)

Source: UNHCR, 2019¹⁸³

In Peninsular Malaysia, there are estimated to be 10,000 stateless people, many of whom are of Indian or Sri Lankan descent, but who have been unable to prove and confirm their Malaysian citizenship.¹⁸⁴ In East Malaysia, where the number of stateless people is unknown, it is thought that many stateless people are Indonesian or Filipino migrant workers or are the descendants of Sabah and Sarawak indigenous groups with disputed nationalities.¹⁸⁵ Another prominent group are the Bajau Laut, who traditionally reside in houseboats, often off the coast of Sabah.¹⁸⁶

1.2.2. Socio-economic context

According to UN/IMF figures from 2019, Malaysia is the 35th largest economy in the world with a GDP of 365.3 billion USD¹⁸⁷ and a GDP per capita of 11,140 USD.¹⁸⁸ It is on course to be named a high-income country by 2024.¹⁸⁹ The economy has grown considerably in the past 30 years with annual growth rates averaging seven per cent since 1957.¹⁹⁰ Malaysia sits just inside the category of 'very high' human development as measured through the Human Development Index (HDI), with a ranking of 57 behind, in the South East Asian Region, Brunei Darussalam (39) and Singapore (9).¹⁹¹

183 UNHCR Malaysia, 'Figures at a Glance in Malaysia', <https://www.unhcr.org/uk/figures-at-a-glance-in-malaysia.html>, accessed 10 December 2019.

184 UNHCR, 'Ending Statelessness in Malaysia' 2019.

185 UNHCR, 'Ending Statelessness in Malaysia' 2019.

186 Malaysia Kiki, 'Bajau Laut: Once sea nomads, now stateless', 18 May 2019, <https://www.malaysiakini.com/news/476595>, accessed 4 December 2019.

187 IMF DataMapper, 'World Economic Outlook, GDP, current prices' (adjusted for November 2019 exchange rate), <https://www.imf.org/external/datamapper/NGDPDPC@WEO/OEMDC/ADVEC/WEOWORLD/MYS>, accessed 4 December 2019.

188 IMF DataMapper, 'World Economic Outlook, GDP, current prices'.

189 World Bank, 'The World Bank in Malaysia', <https://www.worldbank.org/en/country/malaysia/overview>, accessed 17 September 19.

190 World Bank, *The Growth Report: Strategies for Sustained Growth and Inclusive Development*, 2008, http://siteresources.worldbank.org/EXTPREMNET/Resources/489960-1338997241035/Growth_Commission_Final_Report.pdf, accessed 9 December 2019.

191 UNDP, 'Human Development Reports', <http://hdr.undp.org/en/composite/HDI>, accessed 17 July 2019.

Much of this growth has been attributed to the move away from a commodity-based economy towards diversification in manufacturing, technology and knowledge-based industries.¹⁹² As of 2019, 54.5 per cent of economic output came from the service sector, with 23 per cent from manufacturing and 11 per cent from agriculture.¹⁹³

Labour force participation and unemployment

The overall labour force participation rate stood at 68.5 per cent as of May 2019,¹⁹⁴ up from 64.02 per cent in 1999.¹⁹⁵ A total of 31.5 per cent of the working age population (15-64) were outside the labour force in May 2019 (a group that includes stay at home parents, students, retirees and those not seeking employment).¹⁹⁶ The unemployment rate in Malaysia is 3.4 per cent which places it fourth in the South East Asian region.¹⁹⁷ However, it should be noted that the youth (15-24) unemployment rate is currently 11.67 per cent; more than three times the national average.¹⁹⁸ According to one report, is likely that youth employment is under-reported, with hidden segments perhaps adding as much as an additional 35-50 per cent to youth unemployment figures.¹⁹⁹ It has also recently been reported by the World Bank that income for young workers has shown slower growth than older population segments. Median employment income among men aged 20 to 29 years was 58 per cent of those aged 40-49 years in 2016 – a drop from 70 per cent of the median employment income of those aged 40 to 49 in 2004.²⁰⁰

Employment rates differ for men and women and for those living in rural and urban areas.²⁰¹ The rate of unemployment is higher for Malaysian women

(3.8 per cent in 2017) compared to that of men (3.6 per cent in 2017).²⁰² This is a significantly smaller gap than was the case in 2016 (3.4 per cent for men compared to 3.9 for women). Interestingly, rural women have a higher unemployment rate than women living in urban areas, but the reverse is true for men.²⁰³ The male unemployment rate in urban areas is higher than that of urban women.²⁰⁴

Unemployment and under-employment of women is a particular concern with consequences for the rights and development of women and children, but also for the nation's economy. As a 2018 commentary from the IMF noted, an increase in the female labour force participation rate (LFPR) between 2012 and 2016 led to the 2016 real GDP being one per cent higher than it would otherwise have been.²⁰⁵ While Malaysia's female LFPR has increased over time and reached 50.9 per cent in 2018, it is still far lower than the participation rate for males, which was 77.43 per cent in 2018.²⁰⁶

Unemployment and under-employment of women is a particular concern with consequences for the rights and development of women and children, but also for the nation's economy.

192 World Bank, 'The World Bank in Malaysia'.

193 World Bank, Climate Change Knowledge Portal 'Country Context: Malaysia', <https://climateknowledgeportal.worldbank.org/country/malaysia>, accessed 9 December 2019.

194 DOSM, 'Key Statistics of Labour Force in Malaysia, May 2019', 12 July 2019, https://www.dosm.gov.my/v1/index.php?r=column/cthemByCat&cat=124&bul_id=enA2bFRwZDFyUkZ5ejVZcWhEUDFjUT09&menu_id=U3VPMIdoYUxzVzFaYmNkWXZteGduZz09, accessed 9 December 2019.

195 World Bank data, 'Labour force participation rate, total (15-64) (modelled ILO estimate)', <https://data.worldbank.org/indicator/SL.TLF.ACTI.ZS?locations=MY>, accessed 17 July 2019.

196 DOSM, 'Key Statistics of Labour Force in Malaysia, May 2019'.

197 World Bank Data, Malaysia, <https://data.worldbank.org/country/malaysia>, accessed 27 November 2019; Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand, Timor-Leste and Vietnam.

198 World Bank Data, Malaysia, <https://data.worldbank.org/indicator/SL.UEM.1524.ZS?locations=MY>, accessed 27 November 19.

199 Malay Mail 'Malaysia Faces Youth Unemployment Crisis', 10 September 2019, available at: <https://www.malaymail.com/news/what-you-think/2019/09/10/malaysia-faces-youth-unemployment-crisis-murray-hunter/1789238>, accessed 27 November 2019.

200 World Bank Group, *Making ends meet: Malaysia economic monitor* (2019).

201 KRI, *The State of Households 2018: Different Realities, The Malaysian Workforce: A Changing Landscape*, 2018. pp. 99-112.

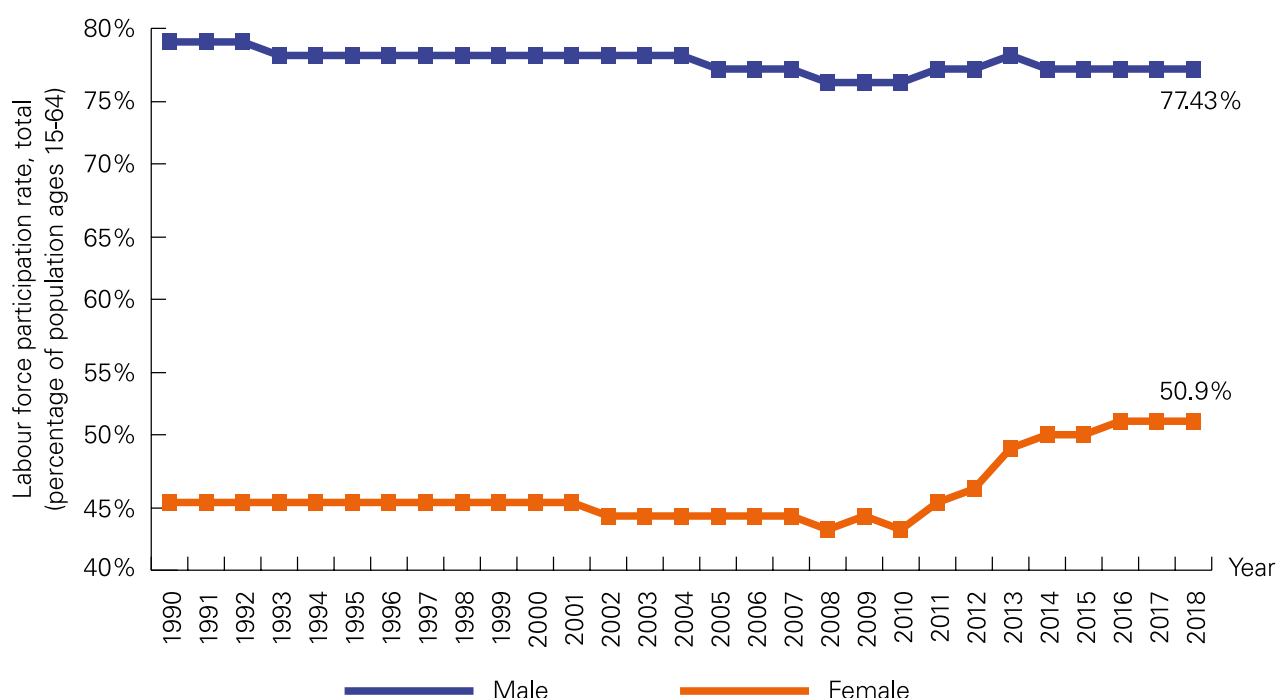
202 KRI, *The State of Households 2018: Different Realities, The Malaysian Workforce: A Changing Landscape*, 2018. pp. 99-112.

203 KRI, *The State of Households 2018: Different Realities, The Malaysian Workforce: A Changing Landscape*, 2018. pp. 99-112.

204 KRI, *The State of Households 2018: Different Realities, The Malaysian Workforce: A Changing Landscape*, 2018. pp. 99-112.

205 IMF, 'Chart of the Week: Malaysia Needs More Women in the Workforce', 2 April 2018, <https://blogs.imf.org/2018/04/02/chart-of-the-week-malaysia-needs-more-women-in-the-workforce/>, accessed 9 December 2019.

206 The Global Economy, presenting data from The World Bank, <https://www.theglobaleconomy.com/Malaysia/>

FIGURE 6: Female and male labour force participation rates, Malaysia, 1990-2018

Source: World Bank 2017²⁰⁷

Despite educational attainment rates for Malaysian women surpassing that of men at every level of schooling, gender inequality in the workforce endures, and is particularly evident in certain sectors of the economy.

Women account for less than a quarter (24.7 per cent) of the legislators, senior officials and managers in the country and only 44.3 per cent of the professional and technical workforce.²⁰⁸ Even lower is the proportion of female parliamentary representatives (14.4 per cent) and women working in ministerial positions (17.9 per cent).²⁰⁹ Moreover, according to income estimates published by the Department of Statistics in November 2019, Malaysian women earn RM93.20 for every RM100 earned by their male counterparts.²¹⁰

Women's presence in the workforce has been found to peak at ages 25-29, declining at all subsequent age groups; the 'disappearing women phenomenon'.²¹¹ Men's participation rates are maintained across all age groups.²¹² The disappearing women phenomenon has obvious implications for gender equality.²¹³ Identifying and combating the barriers that obstruct female workforce participation is central to 'fostering equitable, inclusive and sustainable economic growth'.²¹⁴

207 The Global Economy, presenting data from The World Bank, <https://www.theglobaleconomy.com/Malaysia/>

208 DOSM, 'Statistics on Women Empowerment in Selected Domains', Malaysia, 2019, https://www.dosm.gov.my/v1/index.php?r=column/themeByCat&cat=444&bul_id=U2UvVIIQQIJsbnkwclQrdVlnMzJTdz09&menu_id=L0pheU43NWJwRWVSZklWdzQ4TlhUUT09

209 DOSM, 'Statistics on Women Empowerment in Selected Domains, Malaysia', 2019.

210 DOSM, 'Statistics on Women Empowerment in Selected Domains, Malaysia', 2019.

211 KRI, The State of Households 2018: Different Realities, The Malaysian Workforce: A Changing Landscape, 2018, p. 89.

212 KRI, The State of Households 2018: Different Realities, The Malaysian Workforce: A Changing Landscape, 2018, p. 89.

213 KRI, The State of Households 2018: Different Realities, The Malaysian Workforce: A Changing Landscape, 2018, p. 89.

214 KRI, The State of Households 2018: Different Realities, The Malaysian Workforce: A Changing Landscape, 2018, p. 89.



Including more women in the labour force helps promote growth

A large body of international research has found that ensuring women have equal opportunity to education, health and economic advancement not only benefit women themselves, but also benefits society more broadly: *“Women’s access to economic opportunities, for example, often lead to better education and health outcomes for children, especially in developing countries; closing gender gaps in employment and education promotes diversity, and hence economic growth; reducing gender inequalities, too, leads to lower income inequalities and thus more sustainable growth. The greater overall benefits brought about by gender equality is very much likely to be true in Malaysia... Raising women’s employment level by, say, 30 per cent—a shift that will narrow but not completely close gender gap in labour force participation—would raise Malaysia’s GDP by around seven to 12 per cent.”*²¹⁵

One clear barrier to women’s access to the labour force is the burden of domestic and family care, in particular childcare, that is disproportionately shouldered by women. In 2017, 58 per cent of women compared to only 3.2 per cent of men outside the workforce gave ‘housework/family responsibilities’ as the reason they were not seeking work.²¹⁶

Women in rural areas of Malaysia are more likely to be excluded from the labour force as a result of domestic/childcare responsibilities, with 61.5 per cent

of rural women citing this as a reason for not seeking work, compared to 56.9 per cent of women living in urban areas.²¹⁷ Moreover, figures on the employment status of men and women in Malaysia show that a larger proportion of men than women are ‘employers’, ‘employees’ and ‘own account workers’, whereas a higher proportion of women are ‘unpaid family workers’ (see Figure 7 below). With this in mind, it is crucial to develop strategies to relieve Malaysian women of the disproportionate burden of domestic responsibilities.

A 2018 study examined the effects of sex, race and socioeconomic status on the attitudes held by young Malaysians toward women as managers.²¹⁹ The study found that Malaysian women held more positive and favourable attitudes towards women managers than Malaysian men did and suggested this was a result of conditioned perceptions of traditional gender roles.²²⁰ As the majority of managers and executives making hiring decisions in Malaysia are male, this could impede women’s occupational opportunities and career progression.²²¹

Gender inequality

While some gains have been made in recent years, gender inequality remains a significant barrier to the fulfilment of women’s and girls’ rights and to the acceleration of economic development overall, and across all sectors.²²² According to the Gender Inequality Index (GII), which captures gender disparities across four thematic areas (economic participation and opportunity, educational attainment, health and survival and political empowerment), Malaysia has improved slightly in closing the gender disparity gap. Malaysia’s gender gap index was 0.676 in 2018, an improvement from 0.692 in 2016 (the lower the GII, the fewer the disparities between men and women in a country and the lower the cost to human development). However, this places Malaysia as low as 101st out of 149 countries and 13th out of 18 countries in the East Asia and the Pacific Region for which data are available, and highlights the need for additional efforts to promote gender equality alongside broader development

215 KRI, The State of Households 2018: Different Realities, The Malaysian Workforce: A Changing Landscape, 2018, p. 89.

216 KRI, The State of Households 2018: Different Realities, The Malaysian Workforce: A Changing Landscape, 2018.

217 KRI, The State of Households 2018: Different Realities, The Malaysian Workforce: A Changing Landscape, 2018.

218 KRI, The State of Households 2018: Different Realities, The Malaysian Workforce: A Changing Landscape, 2018.

219 Li Teng Voon, Cleveland State University, *Sex, Ethnicity, and Socioeconomic Status on Attitudes Toward Women As Managers and Perceived Career Impediment: A Study of Young Adults In Malaysia*, 2018, <https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=2065&context=etdarchive>, accessed 4 December 2019.

220 Li Teng Voon, Cleveland State University, *Sex, Ethnicity, and Socioeconomic Status on Attitudes Toward Women As Managers and Perceived Career Impediment: A Study of Young Adults In Malaysia*, 2018.

221 Li Teng Voon, Cleveland State University, *Sex, Ethnicity, and Socioeconomic Status on Attitudes Toward Women As Managers and Perceived Career Impediment: A Study of Young Adults In Malaysia*, 2018.

222 For instance, if female labour participation increases by 30 per cent, the national GDP can potentially increase by seven per cent to 12 per cent (KRI, 2018). Increasing the share of women in the labour force is a remedy for Malaysia’s ageing population.

A 2018 study found that Malaysian women held more positive and favourable attitudes towards women managers than Malaysian men did and suggested this was a result of conditioned perceptions of traditional gender roles. As the majority of managers and executives making hiring decisions in Malaysia are male, this could impede women's occupational opportunities and career progression.

FIGURE 7: Percentage of men and women, by status in employment, 2017



Source: KRI 2018²¹⁸

efforts.²²³ The most substantial gaps were in economic participation and opportunity (0.656) and political empowerment (0.072).²²⁴ Women's participation in the labour force and in positions of decision-making are discussed above.

When considering gender inequality in terms of economic development, it is essential to recognise that structural determinants of gender inequality disadvantage women in many areas, including in the legal system, within traditional normative frameworks, and in the levels of violence against women and girls, as discussed in greater detail in section 3 below.

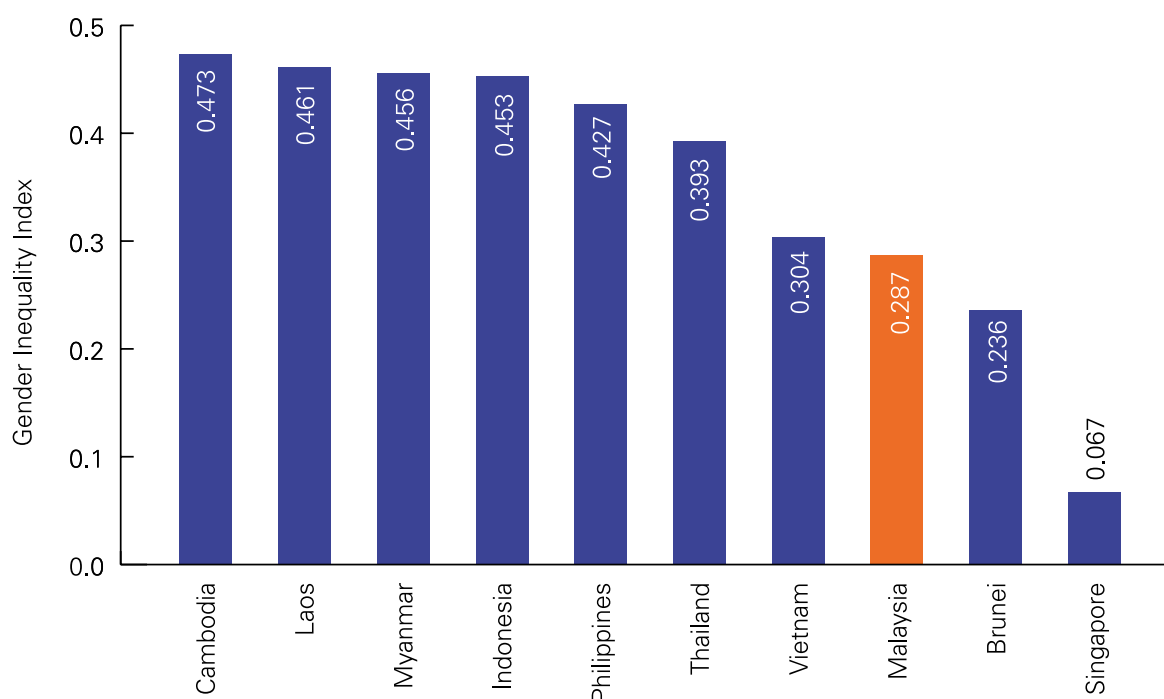
Poverty and economic inequality

Malaysia's economic growth and socio-economic transformation has delivered positive results for many

and the GOM has recorded significant progress in reducing poverty, reporting a drop in income poverty rates from 50 per cent in 1970 to 16.5 per cent in 1990, and to 0.4 per cent in 2016.²²⁷ The official multi-dimensional poverty rate was also reported to have fallen from 1.1 per cent of households in 2014 to 0.86 per cent in 2016.²²⁸

However, Malaysia's poverty line has been set very low and is not consistent with the cost of living – as mentioned by the UN Special Rapporteur on extreme poverty and human rights in his recent report on Malaysia, the current poverty line of RM980 (USD235) would see an urban family of four surviving on RM8 (less than USD2) a day; a very low rate for a country on the cusp of becoming high-income.²²⁹ A more meaningful poverty line, commensurate with countries with similar average income, would see Malaysia's poverty rate

FIGURE 8: Gender Inequality Index (GII) in Southeast Asian Region, 2018



Source: UNDP 2018²²⁵ 226

223 World Economic Forum, *Global Gender Gap Report 2018*, http://www3.weforum.org/docs/WEF_GGGR_2018.pdf. The report includes the following countries in the East Asia and the Pacific Region: New Zealand, Philippines, Lao PDR, Australia, Mongolia, Singapore, Thailand, Vietnam, Indonesia, Myanmar, Brunei Darussalam, Cambodia, Malaysia, China, Fiji, Japan, Korea, Rep. and Timor Leste.

224 Global Gender Gap Report 2018, p. 21.

225 UNDP, *Human Development indices and indicators: 2018 statistical update*, http://www.hdr.undp.org/sites/default/files/2018_human_development_statistical_update.pdf - accessed 17 January 2020.

226 Due to a lack of relevant data, the GII has not been calculated for Timor Leste.

227 Economic Planning Unit (EPU), Mid-term review of the Eleventh Malaysia Plan 2016-2020, 2018.

228 EPU, Mid-term review of the Eleventh Malaysia Plan 2016-2020, 2018; Malay Mail, "How Malaysia is measuring poverty levels and how it can do better", 6 September 2019, <https://www.malaymail.com/news/malaysia/2019/09/06/how-malaysia-is-measuring-poverty-levels-and-how-it-can-do-better/1787753>, accessed 4 December 2019.

229 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019, p. 2.

include around 20 per cent of the population.²³⁰ The Special Rapporteur also noted that, while some progress has been made in reducing poverty and deprivation, 'the mainstream narrative that poverty in Malaysia is largely confined to small numbers in rural areas and indigenous peoples must be discarded.'²³¹

'B40' refers to households whose income sits in the bottom 40th percentile of national income range. Steps have been taken to reduce inequality, with average household incomes for the B40 rising by 11.4 per cent per year between 2009 and 2014 and average income growing by 7.9 per cent per year over the same period.²³² However, though the average monthly income of B40 households has increased, their share of total household income only increased marginally from 14.3 per cent in 2009 to 16.5 per cent in 2014. Raising the income of B40 households is a priority set out in Malaysia's current development plan (2016 – 2020). As the UN Special Rapporteur's statement highlights, it appears that poverty and deprivation are not close to elimination in Malaysia. The current national poverty line has the effect of concealing the reality of poverty, including within otherwise affluent urban areas, as set out below in Part 2.

Overall, inequality and income distribution (as measured using the Gini coefficient) has shown some improvement. The Gini coefficient estimate for Malaysia in 2016 was 0.399,²³³ which, though slightly above the 'acceptable' level of inequality (0.30 to 0.35²³⁴) is an improvement on a Gini coefficient of 0.513 in 1970 and 0.401 in 2014.²³⁵

The rate of decrease in income inequality is impressive by international standards and yet has gone largely unrecognised in Malaysia. Policy discourses have 'not highlighted the drop in inequality as a success nor attempted to draw insight from this track record.'²³⁶ Moreover, public discourse continues to maintain that inequality in Malaysia is a pervasive problem, and that the 'rich are getting richer, while the poor get poorer.'²³⁷

The contradiction has caused some researchers to question the reliability of the official figures. One limitation is that income distribution calculations focus exclusively on gross household income inequality, overlooking important aspects such as wage distribution and wealth.²³⁸ Moreover, official statistics may underestimate income inequality²³⁹ by under-reporting and under-sampling households in the upper-end of income distribution and by omitting non-citizens from the official measurements.²⁴⁰ This leads to 'missing income' at the upper and lower end of the distribution.²⁴¹ According to calculations by KRI, taking into account 'missing income', the adjusted Gini coefficient for 2016 would be 0.441 – significantly higher than the actual rate of 0.399.²⁴²

Furthermore, national inequality averages may mask in-state and inter-state inequalities.²⁴³ Levels of income inequality within Malaysian states vary, with some states being more unequal than others.²⁴⁴ In 2016, Sabah was the most unequal state with a Gini coefficient of 0.402, whereas Pahang had the lowest Gini coefficient of 0.324.²⁴⁵ This is different to 1974, where Penang was the most unequal, with a Gini coefficient of 0.597, and

230 KRI, 'The absolute vs relative poverty conundrum', June 2019, pp. 5-6, http://www.krinstitute.org/assets/contentMS/img/template/editor/Views_The%20Absolute%20VS%20Poverty%20Conundrum.pdf, accessed 4 December 2019.

231 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019, p. 2.

232 DOSM Report of Household Income and Basic Amenities Survey 2016.

233 DOSM, 'Report of Household Income and Basic Amenities Survey 2016', 9 October 2017, https://www.dosm.gov.my/v1/index.php?r=column/cthemeByCat&cat=120&bul_id=RUZ5REwveU1ra1hGL21JWVIPRmU2Zz09&menu_id=amVoWU54UT10a21NWmdhMjFMMWcyZz09, accessed 4 December 2019.

234 UNDP, *State of Human Development in the Pacific: A report on vulnerability and exclusion at a time of rapid change*, 10th November 2014, <https://www.unescap.org/resources/state-human-development-pacific-report-vulnerability-and-exclusion-time-rapid-change>, accessed 6 December 2019.

235 DOSM, 'Report of Household Income and Basic Amenities Survey 2016', 09 October 2017, https://www.dosm.gov.my/v1/index.php?r=column/cthemeByCat&cat=120&bul_id=RUZ5REwveU1ra1hGL21JWVIPRmU2Zz09&menu_id=amVoWU54UT10a21NWmdhMjFMMWcyZz09, accessed 4 December 2019.

236 Lee, Hwok-Aun, *Is Inequality in Malaysia really going down? A puzzle explored*, Department of Development Studies, University of Malaya, October 2018, p. 2 <http://pubdocs.worldbank.org/en/285151475547874083/Is-Inequality-in-Malaysia-Really-Going-Down.pdf>

237 Khazanah Research Institute, *The State of Households 2018: Different Realities*, October 2018, p. 63 http://www.krinstitute.org/assets/contentMS/img/template/editor/20181127_Full%20Report%20KRI%20SOH2018.pdf

238 Lee, Hwok-Aun, *Is Inequality in Malaysia really going down? A puzzle explored*, Department of Development Studies, University of Malaya, 2018, p. 2 <http://pubdocs.worldbank.org/en/285151475547874083/Is-Inequality-in-Malaysia-Really-Going-Down.pdf>.

239 Khazanah Research Institute, *The State of Households 2018: Different Realities*, 2018, http://www.krinstitute.org/assets/contentMS/img/template/editor/20181127_Full%20Report%20KRI%20SOH2018.pdf

240 Khazanah Research Institute, *The State of Households 2018: Different Realities*, 2018, http://www.krinstitute.org/assets/contentMS/img/template/editor/20181127_Full%20Report%20KRI%20SOH2018.pdf

241 Khazanah Research Institute, *The State of Households 2018: Different Realities*, 2018, http://www.krinstitute.org/assets/contentMS/img/template/editor/20181127_Full%20Report%20KRI%20SOH2018.pdf

242 KRI, *The State of Households 2018: Different Realities*, 2018.

243 KRI, *The State of Households 2018: Different Realities*, 2018.

244 KRI, *The State of Households 2018: Different Realities*, 2018.

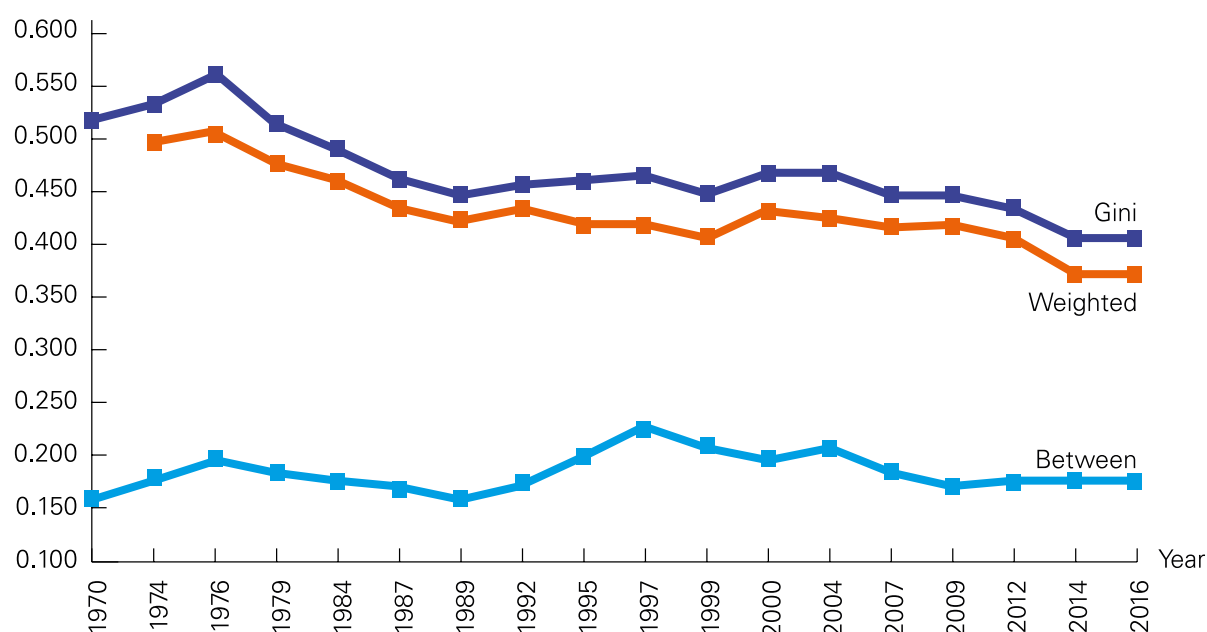
245 KRI, *The State of Households 2018: Different Realities*, 2018.

Perlis was the least unequal at 0.425.²⁴⁶ Figure 9 shows three different measures of inequality, calculated by KRI: 1) the Gini co-efficient 2) weighted inequality which indicates “within-state inequality” and 3) “between-state inequality.”²⁴⁷

Household income distribution rates differ between urban and rural areas. Income distribution rates are higher in urban areas (0.389 in 2016) than in rural areas (0.364 in 2016).²⁴⁹ This is despite income distribution rates declining in the urban strata whilst rising in the rural strata, between 2014 and 2016.²⁵⁰ This is also despite poverty rates in urban areas being higher than that in rural areas (see

section 3.1.3. Poverty, inequality and social protection). There is also economic inequality along ethnic lines in Malaysia.²⁵¹ The Malay ethnic group, the ‘Bumiputera’, are the poorest group with the lowest average income, in comparison to the minority ethnic Chinese (24 per cent) and Indians (7 per cent).²⁵² The Malaysian Government has used redistributive economic policies in the past in an attempt to combat ethnic economic inequality. The New Economic Policy (NEP) was implemented in 1971 in response to the race riots of 1969.²⁵³ The NEP prescribed affirmative action policies in favour of the Bumiputera in order to correct historical economic inequality against the majority ethnic group,²⁵⁴

FIGURE 9: National versus “between” state inequality, 1970-2016



Source: DOSM, CEIC, Saw See Hock, 2007 and KRI 2018²⁴⁸

246 KRI, The State of Households 2018: Different Realities, 2018.

247 KRI, The State of Households 2018: Different Realities, 2018.

248 KRI, The State of Households 2018: Different Realities, 2018, p. 59.

249 DOSM Report of Household Income and Basic Amenities Survey 2016, https://www.dosm.gov.my/v1/index.php?r=column/cthemeByCat&cat=120&bul_id=RUZ5REwveU1ra1hGL21JWVIPRmU2Zz09&menu_id=amVoWU54UT10a21NWmdhMjFMMWcyZz09, accessed 4 December 2019.

250 DOSM Report of Household Income and Basic Amenities Survey 2016.

251 Khalid and Yang, *Income Inequality and Ethnic Cleavages in Malaysia Evidence from Distributional National Accounts (1984-2014)*, April 2019, <https://wid.world/document/9231/>, accessed 4 December 2019.

252 Khalid and Yang, *Income Inequality and Ethnic Cleavages in Malaysia Evidence from Distributional National Accounts (1984-2014)*, April 2019.

253 Ravallion, *Ethnic Inequality and Poverty in Malaysia*, January 2019, http://www.ecineq.org/ecineq_paris19/papers_EcineqPSE/paper_406.pdf, accessed 4 December 2019.

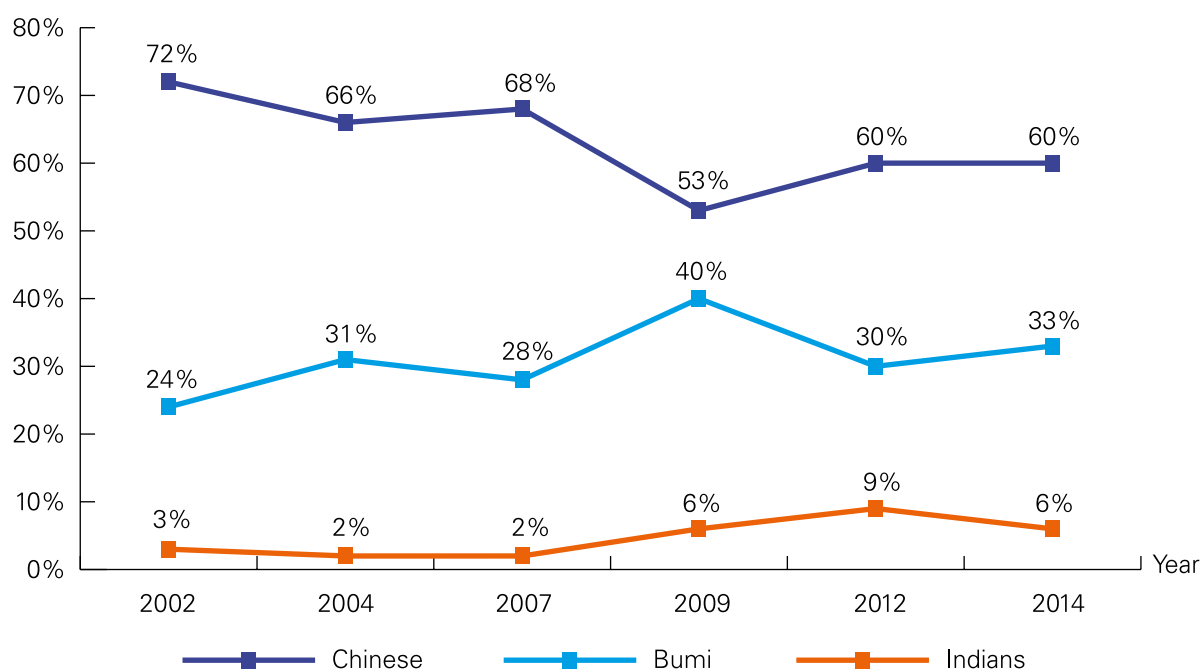
254 London School of Economics, *Income inequality among different ethnic groups: the case of Malaysia A country with multiple ethnicities and religions offers insights on economic policy design for improving social cohesion*, write Muhammed Abdul Khalid and Li Yang, <https://blogs.lse.ac.uk/businessreview/2019/09/11/income-inequality-among-different-ethnic-groups-the-case-of-malaysia/>, accessed 4 December 2019; Monash Business School, Sharon G. M. Koh, Grace H. Y. Lee1, Eduard Bomhoff, *The Dynamics of Public Opinion towards Inequality in Malaysia*, DISCUSSION PAPER 02/16 <https://www.monash.edu/business/economics/research/publications/publications2/0216inequalitymalaysiaiakohleebomhoff.pdf>, accessed 4 December 2019.

and to help them to 'catch up economically' with the Malaysian-Chinese and Malaysian-Indians.²⁵⁵ However, some researchers were doubtful of the impact the NEP had on poverty reduction and ethnic inequality in particular.²⁵⁶

One recent report, *Ethnic Inequality and Poverty in Malaysia*, found that the decrease in Malaysia's Gini index is accountable to the reduction of 'between-group inequality'.²⁵⁷ According to this report's calculations, the inter-ethnic Gini index has decreased significantly from 0.20 in 1970 to 0.07 in 2016.²⁵⁸ Another report recorded that the nominal monthly household income gap between the ethnic Chinese and the Bumiputera

decreased from 2.29 in 1970 to approximately 1.38 in 2014.²⁵⁹ Furthermore, during the study period, the Bumiputera in the top one per cent income group benefited the most from Malaysia's economic growth.²⁶⁰ Whereas the real growth rate of income per adult for Bumiputera was 8.3 per cent, it was 3.4 per cent for Indians and -0.6 per cent for the Chinese.²⁶¹ Despite this, in 2014, 60 per cent of the top one per cent income group was Chinese, 33 per cent were Bumiputera and six per cent were Indian.²⁶² Conversely, Bumiputera made up 75 per cent of the bottom 50 per cent income group (see figures 10 and 11).²⁶³

FIGURE 10: Population share by ethnic group – the top 1 per cent income group (pre-tax national income)



Source: Khalid and Yang 2019²⁶⁴

255 *Ethnic Inequality and Poverty in Malaysia*, January 2019.

256 *Ethnic Inequality and Poverty in Malaysia*, January 2019.

257 Vox, 'Ethnic Inequality and Poverty in Malaysia since May 1969', 15 April 2019, <https://voxeu.org/article/ethnic-inequality-and-poverty-malaysia-may-1969>.

258 Vox, 'Ethnic Inequality and Poverty in Malaysia since May 1969', 15 April 2019, <https://voxeu.org/article/ethnic-inequality-and-poverty-malaysia-may-1969>.

259 Khalid and Yang, *Income Inequality and Ethnic Cleavages in Malaysia Evidence from Distributional National Accounts (1984-2014)*, April 2019.

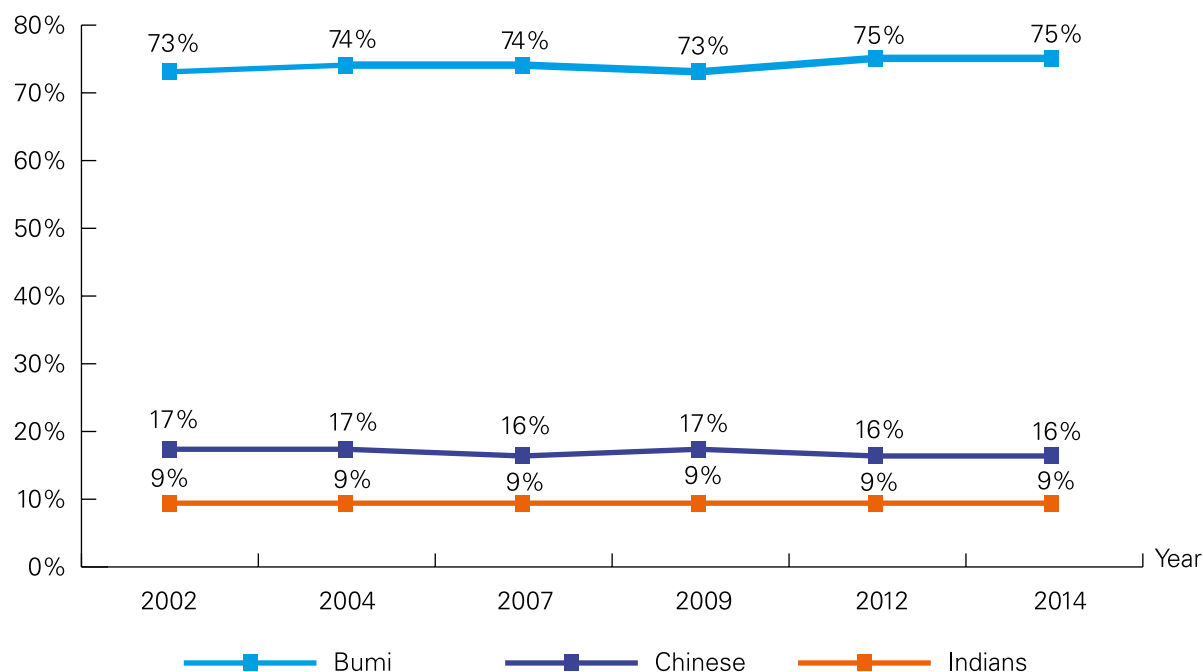
260 Ibid.

261 Ibid.

262 Ibid.

263 Ibid.

264 Ibid.

FIGURE 11: Population shares of ethnic groups in the bottom 50 per cent (pre-tax national income)Source: Khalid and Yang 2019²⁶⁵

1.2.3. Political economy, governance and administration

Malaysia operates as a federation of 13 states, administered by federal, state and local levels of government.²⁶⁶ In the past, the governance structure faced criticism that power, authority and financial control were too centralised, residing at the federal level and limiting development and implementation of programmes, policies and services at the local level.²⁶⁷ The federal structure and the predominance of central government is set out in the 1957 Constitution, though

the Constitution also vests certain powers at state and local levels.²⁶⁸ Decentralisation of power and fiscal control was a central manifesto pledge of the Pakatan Harapan Government.²⁶⁹

Malaysia is a member of a number of regional and international organisations and membership bodies, including the Association of South East Asian Nations (ASEAN), through which Malaysia has made numerous commitments to children in a range of areas, including health, education, violence against children, social protection and environmental protection.²⁷⁰

²⁶⁵ Khalid and Yang, *Income Inequality and Ethnic Cleavages in Malaysia Evidence from Distributional National Accounts (1984-2014)*, April 2019.

²⁶⁶ Judhiana Abd. Ghani, et al, *Fiscal Decentralisation and Economic Growth in Malaysia: A Market Preserving Federalism Perspective*, *Jurnal Ekonomi Malaysia* 53(1), 2019, pp. 153-170.

²⁶⁷ Kai Oswald, 'Power Distribution and Decentralisation in New Malaysia', 29 Aug 2019, https://www.iseas.edu.sg/images/pdf/ISEAS_Perspective_2019_66.pdf, accessed 3 December 2019.

²⁶⁸ Judhiana Abd. Ghani, et al, *Fiscal Decentralisation and Economic Growth in Malaysia: A Market Preserving Federalism Perspective*, *Jurnal Ekonomi Malaysia* 53(1), 2019, pp. 153-170; Kai Oswald, Power Distribution and Decentralisation in New Malaysia, 29 Aug 2019, https://www.iseas.edu.sg/images/pdf/ISEAS_Perspective_2019_66.pdf, accessed 3 December 2019.

²⁶⁹ Kai Oswald, Power Distribution and Decentralisation in New Malaysia, 29 Aug 2019, https://www.iseas.edu.sg/images/pdf/ISEAS_Perspective_2019_66.pdf, accessed 3 December 2019.

²⁷⁰ See, generally, UNICEF, *Children in ASEAN: 30 Years of the Convention on the Rights of the Child*, Bangkok, 2019.



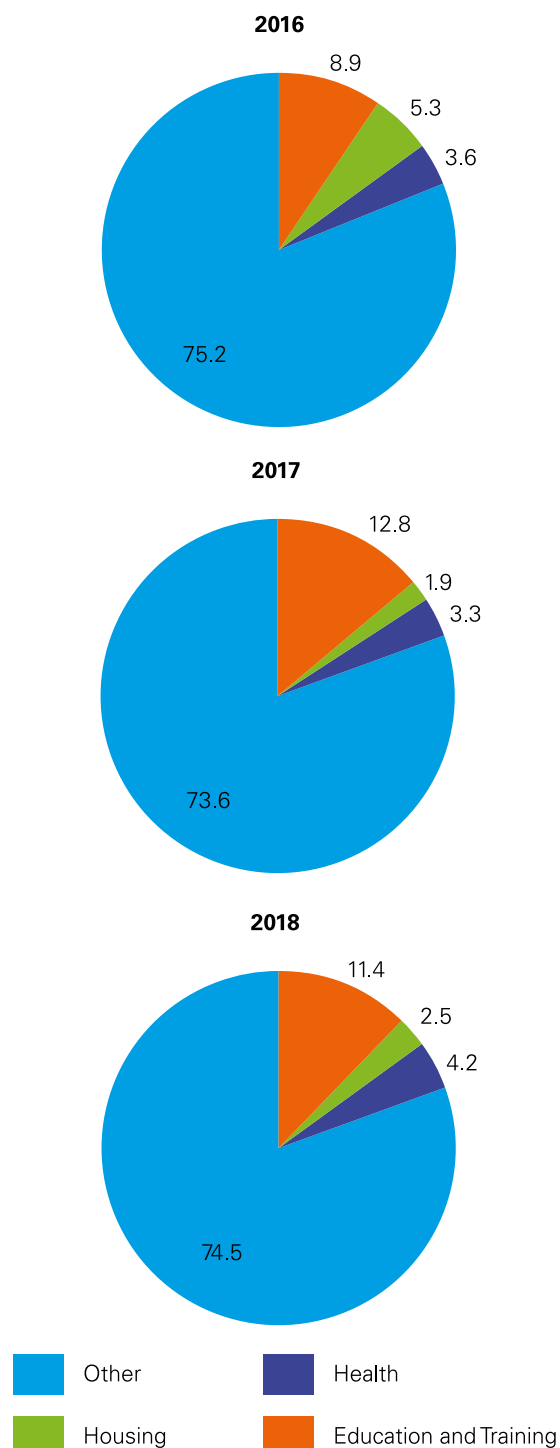
Kevin, is a 6-year-old Kadazandusun boy from Sabah. One of his daily activities includes helping his grandparents collect wood in the forest.

Malaysia is signatory to the United Nations Declaration on the Rights of Indigenous Peoples 2007 (UNDRIP), which stipulates minimum standards to protect indigenous lands, territories and resources.

Budgeting for children

According to its 2017/2018 Economic Report, the Federal Government's social sector expenditure reached a total of 25.5 per cent of the GDP, with education and training at 11.4 per cent, housing at 2.5 per cent and health at 4.2 per cent in 2018.²⁷¹ This reflects little change as an overall share of GDP since 2016.²⁷² The social sector is the recipient of the second largest sectoral budget, after the economic sector, which is aimed at 'accelerating human capital development, improving *rakyat's* wellbeing and quality of life, mainly through education and training, health service and rural development.'²⁷³

FIGURE 12: Federal government development expenditure by sector, 2016-2018



Source: Treasury of Malaysia 2017/2018²⁷⁴

271 Treasury of Malaysia, 2017/2018 Economic Report, Chapter 4: Public Sector Finance, p. 84, <https://www.treasury.gov.my/pdf/economy/er/1718/chapter4.pdf>, accessed 3 December 2019.

272 Treasury of Malaysia, 2017/2018 Economic Report, Chapter 4: Public Sector Finance, p. 84.

273 Treasury of Malaysia, 2017/2018 Economic Report, Chapter 4: Public Sector Finance, p. 85.

274 Treasury of Malaysia, 2017/2018 Economic Report, Chapter 4: Public Sector Finance, p. 84-85.

Overall public social protection expenditure in Malaysia has increased in recent years, as set out in Figure 13, but continues to sit below Vietnam and Singapore in the South East Asian Region, which itself sits far below the OECD average of 21 per cent of GDP, as shown in Figure 14.²⁷⁵

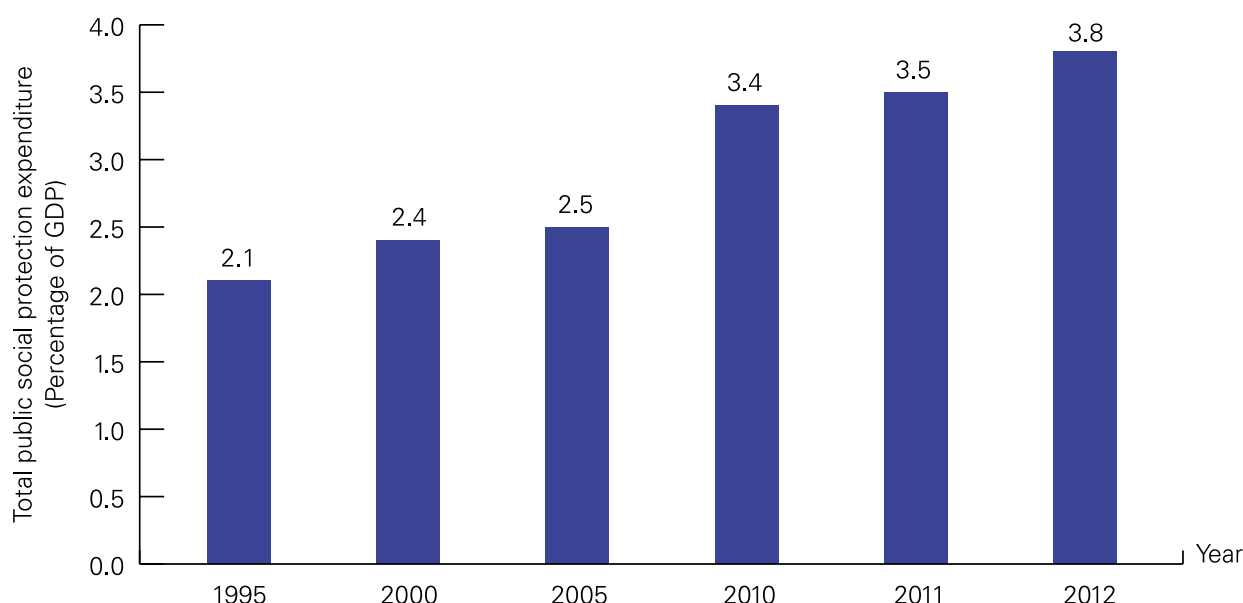
Public finance management and service delivery

In 2010, Malaysia launched the National Transformation Program to encourage economic and governance reforms. The National Transformation Program includes the Economic Transformation Program and the Government Transformation Program, with the aim of 'elevating the country to developed-nation status by 2020'.²⁷⁶ Since that time, further efforts have been made to reform fiscal policy, public financial management and service delivery frameworks in Malaysia.²⁷⁹ One key action was the introduction of Outcome Based Budgeting in 2010, a type of financial planning mechanism that

links strategic planning with the budgeting process and sets this against a results framework that includes performance and outcome targets for each ministry and department, against a framework of objectives set out in the national plan.²⁸⁰ In 2019, Malaysia launched the Shared Prosperity Vision 2030 to 'develop a fair and equitable distribution of economic development at all levels by 2030'.²⁸¹

Malaysia has also taken steps to transform service delivery frameworks, particularly in light of concerns over public service delivery, including: 'centralisation of power; bureaucratic red tape and hierarchical reporting; inadequate strategic work competency; silo mentality and insufficient consultation and collaboration among public agencies; complacency from being in a comfort zone; lack of awareness and responsiveness to external requirements; and a lack of mentoring and coaching support for staff development'.²⁸² The Public Service Transformation Framework was introduced

FIGURE 13: Public social protection expenditure in Malaysia, 1995-2012



Source: ILO 2017²⁷⁶

275 OECD, *OECD Economic Surveys, Malaysia*, July 2019, p. 35, <http://www.oecd.org/economy/surveys/Malaysia-2019-OECD-economic-survey-overview.pdf>, accessed 24 November 2019.

276 ILO, *World Social Protection Report 2017-19*, Statistical Annexes, <https://www.social-protection.org/gimi/gess/ShowWiki.action?id=594#tabs-3>, accessed 4 December 2019.

277 ILO, *World Social Protection Report 2017-19*, Statistical Annexes.

278 World Bank Group, *Alternative Paths to Public Financial Management and Public Sector Reform*, 2018, p. 20.

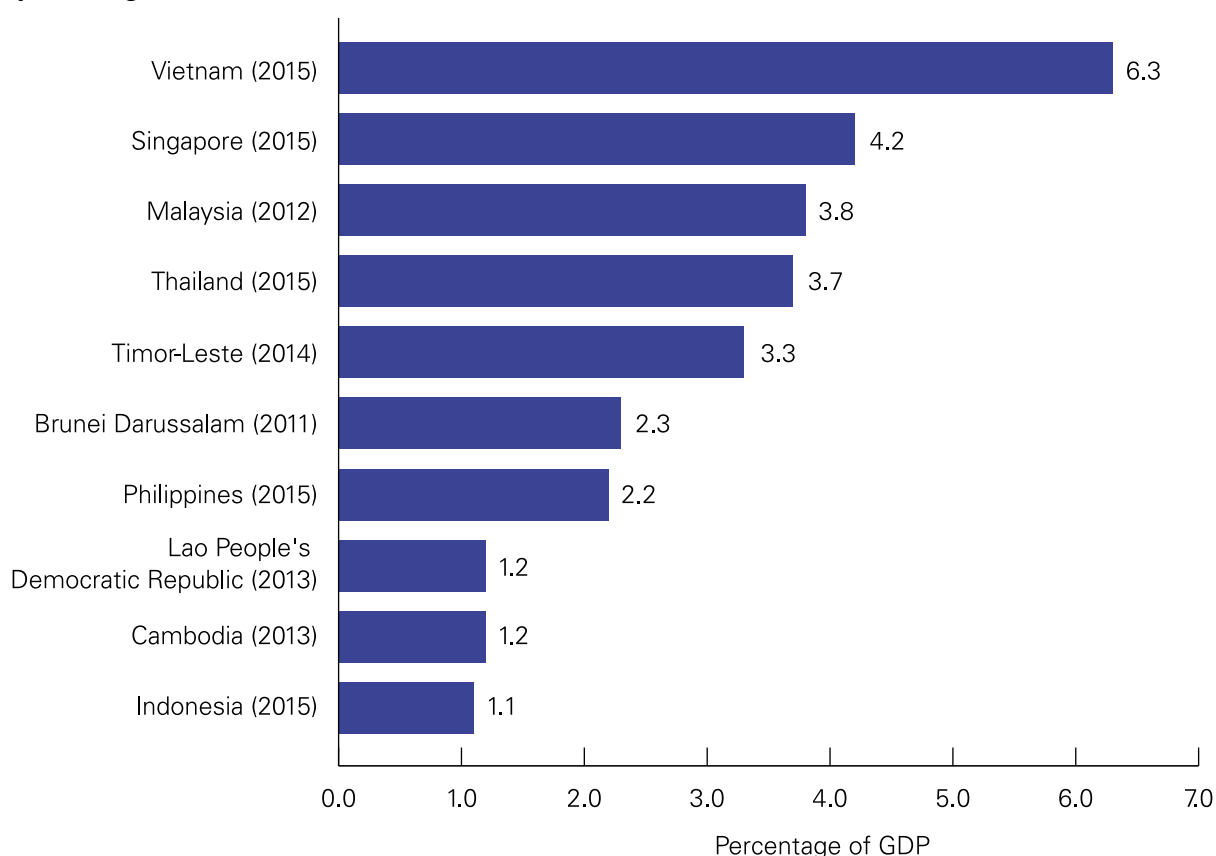
279 World Bank Group, *Alternative Paths to Public Financial Management and Public Sector Reform*, 2018, p. 20-4.

280 World Bank Group, *Alternative Paths to Public Financial Management and Public Sector Reform*, 2018, p. 27.

281 Ministry of Foreign Affairs (MoFA), Malaysia's Shared Prosperity Vision 2030 (SPV 2030) in Line with the 2030 Agenda for Sustainable Development (SDG 2030), 6 October 2019, <https://www.kln.gov.my/web/guest/-/malaysia-s-shared-prosperity-vision-2030-spv-2030-in-line-with-the-2030-agenda-for-sustainable-development-sdg-2030->, accessed 9 December 2019.

282 World Bank Group, *Alternative Paths to Public Financial Management and Public Sector Reform*, 2018, p. 29.

FIGURE 14: Public social protection expenditure in the Southeast Asian Region, latest available year as a percentage of GDP



Source: ILO 2017²⁷⁷

in 2013 to address these concerns and to strengthen implementation of the National Transformation Framework.²⁸³ Its aims were to:

- develop and retain talent in the public sector;
- strengthen public sector organisations;
- improve public service delivery by becoming citizen-centric;
- intensify engagement, collaboration and inclusiveness among government agencies; and
- inculcate patriotism and integrity among public servants.²⁸⁴

Implementation of the Public Sector Transformation Framework sits with the Public Service Department. The transformation of public service delivery was praised in a recent report by the World Bank, though challenges remain. Positive impacts of the Framework include the

reduction of costs as a result of breaking down silos across the ministries/agencies to unlock underutilised resources. Further, the framework received recognition for identifying local problems and developing solutions to them through a review of international best practices and local innovation, supported by buy-in of stakeholders.²⁸⁵

1.2.4. Legal and policy frameworks

International treaties

Malaysia is a party to only three of the core human rights instruments: the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC), and Convention on the Rights of Persons with Disabilities (CRPD). The Government has also ratified the first two Optional Protocols to the CRC in 2012: on the

²⁸³ World Bank Group, *Alternative Paths to Public Financial Management and Public Sector Reform*, 2018, p. 29.

²⁸⁴ World Bank Group, *Alternative Paths to Public Financial Management and Public Sector Reform*, 2018, p. 30.

²⁸⁵ World Bank Group, *Alternative Paths to Public Financial Management and Public Sector Reform*, 2018, p. 36-7.

involvement of children in armed conflict; and on the sale of children, child prostitution and child pornography. Despite becoming a party to these conventions, Malaysia has placed reservations on relevant provisions of each of these instruments (see Figure 15). Malaysia has also stated that the application of the international treaties is subject to compatibility with the Federal Constitution of Malaysia and to Syariah law.

The reasons provided for Malaysia's reservations to the CRC provisions is that they do 'not conform to the Constitution, national laws and national policies of the Government of Malaysia, including the Syariah law.'²⁸⁶ Concerns have been raised that these reservations demonstrate the Government's view that exceptions exist to children's rights to non-discrimination, their right to a name and nationality, freedom of thought, conscience and religion and to their right to protection from torture and arbitrary or unlawful deprivation of liberty.²⁸⁷

Malaysia has not yet acceded to several other important international human rights instruments. For example, Malaysia is not a party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention against Torture (CAT), the 1951 Convention relating to the Status of Refugees (Refugee Convention), the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and the ILO Convention No. 169 on indigenous and Tribal Peoples, among others.

Malaysia is signatory to the United Nations Declaration on the Rights of Indigenous Peoples 2007 (UNDRIP), which stipulates minimum standards to protect indigenous lands, territories and resources.²⁸⁸ Malaysia has also signed the New York Declaration for Refugees

FIGURE 15: Malaysia's reservations to the CRC, CEDAW and CRPD

Convention on the Rights of the Child (CRC)	Article 2 (non-discrimination) Article 7 (name and nationality) Article 14 (freedom of thought, conscience and religion) Article 28(1)(a) (free and compulsory education at the primary level) Article 37 (freedom from torture or other cruel, inhuman or degrading treatment or punishment and arbitrary detention)
Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)	Article 9(2) (nationality of children) Article 16(1)(a) (right to enter into marriage) Article 16(1)(c) (rights during marriage and dissolution) Article 16(1)(f) (guardianship); Article 16(1)(g) (same personal rights between spouses); and Article 16(1)(h) (same property rights for spouses)
Convention on the Rights of Persons with Disabilities (CRPD)	Article 15 (freedom from torture or cruel, inhuman or degrading treatment or punishment) Article 18 (freedom of movement)

²⁸⁶ UNICEF Malaysia, 'Child rights – CRC reservations', <http://www.unicef.org/malaysia/17982-crcreservations-malaysia.html>, accessed 13 May 2019.

²⁸⁷ The Malaysian Bar, Press Release: Time to remove all reservations and sign the Optional Protocols, 8 July 2010 available at: http://www.malaysianbar.org.my/press_statements/press_release_time_to_remove_all_reservations_and_sign_the_optional_protocols.html, accessed 9 January 2019.

²⁸⁸ United Nations Declaration on the Rights of Indigenous Peoples (A/RES/61/295).

and Migrants²⁸⁹, the Declaration on the Right to Development²⁹⁰ and as a member of the United Nations, has affirmed acceptance to the Universal Declaration on Human Rights (UDHR). It has also committed to the Sustainable Development Goals 2030 Agenda.

ASEAN Member States have made a number of important collective commitments to the advancement of child rights within the region. The Declaration on the Elimination of Violence against Women and Elimination of Violence against Children in ASEAN (2013) is a landmark agreement, in which Member States commit to the development and strengthening of a holistic, multidisciplinary approach to combating violence against women and children in the region.²⁹¹ The ASEAN Regional Plan of Action on the Elimination of Violence against Children 2016-2025 provides a comprehensive roadmap for the implementation of the 2013 declaration. Child rights are also mainstreamed throughout ASEAN documents on other topics, for example the ASEAN Enabling Masterplan 2025: Mainstreaming the Rights of Persons with Disabilities, which makes reference to children with disabilities, and the ASEAN Declaration on Strengthening Social Protection 2013.²⁹² Moreover, the Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) was established in 2010, and meets two times a year, in order to develop policies and programmes which promote women's and children's rights in the region.

The Federal Constitution, which is the supreme law by virtue of Article 4(1),²⁹³ does not contain a clause to confer legal status on international treaties. As such, in Malaysia treaties that are signed by the executive are binding internationally but need incorporation by the national legislature to form part of the law of the land and to be enforceable in the courts.²⁹⁴ Section 4(4) of the Human Rights Commission of Malaysia Act 1999 [Act 597] allows regard to be had to the UDHR to the extent that it is not inconsistent with the Federal

Constitution; however, a treaty signed by the executive cannot change and does not override the law of the land. In case of conflict between international norms and national rules, courts of most countries adopt the rule that national law prevails.²⁹⁵

Domestic legal framework

Malaysia became independent from British rule in 1957 to form the Commonwealth nation of Malaya (what is now modern-day Peninsular Malaysia). The Federal Government of Malaysia adheres to and was created by the Federal Constitution of Malaysia. The Federal Constitution establishes Islam as the religion of the Federation but provides that all other religions may be practised in peace and harmony.²⁹⁶ Parliament enacts laws involving constitutional and administrative matters at the Federal level, while State legislative bodies enact Islamic laws (except for Islamic finance) at the State level.²⁹⁷ If there are any inconsistencies between the Federal and State laws, Federal law prevails.²⁹⁸

Malaysia's pluralist legal system

Malaysia's legal and judicial system is rooted in the cultural diversity of its history. It is based on the constitutional monarchy and parliamentary government model of the UK. It incorporates a pluralist legal system of the English common law, *Syariah* system and native laws, which co-exist. It is headed by the *Yang di-Pertuan Agong* who acts on the advice of the Cabinet in the exercise of his functions.²⁹⁹ Malaysian legal pluralism is rooted in colonial legacies: the co-existence of different normative or legal orders and a dual system of courts. Before colonisation by the British, Islamic law was recognised as the law of the land in Malaysia. The Court of Appeal of the Federal Malay States held in *Ramah v Laton*³⁰⁰ that Muslim law is not foreign law but local law and the law of the land. Thus, the country had a court system prior to the British intervention, which was based

289 New York Declaration for Refugees and Migrants (A/RES/71/1). https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/1, New Straits Times, *Malaysia joins international community in adopting New York Declaration*, 20 September 2016, <https://www.nst.com.my/news/2016/09/174469/malaysia-joins-international-community-adopting-new-york-declaration>

290 UN General Assembly, Declaration on the Right to Development : resolution / adopted by the General Assembly, 4 December 1986, A/RES/41/128, Voting record: https://www.un.org/en/ga/third/71/docs/voting_sheets/L.32.Rev.1.pdf

291 The Declaration On The Elimination Of Violence Against Women And Elimination Of Violence Against Children In ASEAN https://www.ohchr.org/Documents/Issues/Women/WG/ASEANdeclarationVaW_violenceagainstchildren.pdf

292 UNICEF, *Children in ASEAN, 30 Years of the Convention on the Rights of the Child*, 2019, <https://www.unicef.org/eap/media/4281/file/Children%20in%20ASEAN.pdf>

293 Declares any law passed after Merdeka day which is inconsistent with the Constitution shall be void to the extent of such inconsistency.

294 R v Chief Immigration Officer, Heathrow Airport ex p Salamat Bibi (1976) 3 All ER 843.

295 Shad Saleem Faruqi, *Human Rights, International Law And Municipal Courts*, see also <http://www.suhakam.org.my/wp-content/uploads/2013/12/Human-Rights-International-Law-24.10.09.pdf>

296 Article 3, Federal Constitution of Malaysia.

297 Art 74, Federal Constitution of Malaysia.

298 Art 4, Federal Constitution of Malaysia.

299 Art 43(1), Federal Constitution of Malaysia.

300 Re Timah binti Abdullah, De D [1941] MLJ Rep 44; Ramah binti Ta'at v Laton binti Malim Sutan (1927) 6 FMSLR 128.

on Islamic law. Islamic laws only apply to Muslims and are enforced by the Syariah Courts that are established at the State level. State legislatures are permitted to legislate for the application of Islamic laws to persons professing the religion of Islam in a variety of areas involving personal and family law, including succession, testate and intestate, betrothal, marriage, divorce, dower, maintenance, adoption, legitimacy, guardianship, gifts, organisation and procedure of the Syariah court, which shall have jurisdiction over 'persons professing the religion of Islam'.³⁰¹ The State legislatures are also authorised to create offences by Muslims against the precepts of Islam except in relation to matters within the jurisdiction of the federal Parliament.

In the exercise of powers within their jurisdiction, the Syariah Courts are independent of the civil courts. Following a Constitutional amendment in 1988 to

remove jurisdictional overlaps between the two legal systems, civil courts have no jurisdiction in matters that fall within the Syariah court's jurisdiction.³⁰² However, inconsistencies between the different legal systems have caused conflict and have limited the protection afforded to children. For instance, uncertainties have been created by inconsistent judgements over conflicts between the Syariah and the constitutional rights and Federal laws, or the extent of power of the civil courts to judicially review the powers exercised by Islamic authorities.³⁰³ Areas of conflict have included where the constitutional rights of individuals were competing such as in the case of unilateral conversion of children into Islam by one party in a marriage. There are also discrepancies on minimum ages in Malaysian laws, which are at times inconsistent with the CRC and which have caused confusion, limiting the protection that laws afford children.

FIGURE 16: Minimum ages in selected Malaysian laws for Muslim and non-Muslim children

Act Title	Age Limit	Application / description
Guardianship of Infants Act 1961	Below 21 years	Non-Muslims
Guardianship of Infants Act 1961	Below 18 years	Muslims
Child Act 2001	Below 18 years	All
Adoption Act 1952	Below 21 years	Non-Muslims
Registration of Adoption Act 1952	Below 18 years	Muslims
Federal Constitution	Below 21 years 18 years	Eligibility to apply for citizenship (all) Eligibility to vote (all) (as amended by the Constitution (Amendment) Bill in 2019)
Age of Majority Act 1971	18 years	All
Elections Act 1958	21 years	Right to vote (all)
Islamic Law	15 years	Age of <i>baligh</i>
Contract Act 1950	18 years	Following Age of Majority Act (all)
Children and Young Persons (Employment) Act 1966	A child is below 15 years. A young person is above 15 years but below 18 years.	Interpretation of child and young person (all)

301 Schedule 9, List II, para. 1 Federal Constitution of Malaysia.

302 Article 121(1A) Federal Constitution of Malaysia.

303 Yvonne Tew, 'The Malaysian Legal System: Tale of Two Courts', 2011, <https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=2944&context=facpub>, accessed 9 December 2019.

Key laws relating to children

The Government of Malaysia has passed a number of laws relating to children. A central law is the Child Act 2001, which amalgamated three separate laws relating to children, the Juvenile Courts Act 1947, the Women and Girls Protection Act 1973 and the Child Protection Act 1991. The Child Act 2001 sets out a legal framework for the protection of children (those under 18 years) who have been abused, neglected or abandoned by their parents or guardians as well as for children in conflict with the law. The Child Act 2001 is supported by existing laws, such as the Age of Majority Act 1971 [Act 21] and new laws, such as the Sexual Offences Against Children Act 2017 [Act 792] which criminalised the offence of grooming, amongst other sexual offences, and the Evidence of Child Witness Act 2007 [Act 676]. A major feature of criminal prosecutions under the Sexual Offences Against Children Act 2017 is that the Court no longer requires corroboration of a child's evidence to convict an accused person of a sexual offence.

In addition to criminal laws, Malaysian family law is relevant to the rights of children and women, and these laws must be understood in the context of the dualist legal system: Islamic law is applicable to Muslims, while civil law is applicable to non-Muslims. Family law governing Muslims is within the legislative jurisdiction of the states under the federal system, whereas family law governing non-Muslims is legislated by Parliament. The most important family laws relating to non-Muslims are the Law Reform (Marriage and Divorce) Act 1976 [Act 164], the Guardianship of Infant Act 1961 [Act 351], the Married Women and Children Maintenance Act 1950 [Act 263], the Legitimacy Act 1961 [Act 60], the Adoption Act 1952 [Act 257] and the Registration of Adoptions Act 1952 [Act 253]. The Birth and Death Registration Act 1957 (Revised 1983) [Act 299] provides for procedures of legitimation (read together with Act 60) and registration of a non-Muslim child born outside of marriage. The application of Act 299 to Muslim children is still pending at the Federal Court in relation to a question over whether legitimisation is inconsistent with the Syariah law and Fatwa.

Elements of the Islamic and non-Islamic legal framework in Malaysia have a discriminatory impact on women and

girls. One example is that the criminal law fails to protect women from marital rape.³⁰⁴

One particular manifestation of gender discrimination in the Islamic legal framework is moral policing by religious enforcement officers and the police on the basis of religious values, which attempts to regulate the private lives of citizens and open them up to abuse, selective prosecution, and victimisation, especially in relation to marginalised groups.³⁰⁵ Notions of appropriate clothing and how women should dress have been used to restrict where women can go, including Parliament.³⁰⁶ In a number of high profile cases, for example, women have been convicted of offences under the Syariah criminal code for which they have received a punishment of caning, even though this is not permitted under the Criminal Procedure Code.³⁰⁷

Children and women who are victims of domestic violence are protected by the Domestic Violence Act 1994 [Act 521]. Protection Orders are issued upon criminal charges being filed against any party to protect the children against guardians where domestic violence has been identified. Interim Protection Orders may be issued by the court pending the conclusion of investigations. Following an amendment in 2017, Emergency Protection Orders may be issued unilaterally by investigating officers to provide urgent legal protection to children when necessary.

While not expressly stated in the Federal Constitution, the right of a child to education has been long recognised in Malaysia. Under the Education Act 1961 [Act 550] (as amended in 1996), parents have a duty to register their children for primary school; failure to do so is a criminal offence. Government education policies are further supported by the Educational Institution (Discipline) Act 1976 [Act 174].

The Persons with Disabilities Act 2008 [Act 685] and Aboriginal People's Act 1954 [Act 134] apply to children with disabilities and indigenous children respectively, providing specialised frameworks for these groups of children. The Malaysian government also recognises the necessity of protecting children in the early years, regulating pre-school and day care centres through the

304 Reuters, 'When is it going to stop? Malaysia's marital rape victims ask', 21 March 2019, <https://www.reuters.com/article/us-malaysia-women-rape-feature/when-is-it-going-to-stop-malaysias-marital-rape-victims-ask-idUSKCN1R21D3>; UNICEF, *Gender Counts: A quantitative assessment of gender inequality and its impact on girls and boys in East and Southeast Asia*, 2019, p xiii.

305 Joint NGO Submission, *NGO CEDAW Shadow Report, for the Malaysian Government's Review by the CEDAW Committee, at the 69th CEDAW Session in February 2018*, 29 January 2018, p. 7.

306 Malay Mail, 'Skirts and pants become issue again in Parliament', <https://www.malaymail.com/news/malaysia/2017/04/07/skirts-and-pants-become-issue-again-in-parliament/1351209>, accessed 9 December 2019.

307 Reuters, 'Malaysian state to cane a third woman for infringing Islamic law', 27 September 2018, <https://www.reuters.com/article/us-malaysia-caning/malaysian-state-to-cane-a-third-woman-for-infringing-islamic-law-idUSKCN1M713P>



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A Kadazandusun girl from Penampang, Sabah. The Malaysian Government recognises the necessity of protecting children in the early years, regulating pre-school and day care centres through various Acts.

Child Care Centre Act 1984 [Act 308], and the Child Care Act 1993 [Act 506], which contain strict regulatory requirements covering safety, teacher-to-child ratio, and requirements as to qualifications which distinguish a pre-school teacher from a child-minder.

The Contracts Act 1950 [Act 136], Employment Act 1955 [Act 265], Children and Young Persons Employment Act 1966 [Act 350] and other labour-related legislation provides prohibitions against child labour. Anti-smuggling laws such as the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 [Act 670], along with the Immigration Act 1959/63 [Act 155] and the Security Offences (Special Measures) Act 2012 [Act 747] underpin a comprehensive framework for agencies such as the Royal Malaysia Police and the Immigration Department to cooperate and ensure the protection of children within the context of labour and migration.

In addition, some State **Fatwas** also address the rights of the child within the context of Islamic law. These are addressed where relevant throughout this report.

Policy framework

In July 2009, the National Policy on Children, the National Child Protection Policy and accompanying Action Plans were formulated by the Ministry of Women and Community Development (MWCD) and approved by the Government; however, the Plans of Action have since lapsed. Since that time, a range of other key policies have been adopted which aim to provide for the protection and improve the wellbeing of children, adolescents and women. These policies are summarised in the table below and will be referred to throughout the report.

FIGURE 17: Key policies relating to children and adolescents

Policy/strategy	Summary
National Plan of Action for Nutrition of Malaysia (NPANM III) 2016-2025	Framework to address food and nutrition challenges in Malaysia. The goal of this plan is to achieve optimal nutrition and wellbeing of all Malaysians.
Malaysia Education Blueprint 2013-2025	Reform of the education system according to the following objectives: understanding the current performance and challenges in the Malaysian education system, with a focus on improving access to education, raising standards (quality), closing achievement gaps (equity), fostering unity among students, and maximising system efficiency; establishing a clear vision and aspirations for individual students and the education system as a whole over 13 years; and comprehensive transformation programme for the system including key changes to the Ministry which will allow it to meet new demands and rising expectations.
National Action Plan on Trafficking in Persons 2016-2020	Addresses trafficking according to five principles: participation of civil society; rights-based treatment of victims of trafficking; coordination among international agencies; coordination among NGOs; and systematic and robust evaluation.
National Policy for Persons with Disabilities 2007	Addresses access to education, healthcare, information, public facilities, public transportation system and recreation, sports and leisure for persons with disabilities.
Malaysia Plan of Action for Persons with Disabilities 2016-2022	
11 th Country Health Plan 2016-2020	Directs health system development, contributing to children's outcomes in several areas.
National Policy for Women (NPW) 2009 (Reviewed in 2019)	<p>The NPW 2009 aims to develop human capital, and empower women to be competent, resilient, knowledgeable, visionary, creative, and innovative, while demonstrating moral values. The Policy provides strategies for planning for development of women who constitute half of the national workforce. An Action Plan for Development of Women was later developed. The Policy targets 13 sectors, including economy, poverty, legal, violence against women, health, education and training, science and technology, decision making, institutions for development of women, media, environment, sports, culture, arts and heritage.</p> <p>The NPW and associated National Action Plan have been criticised for lacking any 'specific and comprehensive strategies, methods timeframes, or responsible agencies'.³⁰⁸ The effectiveness of the NPW and associated Plan of Action was reviewed in 2019.</p>

308 Women's Aid Organisation, *The Status of Women's Human Rights: 24 Years of CEDAW in Malaysia*, 2019, <https://wao.org.my/wpcontent/uploads/2019/01/The-Status-of-Womens-Human-Rights-24-Years-of-CEDAW-in-Malaysia.pdf> p. 133.

FIGURE 17: Key policies relating to children and adolescents (continued)

Policy/strategy	Summary
National Human Rights Action Plan 2018	The National Human Rights Action Plan (NHRAP) contains 294 actions, arranged under five 'pillars': political and civil rights, socioeconomic and cultural rights, the rights of persons with disabilities, indigenous rights and complying with Malaysia's international commitments. ³⁰⁹ Commentators, including 'Comango', the Coalition of Malaysian NGOs in the UPR Process, describe the NHRAP as comprehensive in certain areas, but that it 'as a whole falls short in addressing systemic human rights issues, root causes of inequality and the enjoyment of human rights for all in the country, and lacks a gender perspective.' ³¹⁰
The National Unity Consultative Council (NUCC) Blueprint 2018	Policy designed to strengthen and improve social unity, cohesion and reconciliation amongst all Malaysians. ³¹¹
National Community Policy 2018	A policy developed to strengthen 'community initiatives towards creating quality environment, strengthening community activities for better property management and maintenance as well as promoting community participation in their local development planning.'
National Social Policy on Reproductive Health and Social Education 2012	The Policy has the following objectives: to raise awareness in the community about the importance of reproductive health and social education; to develop expertise in reproductive health and social education among members of the community; to enhance research and development to improve reproductive health and social education systems; and to improve implementation of health and social education. The Ministry will undertake a review of the Plan of Action under the National Social Policy on Reproductive Health and Social Education 2012 in 2020 to enhance the implementation of the policy to empower adolescents with knowledge and positive attitudes towards social and reproductive health.
National Family Policy 2010	Prioritises the needs of families in all development efforts and aims to develop prosperous, healthy and resilient families to ensure social stability, according to three strategic thrusts: commitment/involvement of a range of stakeholders; enforcement of laws and regulations; and family-friendly and accessible services for vulnerable families. The Plan of Action under National Family Policy 2010 will also be reviewed this year to prioritise the family perspective in all development efforts to ensure quality generations as well as to develop prosperous, healthy and resilient families for social stability.
National Adolescent Health Policy and National Adolescent Health Plan of Action 2006-2020; 2015-2020	The Adolescent Health Programme has been introduced as an expanded scope of the Maternal and Child Health Program in 1996. In 2001, the MOH developed the National Adolescent Health Policy with inputs from various agencies including adolescents. The policy comprised of seven strategies namely health promotion; provision of accessible and appropriate healthcare services; human resource development; adolescent healthcare information system; research and development; and strategic alliances with related agencies and legislation.

309 The Library of Congress, 'Global Legal Monitor, Malaysia: National Human Rights Action Plan Launched', <https://www.loc.gov/law/foreign-news/article/malaysia-national-human-rights-action-plan-launched/>

310 Malay Mail, 'NHRAP falls short of addressing systemic inequalities in Malaysia – Comango', 6 March 2018, <https://www.malaymail.com/news/what-you-think/2018/03/06/nhrap-falls-short-of-addressing-systemic-inequalities-in-malaysia-comango/1591911#00Tgtehq550CBTr6.97>

311 Bernama, "NUCC Blueprint released for public comment", 12 December 2018, <http://www.bernama.com/en/news.php?id=1652951>

The National Policy on Women (NPW) was first introduced in 1989 and last updated in 2009. The NPW 2009 aimed to develop human capital, and empower women, across 13 sectors. However, despite these aspirations, the NPW and associated National Action Plan have been criticised for lacking any ‘specific and comprehensive strategies, methods, timeframes, or responsible agencies’.³¹² Many of the stated goals are yet to be realised and neither the policy nor plan contains appropriate indicators to enable proper monitoring of specific activities.³¹³ Criticisms along these lines were put forward by the CEDAW committee in March 2018, who expressed concern at the ‘limited effectiveness’ of the NPW and other gender-related policies in Malaysia ‘due to lack of political will and understanding on the part of Government agencies in relation to gender equality and lack of institutional mechanisms, including the lack of capacity to advise Government agencies and to monitor, track and evaluate policies and programmes.’³¹⁴ Moreover, the committee commented on the lack of readily available gender disaggregated data which would enable proper identification of areas in which Malaysian women face substantive inequality.³¹⁵

In addition to a number of national plans not meeting international standards, particularly around gender discrimination, as noted above, the national plans described above do not exhaustively cover all issues raised by the SDGs. For instance, there are limited policies relating to adolescence as a unique life stage requiring specific and focused actions, plans, policies and programmes (though the adolescent health programme is a notable exception).

It is notable, given the number of stateless and undocumented children, and the number of child refugees in Malaysia (detailed later in this section) that there is no policy relating to these groups of children. This is despite the fact that childcare and healthcare for all children regardless of origin were earmarked in the 11th Malaysia Plan as issues to be addressed ‘beyond 2020’, opening the possibility of future interventions for stateless children in those, and other policy areas.³¹⁶ Further, though the Government of Malaysia recently introduced the Zero Reject Policy, which allows ‘undocumented’ children access to education and was reported in May 2019 to have enabled 2,635 undocumented children access to education in mainstream schools,³¹⁷ this policy and this statistic incorporates a distinction between ‘undocumented’ children – those who have at least one parent who is a Malaysian citizen but do not have proof of being Malaysian or have not yet applied for and received citizenship³¹⁸ – and ‘stateless’ children, who do not have nationality of any country.³¹⁹ The definitions and implications of statelessness and undocumented status are set out in Part 2.

It is notable, given the number of stateless and undocumented children, and the number of child refugees in Malaysia, that there is no policy regarding stateless children and refugees.

312 Women’s Aid Organisation, *The Status of Women’s Human Rights: 24 Years of CEDAW in Malaysia*, 2019, <https://wao.org.my/wp-content/uploads/2019/01/The-Status-of-Womens-Human-Rights-24-Years-of-CEDAW-in-Malaysia.pdf> p. 133.

313 Women’s Aid Organisation, *The Status of Women’s Human Rights: 24 Years of CEDAW in Malaysia*, 2019, <https://wao.org.my/wp-content/uploads/2019/01/The-Status-of-Womens-Human-Rights-24-Years-of-CEDAW-in-Malaysia.pdf> p. 133.

314 *List of Issues and Questions in Relation to the Combined Third to Fifth Periodic Reports of Malaysia: Replies of Malaysia 2017*, para 14 (CEDAW/C/MYS/Q/3-5/Add.1).

315 *List of Issues and Questions in Relation to the Combined Third to Fifth Periodic Reports of Malaysia: Replies of Malaysia 2017*, para 14 (CEDAW/C/MYS/Q/3-5/Add.1).

316 EPU, *Eleventh Malaysia Plan 2016-2020*.

317 The Star Online, ‘Dr Maszlee: Over 10,000 special needs children enrolled in schools under Zero Reject policy’, 7 May 2019, <https://www.thestar.com.my/news/nation/2019/05/07/over-10000-special-needs-children-enrolled-in-schools-under-zero-reject-policy>.

318 N.B. if either parent is Malaysian then the child would obtain citizenship automatically through operation of law.

319 Free Malaysia Today, ‘Include the stateless in zero-reject education policy, Putrajaya told’, 3 March 2019, <https://www.freemalaysiatoday.com/category/nation/2019/03/03/include-the-stateless-in-zero-reject-education-policy-putrajaya-told/>

Economic policy

Malaysia's 11th Plan 2016-2020 sets out an economic planning framework and focus areas to further economic development and enhance wellbeing of persons in the country. The plan takes a human-centred approach to development and focuses on, among other areas, uplifting the bottom 40 per cent of the population. 'Strategy A4' of 'Addressing the Needs of Specific Target Groups' mentions the need to focus on women and children. Recently, the midterm review of this plan reiterated this strategy and included persons with disabilities and families.³²⁰

1.2.5. Risks affecting children and children's rights

Children and children's rights in Malaysia are threatened by a number of risks, some of which are persistent or remaining challenges, and others of which represent

emerging threats. These include but are not limited to: the consequences of climate change; impacts of urbanisation; environmental degradation and pollution; challenges in social cohesion; and the risks faced by children and families on the move. Many of these risks cross over and interact to increase children's vulnerabilities to harm, especially for the most vulnerable groups of children.

Climate change and environmental degradation

As is the case globally, Malaysia is at risk of experiencing the continued impacts of climate change. The surface mean temperature in Malaysia has been increasing by around 0.13°C to 0.24°C per decade and all regions of Malaysia are expected to have increased intensity of rainfall.³²¹ Major floods occurred in Malaysia in 2010, 2012 and 2014, with the 2014 monsoon floods recorded as one of the worst for the country.³²² It is also expected that

FIGURE 18: Malaysia's 11th Plan: summary of focus areas



320 EPU, *Eleventh Malaysia Plan 2016-2020*.

321 MOESTECC, Malaysia, *Third National Communication And Second Biennial Update Report To The UNFCCC*, 2018.

322 MOESTECC, Malaysia, *Third National Communication And Second Biennial Update Report To The UNFCCC*, 2018.

droughts may increase in both frequency and intensity.³²³ In response to these threats, the Government of Malaysia set up the national Disaster Management Agency in August 2015 to coordinate responses to disasters. Preparedness actions have included response to the projected increase in the prevalence of vector-borne diseases, such as dengue fever and malaria, particularly in urban areas. As a result of these concerns, the Malaysian Government has invested in the healthcare system in preparation.³²⁴ The Ministry of Energy, Science, Technology, Environment and Climate Change (MESTECC) is also developing a Climate Change Act for implementation nationally, working together with the government of the United Kingdom through the Malaysia Green Technology Corporation.³²⁵

However, as noted in the recent report by the UN Special Rapporteur on extreme poverty and human rights, the deep changes in fiscal policies required to reduce emissions and address climate change effectively have not been made. The economy continues to be heavily reliant on petroleum and palm oil production.³²⁶

The main immediate natural threat to Malaysia is from flash and prolonged flooding. In 2017 alone, 498 flood incidents were reported.³²⁷ At the other extreme, Malaysia has also been impacted by drought. A drought event in 2014 was said to have costed an estimated 1.3 billion USD.³²⁸ As the global climate crisis continues, rising global temperatures are predicted to increase the likelihood of extreme weather events across the world, including in Malaysia.

Pollution

Malaysia has been heavily impacted by air pollution associated with a range of causes. Air pollution is a global issue for children: the World Health Organisation estimated that ambient air pollution and household air pollution were significant factors in the 543,000

Adolescent Voices

Climate change

A recent U-Report poll of 308 adolescents and young people showed that climate change was a matter of concern to the respondents. 76 per cent of respondents agreed that climate change is a threat to the wellbeing of humans (a further 20 per cent 'somewhat agreed'). 61 per cent and 33 per cent responded 'yes' and 'somewhat', respectively to the question 'is climate change a threat to your country?' The majority of respondents (74 per cent) strongly agreed that education on climate change is important.³²⁹

deaths of children under 5 in 2016 from respiratory tract infections.³³⁰

DOSM has released a breakdown of emission of pollutants into the atmosphere. In 2017, emissions from the 28.2 million registered vehicles³³¹ accounted for 70.4 per cent of total emissions with 24.5 per cent coming from power plants, 2.9 per cent from industrial processes and 2.1 per cent from other areas.³³²

Air pollution is also associated with the regional use of 'slash and burn' techniques in the farming of palm oil. Malaysia is the second largest producer and exporter of palm oil; as of 2016, the palm oil industry employed 429,000 persons³³³ and was worth 6.8 billion USD annually worldwide.³³⁴ There is an environmental impact inherent in the production of palm oil as it requires the destruction of large areas of rainforest to make way for new areas of farmland. This contributes to the climate

323 MOESTECC, Malaysia, *Third National Communication And Second Biennial Update Report To The UNFCCC*, 2018.

324 UNFCCC "INDC 2015", p. 5, <https://www4.unfccc.int/sites/submissions/INDC/Published%20Documents/Malaysia/1/INDC%20Malaysia%20Final%2027%20November%202015%20Revised%20Final%20UNFCCC.pdf>

325 Malay Mail, 'At least 24 months for Climate Change Act to be tabled if necessary', 16 May 2019, <https://www.malaymail.com/news/malaysia/2019/05/16/yeo-at-least-24-months-for-climate-change-act-to-be-tabled-if-necessary/1753644>

326 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019, p. 18.

327 DOSM, *Compendium of Environmental Statistics 2018*, 30 November 2018.

328 UNDRR, *Malaysia Disaster & Risk Profile 2014*, 17 July 2019, <https://www.preventionweb.net/countries/mys/data/>, accessed 9 December 2019.

329 U-Report Opinions, Global Poll on Climate Change, <https://malaysia.ureport.in/v2/opinion/1940/>, accessed 9 December 2019.

330 WHO, 'Air pollution and child health: prescribing clean air', 2018, <https://www.who.int/ceh/publications/air-pollution-child-health/en/>.

331 Malaysia Automotive Association, 30 June 2018.

332 DOSM, *Compendium of Environmental Statistics 2018*, 30 November 2018.

333 DOSM, 'Malaysia Economic Statistics Time Series 2016 (Palm Oil)', 17 December 2017, https://www.dosm.gov.my/v1/index.php?r=column/ctimeseries&menu_id=NHJlaGc2Rlg4ZXIGTjh1SU1kaWY5UT09, accessed 9 December 2019.

334 World Bank, 'Trade Summary for Malaysia', World Integrated Trade Solution, <https://wits.worldbank.org/CountryProfile/en/Country/MYS/Year/2016/Summary>, accessed 9 December 2019.

crisis when carbon stored in trees is released into the air as CO₂.³³⁵ UNICEF Malaysia has sought to encourage the regulatory bodies of palm oil producers to adopt child friendly corporate social responsibility practices.³³⁶

While there have long been issues with ‘haze’ across large parts of Malaysia due to ‘slash and burn’ techniques for clearing rainforest for palm oil production, a ban on this practice was signed by ASEAN member states in 1999. Unfortunately, this has done little to curb the activity, with major ‘haze’ events experienced in 2005 and 2015. These events led to schools and roads in some areas being closed, and advice given to keep inside with windows closed.³³⁷ There is also an economic impact associated with such events; for instance, the cost of haze events between 1993 and 1998 for Singapore and Malaysia was estimated to be 4.5 billion USD.³³⁸ Haze also spills into Malaysia from neighbouring Indonesia, with significant consequences for children: in September 2019, nearly 2,500 schools in Selangor, Putrajaya, Kuala Lumpur, Penang, Kedah, Perak, Negri Sembilan and Sarawak were closed as a result of high air pollutant levels from forest fires in Sumatra and Borneo, forcing 2,000,000 students to miss school.³³⁹

Compounded by rapid urbanisation³⁴⁰ and unsustainable waste disposal practices,³⁴¹ Malaysia’s waste management practices can pose a risk to children. Between January to July 2018, 754,000 tonnes of plastic waste were directed to Malaysia, especially after China introduced a plastic-waste import ban.³⁴² While Malaysia has banned plastic waste imports, illegal dumping and incineration of wastes, especially those containing harmful chemicals like plastics and e-waste, negatively

affects the health of nearby communities.³⁴³ In addition, chemicals that leach into drinking water sources, from both landfills and agricultural activities, can lead to negative developmental and other health impacts on children who depend on such water sources.³⁴⁴

Deforestation

Malaysia has one of the highest deforestation rates in the world, with an estimated forested area loss of 70,000 hectares per year between 2015-2030, under a business-as-usual scenario.³⁴⁵ Primarily due to the palm oil industry, between 2001 and 2018, deforestation in Malaysia resulted in about 26 per cent loss in tree cover and released 3.38Gt of CO₂ emissions.³⁴⁶ In addition to contributing to air pollution, loss of forested areas has been linked to increased vector-borne disease risks (e.g. malaria) and reduced nutritional intake among children.³⁴⁷

Urbanisation

As noted above, levels of urbanisation are increasing substantially in Malaysia. On average, urban households earn higher incomes, benefit from improved infrastructure, have better education and reside in greater proximity to services. A closer look at the evidence, however, suggests that not all urban children are benefiting equally, and that the urban advantage for children is perhaps an overgeneralisation. Though urban residents on average enjoy better access to services and opportunities, a substantial part of the urban population is being left behind. Intra-urban disparities can be so large that many of the most disadvantaged children in urban areas fare worse than disadvantaged children in rural areas.³⁴⁸

335 Science Daily, ‘Palm oil: The carbon cost of deforestation’, 19 June 2018, <https://www.sciencedaily.com/releases/2018/06/180619123018.htm>, accessed 9 December 2019.

336 UNICEF, ‘Malaysia National Launch of Children’s Rights and Business Principles’, https://www.unicef.org/csr/css/Finalised_Concept_Note_on_CRBP_Malaysia_Launch, accessed 9 December 2019.

337 Time, ‘The Current Haze Over Southeast Asia Could Be Among the Worst Ever’, 5 October 2015, <https://time.com/4060786/haze-singapore-indonesia-malaysia-pollution/>, accessed 9 December 2019.

338 Science, ‘Silver Lining of Singapore’s Haze’, Vol 341, 26 July 2013.

339 The Star, ‘Haze: Over 2,000 schools closed, affecting close to 2 million students’, 18 September 2019, <https://www.thestar.com.my/news/nation/2019/09/18/haze-over-2000-schools-closed-affecting-close-to-2-million-students#bDhXeILRBFHv72Qi>, accessed 9 December 2019; The Independent, ‘Burning haze blanketing cities sees hundreds of schools closed across Malaysia’, 12 September 2019, <https://www.independent.co.uk/news/world/asia/malaysia-haze-forest-fires-indonesia-school-closures-a9100571.html>, accessed 18 December 2019.

340 MOESTECC, Malaysia, *Third National Communication And Second Biennial Update Report To The UNFCCC*, 2018.

341 Greenpeace Malaysia, *The Recycling Myth, Malaysia And The Broken Global Recycling System*, 2018.

342 Greenpeace Malaysia, *The Recycling Myth, Malaysia And The Broken Global Recycling System*, 2018.

343 Man, M., Naidu, R. and Wong, M.H., *Persistent toxic substances released from uncontrolled e-waste recycling and actions for the future. Science of the Total Environment*, 463, 2013, pp. 1133-1137.

344 Leong, K.H., Tan, L.B. and Mustafa, A.M., *Contamination levels of selected organochlorine and organophosphate pesticides in the Selangor River, Malaysia between 2002 and 2003*, *Chemosphere*, 66(6), 2007, pp. 1153-1159.

345 MOESTECC, Malaysia, *Third National Communication And Second Biennial Update Report To The UNFCCC*, 2018.

346 Global Forest Watch, 2019, <https://www.globalforestwatch.org/>

347 Jones, A.D., Acharya, Y. and Galway, L.P., *Deforestation and child diet diversity: a geospatial analysis of 15 sub-Saharan African countries*, *The Lancet*, 389, 2017, p. S11.

348 UNICEF, *Advantage or Paradox? The challenge for children and young people of growing up urban*, 2018.

Challenges in social cohesion

Social cohesion relates to the cohesion between different members of society – an important issue in a diverse country like Malaysia. Social cohesion supports children's rights, or, where it is lacking, places them at risk on a number of levels. Individually, it is important for children to develop behaviours and attitudes that support social cohesion such as 'tolerance and pro-social behaviour'.³⁴⁹ On a broader level, in educational, community and national settings, social cohesion can help to encourage 'safe, happy and harmonious'³⁵⁰ environments in which communities come together, rather than drifting or being driven apart, and in which risks of conflict, radicalisation and intolerance are reduced. Where challenges in social cohesion exist, this can place children at a heightened risk of feeling othered or isolated, which can lead them to become radicalised and susceptible to violent extremism.³⁵¹

Several government and non-governmental agencies in Malaysia have highlighted the importance of promoting social cohesion and of addressing lack of social cohesion where it (or the risk of it) exists. In November 2019, the Consultative Council for People's Harmony was launched by the Government as a replacement to the National Unity Consultative Council.³⁵² The Council sits under the Department of National Unity and Integration, which, in 2019, promulgated a National Unity Action Plan.³⁵³

In the Vision 2020, one of the nine challenges set out and prioritised is the development of 'a unified Malaysian nation with a sense of common and shared destiny'. The Economic Planning Unit (EPU) identified social cohesion as one of six core issues in its Comprehensive Action Plan to Address Economic Challenges Faced by B40 Households and Individuals in Malaysia 2018.³⁵⁴ In this document, the EPU noted the importance of addressing negative stereotypes that associated 'poor people' with 'high crime rates' and highlighted national unity and social cohesion as a source of potential gaps in service delivery.³⁵⁵ In line with this, the Special Rapporteur on extreme poverty and human rights noted that national unity and social cohesion is currently a matter of debate and tension in Malaysia.³⁵⁶



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Kathlyn Asha, 6, plays with a tablet. On average, compared to their rural peers, urban children have access to better essential services, although this is not true for all children who live in urban areas.

349 UNICEF Jordan and University of Oxford, *Towards a child-led definition of social cohesion*, 2019, p. 7.

350 UNICEF Jordan and University of Oxford, *Towards a child-led definition of social cohesion*, 2019, p. 7.

351 UNICEF Jordan and University of Oxford, *Towards a child-led definition of social cohesion*, 2019, p. 9.A


352 The Star Online, "Promoting national unity and harmony", 15 November 2019, <https://www.thestar.com.my/opinion/letters/2019/11/15/promoting-national-unity-and-harmony>

353 Department of National Unity and Integration, <https://perpaduan.gov.my/en>

354 EPU, *A Comprehensive Action Plan to Address Economic Challenges Faced by B40 Households and Individuals in Malaysia*, 2018, p. 55.

355 EPU, *A Comprehensive Action Plan to Address Economic Challenges Faced by B40 Households and Individuals in Malaysia*, 2018, p. 80.

356 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019.



Caitlyn Stephen, 5, has Rubinstein-Taybi syndrome, a condition characterized by short stature. A study commissioned by UNICEF in Malaysia has shown that stigma and discrimination is real at different levels for children, parents and families of children with disabilities.

2

Equity and Children Left Behind

“For every child, life is a right and not a special privilege regardless whether they are from the indigenous community or the rich and fortunate.”

—Abilash Jayaraj Menon, 17 | Picture My Rights, 2017/18

Considerable progress has been made in Malaysia to improve life chances and childhood experiences for millions of children across the country, as set out in Part 3. However, there remain groups of children that do not enjoy the benefits of these gains and who are being left behind their peers. These children are rendered invisible or marginalised through lack of legal status or the application of discriminatory laws, exclusion from data collection systems, social stigmatisation and by virtue of policy vacuums, which all impact on their ability to access essential services and realise their rights.

Further, patriarchal social norms reflected in and reinforced by gender discriminatory legislative and policy frameworks continue to fuel and perpetuate gender inequalities.

Part 2 of this SitAn presents context around the invisibility, exclusion and deprivation of the groups of children who are being left behind, while also reflecting on gender inequalities that doubly impact women and girls from the most vulnerable groups. The purpose of this Part is to frame and contextualise references to disparities between these groups and overall populations of children throughout subsequent sections of the report. This part also seeks to draw out key analytical points to explain how invisibility and exclusion from systems, and the lack of provision of suitable services compound the vulnerability of these groups of children.

2.1. INDIGENOUS CHILDREN

Malaysia is home to large indigenous minority populations: it was estimated in 2017 that indigenous persons represented 13.8 per cent of the country's population.³⁵⁷ The indigenous peoples of Peninsular Malaysia, known as Orang Asli, live predominantly in rural areas and represent around 0.7 per cent of the population of Peninsular Malaysia. The indigenous peoples of Sarawak (Dayak and/or Orang Ulu) comprise 70.5 per cent of the population and the 39 different indigenous groups of Sabah (Anak Negeri) make up 58.6 per cent of the population there.³⁵⁸

Laws introduced in Sarawak and Sabah during British colonial rule recognising indigenous land rights and customary law are still in place; however, they are not properly implemented.³⁵⁹ The Orang Asli do not enjoy the same legal protections in the peninsula as in Sabah and Sarawak, with customary tenure not legally recognised in Peninsular Malaysia.³⁶⁰ OA populations lag behind in terms of accessing social, economic and cultural rights. Land security is a pressing issue facing OA communities: their customary way of life is under threat by development projects, which cause destruction of their lands, impacting on livelihoods and food security.³⁶¹ Issues associated

357 International Work Group for Indigenous Affairs (IWGIA), *Indigenous World 2019*, p. 275, https://www.iwgia.org/images/documents/indigenous-world/IndigenousWorld2019_UK.pdf, accessed 9 December 2019.

358 IWGIA, *Indigenous World 2019*, p. 275; Geok Lin Khor and Zalilah Mohd Shariff, 'The Ecology of Health and Nutrition of "Orang Asli" (Indigenous People) Women and Children in Peninsular Malaysia', 2008.

359 IWGIA, *Indigenous World 2019*, pp. 276-78.

360 IWGIA, *Indigenous World 2019*, pp. 276-78.

361 United Nations Malaysia, *Policy brief: Leaving no-one behind: Ensuring a prosperous nation through inclusivity and wellbeing for all*, 2019, p. 11.

with water supply persist, including disruptions and contamination of water supplies, with impacts on health and nutrition outcomes of OA children.³⁶²

The official poverty rate among OA populations is 34 per cent, compared to the national rate of 0.6 per cent.³⁶³ This is distributed unevenly within Malaysia: one OA expert and advocate contends that 99.2 per cent of 215,000 Orang Asli in Peninsular Malaysia are in the B40 (low income) group but in Sabah and Sarawak, only about 20 per cent of the four million indigenous persons there can be categorised as poor.³⁶⁴



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A girl at a kindergarten set up for indigenous children from the Kadazandusun community in Penampang, Sabah.

The prioritisation of the extractive industries and large infrastructure projects have also caused displacement and associated harms to indigenous populations in Malaysia. For example, members of the Penan Community in Sarawak, who participated in a 2015 study examining their socioeconomic experiences, had been displaced from their original community by flooding for the development of the Baram Dam and had, in the main, not developed necessary skills that would enable them to participate in the local economy, save for in 'menial' jobs that generated little income.³⁶⁵

The 11th Malaysia Plan aimed to address the issues of economic empowerment, education, housing and infrastructure related to OA communities. However, programmes aimed at addressing the development needs of OA communities have suffered from lack of a common vision and direction that is shared between the Government and OA communities, lack of a coordinated approach between the many agencies involved and insufficient competent staff on the ground.³⁶⁶

2.2. CHILDREN FROM POOR HOUSEHOLDS

Many children who are not living in extreme poverty, are nonetheless vulnerable to poverty and deprivation. If the poverty line in Malaysia were doubled from about RM1,000 per month to RM2,000 per month, the percentage of children living in poverty would immediately increase to 15 per cent. If a poverty line was used that was in line with other countries with comparable GDP per capita, Malaysia's poverty rate would be closer to 20 per cent.³⁶⁷

In 2016, the B40 comprised 2.7 million households in Malaysia. Children in B40 households include the 'hardcore poor' and 'poor' (0.25 million households) and the 'low income' (1 million), which make up about half of

362 United Nations Malaysia, *Policy brief: Leaving no-one behind: Ensuring a prosperous nation through inclusivity and wellbeing for all*, 2019, p. 11.

363 UN, *Malaysia Millennium Development Goals (MDG) Report*, 2015.

364 The Star, 'Poverty: More than meets the eye', 29 September 2019, <https://www.thestar.com.my/news/nation/2019/09/29/poverty-more-than-meets-the-eye#ZkuiqZJY07HoGkTh.99>, accessed 5 December 2019.

365 Doris Padmini Selvaratnam, Hamidah Yamat, Sivapalan Selvadurai, Novel Lyndon. *Getting The Malaysian Native Penan Community Do Business For Inclusive Development And Sustainable Livelihood*. PROSIDING PERKEM 10, 2015, pp. 434-443.

366 United Nations Malaysia, *Policy brief: Leaving no-one behind: Ensuring a prosperous nation through inclusivity and wellbeing for all*, 2019, p. 12.

367 Ravallion, *Has Malaysia virtually eliminated poverty?*, 2019, <https://economicsandpoverty.com/2019/01/21/has-malaysia-virtually-eliminated-poverty/>

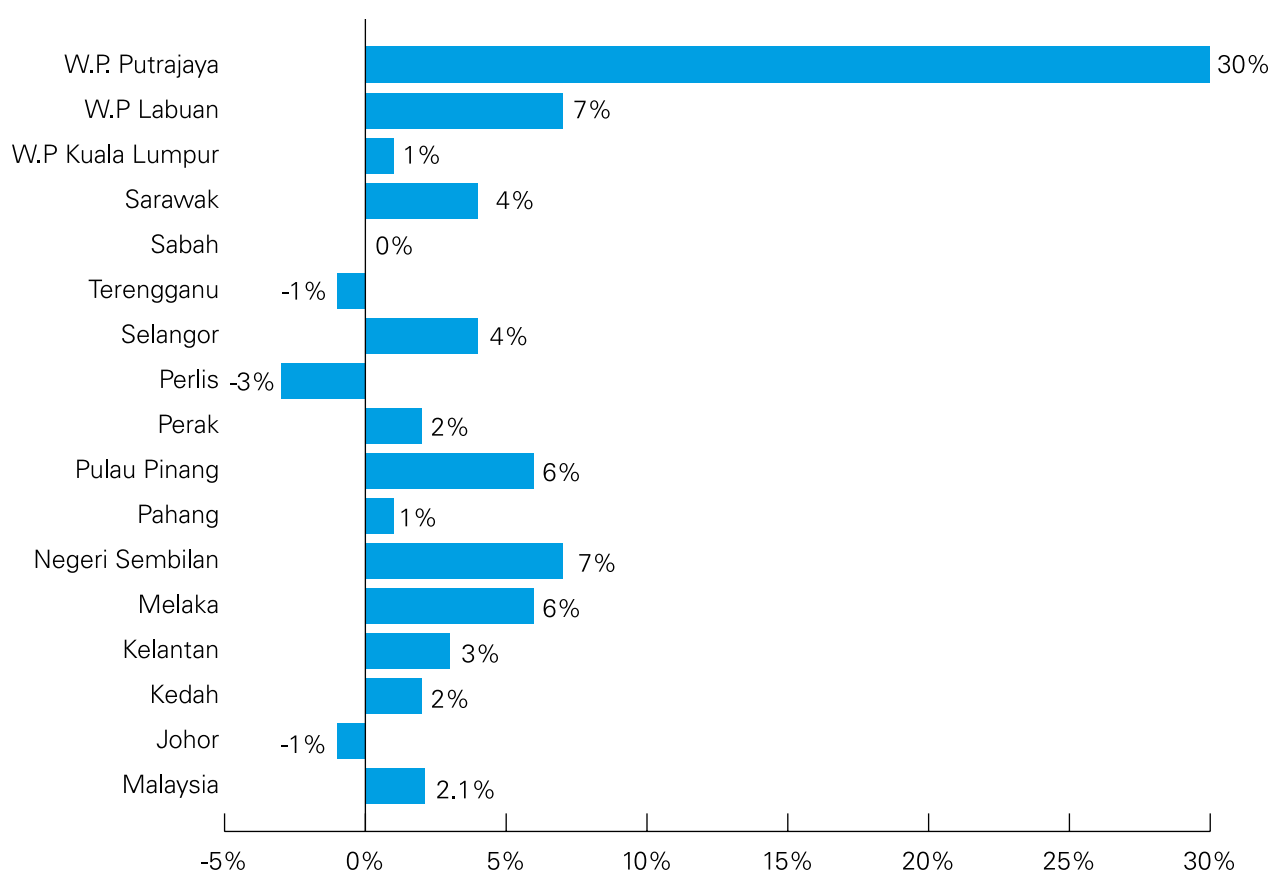
B40 households.³⁶⁸ The states with the largest **numbers** of B40 households are: Perak, Selangor, Sarawak, Kedah, Johor, and Kelantan, but those with the largest **proportion** of B40 households are Kelantan, Perak, Pahang, Perlis and Terengganu.³⁶⁹ The states with the highest **increase** in the B40 community between 2012 and 2016 are, as set out in Figure 19, the most developed states (Putrajaya, Labuan, Selangor and Penang). The Malaysia B40 Action Plan attributes this mainly to rural-urban and inter-state migration in the search for jobs with many new arrivals in these states falling into the B40.³⁷⁰

The immediate determinants of poverty in Malaysia are:
1) living in a low-income household, with a single income

earner; and 2) living in a large household where there are a high number of dependents, especially the elderly. The average household with a single income earner (determinant 1) has a median household income of RM3,673, placing them in the B40.³⁷²

The household size for the poor (determinant 2) is higher than for those who are not in the B40: the incidence of poverty for households with five persons and above was 0.8 per cent, compared to households with three people, at 0.1 per cent in 2017.³⁷³ A recent study of poverty in low-cost flats (PPR) in Kuala Lumpur showed that one in five urban poor households has three generations living within the same household.³⁷⁴ At the national level,

FIGURE 19: Annual growth rate of B40 households by state, 2012-2016



Source: B40 Action Plan 2018³⁷¹

³⁶⁸ Malaysia B40 Action Plan, 2018, p. 1.

³⁶⁹ Malaysia B40 Action Plan, 2018, p. 12.

³⁷⁰ Malaysia B40 Action Plan, 2018, p. 13.

³⁷¹ Malaysia B40 Action Plan, 2018.

³⁷² DOSM, Vital Statistics, Malaysia, 2017, https://www.dosm.gov.my/v1/index.php?r=column/cthemByCat&cat=165&bul_id=NXRCRDh0RENGeU13bC9EdzJ1cUftZz09&menu_id=L0pheU43NWJwRWVSZkiWdzQ4TihUUT09, accessed 3 December 2019.

³⁷³ DOSM, Vital Statistics, Malaysia, 2017.

³⁷⁴ UNICEF, Children Without, 2018.

a 2017 report found that one in five recipients of DSW assistance have three generations in a household.³⁷⁵ Poverty impacts children in many ways in Malaysia. For example, it is known to keep children out of school due to unaffordability of school supplies and uniforms, and transportation to school, even where school fees are subsidised. Where children live in poor households, the opportunity costs of attending school rather than entering into even low paid and exploitative child labour may be too high to bear. Additional costs may also be incurred by children from rural areas who stay away from home to go to school. Children living in these areas may live and attend schools in buildings that are dilapidated, unsafe and not conducive to positive child development.³⁷⁶

Across all standardised examinations in Malaysia, children from poor households and schools with a larger proportion of students from poor households have lower achievement, suggesting a socio-economic achievement gap.³⁷⁷ The UNICEF study on children living in low-cost (PPR) flats in Kuala Lumpur also found that children consider the areas they lived in not clean or safe,³⁷⁸ that many children did not attend school and that one in ten did not eat three meals a day.³⁷⁹ The UN Special Rapporteur on extreme poverty and human rights has identified child poverty as a driver of child labour, child marriage and poor health and nutrition outcomes in Malaysia.³⁸⁰



© UNICEF Malaysia/2018/Noorani

A mother sitting outside her house with her children in a slum settlement on water in the state of Sabah.

375 UPM, *The Effectiveness of Financial Assistance Given by Department of Social Welfare*, 2017, p. 1088.

376 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019.

377 MOE Malaysia, *Malaysia Education Blueprint 2013-2025*.

378 UNICEF, *Children Without*, 2018, p. 28-30.

379 UNICEF, *Children Without*, 2018, p. 36.

380 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019.

2.3. CHILDREN WITH NO, UNCERTAIN OR VULNERABLE LEGAL STATUS

Stateless, undocumented, refugee and migrant children lag far behind their peers in Malaysia, due to exclusion from the systems and policies that have benefitted other children. Common to these groups is their invisibility – limited data and knowledge, exclusion from mainstream policies and lack of policies and legal frameworks designed to meet their specific needs has caused these children to fall behind.

It is very likely that children who have no, uncertain or unfavourable legal status, including stateless, undocumented, refugee and migrant children, experience exclusion from services and face significant poverty and deprivation. The continued exclusion of these children and their families from a wide range of social services places them at elevated risk of monetary and multi-dimensional poverty, and their exclusion from official datasets makes the extent of this impossible to assess with confidence (see Part 3).³⁸¹

In this report, the following categories are used to describe children with no or uncertain status:

FIGURE 20: Categories used to describe children with no or uncertain status

Stateless child/ person	A child/person not recognised as a national by any state under the operation of its laws, including those at risk through being unable to prove Malaysian citizenship.
Asylum-seeking/ refugee children	A child who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationalist, membership of a particular social group, or political opinion.
Unregistered children	A child (migrant or non-migrant) who does not have or cannot access birth registration.
Undocumented migrant children	A non-Malaysian migrant child who has entered and / or remains in Malaysia irregularly (outside the laws, regulations or international agreements governing the entry or exit from Malaysia).

Crossover:
children
at risk of
statelessness

381 Submission by UNICEF Malaysia to UN Special Rapporteur on extreme poverty and human rights, June 2019.

2.3.1. Stateless children

A stateless person, according to international law, is 'a person not recognised as a national by any state under the operation of its laws.'³⁸² The impacts of being a stateless child are severe: children frequently require nationality documentation to access essential services, such as education, health and welfare services, without which they cannot survive and thrive. Statelessness exposes children to the risk of exploitation and can cause stress and feelings of insecurity.³⁸³ It can also stifle economic opportunities and hamper mobility, with impacts well into adulthood.³⁸⁴

Children in Malaysia may be rendered stateless for a number of different reasons, often connected to the fact that Malaysia is one of only 25 countries worldwide that denies women and men the right to confer nationality to their children on equal terms.³⁸⁵

Due to discriminatory provisions in the Federal Constitution, it is not possible for a Malaysian man to transfer his nationality to a child born to unmarried parents.³⁸⁶ This can lead to statelessness for children who, despite having a Malaysian father, cannot acquire their mother's nationality, if the mother is: stateless, has an unknown identity or is from a country that does not allow her nationality to be conferred.³⁸⁷

There is gender discriminatory treatment in acquirement of citizenship for children born abroad to one Malaysian parent.³⁸⁸ Children born to Malaysian fathers automatically assume Malaysian citizenship. However, a child born overseas to a Malaysian mother and foreign father will not automatically assume citizenship; the mother must apply under the Federal Constitution (Article 15).³⁸⁹ Married Malaysian mothers cannot transfer their nationality to children born on foreign soil on the same basis as married Malaysian fathers.³⁹⁰ This can make children, if born overseas to a Malaysian mother

and foreign father, vulnerable to statelessness if unable to acquire their father's nationality.

While the Federal Constitution provides that children whose birth parents are not known and who are raised under the protection of the State are entitled to citizenship, lack of policies and procedures make implementation of this provision (Article 19b) impossible. This can render children whose birth parents are not known and who grow up in the care of the Government stateless. These children are different to undocumented non-migrant children because their entitlement to citizenship is subject to application, for which there are no guidelines or procedures, whereas undocumented non-migrant children have citizenship automatically, but lack documentation.

Children of the Sama Bajau indigenous group are likely to have no documentation about their identity and are most commonly not recognised by any state.³⁹¹

Multi-generational migrant children whose families migrated from neighbouring countries without documentation several generations ago likely have no documentation proving citizenship of Malaysia, or any other state.³⁹²

Many stateless children in Malaysia are children of migrant workers who themselves are not documented.³⁹³ Indeed, statelessness and the 'undocumented' status are closely connected in Malaysia, with some children rendered stateless if they are born to undocumented parents. Stateless children and families may face challenges in obtaining birth certificates and other forms of documentation, even if they are entitled to them. Stateless parents may be unable to provide proof of the full circumstances of the birth of their children, or to trace midwives or family members to support their claims.³⁹⁴

382 Article 1, Convention relating to the Status of Stateless Persons 1954.

383 UNHCR, *I am here, I belong: The urgent need to address childhood statelessness*, 2015, p. 18-19.

384 UNHCR, *I am here, I belong: The urgent need to address childhood statelessness*, 2015, p. 19.

385 Malaysia maintains a reservation to Article 9(2) CEDAW; Women's Aid Organisation, *The Status of Women's Human Rights: 24 Years of CEDAW in Malaysia*, 2019, p. 44, <https://wao.org.my/wp-content/uploads/2019/01/The-Status-of-Womens-Human-Rights-24-Years-of-CEDAW-in-Malaysia.pdf>, accessed 10 December 2019.

386 Section 17, Part III, Second Schedule, Article 14(1)(b), Federal Constitution.

387 DHRRA Malaysia, *Understanding Statelessness in Malaysia Awareness Handbook*, 2019.

388 Section 1(b), Part II, Second Schedule, Article 14(1)(b), Federal Constitution.

389 SUHAKAM, *Report to CEDAW Committee, State Party: Malaysia*, 2017.

390 Section 1(b), Part II, Second Schedule, Article 14(1)(b), Federal Constitution.

391 DHRRA Malaysia, *Understanding Statelessness in Malaysia Awareness Handbook*, 2019.

392 DHRRA Malaysia, *Understanding Statelessness in Malaysia Awareness Handbook*, 2019.

393 Reuters, 'Malaysia's invisible children', 5 July 2016, <https://www.aljazeera.com/indepth/features/2015/04/malaysia-invisible-children-150429064406390.html>, accessed 10 December 2019.

394 See, e.g., DHRRA, 'Birth registration first, then register for school', <https://dhrmalaysia.org.my/first-register-the-birth-and-then-register-for-school/>, accessed 9 December 2019.

Stateless children face challenges attending public schools;³⁹⁵ obtaining medical treatment from public hospitals; gaining employment; opening bank accounts and legally marrying, among other challenges. If a child's citizenship remains unresolved, this can have a life-long impact: by restricting (regular) movement and causing exclusion from formal labour markets and social protection schemes, stateless persons can experience entrenched and lifelong poverty and deprivation. The fact that stateless persons cannot be married legally means that their children are also stateless, completing a vicious circle of deprivation.³⁹⁶

It is difficult to know exactly how many stateless children there are in Malaysia, a fact that perpetuates their invisibility and creates challenges in developing effective, targeted policies and programmes. Estimates are developed using different techniques and by different agencies, and conflation between non-citizenship, statelessness and undocumented status leads to inaccurate and misleading data.

2.3.2. Unregistered children

Children in Malaysia who do not have their births registered or do not have the requisite identification documentation experience problems accessing basic services, including the public education system and healthcare services. Birth registration is important to avoid statelessness / undocumented status and in ensuring that children are protected in relation to age-based protection laws, such as child marriage and child labour laws. Some children in Malaysia, particularly indigenous, nomadic or multigenerational migrant children are vulnerable to being excluded from birth registration systems (being undocumented), as set out in the section above regarding statelessness.³⁹⁷

In addition to children of parents who are not Malaysian, children who are born to unmarried Malaysian parents are vulnerable to birth registration challenges that can lead to them being without documentation of their citizenship. Stigmatisation of childbirth outside of marriage, along with onerous documentation requirements (e.g. the



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The Bajau Laut community in Sabah, East Malaysia, leads a nomadic lifestyle, and often remain stateless. Without any proof of nationality, they are denied access to school and medical care. Without education, Bajau Laut children end up begging on the streets where they are exposed to violence, abuse and exploitation.

395 Though, as noted above, the Zero Reject Policy allows children with one Malaysian parent to access public schools.

396 UNHCR, *I am here, I belong: The urgent need to address childhood statelessness*, 2015, p. 19.

397 DHRRA Malaysia, *Understanding Statelessness in Malaysia Awareness Handbook*, 2019.



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A young boy attends to his lesson at CLC Nusra, in Tenom District in the interior regions of Sabah. The school premises used to be a lumber factory in the past. Scavenged wood and plywood were used to construct basic classrooms that now house 43 students with 2 teachers.

insistence that parent/s show marriage certificates, even where this is not required by law) can create barriers to birth registration. Geographical and resource related barriers can prevent birth registration. Long distances and high costs of transportation from settlements in remote areas may hinder access to reporting facilities. Lack of awareness of the importance of birth certificates and administrative requirements may also lead to parents not applying for birth registration.

Limited awareness is particularly troubling: many parents do not have access to information advising them of

how to confirm Malaysian nationality, prove citizenship of their children, and obtain documentation. Where they fail to do this, their children may be prevented from enrolling in primary and secondary education, and parents may face compounded difficulties in applying for late birth registration / citizenship. Children who are without documentation may have difficulties accessing subsidised education and healthcare, although the Ministry of Education recently pledged to simplify the registration process for undocumented non-migrant children³⁹⁸ to enrol in government schools, for those for whom their citizenship process is pending.³⁹⁹

One additional concern over registration of children from Muslim fathers is that, though a case is pending at the Federal Court, the National Registration Department would commonly register the surname of a Muslim child who was born less than six months after their parents' marriage (or, presumably, in the absence of a marriage) as 'bin/binti Abdullah' (meaning 'the son/daughter' of Abdullah) rather than using the biological father's name. This practice, which resulted from two State Fatwas in 1981, meant that children would have different last names than their fathers, resulting in stigmatisation of the child and family. A decision from the Federal Court as to the continued legality of this practice is pending.⁴⁰⁰

2.3.3. Undocumented children

As noted above, Malaysia is a major destination country for migrants from Southeast Asia, South Asia, the Middle East and African countries. The majority of migration to Malaysia is thought to be in pursuit of economic opportunities, while a substantial number of irregular and vulnerable migrants come to Malaysia seeking protection from violence, persecution and violations in their home country.⁴⁰¹

At the end of 2018, it was estimated that there were a further two to four million undocumented migrant workers.⁴⁰² Foreign workers come mainly from Indonesia, Nepal, Bangladesh, India and Myanmar and constitute 14.4 per cent of the population.⁴⁰³

398 Reported as 'stateless' in the news article referenced in this sentence.

399 The Star, 'Schools must accept stateless children', 28 January 2018, <https://www.thestar.com.my/news/education/2018/01/28/schools-must-accept-stateless-children/>

400 In Malaysia, if a non-Muslim father of a child is not married at the time of birth, his details may not be entered onto a child's birth certificate unless a joint application is made by the mother and a person claiming to be the father of the child, National Registration Department, <https://www.jpn.gov.my/en/soalan-lazim/kelahiran/#1458809816309-ddeb6ffb-8022>, accessed 28 November 2019; The case is *A child v. National Registration Department*. For information, see Oxford Human Rights Hub, 'Children's Rights, Illegitimacy and the Rule of Law in Malaysia', 1 September 2017, <https://ohrh.law.ox.ac.uk/childrens-rights-illegitimacy-and-the-rule-of-law-in-malaysia/>, accessed 29 November 2019.

401 IOM, *Malaysia*, available at: <https://www.iom.int/countries/malaysia>

402 IOM, *Malaysia*.

403 IOM, *Malaysia*.



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Due to irregular migration over the decades, Sabah is now home to thousands of illegal immigrants from the Philippines and Indonesia.

Undocumented migrant children face exclusion from services and vulnerability to exploitation. It appears from reports that corruption among police and border force officials fuels the influx of undocumented, migrant labourers into some areas in Malaysia, which then exposes children to the risk of being exploited through child labour without recourse to protection or support.⁴⁰⁴ Migrant children and families who are undocumented may feel fearful of raising concerns over their ill-treatment or exploitation in labour settings; a fear likely exacerbated if their entry into Malaysia was connected or touched by corruption along the way.⁴⁰⁵

2.3.4. Refugee children

Malaysia does not have a specific legal framework to grant status to refugees in the country, and the country is not a signatory to the 1951 Refugee Convention or its Protocol. As a result, by law, refugees are not differentiated from 'illegal immigrants.' However, UNHCR provides a system for registering refugees and asylum-seekers. In October 2019, there were an estimated 177,800 refugees registered with UNHCR in Malaysia; the highest number (153,200) were from Myanmar. From this total, around 46,340 or 26 per cent are children.⁴⁰⁶

404 ECPAT, *Submission to Universal Periodic Review on Sexual Exploitation of Children in Malaysia*, 2018. <https://www.ecpat.org/wp-content/uploads/2018/07/Universal-Periodical-Review-Sexual-Exploitation-of-Children-Malaysia.pdf>, p. 4.

405 ECPAT, *Submission to Universal Periodic Review on Sexual Exploitation of Children in Malaysia*, 2018.

406 UNHCR Malaysia, 'Figures at a Glance in Malaysia', <https://www.unhcr.org/uk/figures-at-a-glance-in-malaysia.html>, accessed 10 December 2019.

There are serious concerns about policy and practice relating to refugee children in Malaysia. One major issue is the continued detention of asylum-seeking children and youth in immigration detention facilities. There are 12 immigration detention centres in Peninsular Malaysia, in which conditions are reported to be 'appalling'.⁴⁰⁷ In 2016, 647 asylum-seeking and refugee children were recorded as having been detained in immigration centres; a reduction from 2,005 in 2013.⁴⁰⁸ It is estimated that, when detained, children spend on average five months in immigration detention.⁴⁰⁹

There have been reports that some refugee and asylum-seeking girls are particularly vulnerable to sexual exploitation and abuse, including through marriages, as they are 'sold' into forced child marriage as a means to gain entry to Malaysia.⁴¹⁰ Until recently, subsidised education and healthcare was denied to this group of people. Given their socio-economic background and lack of identification documents, many decided not to enrol their children in formal education or seek medical treatment from government health facilities.

Currently in Malaysia, refugee and asylum seekers may be charged for receiving healthcare services at public health clinics. Though the GOM offers a 50 per cent discount on standard 'foreigners' fees' at public healthcare facilities, those fees are still extremely high, and out of reach for a group that does not have the right to work and earn money in Malaysia.⁴¹¹ However, in 2018, Malaysia assured the UN that it would give asylum-seekers and refugees access to government medical facilities and would not charge any fees for treatment of communicable diseases.⁴¹²

Further, Save the Children reports that asylum-seeking and refugee children are 'generally excluded from national child protection laws and services'.⁴¹³ Another challenge facing refugee and asylum-seeking girls when they arrive in Malaysia is that they are likely to have limited access to fundamental hygiene services, including toilets and menstrual supplies.⁴¹⁴

Refugee, asylum-seeker and stateless women live in a challenging environment in Malaysia. Without the correct documentation, they are not permitted to work legally, face restricted access to public services and are vulnerable to exploitation and abuse, including sexual and gender-based violence.⁴¹⁵ Under domestic law, asylum-seeking and refugee women fall under the category of undocumented migrants. They are vulnerable to arrest for immigration offences, detention, prosecution and deportation, especially if they are not registered with UNHCR.⁴¹⁶ Asylum-seeking and refugee women and girls may also be at risk of immigration detention in Peninsular Malaysia. Of particular concern is the arrest and detention of those who have just given birth and the detention of girls, either unaccompanied or with their family members.⁴¹⁷

2.4. CHILDREN WITH DISABILITIES

Until very recently,⁴¹⁸ Malaysia collected very little data on disability in household surveys. As a result, there are limited reliable prevalence data on children with disabilities. There is also limited research capturing their voice and examining their lived experiences.⁴¹⁹ The limited data on children with disabilities reinforces their invisibility and makes it difficult to assess their access to services, support and protection.

407 Save the Children and Asia Pacific Refugee Rights Network, *Unlocking Childhood: Current immigration detention practices and alternatives for child asylum seekers and refugees in Asia and the Pacific*, 2017, p. 37.

408 Save the Children, *Unlocking Childhood*, 2017, p. 34.

409 Save the Children, *Unlocking Childhood*, 2017, p. 37.

410 Al Jazeera, 'Rohingya women, girls being trafficked to Malaysia for marriage', 8 May 2019, <https://www.aljazeera.com/indepth/features/rohingya-women-girls-trafficked-malaysia-marriage-190507212543893.html>, accessed 10 December 2019.

411 The Star, 'A commitment to universal health coverage for refugees', 7 Apr 2019, <https://www.thestar.com.my/news/nation/2019/04/07/a-commitment-to-universal-health-coverage-for-refugees#tvumYg9dEFQ1bBlu.99>, accessed 8 December 2019.

412 The Star, 'Malaysia to continue providing humanitarian aid to refugees', 25 Sep 2018. <https://www.thestar.com.my/news/nation/2018/09/25/malaysia-to-continue-providing-humanitarian-aid-to-refugees>

413 Save the Children, *Unlocking Childhood*, 2017, p. 6.

414 UNHCR Malaysia, 'Her Turn: UNHCR report reveals critical gap in education for refugee girls', 8 March 2018, <https://www.unhcr.org/en-my/news/press/2018/3/5aa1fafe4/her-turn-unhcr-report-reveals-critical-gap-in-education-for-refugee-girls.html>, accessed 8 December 2019.

415 Asylum Access Malaysia, *Contribution to the List of Issues to be Compiled by the Committee on the Convention on the Elimination of Discrimination Against all Women (CEDAW), Refugee and Asylum-Seeker Women, State Party – Malaysia*, 2018, p. 2.

416 Asylum Access Malaysia, *Refugee and Asylum-Seeker Women, State Party – Malaysia*, 2018, p. 2.

417 Asylum Access Malaysia, *Refugee and Asylum-Seeker Women, State Party – Malaysia*, 2018, p. 4.

418 In 2018, UNICEF commissioned the translation of the UNICEF/Washington Group Child Functioning Module into Bahasa Malaysia in order to encourage the collection of data on children with disabilities in the 2019 NHMS.

419 UNICEF, *Issue Brief, Children with Disabilities in Malaysia*, 2019.

According to latest statistics by the Department of Social Welfare, there were 123,497 children with disabilities (around 1.3 per cent) in 2017.⁴²⁰ This is likely a considerable underrepresentation. Global estimates of the prevalence of children with disabilities stand closer to 5.1 per cent of children aged 0-14 years (for those with a disability) and 0.7 per cent (for those having a 'severe disability').⁴²¹ Based on current population estimates aged 0-14 years, this equates to a population of around 440,000 children with disabilities in Malaysia (five per cent of 9,000,000), though a recent policy brief by UNICEF notes that 'rates of 10-16 per cent have also been reported'.⁴²²

This underrepresentation in data reflects both inadequacy of data collection and under-identification and registration of children who have been officially registered as having a disability. The registration system only allows for the registration of disabilities falling into seven categories:

learning, mental, physical, multiple disabilities, visual impairment, hearing impairment, and speech impairment.⁴²³ Under-reporting of children with disabilities may also be due to poor rates of diagnosis by healthcare professionals, or it may also be linked to the fact that it is not compulsory to register disability, and that some families (and children) thus prefer not to register a child's disability, or find it difficult to navigate the process.⁴²⁴ It also appears that girls are less likely to be registered as having a disability: at present, around 35 per cent of registrations of children with disabilities are girls, and 65 per cent are of boys.⁴²⁵

Overall, children with disabilities do not experience equitable access to services in Malaysia, including education, healthcare and social protection. For instance, a recent UNICEF study on out of school children in Sabah, reported 'at least half of children registered to have disabilities do not attend school at all levels'.⁴²⁶



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A blind student at Setapak Special Education School listens and responds to a learning session via special text-to-speech listening software.

420 MWCFD, *Laporan Statistik*, 2017, p. 141.

421 UNICEF, *Issue Brief, Children with Disabilities in Malaysia*, 2019, p. 3.

422 Sukeri, Bakar, Othman, Mohd, *Barriers to unmet needs among mothers of children with disabilities in Kelantan, Malaysia: A qualitative study*, Journal of Taibah University Medical Sciences, 2017, 12(5), pp. 424-429.

423 MISG, 'Person with Disabilities', <https://www.msig.com.my/personal-insurance/products/OKU/>, accessed 6 December 2019.

424 UNICEF, *Childhood Disability in Malaysia, A Study of Knowledge, Attitudes and Practice*, 2017, p. 32.

425 JKM SMOKU 2017, cited in UNICEF, PPT, Children with Deprivations.

426 UNICEF, 'Children out of School – Malaysia: The Sabah Context', 2017, p. 25. <https://www.unicef.org/malaysia/media/896/file/Out%20of%20School%20Children.pdf>, accessed 26 November 2019.

The study found that 69.3 per cent of children with registered disabilities did not attend pre-school, 59.6 per cent did not attend primary school, and 50.1 per cent did not attend secondary school.⁴²⁷

Disability has different impacts on women and girls in Malaysia compared to men and boys. Girls are particularly at risk of marginalisation, and of experiencing barriers to accessing services: global trends suggest primary school completion rates of around 42 per cent for girls with disabilities, compared to 51 per cent of boys with disabilities.⁴²⁸ Further, a recent study into the unmet needs among mothers of children with disabilities in Kelantan highlighted the challenges faced by many women who have children with disabilities, given that they are more likely to be the primary caregivers.

As UNICEF summarises: “It was the mothers who were most often expected to take their children to hospital or habilitation/rehabilitation appointments or to accompany them to school. The mothers themselves reported feeling very unsupported by their families, communities and service providers, partly because of the negative attitudes prevalent towards disability which they experienced as feelings of shame.”⁴²⁹

While Malaysia’s Constitution (1957) does not include provisions on children or adults with disabilities, a number of laws and policies set out the rights of children with disabilities. A key development was the adoption of the Persons with Disabilities Act in 2008, following the Government’s signature of the UN Convention on the Rights of Persons with Disabilities (CRPD). A key gap within the Persons with Disabilities Act, however, is that it makes no specific provisions for children or young people with disabilities beyond ensuring their right to access education (Art. 28) and their right to access recreation, leisure and sport (Art. 32).⁴³⁰ In addition, there is no reference to the impact of age

or gender on disability. Another significant gap within the Act is the lack of monitoring and redress mechanisms, should the government or another party violate the rights of persons with disabilities.⁴³¹ Tellingly, it has been noted that, in the years following its enactment, no case has referenced it for protecting the rights of persons with disabilities in court.⁴³²

Despite these legal developments for children with disabilities, a population-based knowledge, attitudes and practices study carried out by UNICEF in 2017 found that the ‘medical model’ is still the dominant approach in Malaysia to understanding disability.⁴³³ It found that this has helped maintain a situation where children and young people with disabilities remain ‘passive recipients of services’⁴³⁴ with no sense of them having individual agency. It also maintained a strong assumption that having a disability implies a state of abnormality, dependency and a need for specialist provisioning. Services are provided within a culture which implies an act of charity, rather than being a right or entitlement, which can result in services being poorer in quality, regulation and availability.⁴³⁵

The UNICEF study also found that children with disabilities face stigmatisation and that there is limited understanding in communities about disability. According to the study, 73.5 per cent of respondents thought children with disabilities should be institutionalised, with 43.1 per cent responding that the inclusion of children with disabilities in schools attended by children without disabilities would be disruptive to those without disabilities. Among the greatest challenges that children with disabilities face, lack of future employment prospects, costs of accessing services and medical bills, transportation and related access difficulties and infrastructural barriers all rendered children with disabilities additionally vulnerable to non-fulfilment of their rights.⁴³⁶

427 UNICEF, ‘Children out of School – Malaysia: The Sabah Context’, 2017, p. 25.

428 WHO, *World Report on Disability*, 2011, http://www.who.int/disabilities/world_report/2011/en/, p. 12, accessed 18 September 2019.

429 UNICEF, *Issue Brief, Children with Disabilities in Malaysia*, 2019, pp. 5-6., citing, Surianti Sukeri, PhD, *Barriers to unmet needs among mothers of children with disabilities in Kelantan, Malaysia: A qualitative study*, Journal of Taibah University Medical Sciences, 2017.

430 Persons with Disabilities Act 2008, [No. 685].

431 UNICEF, *Issue Brief, Children with Disabilities in Malaysia*, 2019.

432 Abdullah, Hanafi and Hamdi, *The rights of persons with disabilities in Malaysia: the underlying reasons for ineffectiveness of Persons with Disabilities Act 2008*. International Journal for studies on children, women, elderly and disabled. Vol.1, 2017.

433 UNICEF, *Childhood Disability in Malaysia*, 2017.

434 Abdullah, Hanafi and Hamdi, *The rights of persons with disabilities in Malaysia: the underlying reasons for ineffectiveness of Persons with Disabilities Act 2008*, 2017.

435 Islam R., *Rights of Persons with Disabilities and social exclusion in Malaysia*, International Journal of Social Science and Humanity, 2015, Vol. 5, No. 2.

436 UNICEF, *Childhood Disability in Malaysia*, 2017, pp. 75-77.

In Malaysia, transgender students forced to dress in clothes that did not match their gender identity and lesbians whose sexual attractions were discovered reported falling behind in their studies because they could not focus and dropping out of school at an early age. The same study found that violence against transgender children in the home and school led to early drop out and reduced employment prospects.

2.5. LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX (LGBTI+) CHILDREN

Limited data are available about LGBTI+ children in Malaysia. However, the legal, policy and social environment in Malaysia likely leads to challenges and barriers for these children. The criminalisation of same-sex relationships almost certainly restricts access by LGBTI+ children and adolescents to information and services, and likely fuels intolerance and stigmatisation of LGBTI+ children. The criminal legal framework in Malaysia can also be used to punish those with non-conforming gender expression for impersonation-related crimes.⁴³⁷ This criminal framework and the impact of Syariah law and conservative religious teachings relating to LGBTI+ persons can have a very negative impact on the mental health and physical well-being of children in Malaysia. A relatively well documented form of discrimination faced by LGBTI+ children is bullying. Violence against lesbian and bisexual children has

been reported through studies that touched upon lesbian and bisexual women and transgender people's experiences at school, within which participants reported verbal humiliation, sexual abuse and school expulsion.⁴³⁸ The impact on children can be devastating. As one study found: in Malaysia, transgender students forced to dress in clothes that did not match their gender identity and lesbians whose sexual attractions were discovered reported falling behind in their studies because they could not focus and dropping out of school at an early age.⁴³⁹ The same study found that violence against transgender children in the home and school led to early drop out and reduced employment prospects.⁴⁴⁰ Discrimination and harm towards LGBTI+ children is not just within the purview of community or peer bullying, but can also be state sanctioned. The Federation of Reproductive Health Associations reported in 2018 that several transgender women had been convicted of offences relating to wearing clothes deemed inappropriate for their sex and that, in June 2014, 16 transgender women and a child were arrested, with the women subsequently imprisoned for seven days.⁴⁴¹

437 UNESCO, *From Insult to Inclusion: Asia Pacific Report on school bullying, violence and discrimination on the basis of sexual orientation and gender identity*, 2015, p. 19.

438 UNESCO, *From Insult to Inclusion*, 2015, p. 35.

439 ILGHRC, *Violence: Through the Lens of Lesbians, Bisexual Women and Trans People in Asia*, 2014; UNESCO, *From Insult to Inclusion*, 2015, p. 41.

440 ILGHRC, *Violence: Through the Lens of Lesbians, Bisexual Women and Trans People in Asia*, 2014; UNESCO, *From Insult to Inclusion*, 2015, p. 42.

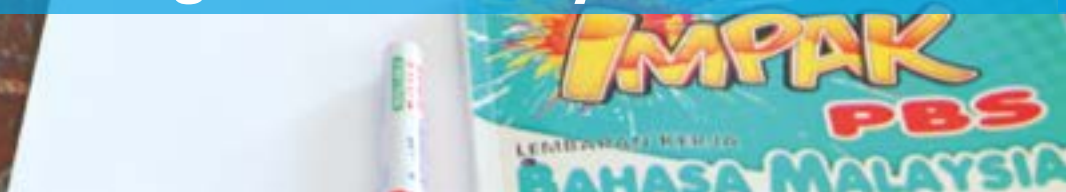
441 Arrow and FRHAM, *Comprehensive Sexuality Education for Malaysian Adolescents: How far have we come?*, 2019, p. 58, citing, Human Rights Watch, 'Malaysia: End Arrests of Transgender Women', 23 June 2014, <https://www.hrw.org/news/2014/06/23/malaysia-end-arrests-transgender-women>, accessed 26 November 2019.



Children at a school that provides learning opportunities for the marginalised in the town of Semporna, Sabah, Malaysia.

3

Overview: Progress and Gaps in the Realisation of Children's Rights in Malaysia



“For every child, they have the right to smile and be happy in a peaceful world.”

—Abilash Jayaraj Menon, 17 | Picture My Rights, 2017/18

Children in Malaysia are entitled to a full range of rights, as set out within the 53 Articles of the CRC. This Part of the report provides an overview of progress towards the realisation of these rights, the SDGs and the World Health Assembly’s 2025 Goals in Malaysia. In this Part of the SitAn, these rights and development goals are grouped according to seven main outcome areas: poverty, inequality and social protection; health; nutrition; water, sanitation and hygiene (WASH); early childhood care and development (ECCD) and education; protection; and participation. This Part does not provide a comprehensive assessment and analysis of the situation relating to these outcome areas in Malaysia. Instead, it provides a broad perspective of overall progress, highlighting key areas of deprivation, inequalities and vulnerabilities, leading to an in-depth discussion of priority issues affecting children in Part 4.

The Government of Malaysia has made strong progress in a range of areas, including substantial progress in reducing extreme poverty; reducing maternal and child mortality; reducing some communicable diseases; achieving near-universal access to safe water, sanitation and hygiene; increasing access to all levels of education; and developing a range of avenues to ensure children are

able to participate in decision making. However, in other areas, progress has been slow or has reversed, and is not on track to meet the SDGs and key national development goals. Key issues or challenges include the rising triple burden of malnutrition (rising rates of malnutrition, overweight/obesity and anaemia); adolescent health issues, such as limited access to sexual and reproductive health services, rising mental health problems and rising rates of substance abuse; ensuring quality learning outcomes; ensuring access to quality inclusive education for children with disabilities; effectively addressing violence, exploitation, abuse and neglect of children and their exposure to harmful practices; and removing barriers to birth registration. The GOM will need to accelerate progress in these areas to ensure that children in Malaysia survive and thrive and that their rights are fulfilled.

It is important to remember, when reading this Part and Part 4 that many children and women are ‘invisible’ in the data, because they are stateless, undocumented, or have not been included in administrative or survey data for some other reason. The text draws attention to this issue in outcome areas in which invisibility is especially likely.

Throughout this section, Malaysia’s progress against key SDGs will be set out accordingly:

GREEN

On track / has already met SDG target.

ORANGE

Some progress has been made, though progress will need to be accelerated to meet SDG target.

RED

Not currently on track to meet SDG target; considerable progress needed.

GREY

Insufficient data to measure progress toward meeting SDG target.

3.1. POVERTY, INEQUALITY AND SOCIAL PROTECTION

The key development goals in relation to children's economic wellbeing are defined in SDGs 1.1 and 1.2. These recognise that poverty is multi-dimensional and oblige governments to track indicators that capture both monetary and non-monetary aspects of poverty. SDG 1.3 also requires the implementation of 'nationally appropriate social protection systems and measures for all, including [social protection] floors', which are seen as key instruments to help address multi-dimensional poverty. Social protection encompasses a range of systems and programmes, which fall into three main categories: Social insurance programmes – contributory schemes to provide security against risk, such as unemployment, illness, disability etc.; social assistance programmes – non-contributory measures such as regular cash transfers targeting vulnerable groups; and labour market programmes – training and skills development programmes etc.

3.1.1. Malaysia's poverty, inequality and social protection framework

There are three different types of social protection in Malaysia: **social insurance, social assistance, and labour market interventions**.⁴⁴² Social insurance protection consists of the two old age pension or retirement schemes, the defined-benefit Civil Service Pension for government servants and the defined-contribution scheme under the Employees Provident Fund for private sector workers.⁴⁴³ Social insurance also involves the Employment Injury Insurance and Employment Insurance System under the Social Security Organisation.

Social assistance, on the other hand, consists of cash or in-kind transfers to the elderly, people with disabilities, children, single mothers and for disaster relief purposes. These transfers are mostly monitored and distributed by the Ministry for Women, Families and Community Development (MWFCDD). Most forms of assistance are means-tested assistance schemes. Social protection also involves health assistance such as Universal Health Care under the Ministry of Health. Labour market interventions involve skills and knowledge development

FIGURE 21: Poverty, inequality and social protection: Key SDG targets



442 Ruhaini Hj. Zawawi and Tengku Aizan Hamid, 'Social Protection System For Older Persons In Malaysia, Regional Expert Forum on Population Ageing 12-13 July 2016', Bangkok, Thailand, 2016, <https://www.unescap.org/sites/default/files/Social%20protection%20Malaysia.pdf>, accessed 4 December 2019.

443 Muhammed Abdul Khalid, *Income Security for Older Persons in Malaysia*, 2016, <https://www.unescap.org/sites/default/files/SDD%20Working%20Paper%20Ageing%20Income%20Malaysia%20v1-1.pdf>, accessed 10 December 2019.

programmes implemented by the Human Resource Development Fund. The GOM is taking steps to ensure access to adequate social protection in relation to the ageing population as well as the needs of women and children. In the Budget 2019 speech, the Government announced that the 'Bantuan Sara Hidup' cash grant scheme to B40 households would be modified with better targeting measures. For an eligible household with a child 18 years old and below or persons with disabilities, this means an additional RM120 per child, up to a maximum of four dependents. Changes to the cash transfer scheme also mean that transfers will be adjusted by the size of households or number of dependents.⁴⁴⁴

3.1.2. Poverty, inequality and social protection outcomes

On the whole, Malaysia has made considerable progress in reducing the overall incidence of extreme poverty, as measured by the proportion of the population living below the international poverty line. However, it has been stated that the poverty line is inappropriately low for an upper-middle-income country that is soon to be a high-income country.⁴⁴⁷ If a similar poverty line was used to other countries with comparable GDP per capita, Malaysia's poverty rate would be closer to 20 per cent.⁴⁴⁸ Similarly, while 0.35 per cent of children live in absolute poverty as currently measured, if poverty were measured in relative terms, whereby the poverty line is defined as half of the national median household income, the number of children living below the poverty line would jump to 12.6 per cent, or 1,166,120.⁴⁴⁹

FIGURE 22: Malaysia's progress in achieving poverty, inequality and social protection goals

Eliminate extreme poverty (international poverty line): Target (almost) achieved

Available data show 0.076 per cent of households in Malaysia were below the international poverty line in 2016, with achievement of zero households in extreme poverty in eight states and all three federal territories.⁴⁴⁵

Reduce poverty (national poverty lines): Progress made (with caution)

Malaysia reduced the percentage of the population living below the national poverty line by more than half between 2002 and 2016. However, the meaningfulness of the national poverty line has been questioned, with calls to raise it to reflect the reality of poverty and deprivation.⁴⁴⁶ Also, these data exclude 'invisible' children and families who are undocumented or stateless but experiencing poverty.

Implement social protection systems: Limited progress made

Malaysia has developed a range of social protection programmes. However, the social protection system is fragmented and expenditure in social protection is low. This limits the coverage of the social protection system and its ability to support poor and disadvantaged families.

444 New Straits Times, '2019 Budget: Finance Minister's full speech text', 2 Nov 2018, <https://www.nst.com.my/news/nation/2018/11/427605/2019-budget-finance-ministers-full-speech-text>, accessed 24 September 2019.

445 DOSM, *Household Income and Basic Amenities Survey*, 2016.

446 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019.

447 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019.

448 Ravallion, *Has Malaysia virtually eliminated poverty?*, 2019, <https://economicsandpoverty.com/2019/01/21/has-malaysia-virtually-eliminated-poverty>, accessed 4 December 2019.

449 UNICEF, 'Introducing and Costing a Child Grant in Malaysia', UNICEF Malaysia Working Paper 2017; UNICEF Malaysia Country Office; Calculations based on DOSM, *Household Income and Basic Amenities Survey*, 2016.

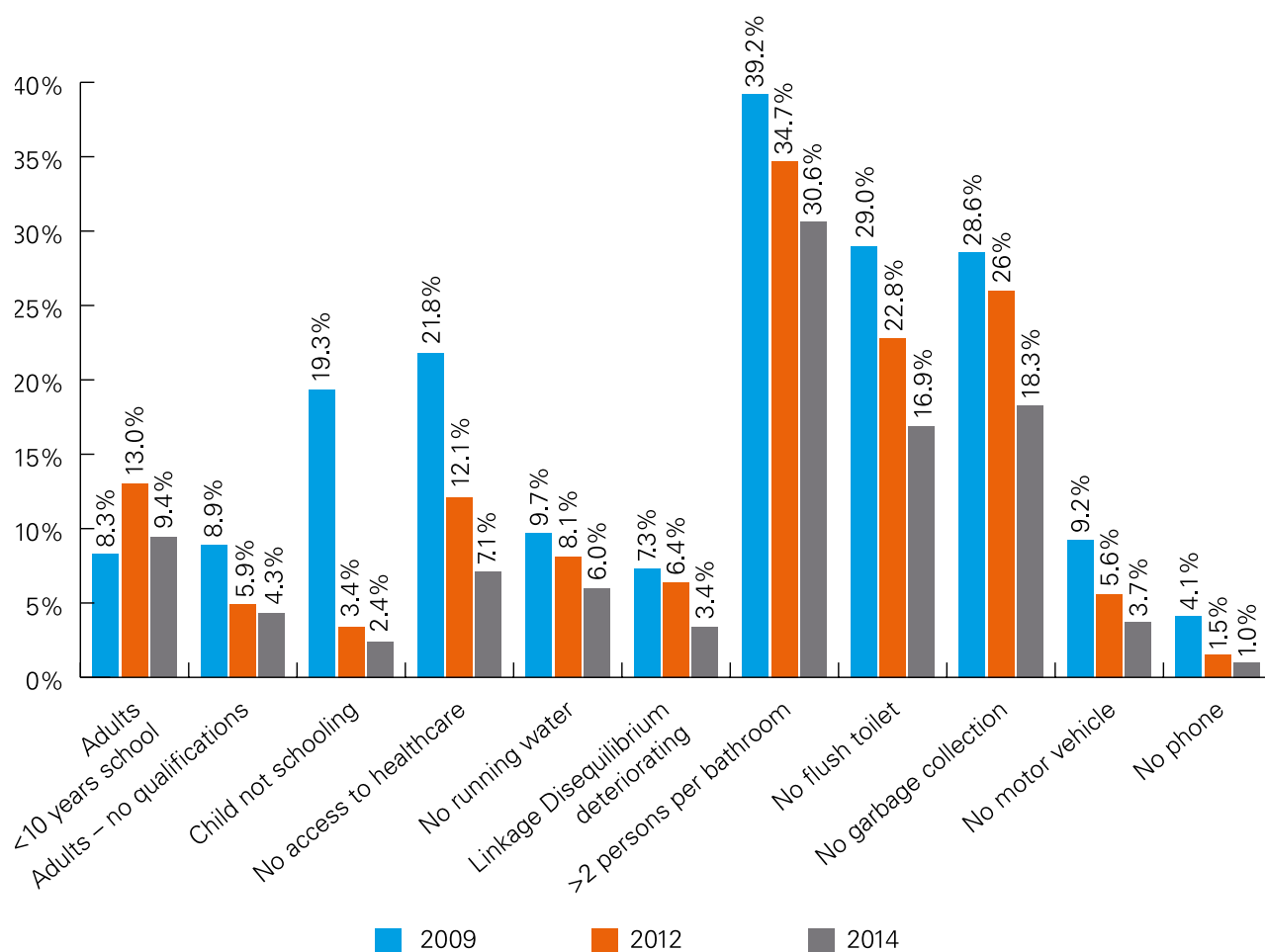
A multi-dimensional approach to measuring poverty recognises that poverty is multi-faceted and may therefore not be adequately captured by simply measuring income, expenditure or consumption. Multiple deprivation data reflects how children experience a number of different deprivations of opportunity, such as access to healthcare, education, food, or water and sanitation. A recent UNICEF study found that the percentage of children experiencing non-monetary poverty in Malaysia decreased across most measures from 2009 to 2014, as shown in Figure 23, but noted also that:

'In comparison with adults, children are disadvantaged in virtually every dimension and

indicator[...]. While conditions for children generally improved between 2009 and 2014, those belonging to groups that are traditionally disadvantaged continue to experience high rates of deprivation – these groups include children in rural areas (especially rural areas of Sabah and Sarawak), Bumiputera children, children in female headed households and children in large households.'⁴⁵⁰

In Malaysia, there are around 100 social protection programmes spread across 20 Government agencies.⁴⁵² Despite this, there are gaps in coverage, along with fragmentation and funding shortages. As of 2017, Malaysia's expenditure on social protection was lower than in all Southeast Asian countries for which data were

FIGURE 23: Children deprived in 11 non-income indicators, 2009-2014 (per cent)



Source: UNICEF 2017⁴⁵¹

450 UNICEF, *Child Deprivation in Malaysia: Final Report*, 2017, p. 64.

451 UNICEF, *Child Deprivation in Malaysia: Final Report*, 2017, p. 54. <https://www.unicef.org/malaysia/media/621/file>

452 Nixon, S. et. al., 'Fostering inclusive growth in Malaysia', OECD Economics department working papers, 2017, p. 16.

available. In addition, expenditure on social protection has not risen in step with the GDP.⁴⁵³ Much of Malaysia's social protection expenditure does not adequately cover poor households. The largest proportion of expenditure is for pension payments to retired civil servants, which benefit only a small proportion of relatively well-off households.⁴⁵⁴ According to the UN Special Rapporteur on extreme poverty and human rights, 'the more recent focus on the B40 population [bottom 40 per cent of households with lowest incomes] means a large number of households receive cash transfers, but the payments are so small as to make little difference.'⁴⁵⁵

In terms of social insurance, the percentage of total labour force covered by a mandatory pensions scheme was 46 per cent in 2017.⁴⁵⁶ Not only does a sizeable proportion of the labour force not have pension coverage, a majority of those who have it will have inadequate income for consumption needs during their retirement. In 2015, Malaysia ranked third lowest in terms of retirement income adequacy out of 49 countries around the globe for which data are available.⁴⁵⁷ The gross replacement rate for average workers in Malaysia is low, especially among female workers, at only 64.1 per cent compared to male workers at 69.4 per cent.⁴⁵⁸

In terms of social assistance, the per capita child financial assistance distributed by the Department of Social Welfare Malaysia reduced from RM272 per month in 2016 to RM253 per month in 2017,⁴⁵⁹ which represents the lowest per capita financial assistance given to children since 2013. The per capita monthly child financial assistance among states in Malaysia show that poor parents are either not aware of the financial assistance available, do not know how to apply, or do not have the means to apply for the assistance. Sarawak ranked 7th in terms of per capita financial assistance for children while having the second highest number of recipients

for the assistance and 4th highest total number of children. Kelantan is worse off by having the highest number of recipients but ranked the lowest in terms of per capita financial assistance for children at only RM216 per month. A different situation is encountered in states like Putrajaya and Kuala Lumpur where despite having the least number of recipients at 13 and 329 each, the per capita financial assistance for children is the highest at RM352 and RM327 per month, respectively.⁴⁶⁰

The study among children living in low-cost flats in Kuala Lumpur also found that Malaysia's social protection interventions were not protecting children from poverty: among the eligible households, 34 per cent did not receive support from Malaysia's flagship social assistance programme (BR1M), and only four per cent of households received support from the Department of Social Welfare's other social assistance schemes.⁴⁶¹

3.1.3. Inequalities and disparities in poverty and social protection

Despite gains in reducing extreme poverty in Malaysia, significant disparities and deprivation still exist. One common narrative around poverty in Malaysia is that poverty remains only in 'pockets' of rural areas and among indigenous people⁴⁶² but that it has been broadly eliminated across the country. The Special Rapporteur on extreme poverty and human rights challenged this assertion in his recent statement on his visit to Malaysia: 'The use of a very low and highly unrealistic poverty line obscures the more troubling reality that millions of families scrape by on very low incomes and there is significant hardship in urban as well as rural areas. In addition, millions of non-citizens – including migrants, refugees, stateless people and unregistered Malaysians – are systematically excluded from official poverty figures.'⁴⁶³ Though the Special Rapporteur's statement

453 Nixon, S. et. al., 'Fostering inclusive growth in Malaysia', 2017, p. 16.

454 Nixon, S. et. al., 'Fostering inclusive growth in Malaysia', 2017, p. 16.

455 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019.

456 OECD, *Pensions at a Glance: Asian Pacific Edition*, 2018, https://www.oecd-ilibrary.org/docserver/pension_asia-2018-en.pdf?expires=1546171726&id=id&accname=guest&checksum=F7E393F2C14C99FC21997BED67DF81BF, accessed 10 December 2019, Table 2.5.

457 Retirement income adequacy indicators. Allianz International Pension Papers 1/2015. Munich, Germany, p. 9 Available at <http://pensionreform.ru/files/98514/file00555.pdf>. An adequate retirement income refers to the replacement rate or ratio of pre-retirement income to retirement income between 66 per cent to 75 per cent, Impact of Population Aging on Asia's Future Growth. Manila: Asian Development Bank. Available at <https://www.adb.org/sites/default/files/publication/29392/pension-systems-old-age-income-support.pdf>

458 OECD, *Pensions at a Glance: Asian Pacific Edition*, 2018, Table 2.1.

459 DOSM, *Vital Statistics*, 2017, https://www.dosm.gov.my/v1/index.php?r=column/cthemByCat&cat=165&bul_id=NXRCRDh0RENGeU13bC9EdzJ1cUFtZz09&menu_id=L0pheU43NWJwRWVSZklWdzQ4TihUUT09

460 DOSM, *Vital Statistics*, 2017.

461 UNICEF, *Children Without*, 2018, p. 24.

462 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019.

463 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019.

does not doubt that children and families in rural areas, and of indigenous origin face poverty, it states 'urban poverty is also readily apparent.'

While poverty rates in urban areas may be lower than in rural areas, income inequality is higher.⁴⁶⁴ From 1974 to 2016, the Gini coefficient in urban areas has been consistently higher than in rural areas.⁴⁶⁵ This indicates the presence of pockets of poverty and segments of society that are deprived and whose situation is not being captured by the overall view of urban areas.



Poverty and deprivation in Kuala Lumpur

A sizeable segment of children residing in affluent areas are living in poverty; a recent study showed that seven per cent of children residing in Kuala Lumpur's low-cost flats are living in poverty, even though the city's absolute poverty rate is officially zero. It found that, while Kuala Lumpur has an income per capita equal to developed countries, the children residing in its low-cost flats face significant deprivation.⁴⁶⁶

Rates of monetary and multi-dimensional poverty vary geographically. In urban and rural Sabah, poverty rates are around four and 13 times the national average respectively.⁴⁶⁷ In Peninsular Malaysia, extreme poverty exists on a more localised scale with specific hotspots in northern Kelantan, Terengganu and interior parts of Terengganu that are close to three times the national average. Other areas of somewhat elevated extreme poverty include northeast Kedah, northwest Selangor and several sub-districts in central Perak.⁴⁶⁸

Sarawak has the biggest difference between its own absolute poverty (0.6 per cent) and multidimensional poverty rate (3.8 per cent), with the multidimensional poverty rate 6.2 times more than the absolute poverty rate. This is followed by Sabah at 1.8 times and Peninsular Malaysia at 1.7 times. This implies that households in Sarawak are experiencing deprivation in non-income dimensions.⁴⁶⁹

Although the poverty rate among female heads of households is still higher compared to males, the gap between female and male heads of households reduced from 0.4 percentage points in 2009 to 0.1 gender percentage points in 2016.⁴⁷⁰ As set out above, there is a gendered gap in the labour force participation rate, along with a pay gap between working men and women. Given the fact that more women are out of the labour force compared to men, and those in the labour force are experiencing wage inequality and hindrances to upward mobility, these factors will result in lower income and wealth accumulation among women. Women are far more likely to be the 'single' head in a single headed household, and they are more likely to be additionally disadvantaged by structural gender inequalities, which is why it is imperative that social protection schemes are able to respond to women's needs and reach those who are most vulnerable.

It is likely that children who are undocumented and/or stateless experience higher rates of poverty and deprivation in Malaysia. The continued exclusion of these children and their families from a wide range of social services places them at elevated risk of both monetary and multi-dimensional poverty, although their similar exclusion from official datasets makes the extent of their vulnerability impossible to assess with confidence.⁴⁷¹

464 Baker, Judy L.; Lee, Marcus, World Bank, *Achieving a system of competitive cities in Malaysia: Main report*, 2015, <http://documents.worldbank.org/curated/en/709061475743434007/Main-report>, accessed 10 December 2019.

465 DOSM, *Household Income & Basic Amenities Survey Report*, 2016.

466 UNICEF, *Children Without*, 2018.

467 DOSM, *Household Income & Basic Amenities Survey Report*, 2017.

468 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019.

469 EPU, *Mid-term review of the Eleventh Malaysia Plan 2016-2020*, 2018.

470 DOSM, *Household Income & Basic Amenities Survey Report* 2016.

471 Submission by UNICEF Malaysia to the UN Special Rapporteur on Extreme Poverty and Human Rights, June 2019.

472 Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019.

Poverty, inequality and social protection

Malaysia's substantial economic development has led to some progress in eliminating extreme poverty and in reducing relative and multidimensional poverty. It is clear, however, that many people are still being left behind, and their challenges are not captured in official data due to the use of a poverty line that is set too low. As the Special Rapporteur on extreme poverty and human rights has said, Malaysia should now turn attention to ensuring 'a comprehensive social protection floor for all its citizens and providing essential support for non-citizens.'⁴⁷²



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School children stand in a window of their classroom at an Alternative Learning Centre (ALC) in a slum settlement in the state of Sabah.

3.2. HEALTH

The right to health is enshrined firmly within the international human rights framework. According to the CRC and ICESCR, every child has the right to ‘the highest attainable standard of physical and mental health’.⁴⁷³ The right to health is an inclusive right, encompassing not only the right to appropriate and timely healthcare, but also to the ‘underlying determinants’ of health, including access to safe and potable water and adequate sanitation, adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health.⁴⁷⁴

The SDGs include a number of targets under goal 3 that encourage States to create better health and healthy environments for children.

This section provides a summary of the situation relating to health for children and women in Malaysia. Please refer to Part 4 for an in-depth focus on Adolescent Health.

3.2.1. Malaysia’s health framework

Malaysia has a dual public-private health system that provides a comprehensive range of services to Malaysians. The Government-led and funded public sector serves the majority of the population (around 65 per cent) and provides 76.7 per cent of inpatient

FIGURE 24: Health: Key SDG targets

3.1	Reduce the maternal mortality ratio to less than 70 per 100,000 live births.
3.2	Reduce the neonatal mortality rate to at least as low as 12 per 1,000 live births and the under-5 mortality rate to at least as low as 25 per 1,000 live births.
3.3	End the epidemics of AIDS, tuberculosis (TB), malaria and neglected tropical diseases.
3.4	Reduce by one third premature mortality from non-communicable diseases through prevention and treatment and promote mental health and well-being.
3.5	Strengthen the prevention and treatment of substance abuse.
3.6	Halve the number of deaths and injuries from road traffic accidents.
3.7	Ensure universal access to sexual and reproductive healthcare services, including reducing adolescent birth rate, as per indicator 3.7.2.
3.8	Achieve universal health coverage, including financial risk protection, access to quality essential healthcare services and access to safe, effective, quality and affordable essential medicines and vaccines for all.
3.9	By 2030, substantially reduce the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination.

Sources: sustainable.development.un.org

473 Article 24.

474 CRC Committee, General Comment No 15 (2013), para 2.

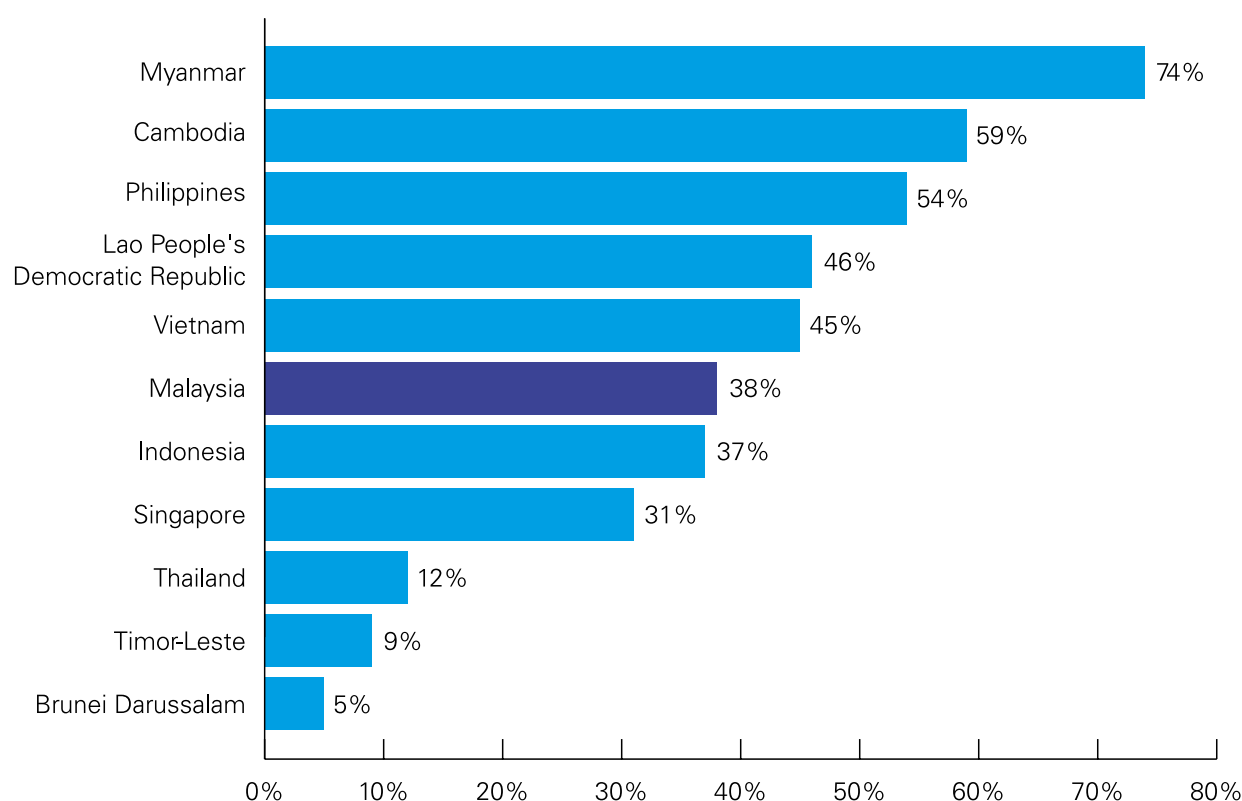
services.⁴⁷⁵ The public sector is heavily subsidised and almost entirely funded through budget allocations, with patients paying only nominal fees for access to both outpatients and hospitalisations.⁴⁷⁶

The private sector has grown considerably over the past 25 years and is used primarily in urban locations (28.8 per cent of the urban population use private health services, compared to 6.3 per cent of the rural population).⁴⁷⁷ Community perceptions of the health service are high: 77.8 per cent of respondents rated Government clinics as 'good' or 'excellent', compared to 70.9 per cent of private clinics.⁴⁷⁸

As a result of the heavy subsidisation of the public health system, Malaysia has one of the lowest incidences of catastrophic out of pocket health expenditure in middle-income countries (only 1.44 per cent of households spend more than 10 per cent of total household expenditure on healthcare in any given month, and only 0.16 per cent spend more than 25 per cent).⁴⁷⁹ However, as shown in Figure 25, out of pocket spending on healthcare as a percentage of current health expenditure in Malaysia places Malaysia around the middle of the South East Asian Region.

Individuals or family/household members are usual payers for healthcare; 23.7 per cent of individuals have financial protection through private insurance, while 17.7 per cent have a government guarantee and 15 per cent have employer-sponsored insurance.⁴⁸¹

FIGURE 25: Out-of-pocket payments (OOPs) as % of Current Health Expenditure (CHE) 2016



Source: WHO Global Health Expenditure Database 2019⁴⁸⁰

475 WHO, *Malaysia-WHO Country Cooperation Strategy, 2016-2020*; Quek, D, 'The Malaysian healthcare system: A review', 2014.

476 Quek, D, 'The Malaysian healthcare system: A review', 2014.

477 WHO, *Malaysia-WHO Country Cooperation Strategy, 2016-2020*.

478 WHO, *Malaysia-WHO Country Cooperation Strategy, 2016-2020*.

479 WHO, *Malaysia-WHO Country Cooperation Strategy, 2016-2020*.

480 WHO 'Global Health Expenditure Database', <http://apps.who.int/nha/database/ViewData/Indicators/en>, accessed 10 December 2019.

481 WHO, *Malaysia-WHO Country Cooperation Strategy 2016-2020*, p. 4.

FIGURE 26: Malaysia's progress in achieving maternal and child health goals**Reduce maternal mortality: Target achieved (with caution)**

Reduction in maternal mortality ratio from 282.2 per 100,000 live births in 1957 to 25 in 2017; well below the SDG target of 70. However, the scale of invisibility, particularly around stateless, undocumented and refugee women and children, means that caution should be exercised in recognising this achievement.

Reduce child mortality: Targets achieved (with caution)

Neonatal mortality rate dropped from 21 deaths per 1,000 live births in 1957 to 4.3 deaths per 1,000 live births in 2017 (SDG target = 12). The under-5 mortality rate dropped from 110.4 to 8.1 deaths per 1,000 live births in the same period (SDG target = 25).⁴⁸² However, child mortality is higher among some groups: in 2012, the under-5 mortality rate for Orang Asli was 21.7 per 1,000 live births compared to 7.6 generally.⁴⁸³

End epidemics of AIDS, TB, malaria: Some progress made

In 2017, Malaysia eliminated mother-to-child transmission of HIV and syphilis. The incidence of HIV-infection in persons under the age of 25 decreased from 0.033 per cent in 2010 to 0.030 per cent in 2015.⁴⁸⁴ The reported incidence of HIV infections decreased from 28.4 per 100,000 population in 2002, to 11.7 in 2014.⁴⁸⁵ The prevalence rate of TB increased from 95 per 100,000 population in 1996 to 132 in 2014.⁴⁸⁶

Prevention and treatment of mental health / wellbeing: Not on track

Rates of depression and anxiety among adolescents increased between 2012 and 2017.⁴⁸⁷ Suicidal ideation, planning and attempts by adolescents increased between 2012 and 2017.⁴⁸⁸

Prevention and treatment of substance abuse: Not on track

Harmful drug use is increasing among adolescents: 3.4 per cent of adolescents reported being current drug users in 2014 compared to 1.5 per cent in 2012.⁴⁸⁹ One in 10 adolescents are current smokers or drinkers.⁴⁹⁰

Halve deaths caused by road traffic accidents: Some progress

The road traffic accident death index decreased from 3.21 in 2011 to 2.59 in 2016, but the rate of deaths caused by road traffic accidents remains the third highest in Asia and ASEAN, behind Thailand and Vietnam.⁴⁹¹

Universal access to sexual and reproductive health: Not on track

Less than 60 per cent of adolescents have basic knowledge of reproductive organs.⁴⁹² Only 12 per cent of 13-17-year-olds who had sex reported using condoms; only 10 per cent reported using another form of contraceptive (12 per cent of boys and seven per cent of girls).⁴⁹³ The adolescent fertility rate reduced from around 78 per cent in 1960s to 13.41 per cent in 2017, representing a slight increase from 12.75 per cent in 2007.⁴⁹⁴

Universal health coverage (UHC): Progress made

Immunisation coverage for all vaccines was 95 per cent in 2017.⁴⁹⁵ However, there is a growing trend of vaccine refusal. Malaysia does not have social health insurance, but the subsidised public health system means it has relatively low incidences of catastrophic health expenditure, though high out-of-pocket payment as a percentage of expenditure is an ongoing concern.⁴⁹⁶

Reduce death and illness from pollution and contamination: Not on track

As at 2016, the age-standardised mortality rates from ambient air and household pollution stood at 41 and seven per 100,000 population respectively.⁴⁹⁷ Haze from slash/burn farming is a major pollutant.⁴⁹⁸

3.2.2. Children and women's health outcomes

On the whole, Malaysia has seen progress in key maternal and child health outcomes over the past 50 years and has achieved or is on track to achieve many SDG targets in this area, including those relating to **maternal and infant mortality**. However, it is essential that data relating to 'invisible', uncounted populations, such as indigenous persons, stateless persons and undocumented migrants are taken into account in national datasets, so it is possible to address the health rights for the full population. Further, while recognising achievements in maternal and child health, it is important to acknowledge concerns, particularly around gender. For example, according to recent research, the prevalence of domestic violence against pregnant women in Malaysia is 4.5 per cent.⁴⁹⁹ This research recommended increasing health-based screening for domestic violence during pregnancy as a means of reducing and identifying this risk.⁵⁰⁰

Malaysia has a well-established national **immunisation** programme that began in 1950 with the introduction of the small pox vaccine. Vaccines in the national immunisation programme are publicly funded and available for free at government health clinics and public schools. The latest National Health and Morbidity Survey (NHMS) (2016) found that overall, 86.4 per cent of children were verified as having received complete primary vaccination by the age of 12 months, while an additional 8.9 per cent self-reported as having completed their child's primary vaccination. A total of 4.5 per cent of children received some vaccinations but did not complete all scheduled primary vaccinations by the age of 12 months, and 0.1 per cent had not received any vaccinations.

Malaysia has seen progress in key maternal and child health outcomes over the past 50 years and has achieved or is on track to achieve many SDG targets in this area.

482 DOSM, *Children's Statistics*, 2017.

483 Government of Malaysia and United Nations Malaysia, *Malaysia Millennium Development Goals Report*, 2015.

484 Tey, Nai P. 'The State of the Youth in Malaysia', *Population Statistics Malaysia* 2018, 2019, p. 130-131.

485 WHO, *Malaysia-WHO Country Cooperation Strategy 2016-2020*, p. 5.

486 ESCAP, *Malaysia SDG profile*, 2019.

487 MOH, *National Health and Morbidity Survey*, 2017.

488 MOH, *National Health and Morbidity Survey*, 2017.

489 MOH, *National Health and Morbidity Survey*, 2017.

490 MOH, *National Health and Morbidity Survey*, 2017.

491 The Star, 'We have the third highest death rate from road accidents,' 14 May 2019, <https://www.thestar.com.my/lifestyle/health/2019/05/14/we-have-the-third-highest-death-rate-from-road-accidents>, accessed 7 December 2019.

492 Tey, Nai P. 'The State of the Youth in Malaysia', *Population Statistics Malaysia* 2018, 2019, p. 129.

493 MOH, *National Health and Morbidity Survey Adolescent Health and Nutrition Survey: Infographic booklet*, 2017, p. 7.

494 UNDP, Adolescent fertility rate (births per 1,000 women ages 15-19) – Malaysia, East Asia & Pacific.

495 Kusnin F., *Immunisation Programme in Malaysia*, Vaccinology 2017. Paper presented at the III International Symposium for Asia Pacific Experts, 2017, Hanoi, Vietnam.

496 1.44 per cent of households experience expenditure > 10 per cent of total household expenditure/month, and 0.16 per cent > 25 per cent, WHO, *Malaysia-WHO Country Cooperation Strategy*, 2016-2020.

497 <https://www.vaccineconfidence.org/malaysiamisinformation-has-caused-a-huge-spike-in-vaccine-preventable-diseases/>

498 The Star, 'Haze: Over 2,000 schools closed, affecting close to 2 million students', 18 September 2019, <https://www.thestar.com.my/news/nation/2019/09/18/haze-over-2000-schools-closed-affecting-close-to-2-million-students#bDhXeILRBFHv72Qi>, accessed 18 September 2019.; The Independent, 'Burning haze blanketing cities sees hundreds of schools closed across Malaysia', 12 September 2019, <https://www.independent.co.uk/news/world/asia/malaysia-haze-forest-fires-indonesia-school-closures-a9100571.html>, accessed 18 September 2019.

499 Najimudeen, M, Et Al, *An Insight Into Domestic Violence Against Pregnant Women In Malaysia*, 2019.

500 Najimudeen, M, Et Al, *An Insight Into Domestic Violence Against Pregnant Women In Malaysia*, 2019.



Children hang out outside a village shop built over the water in a slum settlement in the state of Sabah.
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VACCINE REFUSAL

While rates of childhood immunisation are high in Malaysia, a concerning trend is the rise in the extent of vaccine refusal among the population, resulting from misinformation and scepticism around vaccinations. This is thought to have led to an increase in vaccine preventable diseases, such as measles, diphtheria and pertussis, which were previously well controlled.⁵⁰¹ Cases of vaccine refusal have increased from 637 cases in 2013 to 1,404 cases in 2017.⁵⁰² Data collected by the Disease Control Division from 2013 to 2016 also showed a substantial increase in vaccine refusal cases. According to NHMS data (2016), the reasons for vaccine refusal given were 'refused vaccination' (4.0 per cent), 'worried about side-effects' (2.4 per cent), 'doubtful of halal status' (1.3 per cent), 'religious beliefs' (0.9 per cent), and 'previous bad experiences' (0.6 per cent).⁵⁰³

Malaysia has also reduced the burden of many **communicable diseases**, including malaria and HIV and many childhood diseases, though many others persist, including HPV as a primary cause of cervical cancer among women, which remains the third most common cancer in Malaysia, and the second most common cancer among women aged 15 to 44 years old.⁵⁰⁴ In 2017, Malaysia eliminated mother-to-child transmission of HIV and syphilis, making it the second country in Asia and the only Islamic country in the world to have done so.

This can likely be attributed to Malaysia's early adoption of a programme for national prevention of mother-to-child transmission of HIV and syphilis in 1998 and the fact that antenatal testing and treatment for HIV and syphilis are provided free of charge, and virtually all women have access to quality health services including contraception and births assisted by skilled attendants. The sustainability of services is ensured through full financial integration into the annual budget of the Family Health Programme.

501 The Star, 'Health Ministry: Misinformation has caused a huge spike in vaccine-preventable diseases, 22 January 2019, <https://www.thestar.com.my/news/nation/2019/01/22/health-ministry-misinformation-has-caused-a-huge-spike-in-vaccinepreventable-diseases>, 10 December 2019.

502 Kusnin F., *Immunisation Programme in Malaysia*, Vaccinology 2017. Paper presented at the III International Symposium for Asia Pacific Experts, 2017, Hanoi, Vietnam. MOH Immunization Unit, Family Health Development Division, 2019.

503 HPV Information Centre, *Malaysia: Human Papillomavirus and Related Cancers*, Fact Sheet 2018, https://hpvcentre.net/statistics/reports/MYS_FS.pdf, accessed 10 December 2019.

504 HPV Information Centre, *Malaysia: Human Papillomavirus and Related Cancers*, Fact Sheet 2018.

Young people are vulnerable to a number of **STIs, including HIV**. The proportion of reported HIV-infected persons under the age of 25 increased from 15 per cent in 2012 to 20.4 per cent in 2015.⁵⁰⁵ Previously, intravenous drug users were most at risk of contracting HIV, but sexual transmission is now responsible for almost 80 per cent of new infections. Among young people who bear disproportionate burdens of HIV, those most at risk include men who have sex with men, transgender youth, young people who inject drugs and young sex workers. Since 1990, the profile of the HIV epidemic in Malaysia has shifted, with the proportion of female/male infection increasing from 1:99 in 1990 to 1:4 in 2013.⁵⁰⁶ In 2014, 0.08 per cent of girls and women aged 15-24 were living with HIV.⁵⁰⁷ The current MOH HPV vaccination programme only applies to women aged 22-27, and does not, therefore address infection of girls engaging in sex before that age, or of boys.⁵⁰⁸

Tuberculosis (TB) has remained persistent, and other diseases, such as dengue, have emerged.⁵⁰⁹ MOH data indicate that TB cases have increased by 13 per cent among children under 5, from 244 cases in 2014 to 277 in 2017. This number is likely to be higher, as it does not include around 2,000 children in detention centres across the country who are exposed to TB.⁵¹⁰ Further, in recent years, the main disease burden has shifted to **non-communicable diseases** which now account for 73 per cent of all deaths among the general population. Overweight and obesity is an emerging problem among both the child and adult populations (see sections 3.3 and 4.1).⁵¹¹

More limited progress has been made in relation to **health issues affecting adolescent girls and boys**, including in access to SRH and in mental health and substance abuse. Slightly more boys than girls attempted suicide, but more girls than boys report suicidal ideation or planning. Around 40 per cent of adolescents reported themselves anxious (42.3 per cent of girls / 37.5 per cent of boys) and nearly 20 per cent reported themselves depressed (17.7 per cent of girls / 18.9 per cent of boys).⁵¹²

Adolescent health is covered in depth in Part 4.2.

3.2.3. Inequalities and disparities in health outcomes

Disaggregated data reflect disparities in progress at the sub-national level. The under-5 mortality rate is higher among **minority groups**: in 2012, the under-5 mortality rate among Orang Asli was 21.7 per live births compared to 7.6 per 1,000 live births overall. The Malaysia-WHO Country Cooperation Strategy notes that improvement of child (and maternal) health requires attention to social-cultural determinants.⁵¹³

Data suggest incomplete vaccination is **higher among those in urban areas** (5.3 per cent) compared to those in rural areas (2.9 per cent). The prevalence of children with incomplete primary vaccination was highest in Selangor (7.3 per cent), followed by Kuala Lumpur (7.2 per cent) and Sabah (7.2 per cent). Those who were least likely to have completed their primary vaccination were those with mothers without formal education (18.0 per cent) and those without Malaysian citizenship (10.9 per cent), including children of migrant workers, refugees, asylum-seekers and stateless children, who had lower vaccination rates. It was announced by the Minister of Health in December 2016 that vaccination services are now available for non-citizen children at public facilities. However, non-citizen children are required to pay for all healthcare services at public facilities in Malaysia, including childhood immunisations. While there are no data to confirm this, it is likely that this creates a cost barrier to accessing immunisation for non-citizens, potentially perpetuating these disparities.

Ongoing and repeated outbreaks of polio and measles in the Philippines make the difficulties that migrant and stateless children in Sabah face in getting vaccinated even more problematic, not just on an individual rights level, but on a public health level.⁵¹⁴

505 Tey, Nai P. 'The State of the Youth in Malaysia', *Population Statistics Malaysia 2018*, 2019, p. 130-131.

506 Tey, Nai P. 'The State of the Youth in Malaysia', *Population Statistics Malaysia 2018*, 2019, p. 130-131.

507 Asadullah, M. Niaz, 'The Changing Status of Women in Malaysian Society', *Population Statistics Malaysia 2018*, 2019, p. 109.

508 MWFC, FAQs on HPV, <http://www.lppkn.gov.my/index.php/en/soalan-lazim/pvhpv>, accessed 10 December 2019.

509 WHO, *Malaysia-WHO Country Cooperation Strategy*, 2016-2020.

510 The Star, 'More children down with TB', 4 April 2016, <https://www.thestar.com.my/news/nation/2016/04/04/more-children-down-with-tb-suhakam-urges-joint-effort-from-all-to-beat-resurgent-disease#0bCMkY2soZBLE3EP.99>, accessed 10 December 2019.

511 WHO, *Malaysia-WHO Country Cooperation Strategy*, 2016-2020.

512 MOH, *National Health and Morbidity Survey*, 2017.

513 Malaysia-WHO Country Cooperation Strategy, 2016-2020.

514 DW, 'Philippines struggling to cope with back-to-back disease outbreaks', 1 November 2019, <https://www.dw.com/en/philippines-struggling-to-cope-with-back-to-back-disease-outbreaks/a-51084152>, accessed 10 December 2019.

Health

Malaysia has made good progress in reducing maternal and child mortality, though disparities exist in relation to these outcomes for ethnic minority groups. Current interventions do not meet emerging and increasing concerns in relation to, for example, NCDs and adolescent health, discussed in greater depth in Part 4. Further, increasing vaccination refusals, along with disparate access to health services for children who are stateless, undocumented or from other vulnerable groups, is leading to increasing concerns over control (and outbreaks) of deadly diseases.

Malaysia should work to ensure a strong, multi-sector and coordinated response to adolescent health issues, including addressing their limited access to SRH, exposure to HIV and STIs, rising mental health issues and significant rates of substance abuse. Efforts should also be made to ensure that groups who are excluded from accessing free healthcare, including undocumented, stateless and refugee children and families have access to quality and tailored healthcare information, support and services. Action should also be taken to address the rising rates of vaccine refusals.



Child art performers from Rhythm in Bronze perform at World Children's Day 2012.

3.3. NUTRITION

Article 24 of the CRC enshrines the right to nutrition by requiring States to ‘combat disease and malnutrition’ and to ensure that society, parents and teachers are ‘supported in the use of basic knowledge of child health and nutrition [and] the advantages of breastfeeding’. Further, in its General Comment (No 15) on the right of the child to the enjoyment of the highest attainable standard of health, the CRC Committee noted that ‘adequate nutrition and growth monitoring in early childhood are particularly important.’⁵¹⁵

*This section provides a summary of the situation relating to nutrition for children and women in Malaysia. **The triple burden of malnutrition** is a topic of focus in Part 4.*

3.3.1. Malaysia’s nutrition framework

Malaysia’s master plan for nutrition is the National Plan of Action for Nutrition of Malaysia III 2016-2025, which aims to enhance nutritional status, reduce diet-related NCDs and strengthen food and nutrition security. The targets of the Plan are to reduce the number of stunted children under 5 to 11 per cent by 2025, reduce and maintain the prevalence of wasting and underweight in children to less than five per cent, and ensure no increase from the baseline level of current obesity and overweight levels among children.

FIGURE 27: Nutrition key SDG/WHA 2025 targets and 2030 extension targets

Nutrition: Key SDG/15.6WHA 2025 targets		Global Nutrition Targets (GNT) 2025 ⁵¹⁶
WHA 1	Achieve a 40 per cent reduction in under-5 stunting	50 per cent reduction in the number of children under 5 who are stunted
WHA 2	Achieve a 50 per cent reduction of anaemia in women of reproductive age	50 per cent reduction of anaemia in women of reproductive age
WHA 3	Achieve a 30 per cent reduction in low birth weight	30 per cent reduction in low birth weight
WHA 4	Ensure there is no increase in childhood overweight	Reduce and maintain childhood overweight to less than 3 per cent
WHA 5	Increase the rate of exclusive breastfeeding in the first six months up to at least 50 per cent	Increase the rate of exclusive breastfeeding in the first six months up to at least 70 per cent
WHA 6	Reduce and maintain childhood wasting to less than 5 per cent	Reduce and maintain childhood wasting to less than 3 per cent

⁵¹⁵ CRC Committee: General comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), 2013, para. 43.

⁵¹⁶ WHO/UNICEF Discussion paper, The extension of the 2025 Maternal, Infant and Young Child nutrition targets to 2030, <https://www.who.int/nutrition/global-target-2025/discussion-paper-extension-targets-2030.pdf>, 10 December 2019.

The National Strategic Plan for Non-Communicable Diseases 2016-2025 provides a roadmap to reduce preventable and avoidable burden of NCDs by year 2025.

3.3.2. Children and women's nutrition outcomes

Child malnutrition is a continuing problem in Malaysia, with persistent rates of **stunting, underweight and**

wasting among children under 5. Without significant and sustained attention, Malaysia will not meet the six global nutrition targets by 2025, or the extended targets in 2030. Stunting and underweight in children are the most prevalent forms of undernutrition in Malaysia, with rates increasing in recent years, as set out above. While rates of stunting have declined globally, the prevalence of stunting in Malaysia has risen and is now back to its 1999

FIGURE 28: Malaysia's progress in achieving maternal and child nutrition goals

Reduce underweight, stunting and wasting: Not on track

Under-5 stunting rates in Malaysia are high, at 20.7 per cent in 2016, compared to 17.7 in 2015 and 11.3 per cent in 2011 (the average stunting among upper-middle-income countries 6.9 in 2016; and the national target is 11 per cent/40 per cent reduction).⁵¹⁷ The prevalence of underweight among children under 5 was 13.7 per cent in 2016, up from 12.4 per cent in 2015 and 19.6 per cent in 2011. Prevalence of wasting among the children under 5 was 11.5 per cent in 2016, up from eight per cent in 2015 but down from 18.7 per cent in 2011.⁵¹⁸

Reduce maternal anaemia: Insufficient data on progress

In 2016, 34.7 per cent of women of reproductive age suffered from anaemia and the prevalence of anaemia among pregnant women was 29.3 per cent.⁵¹⁹ However, lack of trend data makes this target impossible to assess.

Reduce low birthweight: Not on track

Malaysia recorded 11.3 per cent low birthweight prevalence in 2015, compared to 10 per cent in 2000.⁵²⁰

No increase in childhood overweight: Concerns

Overweight among children under 5 was six per cent in 2016.⁵²¹ Malaysia has the fourth highest rate of overweight children below the age of 18 (7.1 per cent) and the second highest rate of obese children aged 5 to 19 (12.7 per cent) in ASEAN.⁵²²

Increase rate of breastfeeding: Some progress

The rate of exclusive breastfeeding in first six months of life in Malaysia was 47.1 per cent in 2016.⁵²³ Early breastfeeding (within the first hour of birth) is 65.3 per cent, above the national target of 50 per cent (NPANM III).⁵²⁴

517 World Bank, World development indicators, <https://datacatalog.worldbank.org/dataset/world-development-indicators>

518 World Bank, World development indicators.

519 MOH, *National Health and Morbidity Survey*, 2016.

520 UNICEF-WHO Low birthweight estimates 2019, <https://data.unicef.org/topic/nutrition/low-birthweight/>, accessed 10 December 2019.

521 MOH, *National Health and Morbidity Survey*, 2016, p.21; UNICEF-WHO/World Bank Joint Child Malnutrition Estimates Expanded Database March 2019.

522 UNICEF, *Children Without*, 2018, p. 50.

523 MOH, *National Health and Morbidity Survey*, 2016, p. 23.

524 MOH, *National Health and Morbidity Survey*, 2016.

levels.⁵²⁵ Rates of underweight have also increased from 12.9 in 2006 to 13.7 in 2016.⁵²⁶

Childhood wasting (low weight for height or 'acute malnutrition') is a particularly serious form of malnutrition because it greatly increases the risk of death and illness in childhood and adulthood.⁵²⁷ The prevalence of wasting among Malaysian children under 5 was 11.5 per cent in 2016. The prevalence of wasting was higher among males (13.3 per cent) than females (9.7 per cent), among children aged 48-59 months old and among children of Indian ethnicity, with a prevalence of 13.6 per cent and 17.3 per cent respectively.⁵²⁸

While overweight among children under 5 is not yet at an alarming level – six per cent in 2016,⁵²⁹ and has reduced from 7.1 per cent in 2015,⁵³⁰ overweight and obesity among older children is a concern.⁵³¹

The WHO recommends that infants are **exclusively breastfed** for the first six months of life to achieve optimal growth, development and health, and that mothers continue to breastfeed up to two years of age.⁵³² According to the Malaysian National Breastfeeding Policy, all mothers are encouraged to breastfeed their babies exclusively with breast milk from birth until six months of age and thereafter to continue until the child is two years old. Complementary foods should be introduced only when the baby is six months old, and should be safe, solid, semi-solid or soft foods (age-appropriate feeding).

Despite this, Malaysia continues to have only moderate rates of early initiation of breastfeeding, at 65.3 per cent within one hour and 24.3 per cent within one

day.⁵³³ The rate of exclusive breastfeeding of babies up to six months was at 47.1 per cent.⁵³⁴ The NHMS 2016 found the three major reported barriers in practicing breastfeeding or factors that influenced the mothers to stop breastfeeding were: not having enough milk (59 per cent); tiredness due to work (16.4 per cent); and challenges with the baby suckling or latching on (8.6 per cent), with other factors including difficulty in allowing time for breastfeeding or expressing breast milk, challenges in storing breast milk and difficulty in finding a place to breastfeed or express breast milk at work.⁵³⁵

Globally, **maternal anaemia** accounts for around 20 per cent of maternal deaths.⁵³⁶ The nutritional status of the mother during pregnancy and lactation can impact the health and nutritional status of the child. Anaemic mothers are at greater risk of delivering premature and low-birth-weight babies, who have an increased risk of dying.⁵³⁷ Low birthweight prevalence in Malaysia has increased since 2000 and is high for an upper middle-income country at 11 per cent.⁵³⁸ Nutrient deficiency among pregnant women can lead to childhood stunting.⁵³⁹

In 2015, 34.7 per cent of women of reproductive age suffered from anaemia and in 2016 the prevalence of anaemia among pregnant women was 29.3 per cent.⁵⁴⁰ Rates of anaemia during pregnancy were higher among single unwed mothers, at 43.2 per cent, and those with low household income (less than RM1,000), at 38.3 per cent.⁵⁴¹

525 Global Health Observatory data repository, prevalence of stunting – Malaysia, <https://data.worldbank.org/indicator/SH.STA.STNT.ZS?locations=MY>, accessed 17 December 2019.

526 Global Health Observatory data repository, prevalence of underweight – Malaysia, <https://data.worldbank.org/indicator/SH.STA.MALN.ZS?locations=MY>, accessed 17 December 2019.

527 Lelijveld, Seal and Wells, cited in Watson et al. *Nutrition in Indonesia Background Paper for the Health Sector Review* 2018.

528 MOH, *National Health and Morbidity Survey*, 2016, p. 20.

529 MOH, *National Health and Morbidity Survey*, 2016.

530 Global Health Observatory data repository, Children aged <5 years overweight, <http://apps.who.int/gho/data/node.main.CHILDOVERWEIGHT?lang=en>, accessed 13 December 2019.

531 Majid, H., Amiri, M., Mohd Azmi, N. et al. 'Physical activity, body composition and lipids changes in adolescents: analysis from the MyHeART Study' *Sci Rep* 6, 30544 (2016).

532 WHO, 'Breastfeeding', <http://www.who.int/topics/breastfeeding/en/>

533 MOH, *National Health and Morbidity Survey*, 2016, p. 23.

534 MOH, *National Health and Morbidity Survey*, 2016, p. 23.

535 MOH, *National Health and Morbidity Survey*, 2016, p. 27.

536 Black et al. *Maternal and child undernutrition: global and regional exposures and health consequences*, 2008.

537 See e.g. K4Health, 'Anaemia Prevalence, Causes, and Consequences', <https://www.k4health.org/toolkits/anemia-prevention/anemia-causes-prevalence-impact>, accessed 10 December 2019.

538 UNICEF/WHO 2019, 'Low birthweight estimates' <https://www.unicef.org/media/53711/file/UNICEF-WHO%20Low%20birthweight%20estimates%202019%20.pdf>, accessed 10 December 2019.

539 UNICEF, *Tracking Progress on Child and Maternal Nutrition*, 2009, p. 16.

540 MOH, *National Health and Morbidity Survey*, 2015 and 2016, p. 49.

541 MOH, *National Health and Morbidity Survey*, 2016, p. 49.



Children have their meal during snack break at Tadika Sinaran Ria, Sausindak Penampang, Sabah.

Though there is some variation by state, rates of wasting, stunting and underweight are high across the country.

3.3.3. Inequalities and disparities in nutrition outcomes

It is likely that child malnutrition affects **particular vulnerable groups**, including children from poor urban households, from ethnic minority groups, OA children and children who are affected by migration, including refugee and stateless children, though data are limited. In the NHMS 2016, children from 'Other Ethnicities' showed the highest total prevalence of underweight (21.7 per cent), followed by Bumiputeras (17.5 per cent) and Indians (15.3 per cent).⁵⁴²

When a cross-sectional study was conducted among 264 **OA children** aged two to six years old in Kuala Pilah and Jempol district in the state of Negeri Sembilan, results showed that approximately one third of the children (35.6 per cent) and 7.8 per cent of their mothers were stunted. Many of the study respondents were from the *Temuan* group. One in five of the children were anaemic (21.6 per cent), while one-third had intestinal parasitic infections (35.0 per cent).⁵⁴³ Another cross-sectional study conducted in a rural district in Kelantan which

included OA populations found that the prevalence of malnutrition among children under 5 were: 34.2 per cent underweight, 16.4 per cent thinness, 32.5 per cent stunting and 3.0 per cent overweight, with OA children faring the worse. This indicates that malnutrition is still prevalent among OA children under 5 in this rural setting.⁵⁴⁴ Further research is necessary to explain this association and to inform appropriate policy for OA children and other vulnerable groups of children.

Child malnutrition is **widespread across the country**. Though there is some variation by state, rates of wasting, stunting and underweight are high across the country. According to the NHMS 2016, the only state that recorded a rate of underweight below the cut off value for health significance (10 per cent) was WP Kuala Lumpur. No states recorded rates of wasting that were below the cut off value for public health significance (five per cent). Rates of stunting were lower than the cut off value for public health significance (20 per cent) in seven states. Stunting rates appear to be particularly high in Kelantan (34 per cent) (see figures 29, 30 and 31).

542 MOH, *National Health and Morbidity Survey*, 2016, p. 20.

543 Murtaza, F. et al, 'Factors associated with stunting among Orang Asli preschool children in Negeri Sembilan, Malaysia' 24(2) *Malaysia Journal of Nutrition*, 2018, 215-226.

544 Mas-Harithulhadi-Agus, Hamid, & Rohana AJ, *Rural child malnutrition and unsuccessful outcome of food basket programme: does ethnicity matter?*, 25:1-16, 2018, <https://www.ncbi.nlm.nih.gov/pubmed/30041543>, accessed 10 December 2019.

545 MOH, *National Health and Morbidity Survey*, 2016, p. 154 (Table 5.2.2.2).

546 MOH, *National Health and Morbidity Survey*, 2016, p. 156 (Table 5.2.2.3).

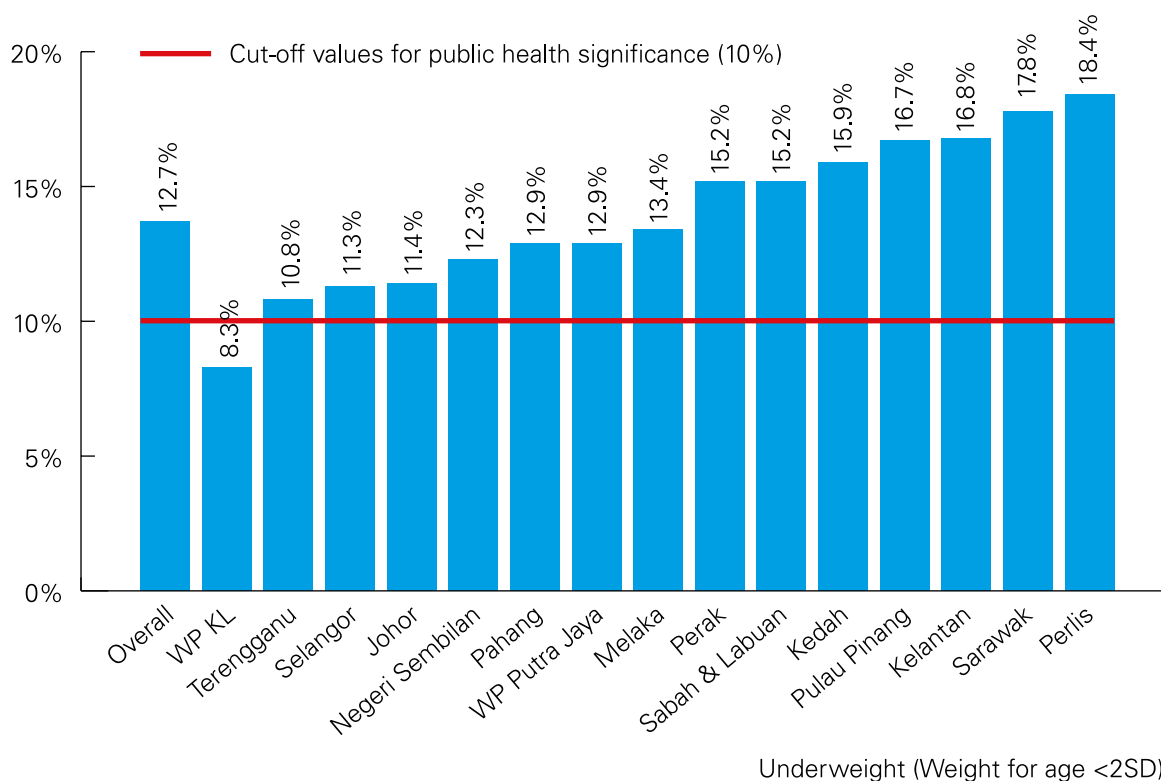
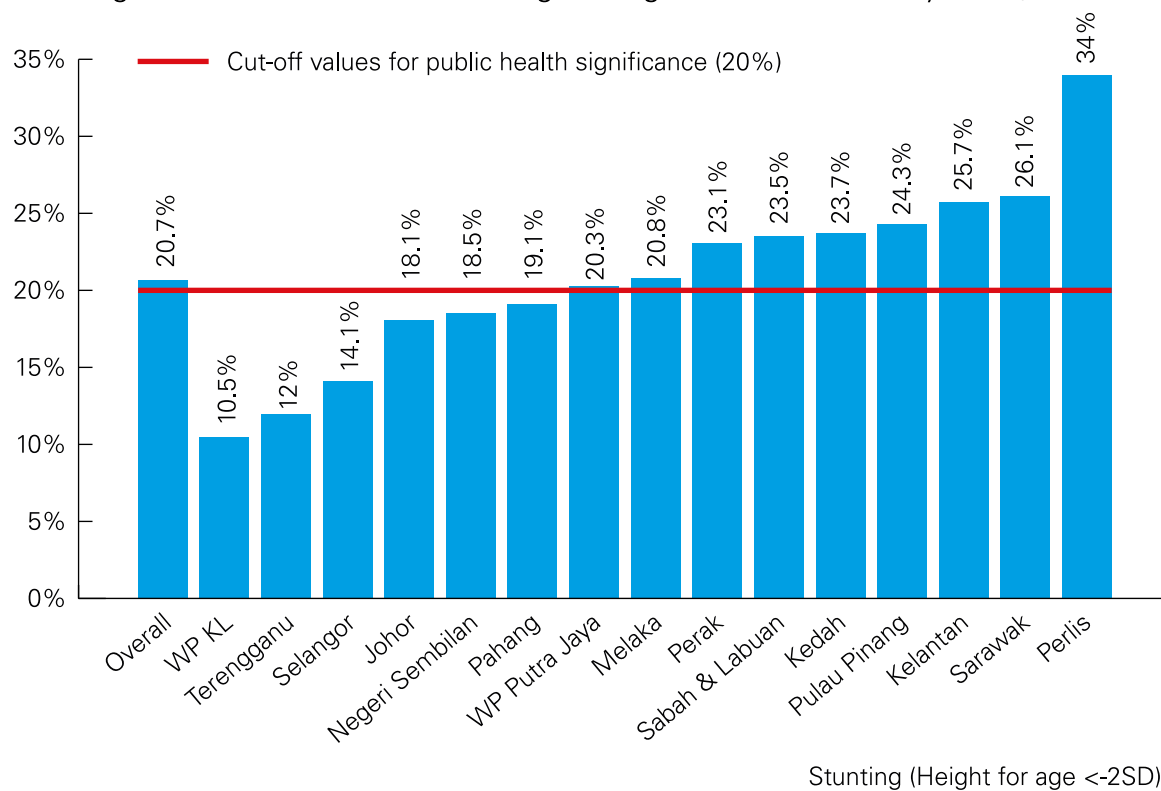
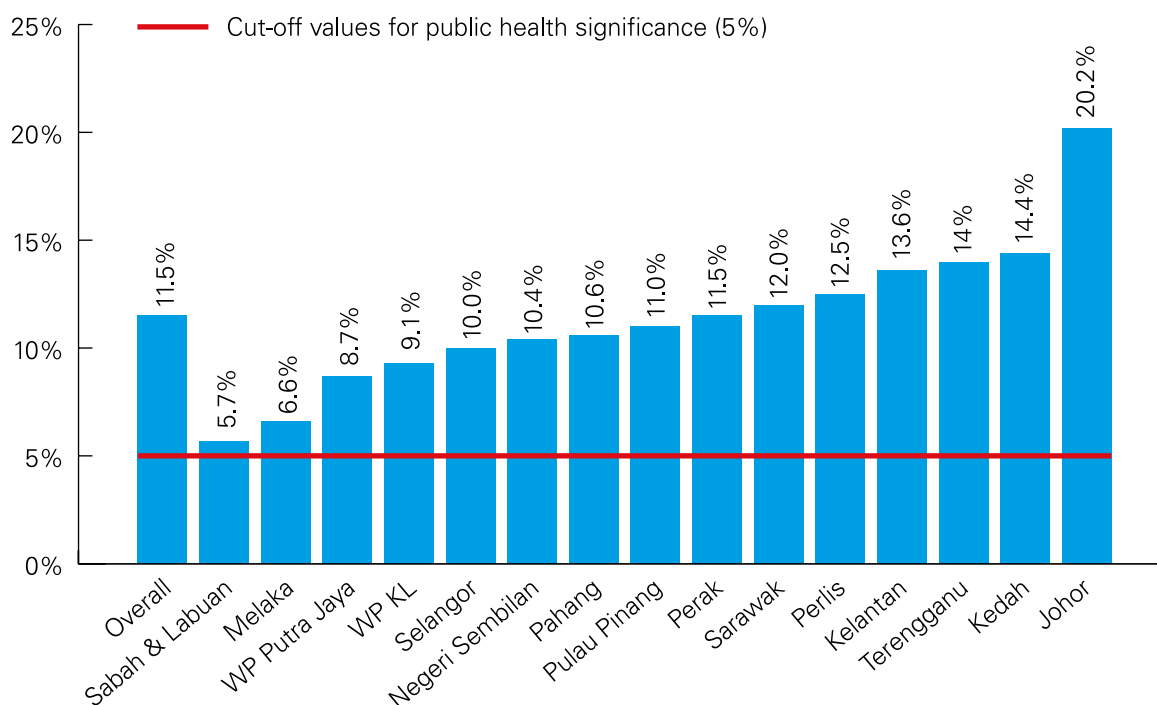
FIGURE 29: Prevalence of underweight among children under 5 by state, 2016Source: NHMS 2016⁵⁴⁵**FIGURE 30: Prevalence of stunting among children under 5 by state, 2016**Source: NHMS, 2016⁵⁴⁶

FIGURE 31: Prevalence of wasting among children under 5 by state, 2016

Wasting (Weight for height <2SD)

Source: NHMS, 2016⁵⁴⁷

Conclusions and Implications

Nutrition

Nutrition is a priority area for Malaysia. Stunting has increased in recent years, and wasting is not decreasing quickly enough to meet WHA or national targets. Further, obesity and overweight are an increasing concern for the general population, and especially for adolescents. Maternal micronutrient deficiencies are a continuing problem; rates of exclusive breastfeeding to six months have risen substantially but are still under 50 per cent. Increasing rates of breastfeeding further will require concerted communication and legal/policy backing to limit the impact of advertisement of breastfeeding substitutes and to increase opportunities for women and girls to start and continue breastfeeding. As with all other outcome areas, disparities between ethnic groups, rural/urban locations and 'invisible' vulnerable groups persist.

Strong, sustained, multi-sector and coordinated action will be required in order for Malaysia to meet global and national nutrition targets.



A young girl child enjoys a nutritious meal prepared from carrots, winter melon, chicken and rice.
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A girl washes her hands in a sanitary latrine at CLC Java School in Kestingam, Sabah.

3.4. WATER, SANITATION AND HYGIENE

All children have a right to clean water, sanitation and hygiene (WASH) as enshrined in Article 24 of the CRC, which requires States to 'combat disease and malnutrition, including through the provision of clean drinking water, taking into consideration the dangers of environmental pollution'⁵⁴⁸ and to 'ensure

that all segments of society... are informed, have access to education and are supported in the use of... hygiene and environmental sanitation.'⁵⁴⁹ Where children do not have access to adequate WASH, they are particularly vulnerable to serious illnesses, including diarrhoeal diseases, which can lead to severe underweight and death.

3.4.1. Malaysia's WASH framework

Since 2018, the Ministry of Water, Land and Natural Resources has been responsible for oversight and management of water supply and sewerage services

FIGURE 32: WASH: Key SDG targets

6.1

Achieve universal access and equitable access to safe and affordable drinking water for all

6.2

Achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls

547 MOH, *National Health and Morbidity Survey*, 2016, p. 158 (Table 5.2.2.4).

548 Article 24(2)(c) CRC.

549 Article 24(2)(e) CRC.

in Malaysia. This Ministry was formed following the restructure of the Ministry of Natural Resources and Environment and the water sector of the Ministry of Energy, Green Technology, and Water is responsible for managing water supply and sewerage services.⁵⁵⁰ The Ministry's guiding document is the National Water Resources Policy.⁵⁵¹

3.4.2. Children and women's WASH outcomes

The latest data from the UNICEF/WHO Joint Monitoring Programme on WASH indicate that, in 2017, 97 per cent of the population of Malaysia had access to **at least basic safely managed water** (drinking water from an improved source with collection time of not more than 30 minutes), though there was some disparity between access in rural areas (89 per cent) and urban areas (>99 per cent). A lesser 89 per cent of the population in 2017 had access to **safely managed water** (drinking water

from an improved water source which is located on premises, available when needed and free of faecal and priority chemical contamination).⁵⁵⁵ Over 99 per cent of the population had access to at **least basic sanitation**, though 89 per cent had access to **safely managed sanitation**.⁵⁵⁶

WASH services at schools can improve educational opportunities and decrease the potential for disease transmission between students, in addition to addressing issues around inclusion, accessibility, and dignity, particularly for girls.⁵⁵⁷ According to the latest data, Malaysia has achieved universal access to WASH (access to at least basic water sanitation and hygiene practices) in schools.⁵⁵⁸ There do not appear to be any published data on access to quality WASH in healthcare facilities. The Special Rapporteur on the human rights to safe drinking water and sanitation has expressed concern in access to quality WASH in immigration detention centres and prisons.⁵⁵⁹

FIGURE 33: Malaysia's progress in achieving WASH goals

Universal access to safe and affordable drinking water: On track

97 per cent of the population in 2017 had access to at least basic safely managed water, and 89 per cent of the population in 2017 had access to safely managed water.⁵⁵² Though WASH in schools requires continued attention.

Universal access to adequate and equitable sanitation and hygiene: On track

Over 99 per cent of the population had access to at least basic sanitation in 2017, though a lesser 89 per cent had access to safely managed sanitation.⁵⁵³

End open defecation: On track

The percentage of the population practicing open defecation decreased from 1.6 per cent in 2000 to 0.3 per cent in 2015, with 1.1 per cent of rural and 0.1 per cent of urban populations practising open defecation.⁵⁵⁴

550 Ministry of Water, Land and Natural Resources, About Us, <http://www.kats.gov.my/en-my/AboutUs/Pages/default.aspx>, WASHwatch.org, <https://washwatch.org/en/countries/malaysia/summary/profile/>, accessed 27 September 2019.

551 Ministry of Water, Land and Natural Resources, <http://www.kats.gov.my/en-my/water/Pages/default.aspx>

552 UNICEF and WHO, Joint Monitoring Programme, *Progress on household drinking water, sanitation and hygiene, 2000-2017: Special focus on inequalities* (2019).

553 UNICEF and WHO, Joint Monitoring Programme, *Progress on household drinking water, sanitation and hygiene, 2000-2017: Special focus on inequalities* (2019).

554 UNICEF and WHO, Joint Monitoring Programme, *Progress on household drinking water, sanitation and hygiene, 2000-2017: Special focus on inequalities* (2019).

555 UNICEF and WHO, Joint Monitoring Programme, *Progress on household drinking water, sanitation and hygiene, 2000-2017: Special focus on inequalities* (2019).

556 UNICEF and WHO, Joint Monitoring Programme, *Progress on household drinking water, sanitation and hygiene, 2000-2017: Special focus on inequalities* (2019).

557 UNICEF, Water, Sanitation and Hygiene in Schools, https://www.unicef.org/publications/files/CFS_WASH_E_web.pdf, accessed 24 September 2019.

558 UNICEF and WHO, Joint Monitoring Programme, *Drinking water, sanitation and hygiene in schools: Global baseline report* (2018).

559 Office of the Human Rights Commissioner, *Statement at the conclusion of the official visit to Malaysia by the Special Rapporteur on the human rights to safe drinking water and sanitation*, Mr. Leo Heller, 27 November 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23928&LangID=E>, accessed 24 September 2019.

3.4.3. Inequalities and disparities in WASH outcomes

Malaysia has made good progress in the field of WASH, though access to WASH is not yet universal, and **disparities remain between urban and rural areas, and among the urban poor**. This was highlighted following a 2018 visit to Malaysia by the Special Rapporteur on the human rights to safe drinking water and sanitation, who 'commended Malaysia's achievement of near-universal water and sanitation access, especially in urban areas, and recommended gathering information on vulnerable population groups as the "next step" toward universal coverage.'⁵⁶⁰

The UN Special Rapporteur on the human rights to safe drinking water and sanitation noted that **OA villagers still tend to rely on open water sources**.⁵⁶¹ Resettlement and regrouping of OA villages due to mega-projects, such as logging, palm oil and rubber plantations and dam construction, has resulted in loss of land and challenges to traditional ways of life, including the ability to transmit rituals, beliefs, knowledge and practices. In indigenous communities, the Special Rapporteur observed the use of rivers as a water source and for open defecation. While the GOM has constructed several water facilities in OA villages, with a target of 90 per cent coverage, these facilities require proper technical maintenance and operation which few among the OA have received training to deliver.⁵⁶² Limited access to WASH in these communities has been associated with higher rates of stunting.⁵⁶³

Families living in informal settlements, in small coastal villages and traditional 'long houses' and vulnerable groups such as refugees and stateless persons, including, for instance, former Filipino refugee families in Sabah experience poor access to WASH.⁵⁶⁴

These settlements are often in clandestine areas or attached to factories where foreign workers without documentation may work. These persons rely on water from rivers, the factories or, for those in some coastal areas, they will be required to travel by boat to another village to collect water. These communities are not captured in Malaysia's national WASH statistics.⁵⁶⁵

Menstrual Hygiene Management (MHM), an element of WASH that is crucial to the rights of girls is also an issue in Malaysia. Social behaviours and beliefs around menstruation form a web of disgust, mistrust and stigmatisation that can harm girls' self-esteem and opportunities when they are menstruating, with some girls staying away from school while on their periods, particularly for girls who are unable to afford the cost of sanitary products.⁵⁶⁶ Further, 'period poverty' is reported to leave some girls using items such as 'coconut husks, newspaper sheets, and banana leaves' as alternatives to unaffordable or unavailable sanitary products.⁵⁶⁷

Discrimination against transgender persons in relation to WASH is also a matter of concern. According to a 2017 online survey on access to toilets by transgender people in Malaysia, 40 out of 97 transgender respondents reported having encountered discrimination of some form when using public toilets and 26 out of 97 experienced restriction of access to toilets at the workplace.⁵⁶⁸ Transgender adolescents who menstruate are likely double-burdened by the poor availability, access to and quality of MHM.

560 IISD Knowledge Hub, "Special Rapporteur on Water and Sanitation Urges Malaysia to Focus on 'Off Radar' Groups", 4 December 2018, <https://sdg.iisd.org/news/special-rapporteur-on-water-and-sanitation-urges-malaysia-to-focus-on-off-radar-groups/>, accessed 23 September 2019.

561 Office of the Human Rights Commissioner, Statement at the conclusion of the official visit to Malaysia by the Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Leo Heller, 27 November 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23928&LangID=E>, accessed 10 December 2019.

562 Office of the Human Rights Commissioner, Statement at the conclusion of the official visit to Malaysia by the Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Leo Heller, 27 November 2018.

563 Office of the Human Rights Commissioner, Statement at the conclusion of the official visit to Malaysia by the Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Leo Heller, 27 November 2018.

564 UNHCR Global Focus, *Filipino Refugees in Sabah*, 2016, <http://reporting.unhcr.org/node/9993>

565 Office of the Human Rights Commissioner, Statement at the conclusion of the official visit to Malaysia by the Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Leo Heller, 27 November 2018.

566 Malay Mail, 'Too poor to buy sanitary pads, period poverty remains problem in Malaysia', 18 November 2018. <https://www.malaymail.com/news/life/2019/11/18/too-poor-to-buy-sanitary-pads-period-poverty-remains-problem-in-malaysia/1810859>, accessed 10 December 2019.

567 Malay Mail, 'Too poor to buy sanitary pads, period poverty remains problem in Malaysia', 18 November 2018.

568 Office of the Human Rights Commissioner, Statement at the conclusion of the official visit to Malaysia by the Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Leo Heller, 27 November 2018.

Wash

WASH outcomes in Malaysia have improved, and most of the population has access to at least basic, if not safely managed water and sanitation. However, some areas require attention and should be a priority for the GOM. These include addressing disparities faced by children, women and families in informal settlements or in rural areas, and discrimination faced by transgender children and young people. The GOM should also take action to address the stigmatisation of menstruation, along with measures to ensure access to affordable sanitary products.



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A young girl child bathes her younger sister in a slum settlement in Sabah.

3.5. EDUCATION AND EARLY CHILDHOOD CARE AND DEVELOPMENT (ECCD)

The right to education is a fundamental human right, enshrined in Articles 28 and 29 of the CRC. According to the UN Committee on Economic, Social and Cultural Rights, the right to education encompasses: availability; accessibility; acceptability; and adaptability.⁵⁶⁹ The right to education is also contained in the SDGs, where it is recognised that 'quality education is the foundation to improving people's lives and sustainable development.'

Goal 4 requires States to 'ensure inclusive and quality education for all and promote lifelong learning.' Recently, ASEAN set out a key Declaration on Strengthening Education for Out-of-School Children and Youth, which provides further guidance on ensuring equity in education, particularly around reaching vulnerable, excluded, and hard to reach groups of children.⁵⁷⁰

Malaysia aims to achieve a universal or at least 95 per cent student enrolment from pre-school to upper secondary school by 2020.⁵⁷¹ The focus will be given to children from B40 households.

FIGURE 34: ECD and Education: Key SDG targets

4.1	Ensure all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes.
4.2	Ensure all girls and boys have access to quality early childhood development, care and pre-primary education.
4.3	Ensure equal access for all to affordable, quality technical, vocational and tertiary education, including university.
4.4	Substantially increase the number of youth and adults who have relevant skills.
4.5	Eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations.
4.6	Ensure all youth and a substantial proportion of adults achieve literacy and numeracy.
4.7	Ensure learning environments are disability and gender sensitive and provide safe, inclusive and effective learning environments for all.

569 UN Committee on Economic, Social and Cultural Rights, General Comment No. 13, The Right to Education, (1999), para 6.

570 ASEAN Declaration on Strengthening Education for out-of-school Children and Youth, 201.

571 EPU, *Eleventh Malaysia Plan 2016-2020*, 2016.

This section provides a summary of the situation relating to education and early childhood care and development in Malaysia. **Equitable access to early childhood development, quality of education and learning outcomes and inclusive education** are topics of focus in Part 4.

3.5.1. Malaysia's Education and ECD framework

The National Education System of Malaysia comprises five levels: pre-school education; primary education; secondary education; post-secondary education; and higher education.⁵⁷² Children should be enrolled in pre-school at four years of age for two years, before going on to six years of primary school education, and five years of secondary education. Primary education is the only level of education in Malaysia that is compulsory,⁵⁷³ with provision split between the public and private sectors.

The Malaysia Education Blueprint 2013-2025 (MEB) was launched in 2013 and covers pre-school to post-secondary education. The blueprint sets out the requirement that Malaysian education should be on par with that of

developed nations. The Blueprint lays out five aspirations for the Malaysian education system:⁵⁷⁴

- **Access:** Every Malaysian child deserves equal access to an education that will enable that child to achieve his or her potential;
- **Quality:** All children will have the opportunity to attain an excellent education that is uniquely Malaysian and comparable to the best international systems;
- **Equity:** Top-performing school systems deliver the best possible education for every child, regardless of geography, gender, or socio-economic background;
- **Unity:** The Ministry aspires to create a system where students have opportunities to build shared experiences and aspirations that form the foundation for unity; and
- **Efficiency:** While the Government will maintain current levels of investment, the aspiration is to further maximise student outcomes within the current budget level.

Delivery of the Blueprint is split into three waves, with the second wave spanning 2016-2020 and focusing on accelerating system improvement.⁵⁷⁵ The vision for this wave consists of: moving all teachers and principals onto a new career package; restructuring federal, state, and district offices; and introducing a standard secondary and revised primary curriculum.



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Boy with disabilities at a school that provides learning opportunities for vulnerable children living in the capital city of Malaysia, Kuala Lumpur.

The education system in Malaysia receives substantial Government funding. The Incheon Declaration⁵⁷⁶ states that education expenditure should be at least four to six per cent of GDP and 15 to 20 per cent of total Government expenditure.⁵⁷⁷ Malaysia meets both of these benchmarks: in 2017, Government expenditure on education was 4.77 per cent of GDP and 21 per cent of government expenditure.⁵⁷⁸ According to the latest available data, this is the highest of all ASEAN countries. Spending on education is also the largest single expenditure for the Malaysian Government. However, in 2017 there was a significant decrease in budget allocations to all ministries and Government agencies. The education budget in 2017 was an 11 per cent reduction from 2016.⁵⁷⁹ Continued funding is needed to ensure that Malaysia meets its education targets.

572 Education Act 1996 (No. 550), Part IV, Chapter 1, para. 15.

573 Education Act 1996 (No. 550), Part IV, Chapter 1, para. 29.

574 MOE, *Malaysia Education Blueprint 2013-2025*.

575 Ministry of Education, 2013, *Malaysia Education Blueprint 2013-2025 (Pre-school to Post-Secondary Education)*.

576 The Incheon Declaration for Education 2030 was adopted at the World Education Forum in 2015, held in Incheon Republic of Korea. Liberia participated in this forum.

577 Education 2030: Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4, <http://unesdoc.unesco.org/images/0024/002456/245656e.pdf>, accessed 10 December 2019.

578 World Bank Data, 2017, available at <https://data.worldbank.org/indicator/SE.XPD.TOTL.GB.ZS?locations=MY>, accessed 15 July 2019.

579 Ministry of Education Malaysia, 2018, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*.

The Education Act 1996 (Act 550) introduced the legal framework in Malaysia for the provision of education to children with special educational needs (SEN). Under the Education (Special Education) Regulations 2013, which are applicable to government and government-aided schools, children with special education needs (SEN)

are defined as children with visual, hearing, speech, and physical disabilities, learning disabilities or any combination of disabilities and difficulties.⁵⁸⁰ Notably, it does not appear that children with mental health or behavioural disorders are included within this definition.

FIGURE 35: Malaysia's progress in achieving education and ECCD goals

Free, equitable and quality primary and secondary education: Good progress

Generally, enrolment in primary and secondary education is high and the enrolment rate has increased at every grade since 2013.⁵⁸¹ Further action is required to ensure children from vulnerable groups have access to education, including OA, stateless and undocumented children and children with disabilities. Quality concerns remain, indicated by poor outcomes in international and national standardised tests.

Equal access to ECCD and pre-primary education: Some progress

There are limited day-care placements: 13,500 childcare centres are needed to provide universal childcare by 2020, assuming 59 per cent of women are needed to return to the workforce.⁵⁸² National pre-school enrolment for children aged 4+ and 5+ combined, stood at 84.3 per cent in 2017, up from 72.4 per cent in 2010, and down from 85.5 per cent in 2016.⁵⁸³

Ensure inclusive education: Some progress

The MOE reported in 2017 increased enrolment of children with disabilities to 74,694 in 2017, from 56,406 in 2013. However, there are concerns that quality inclusive education is not being provided in practice.

Ensure equal access to higher and technical-vocational education: Some progress

12.3 per cent of the female population achieve a Bachelors degree compared to 10.4 per cent of males; however, women are underrepresented in Science, Technology, Engineering and Maths (STEM) courses.⁵⁸⁴ There has been an increase in enrolments in Technical and Vocational Education and Training (TVET) from 113,000 in 2010 to 164,000 in 2013.⁵⁸⁵ However, TVET enrolments remain low compared to school enrolments.

Eliminate gender disparities in education: Uneven progress

The average number years of schooling for males and females above 25 years of age is the same, at 10 years, compared to 1980 where there was a two-year gap. However, boys are at greater risk of dropping out, particularly at secondary level (7.5 per cent of boys were at risk of dropping out compared to 3.7 per cent of girls), and girls outperform boys in standardised tests in primary and secondary schooling.

580 The 5th National and 3rd International Conference on Education 2018, *A Preliminary Study on Leading Special Education in National School in Malaysia: Special Education Integrated Programme*, 2018, p. 155.

581 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025, 2018.

582 Government Transformation Programme, *The Roadmap 2.0, Catalysing Transformation for a Brighter Future*, Jabatan Perdana Menteri.

583 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025, 2018.

584 DOSM, Statistics on Women Empowerment in Selected Domains, Malaysia, 2017 <https://www.dosm.gov.my/v1/index.php?r=column/pdfPrev&id=SGMzVDh0cVUwK0t6SGN6UzhwN1dmdz09>, accessed 10 December 2019.

585 Tey, Nai P. 'The State of the Youth in Malaysia', *Population Statistics Malaysia 2018, 2019*, p. 137.

3.5.2. Education and early childhood care and development outcomes

Malaysia has made progress in meeting education-related SDGs but challenges remain. The number of registered **childcare centres** has been increasing in recent years: in 2013, 2,194 units were registered compared to 4,240 units as of June 2016.⁵⁸⁶ However, this is not sufficient to cover all children. **Early childhood education (ECE)** is not compulsory in Malaysia, but pre-school is available to 4+ and 5+ year-olds. According to the MOE's 2017 Annual Report, national pre-school enrolment for children aged 4+ and 5+, stood at 84.3 per cent, with 884,983 students attending ECE.⁵⁸⁷ This increase in enrolment may be due to a rise in the number of private pre-schools registered with the MOE (7,360 in 2016 compared with 7,591 in 2017).⁵⁸⁸ The majority (56 per cent) of pre-school classes are privately provided. To achieve universal enrolment in pre-school, 60 per cent of enrolments must be in private pre-schools, a target the MOE has recognised will require concerted effort.⁵⁸⁹

Generally, **enrolment in primary and secondary education** in Malaysia is high and the enrolment rate has increased at every grade since 2013.⁵⁹⁰ Enrolment in primary education is highest of all levels of education, most likely because it is the only level that is compulsory under the Education Act. Enrolment in secondary education is lower than for primary levels and the enrolment rate drops by 10 per cent between lower and upper secondary education.⁵⁹¹

Higher education is provided by a mix of public, private, international, and religious institutions. According to the DOSM, there is greater enrolment of women in tertiary education, with 12.3 per cent of the female population achieving a Bachelors degree compared to 10.4 per cent of males. Nearly 90 per cent of **vocational training** takes place in the 82 government-run vocational colleges with 17 per cent being undertaken across 269 secondary schools.⁵⁹² Those undertaking these courses can achieve certificates from the Department of Skills Development.

There have been issues in expanding the programme to increase opportunities for individuals to achieve higher level certificates: the high cost of setting up colleges to provide courses means that it is only available at two schools.⁵⁹³ Vocational programmes are also run for children with disabilities. In 2017, there were 785 secondary students enrolled in vocational courses, with 67 obtaining qualification up to Level 1, 95 up to Level 2 and 49 achieving qualification up to Level 3.⁵⁹⁴ Vocational training schemes have good employment prospects for those undertaking them with an average of 85.2 per cent of graduates in employment within six months.⁵⁹⁵

Quality of education is a significant issue in Malaysia, with almost 60 per cent of 15 year-old Malaysian students failing to meet the minimum proficiency levels, according to international assessments. It also appears to be an issue of concern to adolescents and young people: according to a U-Report poll carried out in 2019 involving 318 respondents, the highest number of respondents (62.9 per cent) said that quality of education was the most important challenge facing adolescents in Malaysia.⁵⁹⁶ International tests have revealed that, while Malaysia has made some improvements over the last ten years, Malaysian students are still under-performing in comparison to international averages. In the most recent PISA assessment (2018), 54 per cent of Malaysian students attained minimum proficiency in reading, 59 per cent in maths and 63 per cent in science, against the OECD average of 77 per cent (reading), 76 per cent (maths) and 78 per cent (science).⁵⁹⁷ Though it is noted that this represents a positive trend over the past 10 years: in 2009, almost 60 per cent of the 15 year-old Malaysian students who participated in PISA failed to meet the minimum proficiency level in maths, and 44 per cent and 43 per cent failed to meet minimum proficiency in reading and science respectively.⁵⁹⁸

Access to inclusive education is also a challenge: available data suggests that one in three children with disabilities is out of school compared with one in seven

586 Hussein, N et al, *Parental Perceptions of Childcare Service Quality: A Descriptive Analysis*, International Journal of Academic Research in Business and Social Sciences, 9(2), 2019, pp. 1004-1013.

587 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

588 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

589 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

590 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

591 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

592 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

593 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

594 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

595 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

596 UNICEF Malaysia, U-Report Poll on 'Views of Youth For A Better Malaysia', September 2019.

597 OECD, *Results from PISA 2018: Malaysia* (2019), https://www.oecd.org/pisa/publications/PISA2018_CN_MYS.pdf

598 OECD, *Results from PISA 2018: Malaysia* (2019), https://www.oecd.org/pisa/publications/PISA2018_CN_MYS.pdf



A young boy does addition on a whiteboard during a math class at CLC Java in Kesingam, Sabah.

of their peers without disabilities,⁵⁹⁹ and there are concerns that quality inclusive education is not being provided in practice.

3.5.3. Inequalities and disparities in education outcomes

Despite very high participation rates in primary and secondary schools in Malaysia, groups of children who are not captured in these data are **denied access to education**. These include children who are stateless, undocumented, refugees or children of some migrant families. Inequalities and disparities are also experienced by ethnic minority children and girls.

There are a number of complex **gender disparities** in relation to education in Malaysia. In 2017, the expected years of schooling among females (14 years) was one year higher compared to males (13 years).⁶⁰⁰ Findings from a pilot study found that male students showed a higher risk of dropping out at primary level than

female students (2.4 per cent compared to 1.9 per cent). The MOE found that the factors that contribute to children dropping out included: lack of parental involvement; poverty; low motivation; and low academic achievement.⁶⁰¹ The gender discrepancy was even more pronounced at secondary level where 7.5 per cent of male students were at risk of dropping out compared to 3.7 per cent of female students.⁶⁰² However, as noted above, any advantage girls receive in terms of educational access and learning outcomes is lost when they enter the labour market.

Despite the government's focus on science, technology, engineering, and mathematics (STEM) education, there is a **gender gap** in terms of enrolment in these courses. A difference between male and female students can be seen in engineering, manufacturing and construction fields (accounting for 28 per cent of male and 14 per cent of female students). Further analysis is needed in terms of assessing gender-responsive teaching methods and materials among teachers in Malaysia. It has been noted that gender streaming in university education is likely associated with teaching and learning materials used in secondary schools that do not empower girls to study 'male' subjects.⁶⁰³

Teen mothers are particularly at risk of being denied access to education. Like many other countries, teenage pregnancy in Malaysia often results in social stigma and in disengagement from or diminished opportunities for mainstream education.⁶⁰⁴ While pregnant girls or adolescent mothers are not excluded from education through law or policy, girls may experience access barriers on account of the stigmatisation of adolescent pregnancy. Young mothers may be placed under the care of centres on the order of the court under the Child Act 2001. As a result of these responses, pregnant adolescents' education is disrupted as they do not have access to the education provided in secondary school, and can only continue once they return to school (if they do). When they return, they will be placed in the grade that corresponds with their age, without any opportunity to catch up on missed coursework. This likely leads to drop out or poor learning outcomes.

599 UNICEF, *Issue Brief, Children with Disabilities in Malaysia*, 2019.

600 UNDP, *Human Development Report: 2018 Statistical Updates*, 2018, <http://hdr.undp.org/en/composite/GDI>

601 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

602 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

603 Asadullah, M. Niaz, 'The Changing Status of Women in Malaysian Society', *Population Statistics Malaysia 2018*, Population Studies Unit (PSU), 2019, p. 122.

604 Maziah Mahmud, *Pre Marital Pregnancy Among the Malays in Selangor: An Analysis of the Malady and the Remedy from Quranic Paradigm*. Unpublished thesis, 2018.



Access to quality education for Orang Asli children

One group of children who are falling behind in access to quality education is Orang Asli children. The right of Orang Asli **children to education** is explicitly protected in law,⁶⁰⁵ as is the duty to make indigenous languages available in government schools, if this is reasonable and practicable and if parents of at least 15 pupils in the school so request.⁶⁰⁶ However, OA children lag far behind in access to education and in learning outcomes, with significant rates of drop out after primary school being a key issue, and seriously limiting human resource development within the OA communities.⁶⁰⁷

In the past, OA children attended three years in village schools taught by the Department of Orang Asli Affairs staff who were not trained teachers, and Malay language was the medium of instruction. Children then proceeded on to primary schools in larger OA communities where trained teachers were provided by the MOE. Those who passed primary education at Year 6 went on to secondary mainstream public schools in nearby rural or urban areas. This system resulted in a huge dropout rate at both the primary and secondary level. In 1995, responsibility for the education of OA children passed to the MOE. In 2001, all OA schools came under the Ministry, and classes were thus taught by trained teachers. Although data from the MOE have shown increased school enrolment for OA children, retention rates are still low.

At the time of the 2000 census, some 86 per cent of rural OA children had had either no schooling or primary schooling only. Though enrolment has increased, drop-out rates remain a huge concern.⁶⁰⁸ Reasons for this relatively high dropout rate include students' attitudes, awareness among parents about education, local culture, school leadership, school environment, and problems related to the teaching and learning process.⁶⁰⁹ Further, as set out above, a significant number of OA children do not access pre-school education. Because standard one classes assume children have attained basic reading, writing and mathematics skills, those who have not attended pre-school may be behind, setting them up for disengagement.

The Special Rapporteur in the field of cultural rights, Karima Benounne, following a visit to Malaysia in 2017 found that OA children were often pressured into assimilating into mainstream schools and that there is a dearth of content in the curriculum relating to OA populations, and limited tolerance and respect for diversity in the everyday interactions of OA children with their teachers. She also expressed concerns over the bullying of OA children in schools, causing drop outs.⁶¹⁰ The government has implemented Kurikulum Bersepadu Orang Asli (KAP) in order to improve the existing educational system for OA children and ensure they are not marginalised within it. However, there have been some implementation challenges, in particular in ensuring that educators are properly trained and sensitised.⁶¹¹

To address the **poor educational outcomes of OA children**, the MOE created the OA and Indigenous Education Transformation Initiative. Some of the Initiative's programmes include strengthening school attendance and improving the involvement of parents. Poor educational attainment among OA children may have, in the past, been attributed to so-called 'different cultural norms' in which education is undervalued, but commentators are challenging this, noting, for instance, that 'it is crucial to understand that successful educational initiatives must move from adopting notions of "cultural inferiority" as the underpinning philosophy for Orang Asli educational programmes. We need to embrace a "cultural difference" pedagogical approach that emphasises a shift in power relations from "teaching children" to "learning with children, parents and community members" and celebrate the differences that exist.⁶¹²

Education and ECCD

Overall, Malaysia has seen considerable improvements in the provision of education, though some access concerns, particularly for the more vulnerable groups, remain, such as undocumented, stateless and refugee children, children with disabilities and OA children. However, quality of education remains a major concern, as indicated through improving though still quite poor learning outcomes. Gender disparities exist, in terms of higher dropout rates for boys and improved learning outcomes for girls, though girls are still not pursuing traditionally 'male' subjects and occupations. This suggests the need for a thorough review of educational inputs (teaching, resourcing, materials) and for the GOM to take effective and immediate action to improve the relevance and quality of education.

The GOM should also take immediate and effective action in improving access to education for children with disabilities, through the provision of quality inclusive education.

The supply and quality of ECE should also be a matter of priority for the Government, along with ensuring that access barriers are removed, particularly for children in more remote areas.

Action should be taken to address the cultural relevance and improve the quality of provision for OA children.



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Young Kadazandusun children attend a language class at Tadika Sinaran Ria, Sausindak Penampang, Sabah.

605 Section 17, Aboriginal Peoples' Act 1954 (No. 134).

606 Section 17, Aboriginal Peoples' Act 1954 (No. 134).

607 UN Malaysia, *Leave no-one behind: Ensuring a prosperous nation through inclusivity and well-being for all*, 2019.

608 Malaysiakini, 'Bullied, separated – national education failing Orang Asli', 16 April 2019, <https://www.malaysiakini.com/news/472558>, accessed 10 December 2019.

609 Abdullah, R. et. al., 'Teaching and learning problems of the Orang Asli education: Students' perspective, 9(12), *Asian Social Science*, 2013, p. 118.

610 Office of the High Commissioner for Human Rights, Preliminary observations by the United Nations Special Rapporteur in the field of cultural rights, Karima Benounne at the end of her visit to Malaysia, 27 September 2017, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22121&LangID=E>

611 Office of the High Commissioner for Human Rights, Preliminary observations by the United Nations Special Rapporteur in the field of cultural rights, Karima Benounne at the end of her visit to Malaysia, 27 September 2017.

612 New Straits Times, 'Teaching and engaging Orang Asli children', 12 September 2018, <https://www.nst.com.my/opinion/letters/2018/09/410516/teaching-and-engaging-orang-asli-children>, accessed 5 December 2019.

3.6. CHILD PROTECTION

Children have the right, under the CRC, to be protected from all forms of violence, abuse, neglect and exploitation.⁶¹³

Child protection rights also include the right to birth registration (article 7 of the CRC) and the rights to proper treatment for children in contact with the law as child victims or witnesses (article 39) and due process and protection rights for children in conflict with the law (articles 37 and 40).

While the CRC requires States to support parents to care for and raise their children, it also recognises that there will be times where parents or carers are not able to do this in line with the best interests of their child. In these circumstances, Article 9 provides that States must be able to resort to judicial intervention in order to protect children from violence, exploitation, abuse and neglect. When children are deprived of family care, either temporarily or permanently, they are entitled to special protection and assistance and to alternative care.⁶¹⁴ Article 20(3) of the CRC provides a list of alternative care options, including foster placement, *kafalah*,⁶¹⁵ adoption and placement in an institution. According to the UN Guidelines for the Alternative Care of Children, there is a clear preference for placing children within families, with institutionalisation the last resort.⁶¹⁶

*This section provides a summary of the situation relating to child protection in Malaysia. **Violence, abuse and neglect of children, child marriage, female genital mutilation or cutting (FGM/C) and children in institutions** are topics of focus in Part 4.*

3.6.1. Malaysia's child protection framework

Malaysia has taken steps to strengthen child protection for children, including the passing of the Child Act in 2001, which consolidated three previous laws affecting the main groups of children at risk: the Child Protection Act 1991 (for the protection of children in need of protection and care); the Juvenile Courts Act 1947 (for the protection of children in conflict with the law), and the Women and Girls Protection Act 1973 (for the protection of girls

and women exposed to 'moral harm'). In mid-2009, the government approved a National Policy and Plan of Action for Children, aimed at ensuring children's rights to survival, development, protection and participation and a National Policy and Plan of Action for the Protection of Children. The Plan of Action for the Protection of Children has lapsed and has not been replaced.

The child protection system

The Child Act 2001 established a system of duties and responses to child protection and child justice concerns. At the national level, the main duty for child protection resides with the Children's Division of DSW, which sits under the MWFC. At state level, the state and district level Department of Social Welfare (DSW) is responsible for the administration of child protection and child justice, including probation. Child Protectors sit in the Children's Division of each DSW and coordinate prevention and response to child protection concerns. There are a number of different stakeholders and teams in the child protection system, and it is possible for officials to take on different responsibilities when working on different teams. These teams and services include probation, child protection, Suspected Child Abuse and Neglect Teams, One-Stop Centres, police and others.

The **child protection system** for when a child is in need of care and protection involves: identification and referral under Section 17 of the Child Act, formal assessment and response procedures, followed by court proceedings for determination of whether a child is in need of care and protection, and what should happen to protect that child. The Child Act requires, for example, that protectors must bring a child in need of care and protection to the Court within 24 hours of the time that a child is removed to a place of safety. When a court makes a decision about the child's case, it should be based on a 'best interests' determination.⁶¹⁷ Section 4 of the Child Care Centres Act stipulates that all child care centres must be registered with the DSW. Child Care Centres established and run by the government bodies, including Ministry of Rural Development, Department of National Unity and Integration and Genius Division, Ministry of Education are excluded from the Act under section 3(1)(d).

Adoption is governed by the Adoption Act 1952, the Registration of Adoptions Act 1952, the Adoption Ordinance Sabah 1970 and the Adoption Ordinance

613 Articles 19 and 32-26 CRC.

614 Article 20(2) CRC.

615 A permanent form of foster care under Islamic Law.

616 Guideline 21 UN Guidelines for the Alternative Care of Children.

617 UNICEF and ASEAN, *Ending violence against children in ASEAN member States*, 2016, p. 122.

Sarawak 1958. The Adoption Act 1952 is only applicable on Peninsular Malaysia and does not apply to Muslim children, for whom all family matters are governed by Islamic Family Law (Federal Territory Act) 1984.

Malaysia has two plans of action relating to **trafficking in persons**: the National Action Plan on Child Protection (lapsed) and the National Action Plan on Trafficking in Persons (2016-2020). However, the National Action Plan on Trafficking in Persons (2016-2020) was recently criticized by the Special Rapporteur on the sale and sexual exploitation of children for 'lack of proactive screening of trafficked victims, delayed or poor interventions and responses, and lack of legal recourse for survivors and referral pathways'⁶¹⁸ and it does not make specific mention of children.

The Children and Young Persons (Employment) (Amendment) Act 2010 regulates the type of **labour** that may be done by children (defined in the Act as those below the age of 15) and regulates work that a 'young person' may do (defined in the Act as those below the age of 18). The act regulates the type and duration of work, hazardous conditions and licencing terms.⁶¹⁹ The Act contains an exception for children who work in agriculture, public entertainment on any vessel, which can expose these children to harm. Section 3 of the Factories and Machinery Act 1967 (Act 139) defines and sets out regulations for work of a 'young person' (defined in the Act as those below 16).

FIGURE 36: Child Protection: Key SDG targets

5.2	End all forms of violence against women and girls in public and private spheres, including trafficking and sexual and other types of exploitation
5.3	Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation
8.7	Take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour, eradicate forced labour, and by 2025 end child labour in all its forms including recruitment and use of child soldiers
16.1	By 2030, significantly reduce all forms of violence and related deaths everywhere
16.2	End abuse, exploitation, trafficking and all forms of violence and torture against children
16.3	Promote the rule of law at the national and international levels and ensure equal access to justice for all
16.9	By 2030, provide legal identity for all, including birth registration

618 Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, *Visit to Malaysia*, 2019, para 40.

619 See, e.g. Section 2(2) of the Children and Young Persons (Employment) (Amendment) Act 2010.

Justice for children

The Sexual Offences against Children Act 2017 criminalises a wider range of sexual offences involving children than the existing offences listed in the Child Act 2001 and the Penal Code. Some cases brought under the Sexual Crimes against Children Act 2017 are processed through specialist criminal courts. The Criminal Investigation Division of the Royal Malaysia Police has a dedicated, specialised section for investigation of sexual crimes and crimes involving children, called the 'Sexual Crime and Children Unit'.⁶²⁰ There is also a specialist anti-trafficking unit.⁶²¹

Malaysia's Special Criminal Court on Sexual Crimes against Children was established in several places, including the State of Sarawak in 2018 and the Federal Territory of Putrajaya in 2017. At the time of writing, there were plans to establish courts in the States of Kedah, Perlis, Kelantan, Pahang, Penang, Negeri Sembilan, Melaka, Sabah, Perak and Terengganu. Special courts are equipped with recording transcription, a children's witness room and audio visual systems (closed circuit television link to the witness room); special training is provided for officials.

There are two specialist hospital-based units in Malaysia that provide services and support for children who are **victims or witnesses**: the Suspected Child Abuse and Neglect (SCAN) Teams and the One-Stop Crisis Centre (OSCC). These are interdisciplinary units that include medical professionals and social workers.⁶²² A 2016 ASEAN/UNICEF report noted that specialist guidelines for handling cases involving sexual offences against children were to be published by the Malaysian Judiciary in 2017.⁶²³

Though some gaps remain in relation to **children in conflict with the law** within the Child Act 2001, some advancements were made in this area when the Act was passed. Whipping is no longer a sentencing option for children who are found guilty of committing a criminal offence. However, Muslim children may still be

sentenced to caning if the Syariah offence which they have been found guilty of provides whipping as one of the possible disposition orders.

Though the Child Act 2001 changed the existing legal framework so that '**children beyond control**' are now placed in temporary placements (probation hostels) rather than being sent to institutions for long term deprivation of liberty, the Act remains inconsistent with international standards as it permits children to be punished for so-called status offences. Further legislative developments include the prohibition on the use of handcuffs on the arrested child,⁶²⁴ though an exception allows for handcuffs to be used when the offence with which the child is arrested is a grave offence or when the child forcibly resists the endeavour to arrest him or her or attempts to evade the arrest.⁶²⁵

Police officers are duty bound to inform the parent or relative or a probation officer of the child's whereabouts upon arrest, the grounds for arrest and the **right to counsel of the child's choice and key due process rights**, though police have discretion whether to allow these parties to be present where the child is being detained in line with the child's welfare. It is not clear how the 'best interests' or 'welfare' decisions are made.

Diversion from formal criminal procedures is an essential component of a fully-functioning, effective child justice system. The Child Law 2001 does not contain separate provisions for diversion.⁶²⁶ Under general criminal procedure, police and prosecutors have the discretion to divert children from the formal justice process. However, according to a UNICEF report, 'prosecutors are not actively encouraged to divert children through discontinuing the proceedings'.⁶²⁷ Though it should be noted that the Deputy Prime Minister recently announced the launch of diversion pilot programmes in three districts.⁶²⁸

Malaysia has made some progress in relation to **case management** and data information systems, though

620 ECPAT, *Submission to Universal Periodic Review on Sexual Exploitation of Children in Malaysia*, 2018. <https://www.ecpat.org/wp-content/uploads/2018/07/Universal-Periodical-Review-Sexual-Exploitation-of-Children-Malaysia.pdf>, p. 11.

621 ECPAT, *Submission to Universal Periodic Review on Sexual Exploitation of Children in Malaysia*, 2018, p. 11.

622 ECPAT, *Submission to Universal Periodic Review on Sexual Exploitation of Children in Malaysia*, 2018, p. 11.

623 Garis Panduan Khas Untuk Mengendalikan Kes Kesalahan Seksual Terhadap Kanak-Kanak DI Malaysia (Special Guidelines for dealing with Sexual Abuse Against Children in Malaysia), Malaysian Judiciary, <http://www.kehakiman.gov.my/sites/default/files/GARIS%20PANDUAN%20KHAS%20UNTUK%20MENGENDALIKAN%20KES%20KESALAHAN%20SEKSUAL%20TERHADAP%20KANAK-KANAK%20DI%20MALAYSIA.pdf>

624 Section 83A (1), Child Act 2001.

625 Section 83A (1)(a) and (b), Child Act 2001.

626 UNICEF EAPRO, *Diversion not detention: A study on diversion and other alternative measures for children in conflict with the law in East Asia and the Pacific*, 2017, p. 14.

627 UNICEF EAPRO, *Diversion not detention*, 2017 pp. 43-44.

628 'Diversion' project to rehabilitate juvenile offenders', *New Straits Times*, 8 November, 2019, <https://www.nst.com.my/news/nation/2018/11/429285/diversion-project-rehabilitate-juvenile-offenders>, accessed 31 January 2020.



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Fazel [name changed], 19, at the Henry Gurney School in Keningau, Sabah. He was arrested for trafficking and using drugs and sentenced for 3 years. The Child Act 2001 changed the existing legal framework so that 'children beyond control' are now placed in temporary placements (probation hostels) rather than being sent to institutions for long term deprivation of liberty.

progress has been limited. In 2017, the Ministry of Women, Family and Community Development (MWFCD) established the National Information System for Social Issues to act as the main database for all social problems and issues nationwide, including for matters affecting children, while, in 2019, the Screening of Sexual Offender System in the Child Registry was launched. This aimed to support businesses to screen employees for prior sexual offences against children.⁶²⁹

Diversion from formal criminal procedures is an essential component of a fully-functioning, effective child justice system.

⁶²⁹ ASEAN, *Ending violence against children in ASEAN Member States: Mid-term review of priority areas under the ASEAN Regional Plan of Action on the Elimination of Violence against Children 2016-2025*, 2019, p. 47.

FIGURE 37: Malaysia's progress in achieving protection goals

End violence, abuse, neglect and exploitation of children: not on track

Insufficient data available to assess progress fully.

Data from 2017 found 71 per cent of children aged 1-14 reported experiencing violent discipline in Malaysia (74 per cent of boys and 67 per cent of girls).⁶³⁰ 25.3 per cent of adolescents (aged 10-19) stated in 2017 that they had been physically attacked (31.4 per cent of boys) compared to females (19.3 per cent of girls).⁶³¹

Data are limited on the extent and nature of exploitation of children, though 512 girls and 206 boys were in government shelters for trafficked children from 2015- June 2019.⁶³² 16.2 per cent of adolescents reported experiencing bullying within the past 30 days, with boys bullied more than girls.⁶³³ Four in 10 adolescents reported experiencing verbal abuse in the home. Between 2010 and May 2017, 22,134 children were reported to have been sexually abused.⁶³⁴

Eliminate harmful practices: Not on track

Data on FGM/C are not available but anecdotal evidence suggests that the practice is widespread. A recent study found 99.3 per cent of 605 participants had undergone FGM/C.⁶³⁵ Child marriage is lawful, with different legal implications for non-Muslims and Muslims. Non-Muslims can marry under civil marriages or customary practices. The NRD recorded 409 marriages from 2008 to September 2018 under civil law (non-Muslims) and 11,424 cases of underage Muslim marriage from 2008 to June 2018.

Eliminate harmful child labour: Not on track

Limited data are available on the number and circumstances of children who are working in Malaysia. However, several reports highlight key concerns over child labour in the nation, including that many foreign-born children are exploited through child labour, particularly in agriculture / palm oil plantations.⁶³⁶

Universal birth registration: Insufficient data (though unlikely to be on track)

There are insufficient published data to allow for an assessment of birth registration coverage, though it is unlikely to be universal given the challenges for some parents accessing birth registration due to discriminatory legal provisions (see section 2, above).

630 UNICEF global databases, 2017, based on DHS, MICS and other nationally representative surveys.

631 MOH, *National Health and Morbidity Survey*, 2017.

632 JKM Statistics, 2015-2019.

633 MOH, *National Health and Morbidity Survey*, 2017.

634 Free Malaysia Today, '22,000 children sexually abused since 2010', 27 July 2017, <https://www.freemalaysiatoday.com/category/nation/2017/07/27/22000-children-sexually-abused-since-2010/>, accessed 10 December 2019.

635 Rashid A, Iguchi Y, *Female genital cutting in Malaysia: a mixed-methods study*, BMJ Open, 2019, p. 9.

636 See, for example, *Children in the Plantations of Sabah*, 2017, <https://www.earthworm.org/uploads/files/Children-in-Plantations-of-Sabah-2017-report.pdf>, accessed 10 December 2019.

Despite the fact that there are no baseline data on violence against children (VAC) and no Multiple Indicator Survey or Demographic Household Survey to provide a clear picture of VAC in Malaysia, it is clear that children and adolescents in Malaysia are exposed to **violence, abuse, neglect and exploitation** in the home, in schools, in the community and in institutions, such as alternative care settings and in detention. Children and adolescents are also at risk of child marriage and FGM/C.

According to the United States State Department's Trafficking in Persons Report for 2019, Malaysia remains a destination, source and transit country for **trafficking of men, women and children** for labour, and women and children for sexual exploitation.⁶³⁷ It is reported that, for the most part, traffickers exploit foreign and domestic victims/survivors in Malaysia, though some Malaysian victims are exploited outside of the country.⁶³⁸ Unfortunately, there is a data gap in relation to child trafficking. This was criticised by the UN Special Rapporteur on trafficking, Ms. Maria Grazia Giammarinaro, who highlighted the lack of data collection on the prevalence rate, the trends and the manifestations of human trafficking in Malaysia, which makes the identification of victims difficult.⁶³⁹ According to the Special Rapporteur on the sale and sexual exploitation of children, between 2014 and 2015, 66 child victims of trafficking (61 girls and five boys) were reported to have been temporarily placed in shelter homes.⁶⁴⁰ In her report, the Special Rapporteur noted, further, that 'the phenomena of sale of children, child sexual abuse and exploitation are vast and real in Malaysia against the backdrop of stateless, asylum-seeking and refugee populations,'⁶⁴¹ highlighting the systematic vulnerabilities faced by these groups. Women and girls are reportedly trafficked into Malaysia for brokered marriage, commercial sexual exploitation, and forced labour. The MWFCF funds two shelters for child victims

of trafficking.⁶⁴² It is reported there is 'widespread' corruption among immigration and police officials in Myanmar, Cambodia, Thailand and Malaysia that facilitates irregular migration through borders, including trafficking.⁶⁴³

There are also limited data on the number and circumstances of children who are working in Malaysia. Several reports raise concerns over **child labour**, including that many foreign-born children are exploited in agriculture / palm oil plantations.⁶⁴⁴ The consequences of child labour exploitation are considerable: a recent study on child labour, which consulted a total of 454 working children in four states in Malaysia⁶⁴⁵ found that more than half (63 per cent) of the children had been emotionally abused, 27 per cent had been physically abused and around 10 per cent had been sexually abused in the workplace.⁶⁴⁶ Despite these reports, enforcement and monitoring of child labour appears limited. According to data from DOSM, 7,946 workplaces were inspected in 2014 and 5,162 up to June 2015, but no cases involving children were detected.⁶⁴⁷

Some positive developments have occurred in **child justice and child protection systems**. For example, it has been reported that interagency collaboration between Suspected Child Abuse and Neglect Teams in hospitals and those working in child protection in the Department of Social Welfare has improved. According to ASEAN and UNICEF, 'the emergency response for child victims in Malaysia is reportedly one of the most sophisticated in the region' and 'child victims of the most serious forms of violence have access to medical care, psycho-social support, legal advice, and child sensitive investigative procedures through the establishment of the Sexual Crimes and Children Unit (of the Royal Malaysian Police) and comprehensive hospital-based services.'⁶⁴⁸

637 US State Department, *Trafficking in Persons Report 2019, Malaysia*. <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/malaysia/>, accessed 10 December 2019.

638 US State Department, *Trafficking in Persons Report 2019, Malaysia*.

639 ECPAT, *Submission to Universal Periodic Review on Sexual Exploitation of Children in Malaysia*, 2018, p. 3, <https://www.ecpat.org/wp-content/uploads/2018/07/Universal-Periodical-Review-Sexual-Exploitation-of-Children-Malaysia.pdf>

640 Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, *Visit to Malaysia*, 2019, para. 10.

641 Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, *Visit to Malaysia*, 2019, para. 23.

642 US State Department, *Trafficking in Persons Report 2019, Malaysia*. 2019, <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/malaysia/>, accessed 10 December 2019.

643 ECPAT, *Submission to Universal Periodic Review on Sexual Exploitation of Children in Malaysia*, 2018, p. 4.

644 Section 6 (2) Children and Young Persons (Employment) Act [Act 350] 1966, as amended 2010.

645 Nik Ahmad Kamal Nik Mahmod, Marhanum Che Mohd Salleh et al, *A Study on Child Labour as a Form of Child Abuse in Malaysia*, *International Journal of Human Sciences and Humanity*, Vol 6, No 7, 2016, pp. 525-530.

646 Nik Ahmad Kamal Nik Mahmod, Marhanum Che Mohd Salleh et al, *A Study on Child Labour as a Form of Child Abuse in Malaysia*, 2016, pp. 525-530.

647 ILO Observation (CEACR), Worst Forms of Child Labour Convention, 1999 (No. 182) – Malaysia, 2017.

648 UNICEF and ASEAN, *Ending Violence Against Children in ASEAN member States*, 2016, p. 119.

Services such as One-Stop Crisis Centres and Suspected Child Abuse and Neglect Teams within hospitals strengthen the response to **children who are victims and witnesses** by working with police, the DSW, the Council on Anti-Trafficking in Persons and Anti-Smuggling of Migrants, the Immigration Department of Malaysia and the National Strategic Office. These collaborate to provide shelters.⁶⁴⁹ However, gaps and challenges remain.

The Women's Aid Organisation identified, in a recent report, critical gaps in the response to child victims and witnesses to domestic violence, including: failure to adopt a rights-based approach, lack of adequate data collection, lack of adequate skills among professionals due to poor training and awareness, and gaps in the legislation, including to bring the minimum age of marriage to 18 for all children.⁶⁵⁰

Despite these developments, reports suggest the **child protection system and provision of child protection services** in Malaysia, particularly at the secondary and tertiary level are inconsistent and do not reach all areas.⁶⁵¹ Further, though the DSW was reported to have issued guidance on the delivery of child protection services in 2017, a 2018 UNICEF study found that many child protectors (i.e. members of the social welfare workforce) had not received training in this guidance.⁶⁵² UNICEF's 2018 study found that no guidance was provided in relation to the best interests of the child, or listening to the child during child protection and related proceedings.⁶⁵³ Efforts continue to finalise legislation on the professionalisation of the social welfare workforce and to strengthen the social welfare system.

Children in conflict with the law have theoretical access to legal representation through one of 22 branches of the Legal Aid Bureau, but it is not clear whether this is implemented in practice and there is no duty system to ensure legal representation is always

available to children in court. Under 2017 Amendments to the Legal Aid Act, legal companions were introduced to support children who are victims of a sexual offence that are proceeding through the Courts.⁶⁵⁴ Legal aid is also provided through the National Legal Aid Foundation, the Bar Council Legal Aid Centres and NGOs.⁶⁵⁵

According to reports from UNICEF and ASEAN, the GOM has established a **diversion programme** on 16 December 2019 that will focus on counselling, rehabilitation and community service modules which will be monitored by the Department of Social Welfare (DSW).⁶⁵⁶ In 2016, a Taskforce on Diversion was set up by MWFC to develop the diversion model for Malaysia,⁶⁵⁷ and, as noted above, programme was recently announced.⁶⁵⁸

Ensuring access to **universal birth registration** is an area in which Malaysia is not on track. While data are limited, financial, geographic, practical and stigma-related barriers to registration mean children do not enjoy universal access. The Births and Deaths Registration Act 1957 governs birth registration for all children who are born in Peninsular Malaysia, while Sabah and Sarawak have separate legislation on births and deaths. The Registrar-General of Malaysia is responsible for providing and maintaining registers on which births and deaths are recorded. According to the Act, a child's birth should be registered within sixty days, or fourteen days in the case of newborns who are found 'exposed'. Where this does not happen, and the child is registered after 60 (or 14) days, the registration is considered late and requires the permission of the Attorney General for registration to be completed.⁶⁵⁹ Registration of a child's birth more than 60 days after birth is subject to a fee.⁶⁶⁰ Malaysian nationals are issued with a green birth certificate, and non-Malaysian nationals, including refugee children, are issued with a red birth certificate. Without a green birth certificate, children can be denied

649 UNICEF and ASEAN, *Ending Violence against Children in ASEAN member States*, 2016, p. 113.

650 Women's Aid Organisation, *Where's the Child?*, 2019, <https://wao.org.my/wp-content/uploads/2019/04/Wheres-the-Child.pdf>, pp. 126-7.

651 UNICEF Malaysia, *Child Protection System in Malaysia*. Kuala Lumpur: Ministry of Women, Family and Community Development, 2013, pp. 56-71.

652 UNICEF Malaysia, *Baseline Survey: Stakeholder Knowledge of Child Abuse & Neglect and their Roles and Obligations to Prevent and Respond*, Hong Kong, 2018, p. 44.

653 UNICEF Malaysia, *Baseline Survey: Stakeholder Knowledge of Child Abuse & Neglect and their Roles and Obligations to Prevent and Respond*, Hong Kong, 2018, p. 45.

654 Astro Awani, Amendment to legal aid act gives underage victims of sex crimes access to legal advice, <http://english.astroawani.com/malaysia-news/amendment-legal-aid-act-gives-underage-victims-sex-crimes-access-legal-advice-149897>, 21 July 2017.

655 UNICEF, Ministry of Women, Family and Community Development, *The Malaysian Juvenile Justice System: A Study of Mechanisms for Handling Children in Conflict with the Law*, 2013.

656 UNICEF and ASEAN, *Ending Violence against Children in ASEAN member States*, 2016, p. 113.

657 UNICEF and ASEAN, *Ending Violence against Children in ASEAN member States*, 2016, p. 121.

658 'Diversion' project to rehabilitate juvenile offenders', *New Straits Times*, 8 November, 2019, <https://www.nst.com.my/news/nation/2018/11/429285/diversion-project-rehabilitate-juvenile-offenders>, accessed 31 January 2020.

659 Section 12, Births and Deaths Registration Act 1957.

660 NRD, *Late Registration of Birth (Peninsular)*, 12 December 2017 <http://www.jpn.gov.my/en/maklumat-kelahiran/pendaftaran-lewat-kelahiran-2/>, accessed 10 December 2019.

access to basic services, including entry to State schools and health facilities.

3.6.2. Inequities and disparities in child protection outcomes

Children from **ethnic minority groups** are overrepresented in statistics relating to children who are identified as in need of care and protection. In 2017, 74 per cent of children in need of care and protection were Malay, with Indians comprising 10 per cent of the total cases, followed by Chinese at eight per cent. The remaining ethnic groups of indigenous populations in the peninsula, Sabah and Sarawak made up seven per cent of total cases reported to the DSW in 2017.⁶⁶¹ Compared to general population demographics for 2017, disproportionately more Indian children and fewer Chinese children are being found in need of care and protection. This may be a question of actual rates, or of disparities in reporting, identification and referral.

In each of the years between 2013 and 2017, **more girls than boys** were found to be in need of care and protection.⁶⁶² Data from 2016 show that far more girls than boys were found to be in need of care and protection under Sections 17(1)(a), (b) and (c) of the Child Act 2001 which cover children who have experienced or are at substantial risk of harm (physical, emotional or sexual), where a child's parents fail to protect the child from the harm / risk of harm, or where the child's parents



Girl, 8, was abused by one of her family members. Data from 2016 show that far more girls than boys were found to be in need of care and protection.

are unfit and the child is 'falling into bad association'. For cases involving neglect and abandonment (section 17(d) of the Child Act 2001), however, it was roughly the same for boys and girls. This suggests that either girls are more at risk of harm, or that they are more likely to be identified and reported as in need of care and protection, which could reflect social behavioural norms or expectations about gender or professional training and competency.

⁶⁶¹ DOSM, *Children Statistics*, 2017.

⁶⁶² DOSM, *Children Statistics*, 2017.

Conclusions and Implications

Child protection

Violence, abuse, neglect and exploitation of children appears to be widespread in Malaysia, though data are lacking. It is essential that the GOM take effective, multi-sector action to address these child rights violations. While the child protection system is being strengthened in Malaysia, it appears held back by a number of key constraints. One of these involves the legal framework, which does not meet international child protection standards, for instance in the area of child justice, where children can be punished for so-called 'status' offences. Another major challenge is lack of data, which provides an incomplete picture and very limited trend data. Given the sophistication of the statistical bodies in Malaysia, including DOSM, this seems likely to be linked to the recognition of child protection concerns and the recording and reporting on the ground, as well as the ongoing invisibility of the most vulnerable children. The supply of a trained and skilled social work workforce is another key component of an effective child protection system, and one on which the GOM should continue to focus its efforts.

The Government should also work to remove access barriers to birth registration, and to ensure that children who are stateless, undocumented or refugees have access to tailored child protection systems and services.

3.7. PARTICIPATION

Article 12 of the CRC establishes the right of children to express their own views freely in all matters affecting them, and the right to have those views given due weight in accordance with the child's age and maturity.⁶⁶³ Adolescence is a significant period of developmental change, and as such it is recognised as a time when children should be particularly encouraged to exercise their right to participation.⁶⁶⁴ The CRC Committee's General Comment No.20 of 2016 calls for States to ensure that 'adolescents are involved in the development, implementation and monitoring of all relevant legislation, policies, services and programmes affecting their lives, at school and at the community, local, national and international levels.'⁶⁶⁵

In a 2018 Guidance Note, UNICEF observed that 'in practice, child participation is often tokenistic, [and] it may exclude vulnerable groups.'⁶⁶⁶ The realisation of children's participation rights requires adults and societies to actively create spaces in which children and young people can be empowered to participate. However, space alone is not enough for participation to be meaningful.⁶⁶⁷ UNICEF's Conceptual Framework for Measuring Outcomes of Adolescent Participation puts forward four features of meaningful participation: Space; Voice; Audience; and Influence.⁶⁶⁸ Whilst it is not necessary that children's views and opinions be translated into policy in every instance, they must be given appropriate weight and real consideration by policymakers.

There are significant difficulties in measuring participation and 'evidence of its impact is frequently limited.'⁶⁶⁹ There are no internationally agreed indicators to measure child participation, and it is often difficult to prove that change can be attributed to a specific intervention.⁶⁷⁰ Meaningful participation should lead to empowerment and influence across personal, community and societal levels,⁶⁷¹ but these concepts are abstract and difficult

to measure.⁶⁷² Further, if child participation has 'influence', any decisions made should be reported back to children and young people, explaining how and why the decision was made.⁶⁷³ Meaningful participation, therefore, should be evidenced through these reporting processes. It is also important that young people be involved in measuring participation: instruments developed by adults may not reflect the reality of children's influence on decision-making.⁶⁷⁴

3.7.1. Malaysia's child participation framework

While the Malaysian Government has withdrawn some reservations to the CRC in 2010, notably to Article 13 (freedom of expression) and Article 15 (freedom of assembly and participation), the remaining reservations (Articles 2, 7, 14, 28(a)(1) and 37) raise some concerns in relation to participation, including around non-discrimination and freedom of religion for children. In addition, the Government has not acceded to the third optional protocol of the CRC (OP3-CRC) adopted by the United Nations in 2011, which facilitates the communication of rights infringements by member states through individual communications.

The primary framework document for youth participation and engagement in Malaysia is the Malaysian Youth Policy 2015, which aims to:

- Increase the involvement of youth as responsible citizens in initiatives at the national, regional and international levels;
- Highlight the potential of each individual youth by celebrating everyone's diversity and differences; and
- Expand the access to priority areas and youth development initiatives for the benefit of all target groups.⁶⁷⁵

Provision for child participation is also included within the National Policy on Children and National Action Plan 2009, though the National Action Plan for Children has since lapsed. Article 10 of the Federal Constitution and the Societies Act 1966 and Youth Societies and Youth

663 Article 12 CRC.

664 UNICEF, *Conceptual Framework for Measuring Outcomes of Adolescent Participation*, 2018.

665 CRC Committee, *General Comment No.20 (2016) on the implementation of the rights of the child during adolescence*, 2016.

666 UNICEF, 2018, *Child Participation in Local Governance: A UNICEF Guidance Note*.

667 UNICEF, *Conceptual Framework for Measuring Outcomes of Adolescent Participation*, 2018.

668 UNICEF, *Conceptual Framework for Measuring Outcomes of Adolescent Participation*, 2018.

669 UNICEF, *Child Participation in Local Governance: A UNICEF Guidance Note*, 2018.

670 UNICEF, *A Toolkit for Monitoring and Evaluating Children's Participation*, 2014.

671 UNICEF, *Conceptual Framework for Measuring Outcomes of Adolescent Participation*, 2018.

672 UNICEF, *Conceptual Framework for Measuring Outcomes of Adolescent Participation*, 2018.

673 UNICEF, *Conceptual Framework for Measuring Outcomes of Adolescent Participation*, 2018.

674 Charles, A & Haines, K, *Measuring Young People's Participation in Decision Making*, International Journal of Children's Rights, 2014, 22: 641-659.

675 UNICEF, *Youth Civic Participation in Malaysia*, 2019, p. 10.



Children have a right to express their own views freely in all matters affecting them, and the right to have those views given due weight in accordance with the child's age and maturity.

Development Act 2007 protect the rights of youth⁶⁷⁶ to freedom of association and to form and join societies. The Malaysian Youth Consultative Council is responsible for youth policy, including around participation and engagement.⁶⁷⁷ The Malaysian Youth Council is a national membership NGO that works with youth groups and young people to monitor National Youth Policy.⁶⁷⁸

3.7.2. Child participation outcomes

Even with a relatively weak legislative framework, there are some avenues through which children in Malaysia can exercise their right to participation. As an ASEAN Member State, select child delegates (aged 14-17+) from Malaysia attend the **ASEAN Children's Forum**. As per the Terms of Reference, the Forum serves as the regional voice of children, through the children expressing views and pursuing aspirations on issues affecting their lives and other regional issues of their interest, as well as through cooperating and working together

to contribute to regional development. In addition, the Forum aims to serve as a venue to: promote mutual respect for different cultures and build friendships and common understanding among children from ASEAN Member States, promote greater awareness of ASEAN among children from ASEAN Member States, advocate children's rights in the region and enhance the capabilities of children as leaders and representatives of their generation.

As delegates, children are expected to participate in the Forum and must, following the Forum, disseminate information to other children in their home countries, advocate for children's views and concerns, and carry out follow-up actions of the Forum's recommendations. The outcomes of the Forum are presented by representatives of the children through the Senior Officials Meeting on Social Welfare Development (SOMSWD) and the ASEAN Secretariat is in charge of sharing the outcomes with other relevant ASEAN sectoral bodies. These processes

676 Defined as those aged 15-40 years.

677 UNICEF, *Youth Civic Participation in Malaysia*, 2019, p. 16.

678 UNICEF, *Youth Civic Participation in Malaysia*, 2019, p. 17.

are an example of the practice of meaningful participation where children are engaged throughout the decision-making and development of tools to ensure that their participation is accurately understood and interpreted by adults. It is not clear how or whether girls, children from minority ethnic groups, indigenous children and LGBTI+ children are encouraged to participate in this Forum, which would require efforts to create safe, supportive environments for equal and meaningful participation.

Formal structures for youth participation in Malaysia include the **National Council for Children**, set within the Ministry of Women, Family and Community Development, of which two membership positions are set aside for children, though it is not clear if provisions are in place to ensure equitable representation and make-up of children so that the participation is inclusive and representative of diverse groups in Malaysia. A further body, the National Children's Parliament envisaged under the National Child Policy 2009, has not yet been established; instead, DSW established the Children's Representative Council of Malaysia. This Council was founded in December 2011 and consists of 30 children aged 13 to 17 years old and a network of Child Representatives at state and district levels who reach out to children in need and identify problems and solutions to create a better environment for children in Malaysia.

Child Forums and Conferences are also conducted at the national level, supported both by the Government and Non-Governmental Organisations. The "Be The Change. Speak up!" Children for Child Protection Forum in 2012 for example, was the first time that a national Forum for children by children was held with about 450 children from a variety of backgrounds (government schools, private schools, international schools, government-run homes, private and NGO care centres, individuals) from all over the country including East Malaysia, who came together to meet and discuss issues they were concerned with.⁶⁷⁹ As a result of the Forum, the children submitted a memorandum with recommendations to the government, and child advocates continue to be involved in other child related events. More recently, there have also been a range of Forums on contemporary issues, including the Youth Forum 'Children for a Better Digital World,' in 2015; the 'Own Your Future' Alsharq Youth Conference 2019; Ongoing Child Advocates Training by

Childline Malaysia and the Child Friendly Cities Children's Conference in 2019.

Alongside these opportunities, **social media** is a growing avenue to facilitate child participation. General Comment 20 states that 'the online environment provides significant emerging opportunities for strengthening and expanding [adolescent] engagement.'⁶⁸⁰ In the general EAPRO region, ICTs have facilitated child participation in civic life through improved access to information.⁶⁸¹ Social media can be used by children and young people to 'amplify their voices and seek solutions to problems affecting their communities.'⁶⁸² Especially given Malaysia's extensive internet penetration which was estimated at 63.6 per cent in 2010,⁶⁸³ social media and other digital technologies should be considered as valuable opportunities to allow children to engage with and express their views on issues affecting them. However, children can be exposed to significant protection risks through online engagement, such as the risk of online sexual exploitation and violence.

To the effect that social media can be used as a powerful tool to advocate for children expressing their own views, UNICEF Malaysia organised '#Kidstakeover' in 2017. This followed the 'Digizens for Online Safety' conference in 2013 that was run by a number of private companies, Wise Kids UK and UNICEF Malaysia. On World Children's Day, 20 November, about 30 children were able to speak about what mattered to them on over 10 major media partners spanning TV, radio, print and online platforms. The children were from diverse backgrounds and included those with disabilities. During the day, the results from the 'Children 4 Change' Opinion Poll that was conducted both on and offline were shared, which involved 1,036 children aged between six and 17 years old from across Malaysia.

Despite these forums, it is likely that the extent of **meaningful participation in Malaysia is limited**. The Change for Children Survey 2019, administered to 2,639 11- and 13-year-olds across Malaysia (in all 14 States) found that these adolescents do not feel that their views are listened to by Government representatives: only 27 per cent of 13-year-olds and 35 per cent of 11-year-olds feel that the Government listens to their opinions.⁶⁸⁴ The reservations in Malaysia's accession

679 Child Rights Coalition Malaysia, 2013.

680 CRC Committee, 2016, *General Comment No.20 (2016) on the implementation of the rights of the child during adolescence*, CRC/C/GC/20.

681 CJCP, *Research Paper on Children's Use of Social Media in East Asia and the Pacific: Inception Report*, 2019.

682 UNICEF, *The State of the World's Children 2017: Children in a Digital World*, 2017.

683 UNICEF, *Malaysia Annual Report*, 2014.

684 UNICEF, *Change for children survey* (2019), p. 20.

to the CRC have the effect that the framework of laws to facilitate meaningful participation is incomplete. In conjunction with the paternalistic approach of the Malaysian Government, this means that there are still significant improvements that can be made to ensure an enabling environment for child participation in Malaysia.

3.7.3. Inequities and disparities in child participation outcomes

Despite the existence of tools and avenues that facilitate child participation in Malaysia, there are still significant **barriers to participation** that arise in practice. This is because not all forums for participation are readily available to all children, and often are not as easily accessible to certain groups. Even beyond the legislative barriers, cultural barriers have discriminatory effects. Though there is little specific evidence available pertaining directly to levels of exclusion from child participation, they are likely to have an effect on the ability of certain groups of children to realise their right to participation.

Children with disabilities appear to be particularly vulnerable to exclusion from participation. This is connected to the knowledge, attitudes and practices of their immediate families and their communities.⁶⁸⁵ The UNICEF Malaysia Knowledge, Attitudes and Practices study on children with disabilities identified that barriers to participation of children with disabilities should be addressed through targeted activities directed towards children with disabilities, and activities.⁶⁸⁶ The respondents in the UNICEF study repeatedly recognised 'societal barriers such as stigma, lack of opportunity and lack of acceptance' as key challenges when answering questions about the participation of children with disabilities in several different spheres, including in schools and community life more generally.⁶⁸⁷ The report concluded that greater, more meaningful participation of children was required in all matters affecting them, and especially in relation to policies and matters affecting children with disabilities, and noted that 'Many [children with disabilities in workshops] commented that this was the first time their inputs had been directly sought and how they valued the opportunity to contribute to discussions.'⁶⁸⁸

Conclusions and Implications

Child participation

Children in Malaysia have a number of different child participation opportunities, including several innovative methods that make use of the growing trend for social media and digital communication. However, it is not clear what provisions are in place to ensure that children with disabilities and children from marginalised groups, such as stateless, undocumented, migrant or refugee children have the same right to participation as other children. Further, it is not clear to what extent children access *meaningful* participation in decisions affecting them.

It is essential that data are collected on access to participation forums and tools, particularly among more vulnerable groups. Research should be carried out, in particular to assess access barriers to participation avenues for all children, and to assess how meaningful child participation is, in terms of ensuring that the voices of children are captured on issues that are of concern to them, and that these voices are able to inform the policy and programming space.

685 UNICEF, *Childhood Disability in Malaysia*, 2017, p. 11.

686 UNICEF, *Childhood Disability in Malaysia*, 2017, p. 94.

687 UNICEF, *Childhood Disability in Malaysia*, 2017, p. 75.

688 UNICEF, *Childhood Disability in Malaysia*, 2017, p. 96.



A young girl in her classroom at
CLC Nusra, Tenom, Sabah.

4

Priority Issues Facing Children

“#foreverychild has the right to enjoy, explore, learn new things in life and even play. They are our future and we... need to lead them, support them and be there for them.”

— Muhammad Zaki bin Razak, 16 | Picture My Rights, 2017/18

As Part 3 demonstrates, despite much progress on child outcomes in Malaysia, there are some areas in which Malaysia is falling behind or in which progress is reversing. It is imperative that the Government of Malaysia addresses these issues as a matter of priority and accelerate progress in these areas. This is necessary to ensure that Malaysia is on track to meet key global development goals (SDGs) and national development targets and ensure that children in Malaysia survive, thrive and develop to their full potential.

4.1. **THE TRIPLE BURDEN OF MALNUTRITION**

Malaysia is currently experiencing a **triple burden of malnutrition**, characterised by 1) stunting and wasting, 2) overweight/obesity, and 3) anaemia.⁶⁸⁹ Rapid economic

development and urbanisation have contributed to a transition from an active lifestyle and wholesome foods to poor levels of physical activity and a diet with a lack of nutritional content and excess of foods high in fat, salt and sugar. The triple burden of malnutrition causes severe and long-lasting damage during periods of rapid growth and development, in particular during the 1,000 first days of life, and during adolescence. Nutrition deficits in this early period, especially during pregnancy, place the child at higher risk of later overweight and NCDs through foetal programming.

Malnutrition appears to be a matter of concern to adolescents in Malaysia. In the 2019 Change for Children Survey, respondents were asked to select priority areas of focus if they were head of the United Nations. The most popular selection among Malaysian adolescents (76 per cent) was 'provide affordable and nutritious food for all children.'⁶⁹⁰

689 Global Nutrition Report, *Nutrition Country Profile: Malaysia*, 2018.

690 UNICEF, *Change for children survey* (2019), p. 10.

4.1.1. The situation

Child malnutrition

As noted in Part 3, **child malnutrition is a significant problem in Malaysia**, with persistent rates of stunting, underweight and wasting among children under 5. Without significant and sustained attention, Malaysia will not meet all of the six global nutrition targets by 2025. Stunting, underweight and wasting are considered indicators of undernutrition: stunting results from longer-term growth restriction and deprivations from the prenatal period and childhood; wasting is the result of acute deprivation of nutrition; and underweight can reflect wasting, acute weight loss and/or stunting. Malnutrition during childhood can have implications for long-term health, exposing children to a greater risk of illness and death, as well as later NCDs and increased likelihood of delayed mental development.⁶⁹¹ It can also have a negative impact on economic development, constraining human capital and long-term productivity.⁶⁹²

Stunting and underweight in children are the most prevalent form of undernutrition in Malaysia, with rates actually increasing in recent years. Under-5 stunting rates in Malaysia were at 20.7 per cent in 2016, compared to 17.7 per cent in 2015 and 11.3 per cent in 2011.⁶⁹³

Prevalence of underweight among children under 5 was 13.7 per cent in 2016, up from 12.4 per cent in 2015 and 19.6 per cent in 2011.⁶⁹⁴

There is evidence of some **inequalities and disparities in rates of stunting**, including by geographical location (Kelantan has the highest stunting prevalence, at 34 per cent) and household income (stunting is highest in households with income under RM1,000), and rates are higher among mothers with lower educational levels and unemployed mothers.⁶⁹⁶ Rates of stunting, wasting and underweight were found to be substantially higher in Kuala Lumpur's low cost flats (PPR) in UNICEF's 2018 study, with stunting rates of 22 per cent reported among children under 5 (20 per cent were wasted and five per cent were underweight, compared to the national prevalence rates of 11.5 per cent and 13.7), indicating that children in poor families in urban environments may be more at risk of child malnutrition.⁶⁹⁷ However, stunting prevalence rates are high across ethnicities, income levels, occupations, educational levels, States and the rural-urban divide, indicating a **pervasive problem**.⁶⁹⁸

Childhood wasting (low weight for height or 'acute malnutrition') is a particularly serious form of malnutrition because it greatly increases the risk of death and illness. Global evidence suggests that wasting increases the risk of child stunting, impaired cognitive development and non-communicable diseases in adulthood.⁶⁹⁹ Prevalence of wasting among children under 5 was 11.5 per cent in 2016. Prevalence of wasting was higher among males (13.3 per cent) than females (9.7 per cent) and among children aged 48-59 months old and children of Indian ethnicity, with a prevalence of 13.6 per cent and 17.3 per cent respectively.

Stunting and underweight in children are the most prevalent form of undernutrition in Malaysia, with rates actually increasing in recent years.

691 Bappenas, *The consolidated report on Indonesia's health sector review*, 2018.

692 World Bank Group, *Malaysia Economic Monitor, Realising human potential*, 2018, p. 74.

693 World Bank, World development indicators, <https://datacatalog.worldbank.org/dataset/world-development-indicators>

694 World Bank, World development indicators.

695 WHO 'Global Health Expenditure Database', <http://apps.who.int/nha/database/ViewData/Indicators/en>, accessed 10 December 2019.

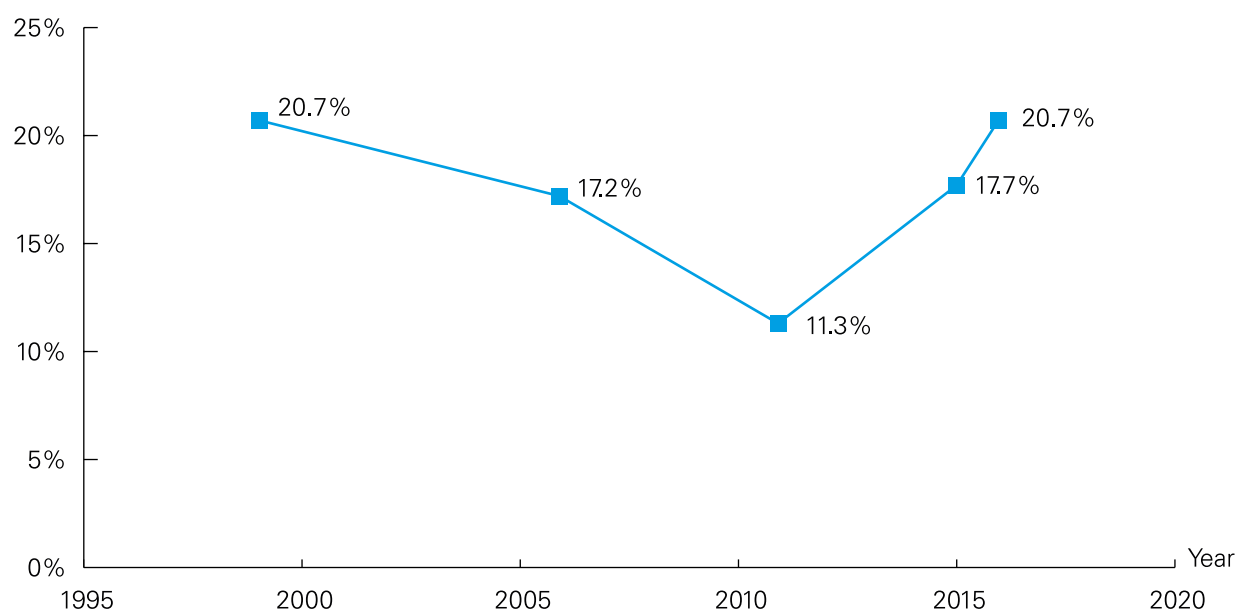
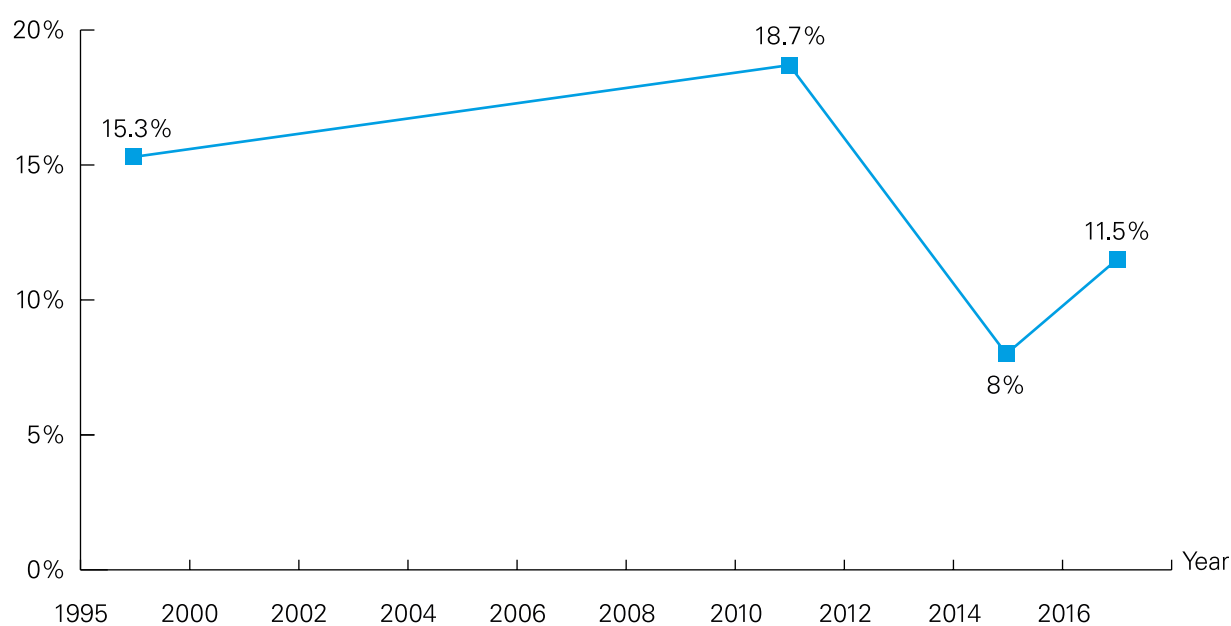
696 Kok, D., *Stunting in Malaysia: Cost, causes and courses for action*, JCI-JSC Working Paper, 2019.

697 UNICEF, *Children Without*, 2018, p. 52.

698 Kok, D., *Stunting in Malaysia: Cost, causes and courses for action*, JCI-JSC Working Paper, 2019.

699 Lelijveld, Seal and Wells, 2016, *Nutrition in Indonesia Background Paper for the Health Sector Review*, 2018.

700 WHO 'Global Health Expenditure Database', <http://apps.who.int/nha/database/ViewData/Indicators/en>, accessed 10 December 2019.

FIGURE 38: Prevalence of under-5 stunting in Malaysia, 1995-2016Source: NHMS and WHO⁶⁹⁵**FIGURE 39: Prevalence of under-5 wasting in Malaysia, 1995-2016**Source: NHMS and WHO⁷⁰⁰

Malnutrition and Orang Asli children

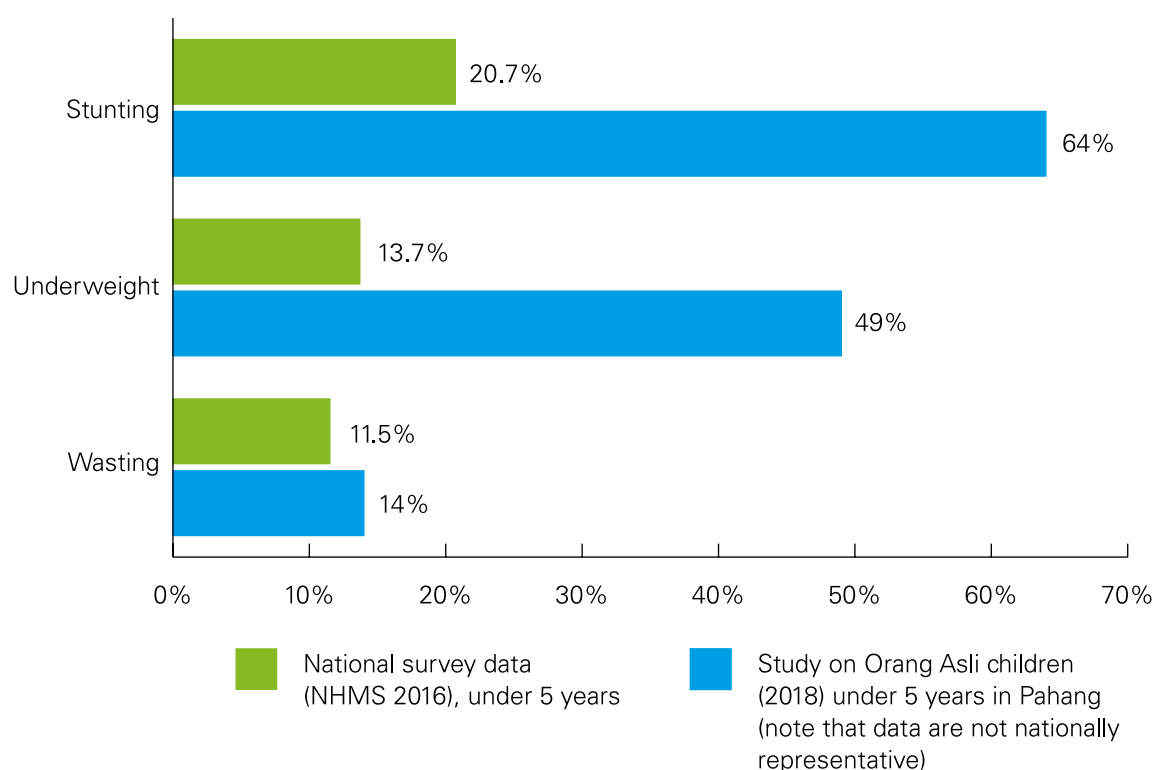
Studies have found that **OA children are particularly vulnerable to stunting, wasting and underweight**. A recent cross-sectional growth study of under-5 OA children and a two-year prospective cohort growth study among OA children in Temerloh district of Pahang found rates of stunting, wasting and underweight that were considerably higher than rates reported in national surveys for children under the age of 5.⁷⁰¹ Further research is required to determine the drivers of poor nutritional outcomes among OA children.

Overweight and obesity

Malaysia has **one of the highest overweight rates** in Asia with 47.3 per cent of the *adult* population considered overweight⁷⁰² and 13.3 per cent of healthcare costs

or 1.7 billion USD being spent each year. Overweight among children under 5 (BMI for age) is relatively low at 6.4 per cent.⁷⁰³ However, compared to other ASEAN member States, Malaysia has high rates of childhood and adolescent overweight and obesity, with the fourth highest rate of overweight below the age of 18 (at 7.1 per cent) and the second highest rate of obese children aged 5 to 19 (at 12.7 per cent).⁷⁰⁴ Overweight and obese children are likely to stay obese into adulthood and more likely to develop non-communicable diseases like diabetes and cardiovascular diseases at a younger age. A longitudinal study found that the increment of body fat composition among female adolescents correlated with their reduction in physical activity; this was particularly the case among females in rural areas.⁷⁰⁵ Data from the NHMS 2017 found that the prevalence of overweight and obesity among adolescents is 15.6 and 14.8, respectively.⁷⁰⁶ A recent

FIGURE 40: Rates of stunting, underweight and wasting amongst Orang Asli Children



701 Yen WC, et al, *Weight and height faltering in the indigenous children (Orang Asli) of Peninsular Malaysia during the first 2 years of life*, Asia Pac J Clin Nutr. 2018; 27(4):886-892.

702 New StraitsTimes, 'Childhood obesity a growing health crisis in Malaysia', 8 July 2019, <https://www.nst.com.my/lifestyle/health/2019/07/502533/childhood-obesity-growing-health-crisis-malaysia>, accessed 10 December 2019.

703 MOH, *National Health and Morbidity Survey*, 2017, p. 77.

704 UNICEF, *Children Without*, 2018, p. 50.

705 Majid, H., Amiri, M., Mohd Azmi, N. et al. Physical activity, body composition and lipids changes in adolescents: analysis from the MyHeART Study. *Sci Rep* 6, 30544 (2016).

706 MOH, *National Health and Morbidity Survey*, 2017.

systematic review of literature relating to adolescent diet in Malaysia found that 'gender, place of residence, and meal and snacking patterns' were the factors most closely associated with overweight and obesity.⁷⁰⁷

Anaemia

Anaemia is a condition where there are insufficient red blood cells to meet human physiological needs. According to the WHO, anaemia and other micronutrient deficiencies are common worldwide and can adversely affect growth, health, behavioural and cognitive development in children.⁷⁰⁸

Overall, anaemia appears to be low among Malaysian children. The South East Asian Nutrition Surveys reported that prevalence of anaemia and iron deficiency was 6.6 per cent and 4.4 per cent, respectively. Iron deficiency prevalence appears to be higher in girls than boys. Low levels of mothers' education, low household income, sex, nutritional status (specifically stunting and wasting) and parasitic infections were among the factors potentially contributing to anaemia and iron deficiency among Malaysian children.⁷⁰⁹ Despite this, there are indications of **pockets of high prevalence of anaemia among particular groups of children and in particular locations**. For instance, studies in several remote locations in Malaysia have found that the prevalence of anaemia among Malaysian children ranged between 26.2 per cent and 48.5 per cent, while more than half of them reportedly had iron deficiency (54.9 to 70 per cent).⁷¹⁰

A cross-sectional study involving school children (122 males and 127 females) aged seven to nine years in Kelantan showed the prevalence of iron deficiency without anaemia was 12.6 per cent, whereas 7.7 per cent of the children were found to have iron deficiency.⁷¹¹ Another study among indigenous school children in rural Peninsular Malaysia aged seven to 12 years found

that almost 49 per cent of the children were anaemic and 70 per cent of the anaemia cases were due to iron deficiency.⁷¹² Dietary iron intake can go some way to mitigate poor iron levels, but the 2012 Malaysia School-based Nutrition Survey revealed that girls obtained only 44.7 per cent of their recommended iron intake (compared to 57.5 per cent of boys).

Rates of anaemia also appear to be high among pregnant adolescents. A cross-sectional study conducted among 196 cases of teenage pregnancy at health clinics in the north-west of Malaysia reported that the prevalence of anaemia among mothers with mean age 18.2 years old was 53.1 per cent.⁷¹³

4.1.2. Causal analysis

The triple burden of malnutrition in Malaysia results from a complex interplay of household, environmental, socio-economic and cultural factors.

Immediate causes

Cost barriers and food insecurity: Various studies have found that many Malaysians are unable to afford a nutritionally adequate diet, especially in households living close to the poverty line and in urban areas. In the UNICEF study, *Children Without*, it was found that 97 per cent of families involved in the study who were living in Kuala Lumpur's low-cost flats (PPR), reported that food prices were too high so as to prevent them from preparing healthy meals for their children; one in 10 children reported having less than three meals a day.⁷¹⁴ The proportion of household budgets spent on food is quite high, making households sensitive to food price inflation, and economic shocks.⁷¹⁵

Unhealthy diet choices: Increasing consumption of sugar, including sugary drinks and declining physical

707 Mohammadi, S. et al, *Determinants of Diet and Physical Activity in Malaysian Adolescents: A Systematic Review*, Int. J. Environ. Res. Public Health 2019, 16, 603, p. 7.

708 Klemm RDW, Harvey PWJ, Wainwright E, Faillace S, Wasantwisut, E. *Micronutrient Programs: What Works and What Needs More Work? A Report of the 2008 Innocenti Process*. August 2009, Micronutrient Forum, Washington, DC.

709 Ngui R, Lim YAL, Chong Kin L, Sek Chuen C, Jaffar S, *Association between Anaemia, Iron Deficiency Anaemia, Neglected Parasitic Infections and Socioeconomic Factors in Rural Children of West Malaysia*. PLoS Negl Trop Dis 6(3): e1550, 2012, <https://doi.org/10.1371/journal.pntd.0001550>; Al-Mekhlafi, M. H., Surin, J., Atiya, A., Ariffin, W., Mahdy, A. M., & Abdullah, H. C., *Anaemia and iron deficiency anaemia among aboriginal schoolchildren in rural Peninsular Malaysia: an update on a continuing problem*, Transactions of the Royal Society of Tropical Medicine and Hygiene, 102(10), 2008, pp. 1046-1052.

710 Ngui R, Lim YAL, et al, *Association between Anaemia, Iron Deficiency Anaemia, Neglected Parasitic Infections and Socioeconomic Factors in Rural Children of West Malaysia*, 2012; Al-Mekhlafi, M. et al, *Anaemia and iron deficiency anaemia among aboriginal schoolchildren in rural Peninsular Malaysia: an update on a continuing problem*, 2008, 102(10), pp. 1046-1052.

711 Halib, H., Muda, W., Dam, P., & Mohamed, H., *Prevalence of iron deficiency and its associated risk factors among primary school children in Kelantan*. Journal of Fundamental and Applied Sciences, 2017, 9(2S), pp. 397-412.

712 Al-Mekhlafi, M. et al, *Anaemia and iron deficiency anaemia among aboriginal schoolchildren in rural Peninsular Malaysia: an update on a continuing problem*, 2008, 102(10), pp. 1046-1052.

713 Tengku, I, Daud, A., *Anaemia Among Teenage Pregnancy in Northern Malaysia: What are the factors?*, 2015.

714 UNICEF, *Children Without*, 2018, p. 36-37.

715 Kok, D., *Stunting in Malaysia: Cost, causes and courses for action*, JCI-JSC Working Paper, 2019.

activity among children and adolescents has been connected with an increase in rates of overweight and obesity. The NHMS 2017 showed that 36 per cent of adolescents reported drinking at least one carbonated drink per day.⁷¹⁶ The survey showed that the average daily intake of sugar had increased from seven teaspoons in 2012 to 10 teaspoons in 2017. It also showed poor meal time habits: 70 per cent of Malaysian adolescents consumed a heavy meal after supper one to six days per week, while 74 per cent of obese adolescents skipped breakfast.⁷¹⁷

Limited physical activity: Rising rates of obesity and overweight may also be linked to limited physical activity among adolescents. Data indicate that around 55 per cent of Malaysian students are not physically active: primary school children are significantly more active than secondary school students (57 per cent compared to 37 per cent), as are boys when compared to girls (54 per cent compared to 35 per cent).⁷¹⁸

Underlying causes

Care and feeding practices: Poor maternal nutrition, including high rates of maternal anaemia and iron deficiency among pregnant women, are linked to adverse birth outcomes, including stunting.⁷¹⁹ Barriers to exclusive breastfeeding and poor complementary feeding practices are linked to poor outcomes in children; a broader problem exists of inadequate feeding in families with poor knowledge and understanding of nutritional requirements of children across the life course.⁷²⁰ A primary driver of maternal anaemia is lack of information, awareness and access to proper diet, including dietary supplements, with low levels of education, low household income and parasitic infections being key factors contributing to anaemia among pregnant women according to a study in Northern Malaysia.⁷²¹

Limited access to quality healthcare: While the vast majority of women receive the minimum number of

antenatal care visits, only around two thirds of women received antenatal care in the first trimester – a critical period for early risk identification; women from minority ethnic groups, non-citizens and those with lower educational attainment and lower income are unlikely to receive any antenatal care.⁷²² Disadvantaged groups face inequality in access to health and nutrition services and information.⁷²³

Maternal health, education and wellbeing: Women who were stunted as children are themselves more likely to have children who are stunted.⁷²⁴ As the Sachs report said: ‘stunted girls grow up to become stunted adult women, who then give birth to stunted children – repeating a vicious cycle of stunting and malnutrition.’⁷²⁵ Stunting risks also decrease in line with increases in maternal education, and are highest when women are unemployed.⁷²⁶

Systemic causes

Limited coordinated national policy responses: There has been a limited focus in policy and programming on the first 1,000 days (and limited initiatives specifically addressing stunting), and limited multi-sector work at the national level to address the multiple, complex and inter-connected drivers of stunting.⁷²⁷

Gaps in healthy environment: Poor access to WASH among some vulnerable groups (children in remote areas, informal settlements and OA children) is connected to poor nutritional outcomes, including stunting.

Gaps in legal frameworks: Poor feeding practices that can lead to wasting or stunting are driven by inadequate regulation of advertising for breastfeeding substitutes and a legal and policy framework that does not facilitate breastfeeding or expressing by working women.⁷²⁸

716 MOH, *National Health and Morbidity Survey*, 2017.

717 WHO, *How Teens Eat in Malaysia*, 2018, <https://www.borneomarathon.com/kurangmanis>.

718 MOH, *National Health and Morbidity Survey: Key Findings from the Adolescent Health and Nutrition Survey - Infographic booklet*, 2018, p. 19.

719 See, e.g., UNICEF, *Stop Stunting: Power of Maternal Nutrition*, <https://www.unicef.org/rosa/stories/stop-stunting-%E2%94%82-power-maternal-nutrition>, accessed 17 December 2019.

720 Kok, D., *Stunting in Malaysia: Cost, causes and courses for action*, JCI-JSC Working Paper, 2019.

721 Tengku, I, Daud, A, *Anaemia Among Teenage Pregnancy in Northern Malaysia: What are the factors?*, 2015.

722 Kok, D., *Stunting in Malaysia: Cost, causes and courses for action*, JCI-JSC Working Paper, 2019.

723 Kok, D., *Stunting in Malaysia: Cost, causes and courses for action*, JCI-JSC Working Paper, 2019.

724 Kok, D., *Stunting in Malaysia: Cost, causes and courses for action*, JCI-JSC Working Paper, 2019, p. 4.

725 Kok, D., *Stunting in Malaysia: Cost, causes and courses for action*, JCI-JSC Working Paper, 2019, p. 4.

726 Kok, D., *Stunting in Malaysia: Cost, causes and courses for action*, JCI-JSC Working Paper, 2019, p. 8.

727 Kok, D., *Stunting in Malaysia: Cost, causes and courses for action*, JCI-JSC Working Paper, 2019.

728 Kok, D., *Stunting in Malaysia: Cost, causes and courses for action*, JCI-JSC Working Paper, 2019.

Child malnutrition causal analysis

At a consultation with 32 adolescents in Kota Kinabalu, Sabah, participants selected a number of priority issues and mapped out the causes of these issues. Child malnutrition was an issue that was identified and participants mapped the following causes:

1

Bad habits relating to food

- Skipping meals and not eating on time
- Emotional eating; eating a lot when sad and depressed
- Young children are usually picky with food

2

Unbalanced diet

- Too much sugar and oil in Malaysian food
- Junk food is more affordable
- Children don't have a say on what they can eat
- Lack of cooking skills by guardians

3

Not exercising

- Too lazy to exercise
- It's more appealing to play with smartphones
- Children not allowed to go out to play because it's not safe

4

Canteen food

- Canteen food is too salty
- Kid's don't have a say on what the canteen menu should be
- The quantity is not worth the price

5

Healthy food is expensive

- Organic food spoils faster compared to cheap food
- Healthy food doesn't taste good
- Some people can't afford healthy food

4.1.3. Government response

Childhood nutrition is a priority area of the **National Plan of Action for Nutrition of Malaysia (NPANM III) 2016-2025**, which notes with concern that ‘The problem of stunting was particularly serious as the prevalence was found to have increased compared to the baseline. There was also no improvement in the prevalence of underweight. Serious attention needs to be given immediately to promoting child nutrition. Effective strategies need to be planned and implemented to reach the population in all parts of the country to prevent and control the undernutrition problem.’⁷²⁹ One of the strategies to address undernutrition amongst children is by ensuring food and nutrition security amongst the targeted population. The importance of food and nutrition security has been highlighted in The National Plan of Action for Nutrition of Malaysia III (2016-2025) (NPANM III). The plan underlines the importance of nutrition in enhancing population health, preventing diet-related disease and strengthening food and nutrition security. This plan uses a multi-sectoral and multi-stakeholder approach to ensure better coverage of strategies and activities to promote optimal nutritional well-being of Malaysian children. To address malnutrition, a number of initiatives have been undertaken by the MOH such as the implementation of the Rehabilitation Programme for Malnourished Children (*Program Pemulihan Kanak-Kanak Kekurangan Zat Makanan, PPKZM*) and Community Feeding Programme (PCF).⁷³⁰

A second component of the ‘triple burden of malnutrition’ is the incidence of **overweight and obesity** in Malaysia, which has serious public health consequences.⁷³¹

Malaysia did not achieve its internal overweight and obesity targets for children leading up to the development of the National Plan of Action for Nutrition of Malaysia III, 2016-2025, with the new Plan seeking to strengthen strategies to prevent and control obesity and other diet-related NCDs through, for example, weight reduction programmes and healthy eating education in schools, and collaboration with food and beverage industries to produce healthier food and drinks.⁷³²

The Plan of Action incorporates targets and actions relating to **anaemia**, which is also supported through the Nutrition Surveillance on Pregnant Women and Infants programme. As part of the Plan of Action, the MOH envisages developing Guidelines on Anaemia Prevention and Control Programme among Women of Reproductive Age, recognising that anaemia presents a ‘mild public health risk’ in Malaysia.⁷³³

To strengthen the legal and policy framework, the government recently introduced a 40 **sen tax**⁷³⁴ per litre of sugary drinks in order to try to tackle rates of obesity. The WHO, while acknowledging this is a positive step has also recommended the introduction of other measures such as ‘high-quality, healthy school meals, compulsory nutrition labelling on food and drink products, health communication campaigns, and more stringent regulation of food and drinks marketed to children’ and noted that ‘the healthy school breakfast programme is particularly important given that recent research suggests that around 25 per cent of Malaysian children from a wide range of socio-economic backgrounds do not eat breakfast on a regular basis, which has major implications for learning.’⁷³⁵

In the 2019 Change for Children Survey, respondents were asked to select priority areas of focus...The most popular selection among Malaysian adolescents was ‘provide affordable and nutritious food for all children’.

729 MOH, *National Plan of Action for Nutrition of Malaysia III*, 2016-2025, p. 49.

730 MOH, *National Plan of Action for Nutrition of Malaysia III*, 2016-2025, p. 57.

731 The *National Plan of Action for Nutrition of Malaysia III*, 2016-2025 refers to a ‘double burden’ of malnutrition (stunting/wasting and obesity/overweight). Since this time, international discourse has more frequently started to recognise the triple burden discussed in this section of our report.

732 MOH, *National Plan of Action for Nutrition of Malaysia III*, 2016-2025, pp. 52-58.

733 MOH, *National Plan of Action for Nutrition of Malaysia III*, 2016-2025, p. 10.

734 WHO, ‘Sugary drinks tax important first step, but obesity in Malaysia demands further action’, 3 May 2019, <https://www.who.int/malaysia/news/commentaries/detail/sugary-drinks-tax-important-first-step-but-obesity-in-malaysia-demands-further-action>, accessed 10 December 2019.

735 WHO, ‘Sugary drinks tax important first step, but obesity in Malaysia demands further action’, 3 May 2019.

Triple burden of malnutrition: Policy implications

The Government of Malaysia should promote a multi-sector, coordinated approach to addressing the triple burden of malnutrition, focused on addressing the interplay of causes and key determinants. In particular, it could:

Strengthen the legal environment e.g., relating to advertising of breastmilk alternatives and breastfeeding/expressing rights for women at work.

Incentivise healthy eating, through tax initiatives and other fiscal policies.

Raise awareness among children and adolescents on health, healthy eating, and the importance and guidelines around physical activity.

Support and promote healthy meals within schools and raise awareness of the benefits of healthy meals.

Carry out research on the poor nutritional outcomes of groups of children who are particularly impacted, e.g. OA children, and devise a plan to address the key causes of poor nutrition among these groups.

Ensure increased emphasis on physical education in secondary schools, support the MOE and other relevant Ministries to develop and maintain infrastructure and resources for physical education and ensure the promotion (and removal of cost and other access barriers) of extra-curricular physical activity programmes.



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EcoKids Children's Session at Harvest Centre.

The National Adolescent Health Policy and National Adolescent Health Plan of Action, which were developed with inputs from relevant agencies and from adolescents, represents a positive initiative. However, further advocacy is required to improve intersectoral collaboration and to strengthen focus on the health needs of adolescents in programming and service delivery.

4.2. ADOLESCENT HEALTH

Adolescence (10 – 19 years) and young adulthood 'coincide with major changes and health problems and determinants of health in later life': risks of mortality due to preventable causes increase, through injury, HIV, TB and maternal death; mental health conditions rise sharply; and risk factors that can lead to non-communicable diseases later in life increase during adolescence (including alcohol, tobacco and illicit substance use, unsafe sex, obesity and lack of physical activity).⁷³⁶ Adolescence also offers considerable opportunity for health gains through prevention work and other targeted interventions.

Malaysia's progress in the realisation of health rights falls behind on issues affecting adolescent girls and boys, with increasing numbers of adolescents facing a range of health challenges.

The National Adolescent Health Policy and National Adolescent Health Plan of Action, which were developed with inputs from relevant agencies and from adolescents, represents a positive initiative. However, further advocacy is required to improve intersectoral collaboration and to strengthen focus on the health needs of adolescents in programming and service delivery.

4.2.1. The situation

Sexual and reproductive health

Data indicate that adolescents **lack access to sexual and reproductive health information and services**. A nationwide survey involving 1,071 young Malaysians in October 2015⁷³⁷ found a very low understanding of how to prevent unplanned pregnancies and lack of awareness of methods of contraception other than condoms and the birth control pill. It was reported in 2011 that only 54 per cent of girls and 49 per cent of boys knew a contraceptive method.⁷³⁸ A cross-sectional study conducted among 1,034 secondary school students in Kelantan showed low knowledge of SRH facts, including whether one can get pregnant after a single act of sexual intercourse (30.4 per cent answered correctly), whether sexual intercourse causes sexually transmitted diseases (STDs) (12.4 per cent answered correctly); and whether washing the vagina after sexual intercourse prevents pregnancy (17.0 per cent answered correctly). More than half (51 per cent – and more females than males) were unaware that a woman could get pregnant during her period and 35 per cent believed that a woman could not get pregnant the first time she engaged in sex. Their main source of sexual information was friends (64.4 per cent), suggesting a lack of comprehensive sexual health education in schools and limited access to sexual

736 Patton, G., C., et. al., *Health of the world's adolescents: A synthesis of internationally comparable data*, *The Lancet*, 2012, p. 1665.

737 Durex, MWFCD and Perspective Strategies, *Malaysian Youth Sexual and Reproductive Health Survey: Unwrapping The Truth About Malaysian Youth and Their Attitudes Towards Sex*, 2015, <https://www.durex.com.my/youth-survey/>

738 WHO, *Health of adolescents in Malaysia*, 2011.

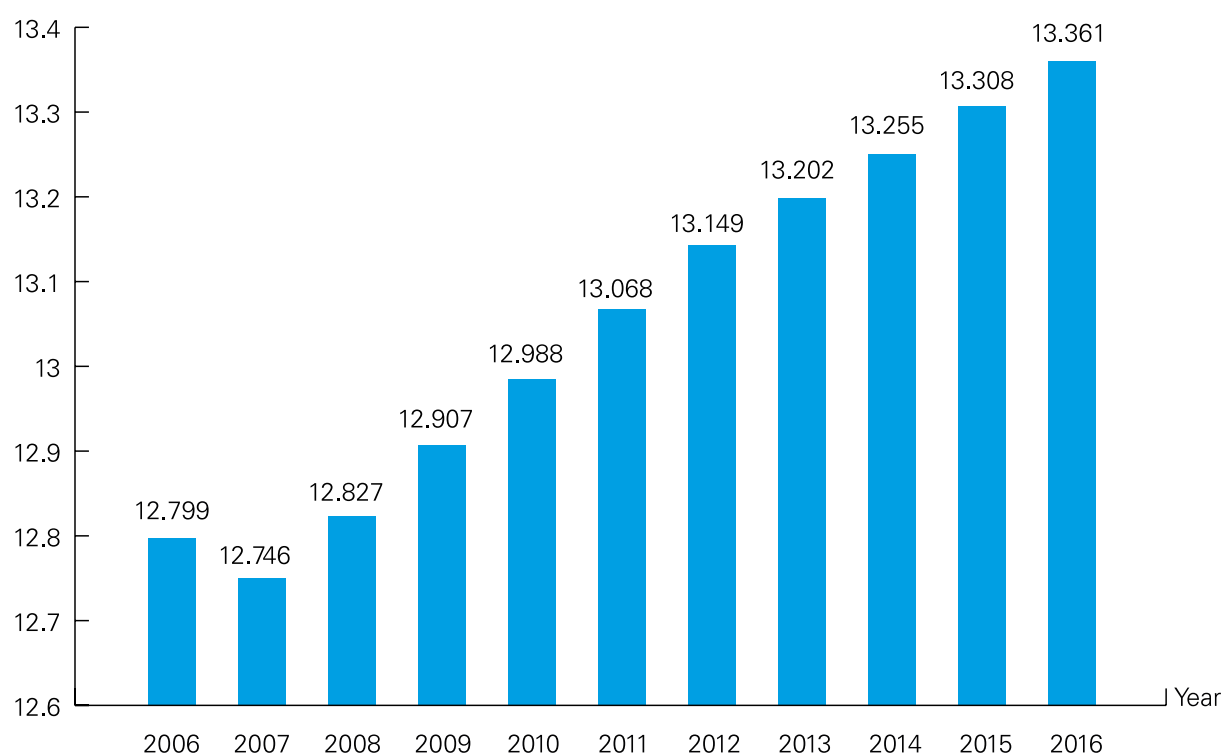
health information in the community (e.g. through health centres). Another study in Negeri Sembilan among eight secondary schools from eight different districts found that male adolescents had higher level of sexual knowledge compared to female adolescents.⁷³⁹

Adolescents also report low use of contraceptives. The Adolescent Health Survey from 2017 found that **only 12 per cent of 13-17-year-olds who had had sex reported using condoms**, and condom use was reportedly lower among boys (only nine per cent of boys compared to 16 per cent of girls reported using condoms). Putrajaya recorded the lowest prevalence for condom use (3.2 per cent) and Kelantan the highest (22.2 per cent), representing a considerable difference between states.⁷⁴⁰

Only 10 per cent of students among those who had had sex reported using another form of contraceptive (12 per cent of boys and seven per cent of girls).⁷⁴¹

One of the consequences of poor knowledge about sexual and reproductive health among teenagers and limited access to contraception is **teenage pregnancy**, which is a health risk to girls that can impact on their right to education, along with social and cultural acceptance and is linked to child marriage, which is seen as a 'solution' to adolescent pregnancy (see below). The adolescent fertility rate in Malaysia is quite low, relative to the regional average for Southeast Asia (13.36 compared to a regional average of 47 per 1,000); however, it has been rising in recent years, as set out in Figure 41.

FIGURE 41: Adolescent fertility rate, 2006-2016



Source: World Bank 2017⁷⁴²

739 Marret, M.J., et al., *Factors associated with online victimisation among Malaysian adolescents who use social networking sites: A cross-sectional study*, 7(6) BMJ Open, 2016, p. 1, <https://bmjopen.bmj.com/content/bmjopen/7/6/e014959.full.pdf>

740 Institute for Public Health, Ministry of Health, *National Health and Morbidity Survey (NHMS): Key Findings from the Adolescent Health and Nutrition Survey – Infographic booklet*, April 2018, p. 7.

741 Institute for Public Health, Ministry of Health, *National Health and Morbidity Survey (NHMS): Key Findings from the Adolescent Health and Nutrition Survey – Infographic booklet*, April 2018, p. 7.

742 World Bank, *Adolescent fertility rate (births per 1,000 women ages 15-19) – Malaysia* (2017).

Harmful substance abuse

Harmful drug use appears to be increasing among adolescents. According to the 2017 NHMS, 3.4 per cent of adolescents reported being current drug users (this was defined as taking heroin, morphine, glue, amphetamine or methamphetamines or marijuana) compared to one per cent in 2012. One in 25 secondary school students reported ever having used drugs. Worryingly, 17 per cent of these initiated drug use at seven years or younger.⁷⁴³

One in 10 adolescents (Form 1 to Form 5 students) reported being a current smoker, with higher rates among boys (22 per cent compared to five per cent for girls). Smoking rates among adolescents were reported to be higher in Sabah and Sarawak.⁷⁴⁵ Also, one in 10 adolescents reported being current drinkers of alcohol. A very high 76 per cent reported having their first drink before 14 years.⁷⁴⁶ This suggests further action is required to address supply and demand for harmful substances by adolescents.

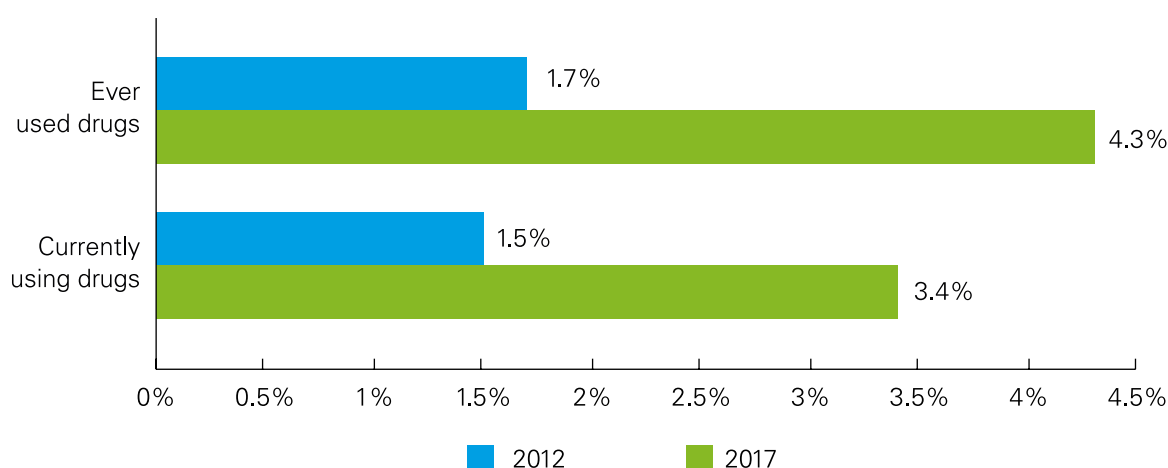
Mental health promotion and harm prevention among adolescents

Data indicate **rising rates of mental health issues among adolescents** in Malaysia. According to the NHMS, the prevalence of depression and anxiety among adolescents rose between 2012 and 2017 (from 17.7 per cent and 39.6 per cent to 18.3 per cent and 39.7 per cent respectively).

The **prevalence of depression** was highest in Selangor (22.6 per cent), among males (18.9 per cent) and among those of Indian ethnicity (33 per cent).⁷⁴⁹ Prevalence of anxiety was highest in Sabah (46.8 per cent), for girls (42.3 per cent), and among those of Indian and Bumiputera (Sabah) ethnicity (47 per cent each), while stress was highest in Selangor (12.5 per cent), among girls (10.3 per cent) and among adolescents of Indian origin (15 per cent).⁷⁵⁰

The data suggest that risk factors for depression include **loneliness and challenging relationships** with peer groups. In the NHMS 2017, 9.3 per cent of adolescents reported feeling lonely 'most of the time or always.' The prevalence of loneliness was highest in Kuala Lumpur

FIGURE 42: Illicit drug use, 2012 and 2017



Source: NHMS, 2017⁷⁴⁴

743 MOH, *National Health and Morbidity Survey: Key Findings from the Adolescent Health and Nutrition Survey – Infographic booklet*, 2018, p. 2.

744 MOH, *National Health and Morbidity Survey: Key Findings from the Adolescent Health and Nutrition Survey – Infographic booklet*, 2018, p. 8.

745 MOH, *National Health and Morbidity Survey: Key Findings from the Adolescent Health and Nutrition Survey – Infographic booklet*, 2018, p. 4.

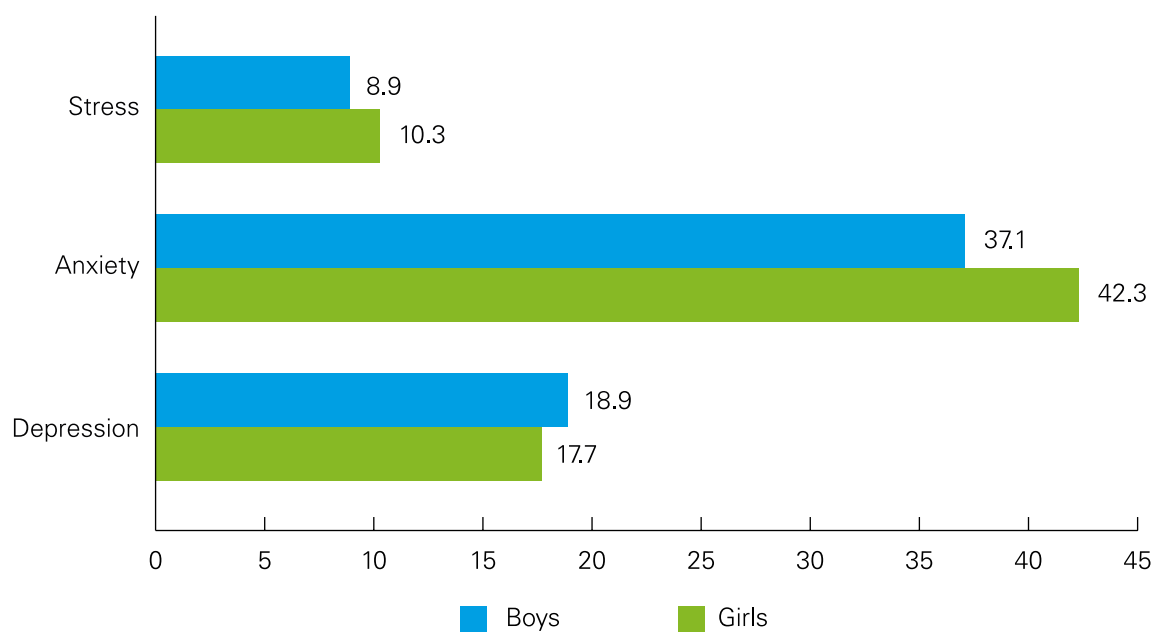
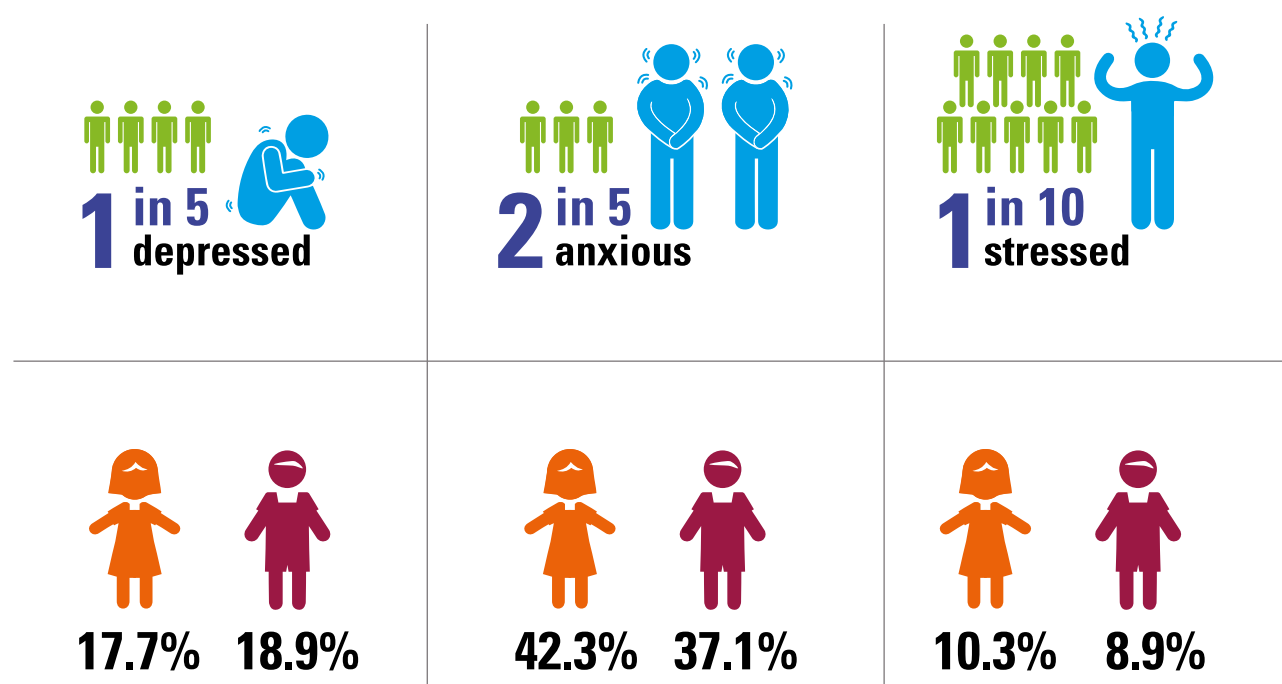
746 MOH, *National Health and Morbidity Survey: Key Findings from the Adolescent Health and Nutrition Survey – Infographic booklet*, 2018, p. 4.

747 MOH, *National Health and Morbidity Survey: Key Findings from the Adolescent Health and Nutrition Survey – Infographic booklet*, 2018, p. 28.

748 MOH, *National Health and Morbidity Survey: Key Findings from the Adolescent Health and Nutrition Survey – Infographic booklet*, 2018, p. 28.

749 MOH, *National Health and Morbidity Survey: Key Findings from the Adolescent Health and Nutrition Survey – Infographic booklet*, 2018, p. 7.

750 MOH, *National Health and Morbidity Survey: Key Findings from the Adolescent Health and Nutrition Survey – Infographic booklet*, 2018, p. 7.

FIGURE 43: Prevalence of depression, stress and anxiety among 13-17-year-oldsSource: NHMS, 2017⁷⁴⁷**FIGURE 44: Prevalence of depression, anxiety and stress among adolescents**Source: NHMS 2017⁷⁴⁸



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Children walking to their learning centre in Kampung Numbak, Sabah, Malaysia.

(13.4 per cent), in urban areas, and among girls, at 10.8 per cent compared to 7.8 per cent of boys. It was also highest among those of Indian ethnicity.⁷⁵¹ The NHMS 2017 also found that 3.6 per cent of students had no close friends, with 4.5 per cent of boys reporting no close friends compared to 2.7 per cent of girls. This was also highest among those of Indian ethnicity. Adolescents in Pahang were most likely to report having no close friends (5.2 per cent) and those in Melaka were least likely (2.2 per cent). There was little difference between urban and rural areas. Poor mental health outcomes were also linked to stress from homework and exams, excessive Internet use and cyber-bullying, and other forms of peer-bullying.

While data are limited in relation to **mental health and children in vulnerable circumstances**, one small-scale cross-sectional study among 104 refugee adolescents aged 12-19 years found high rates of anxiety and stress among this population. According to this study, 46.1 per cent reported severe (19.2 per cent) to extremely severe (26.9 per cent) anxiety levels. The mean score for depression was 14.31 per cent, which indicates a moderate level of severity.⁷⁵²

The NHMS 2017 also recorded **rising rates of suicide ideation, plans and attempts among adolescents**. According to these data, the prevalence of suicidal ideation (self-reported thoughts of engaging in suicide-related behaviour) rose from 7.9 per cent to 10 per cent among 13-17-year-olds between 2012 and 2017, while the prevalence of reported suicide planning and attempts

751 Institute for Public Health, Ministry of Health, *National Health and Morbidity Survey 2017, Adolescent Health Survey 2017, Malaysia*, pp. 103 and 106.

752 Low, S. K., Tan, S. A., Kok, J. K., Nainee, S., & Viapude, G. N. *The Mental Health of Adolescent Refugees in Malaysia*, PEOPLE: International Journal of Social Sciences, 4(2), 2018.

both rose slightly (from 6.4 to 7.3 per cent and 6.8 to 6.9 per cent respectively).⁷⁵³ Suicidal ideation was highest among 13-year-olds (11.2 per cent), and 10.1 per cent of 13-year-olds reported attempting suicide. Data were fairly consistent across genders (though with slightly higher rates of suicidal ideation and planning among girls). Rates were higher in urban areas, except for prevalence of suicide attempts, which was slightly lower in urban settings and highest among Indian students.⁷⁵⁴

4.2.2. Causal analysis

An interplay of different factors have driven Malaysia's relatively poor outcomes in adolescent health, underpinned by gaps in multi-sector policies and strategies targeting adolescents more generally.

Immediate causes

Limited access to SRH services: As noted above, according to available data, adolescents report low knowledge of sexual health and those who have sex report very low use of contraception.

Peer relationships and influence: Peer relationships are highly influential in adolescent behaviours, which are linked to their sexual and other health outcomes. For example, studies have shown that positive or negative relationships with peers, or indeed the absence of relationships with peers, can have negative effects on mental health; peer pressure can also lead to harmful drug taking, and to engaging in risky sexual behaviours.⁷⁵⁵

Underlying causes

Social and cultural norms: Studies have indicated that legal barriers to adolescents' independent access to SRH, along with restrictive social norms around sex outside marriage may also contribute to restricting access to SRH among adolescents.⁷⁵⁶ The stigmatisation of mental health is considered a barrier to adolescents' help-seeking behaviour.

Limited knowledge and awareness: Adolescents appear to have a low level of knowledge of SRH (though nationally representative data are limited). According to the 2014 Malaysian Population and Family Survey, less than 60 per cent of adolescents have a basic knowledge of reproductive organs and five per cent reportedly had engaged in sexual intercourse.⁷⁵⁷ Limited knowledge of mental health issues has been identified by adolescents as a key barrier to their help-seeking behaviour and likely contributes to poor mental health outcomes.⁷⁵⁸ Limited knowledge and awareness among parents and carers of mental health issues and the impacts of pressures to achieve and 'be successful' was also identified by adolescents as a driver of poor mental health.⁷⁵⁹

Systemic causes

Gaps in comprehensive sexuality education (CSE):

The positive impacts of quality CSE on adolescent health receives strong support in the international discourse and is corroborated by a relatively robust evidence base.⁷⁶⁰ There are many studies that provide strong evidence of CSE's role in helping young people delay sexual debut, improve contraceptive use as well as reduce the number of sexual partners, unintended pregnancies and STIs.⁷⁶¹ A 2019 assessment found that the provision of CSE in Malaysia is limited as it is 'based on abstinence instead of informed choice', that the lack of parental and family support in relation to sexuality education and limitations in teacher training and political will had 'decelerated the progress of CSE in the country'.⁷⁶²

Limited CSE is one of the key drivers of child marriage (discussed below), and teen pregnancy, and connects the two. The lack of an effective policy on CSE, and the resulting low level of knowledge/understanding of SRH amongst Malaysian school-age children contribute to both teen pregnancy and child marriage.

753 MOH, *National Health and Morbidity Survey: Key Findings from the Adolescent Health and Nutrition Survey – Infographic booklet*, 2018, p. 8.

754 MOH, *National Health and Morbidity Survey: Key Findings from the Adolescent Health and Nutrition Survey – Infographic booklet*, 2018, p. 8.

755 As identified during a focus group discussion in Sabah, November 2019.

756 UNFPA, UNESCO and WHO, *Sexual and reproductive health of young people in Asia and the Pacific: A review of issues, policies and programmes* (2015).

757 Tey, Nai P. 'The State of the Youth in Malaysia', *Population Statistics Malaysia 2018*, 2019, p. 129. The NHMS found that 7.3 per cent of 13-17-year-olds surveyed had already had sex. MOH, *National Health and Morbidity Survey: Key Findings from the Adolescent Health and Nutrition Survey – Infographic booklet*, 2018, p. 6.

758 At a consultation in Petaling Jaya, Selangor, November 2019, adolescents identified limited knowledge of mental health issues among adolescents as a key driver of poor mental health outcomes.

759 At a consultation in Petaling Jaya, Selangor, November 2019, adolescents identified parental pressure and low knowledge and awareness among parents as a driver of poor mental health.

760 WHO, 'WHO recommendations on adolescent sexual and reproductive health and rights', 2018.

761 WHO, 'WHO recommendations on adolescent sexual and reproductive health and rights', 2018, p. 5.

762 FRHAM and ARROW, *Comprehensive Sexuality Education for Malaysian Adolescents: How Far Have We Come?* 2019, p. 114.

Gaps in legal framework: The restrictive law and regulations on abortion, which allow abortion only where a medical practitioner determines that ‘the continuance of the pregnancy would involve risk to the life of the pregnant woman, or injury to the mental or physical health of the pregnant woman, greater than if the pregnancy were terminated,’⁷⁶³ along with the stigmatisation of pregnancy outside of marriage, also limit access to SRH and can lead to unsafe abortion practices by unskilled and unregulated providers. For instance, the Ministry of Health’s Information and Documentation System Unit reported 33,759 induced abortions, and nine deaths resulting from abortions in 2002.⁷⁶⁴

Suicide is criminalised in Malaysia,⁷⁶⁵ which likely compounds stigma and acts as a barrier to help seeking among adolescents with mental health problems.

The lack of an effective policy on comprehensive sexuality education, and the resulting low level of knowledge/ understanding of SRH amongst Malaysian school-age children contribute to both teen pregnancy and child marriage.

Adolescent Voices

Sex education

At a consultation with 32 adolescents in Kota Kinabalu, Sabah, participants identified priority issues and mapped out the causes of these issues. Sex education was identified as an issue and participants mapped the following causes:

1

Lack of information

- It is not included in the syllabus
- Kids don’t want to learn about it, teachers don’t want to teach it
- The stigma of sex – it is a taboo
- Religion, mindset
- It is embarrassing to talk about

2

Kids don’t care about the consequences

- They’d rather have fun
- Peer pressure and curiosity
- Lack of love and want to get attention
- Parents don’t care

763 Section 312 Penal Code.

764 Siti Fathilah Kamaluddin, ‘A Follow-up Profile of Women Seeking Pregnancy Terminations in a Clinic in Urban Malaysia: 1998-2005,’ *Jurnal Sains Kesihatan Malaysia (Malaysian Journal of Health Sciences)* vol. 8, no. 1 (2010); 5-11.

765 Section 309, Penal Code.



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Youth play futsal as their pastime in Kuala Lumpur. They are part of a youth programme run by KL Krash Pad, a teen and youth centre located in the capital city's Chow Kit area to meet the needs and rights of vulnerable and at risk inner-city adolescents and young people.

4.2.3. Government response

The GOM has shown interest in addressing gaps relating to adolescent sexual health. **Some efforts have been made to improve SRH education and services, and the Government has expressed commitment to improving SRH education in schools.**⁷⁶⁶ For example, the National Adolescent Health Plan of Action (2006-2020), and the National Policy on Reproductive Health and Social Education and the associated Action Plan (2009-2015) were introduced. SRH was integrated into the National Service Training Curriculum in 2011 as well as into schools (the PEKERTI programme aimed at 12-15-year-olds), and by 2018, more than 80,000 teenagers had received education on SRH. Further, there are currently 17 youth-friendly centres, known as kafe@TEEN, which have provided access to SRH information and services to over 1.2 million youths.⁷⁶⁷

The GOM has taken a range of **regulatory measures to discourage alcohol and cigarette consumption** among adolescents (and the general population). It has been illegal for under 18s to smoke since the 1990s with virtually all forms of tobacco advertising, promotion, and sponsorship prohibited; it is also a legal requirement that health warnings are placed on the packaging of tobacco products.⁷⁶⁸ In December 2017, the legal age for drinking alcohol was raised from 18 to 21 years, with it continuing to be illegal for Muslims to purchase alcohol. As of 2016, Malaysia has the third highest tax rate on alcoholic drinks worldwide (behind Norway and Singapore).⁷⁶⁹

The GOM's actions to **promote mental health and address potential harm against adolescents** appear to be new and emergent. In June 2019, the GOM launched a number of initiatives to address mental well-being and suicide prevention. These include increasing access to

766 See 'MOE urges schools not to take sex education lightly', *Malay Mail*, 22 February 2019: <https://www.malaymail.com/news/malaysia/2019/02/22/moe-urges-schools-not-to-take-sex-education-lightly/1725789>

767 National Population and Family Development Board, Annual Report 2019.

768 Library of Congress, Global Legal Monitor, 'Malaysia ban on smoking in all eateries comes into effect' 17 January 2019, <https://www.loc.gov/law/foreign-news/article/malaysia-ban-on-smoking-in-all-eateries-comes-into-effect/>, accessed 10 December 2019.

769 IOGT, 'Malaysia alcohol tax set to increase', 3 March 2016, <https://iogt.org/news/2016/03/03/malaysia-alcohol-tax-set-to-increase>, accessed 10 December 2019.

crisis helplines such as Befrienders (through waived call charges) and calling for a study into the decriminalisation of attempted suicide (perceived as important in facilitating access to health services by the most vulnerable). These build on existing initiatives such as the Healthy Mind Programme for mental health promotion (run by the MOH) and screening and intervention among secondary school students by the MOE.⁷⁷⁰ The MOH is also in the final stages of developing a Strategic

Action Plan on National Mental Health. This action plan is scheduled to be launched, with implementation beginning in 2020. The focus of this action plan is smart partnerships between government agencies, NGOs and professional bodies who will focus on raising awareness on the importance of getting help and the treatment for mental health problems and also improving the quality of services for mental health.

Adolescent health: Policy implications

The GOM should take sustained action on adolescent health issues, as part of a broader, multi-sector strategy on adolescents. This could include:

Strengthening the capacity of health providers to deliver adolescent- and youth-friendly services, particularly sexual and reproductive health and mental health services, along with substance abuse information and services.

Raising awareness among children and adolescents and the adults in their lives about mental health concerns, prevention and support services.

Support the development of school counsellors, and ensure they have the skills and knowledge to provide effective advice and sign-posting to services for adolescents on SRH and mental health needs.

Provide training to schools for the identification, prevention and response to mental health challenges among adolescents.

Strengthen comprehensive sexuality education, and other life skills education to support adolescents to avoid risky behaviour, and to equip them with protective behaviours.

Support communication and awareness raising activities to address gender discriminatory stereotypes around sexuality and the stigmatisation of pregnancy of unmarried girls and women.

Work to amend the legal provisions that criminalise suicide and abortion, to help in de-stigmatising mental health issues and ensuring access to safe abortion for adolescent girls and women.

⁷⁷⁰ The Star Online, *Universal Role to Prevent Suicide*, 11 September 2019, available at: <https://www.thestar.com.my/opinion/letters/2019/09/11/universal-role-to-prevent-suicide#wVkcErUZuYmSFdS.99>

4.3. **EQUITABLE ACCESS TO EARLY CHILDCARE AND DEVELOPMENT (ECCD)**

ECCD refers to a range of processes, mechanisms and programmes to support the holistic development of children from 0 to 8 years. Quality ECCD is crucial: the rapid brain development and growth that take place during this age band provides an important opportunity for optimising a child's development through holistic education, care, health, nutrition, protection and stimulation interventions. Children who have participated in quality ECCD tend to show strong gains in social, cognitive and intellectual development.⁷⁷¹ Early childhood is also the time when gender roles and expectations become embedded within children's psychology and behaviours and it is thus essential that ECCD programmes operate in such a way that they do not perpetuate inequality, but rather challenge discriminatory gender roles.⁷⁷²

4.3.1. The situation

Childcare centres

As set out in Part 3, the number of registered childcare centres has been steadily increasing in recent years: in 2013, 2,194 units were registered compared to 4,240 units as of June 2016.⁷⁷³ However, this is not sufficient to cover all children. 13,500 childcare centres are needed to provide universal childcare by 2020, assuming 59 per cent of women will return to the workforce.⁷⁷⁴

There are little publicly available data on attendance at childcare centres for very young children. Information relating to childcare centres is recorded in the Department of Social Welfare website.



The importance of quality parenting/caregiving

Early childhood development and learning begins at conception, with parents playing a key role, particularly from the ages of 0 to 3 years. There are limited data on parenting styles in Malaysia, including the different types of parenting practices used in different parts of Malaysia, and child outcomes related to these styles. There also appear to be limited data indicating the types of challenges Malaysian parents and caregivers face, and the types of support that would be beneficial. There is a need for further research to be carried out in this area.

It is essential to ensure that knowledge is built, and skills are developed so that parents and carers can support the development and wellbeing of their children, particularly in the very early years, through a range of multi-sector enabling policies and programmes. However, it is also important to ensure that support is given to caregivers right across the life course to adulthood.



Mother and child from the village of Kampung Numbak in Kota Kinabalu, Sabah.

771 UNESCO AND UNICEF, 'Early childhood care and education', *Asia-Pacific end of decade notes on education for all 2012*, p. 1.

772 See, e.g. Martin CL, Ruble DN. *Patterns of gender development*, *Annu Rev Psychol.*, 2010, 61:353-381.

773 Hussin, N et al, *Parental Perceptions of Childcare Service Quality: A Descriptive Analysis*, *International Journal of Academic Research in Business and Social Sciences*, 9(2), 2019, pp. 1004-1013.

774 Government Transformation Programme, *The Roadmap 2.0, Catalysing Transformation for a Brighter Future*, Jabatan Perdana Menteri.

Early childhood education (ECE)

ECE is not compulsory in Malaysia, but pre-school is available to 4+ and 5+ year-olds. According to the 2017 MOE Annual Report, national pre-school enrolment for children aged 4+ and 5+ combined, stood at 84.3 per cent, with 884,983 students attending ECE.⁷⁷⁵ This represents a significant increase from 2010, where the enrolment rate was 72.4 per cent, but a slight decrease from 2016, where enrolment stood at 85.5 per cent.⁷⁷⁶

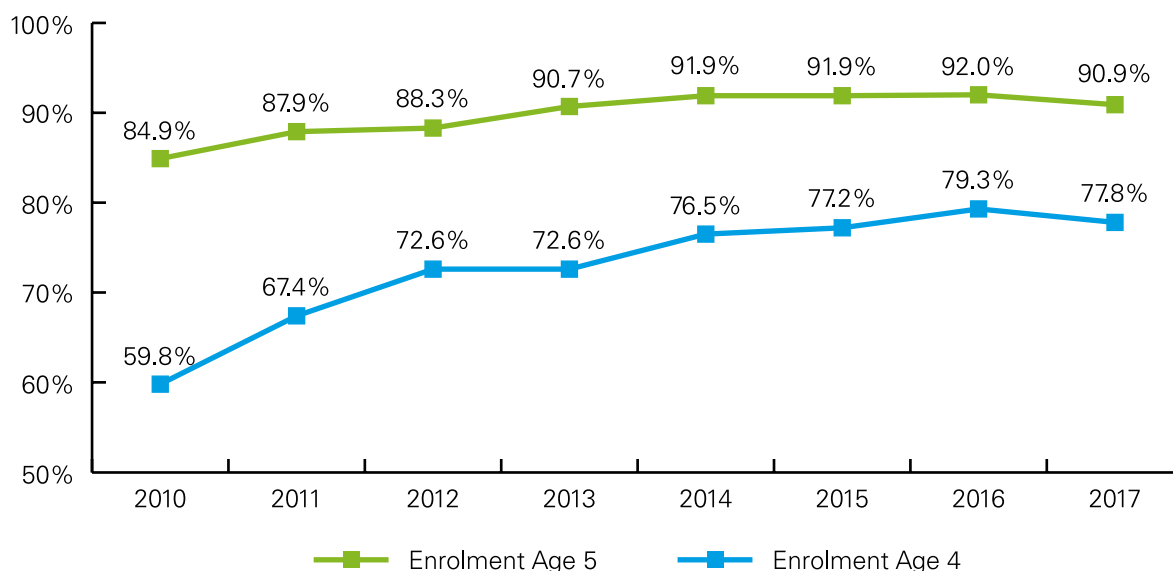
Lack of disaggregated data by gender on enrolment in ECE means that it is not known whether or not a gender gap exists. More research should be conducted on this to ensure equity at ECE level between boys and girls, as quality ECE provides a foundation for healthy development. According to the UNICEF study on children living in Kuala Lumpur's low-cost flats (PPR), 51 per cent of five- and six-year-olds in the study were not attending pre-school,⁷⁷⁸ indicating that poorer families face access barriers to ECE.

The increase in enrolment may be due to a rise in the number of private pre-schools that have been registered with the MOE (7,360 in 2016 compared with 7,591 in 2017).⁷⁷⁹ The majority (56 per cent) of pre-school classes are privately provided. In 2017, 1,387 new pre-school classes were opened, 1,181 of which were privately run.⁷⁸⁰

Of the 22,315 publicly-provided pre-school classes in Malaysia, the majority (11,206) are provided by the Department of Community Development under the Ministry of Rural Development (KEMAS), with a further 9,328 provided by the Ministry of Education (MOE) and 1,781 provided by the Department of National Unity and Integration (JPNIN) under the Prime Minister's Department.⁷⁸²

To achieve universal enrolment in pre-school, 60 per cent of enrolment must be in private pre-schools. The Ministry of Education recognises that more effort is required to achieve this target by 2020.⁷⁸³

FIGURE 45: National pre-school enrolment (%) for ages 4 and 5, 2010-2017



Source: MOE, 2017⁷⁷⁷

775 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025, 2018.

776 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025, 2018.

777 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025, 2018, p. 39.

778 UNICEF, Children Without, 2018, p. 33.

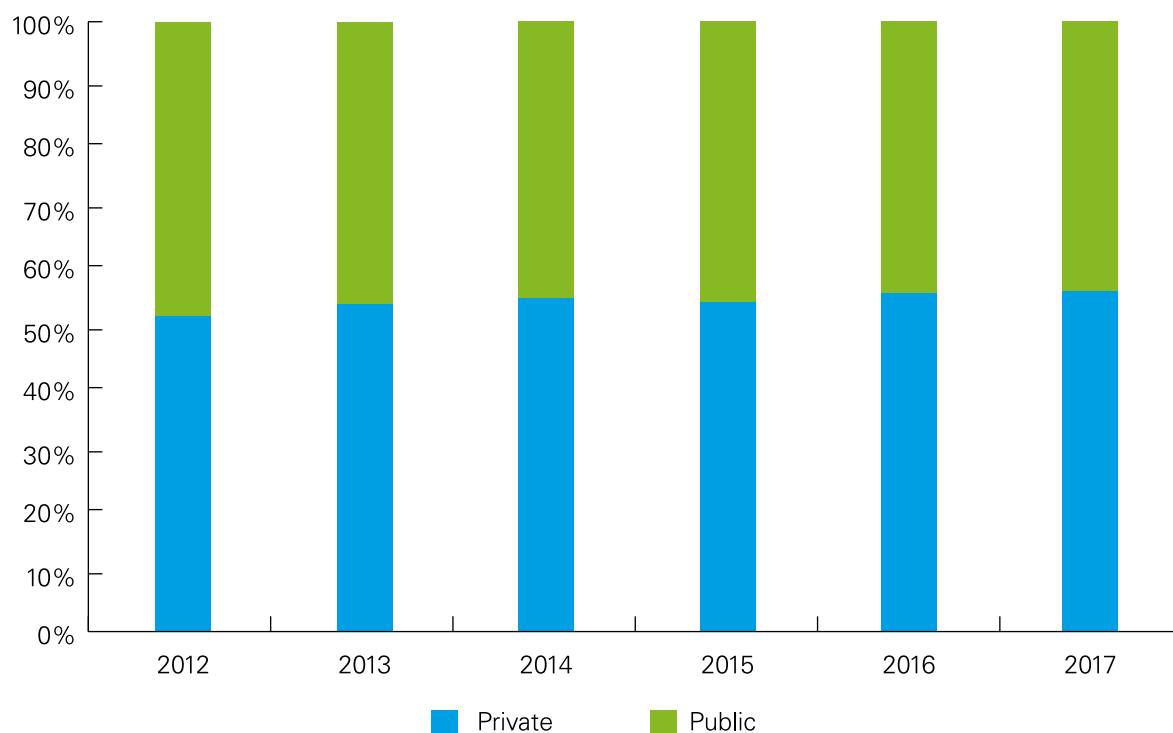
779 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025, 2018.

780 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025, 2018.

781 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025.

782 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025, 2018.

783 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025, 2018.

FIGURE 46: Breakdown of private and public pre-school classes in Malaysia (%)

Source: Ministry of Education Malaysia (2017)⁷⁸¹

Unfortunately, **little information is available on the quality of ECE** in Malaysia. Under the Education Act, pre-schools must adhere to the Standard National Pre-school Curriculum (KSPK), which sets guidelines for all pre-school providers. The KSPK was revised in 2016 to ensure a uniform standard of quality in public and private pre-schools throughout Malaysia. The MOE must regularly monitor the implementation of KSPK in all pre-schools, due to growing concern regarding the manner in which the curriculum is being implemented. Since there are different providers which might use their own curriculum although they are advised to use KSPK, having several providers could lead to uneven ECE across Malaysia.

4.3.2. Causal analysis

Assessing equitable access to ECCD in Malaysia is challenging due to the limited data that are available in relation to the attendance of children in childcare centres and the lack of disaggregated data by gender in relation to enrolment in ECE, including on the quality of ECE that is provided to children.

Immediate causes

Low availability of places: Historically, there has been low availability of childcare, and low enrolment of children under four in early childhood education settings, which can limit the child's educational opportunities in later life, and which can make it difficult for primary caregivers, often women, to work outside of the home.⁷⁸⁴

Cost barriers: Where places are available, they may fall under private ownership and therefore be prohibitively expensive for parents.

Physical access: Physical access, linked to uneven distribution of kindergartens, is also a barrier in more rural and remote areas. It has been found, for example, that nearly 16 per cent of rural households in Sarawak are located five or more kilometres away from public kindergartens.

⁷⁸⁴ Government Transformation Programme, The Roadmap 2.0, Catalysing Transformation for a Brighter Future, Jabatan Perdana Menteri.

Underlying causes

Quality concerns: Parents may be unwilling to enrol their children in ECCD. A 2019 study found that in Malaysia childcare centres must meet high standards to meet the expectations of parents.⁷⁸⁵ Without assured quality, parents will be reluctant to send their children to these centres.

Systemic causes

Data gaps: There are limited data available on disparities in access to ECCD, and on the drivers of non-enrolment. This has made it difficult to assess the GOM's progress in achieving universal access to ECCD and also makes it difficult to ensure effective programmes are in place and that resources are allocated effectively to achieve universal access and quality of ECCD. The limited research on parenting practices and the challenges and needs of parents/carers in providing quality caregiving to children is also a notable gap and creates challenges in identifying the type of support and programmes that will be effective in supporting parents.

Inequality and poverty of access and opportunity:

Some parents or carers are unable to enrol their children in ECCD settings because they do not have the money to do so. At a system-wide level, this is reflected in disparities in access and enrolment.

4.3.3. Government response

Early Childhood Care and Education in Malaysia is split into two categories: 0-3+ year-olds come under the MWFCDC **child care centres**; and 4+-5+ year-olds fall under **pre-school education**. Provision of Early Childhood Care and Education (ECCE) for children under the age of four is under the mandate of the Ministry of Women, Family and Community Development. Under the Childcare Centres Act of 1984, childcare centres must be registered with the DSW.⁷⁸⁶ There are four categories of childcare centres: home-based child care centres which receive less than ten children; work place-based childcare centres; community-based childcare centres which receive ten or more children with aid from the Federal or State Government; and institution-based childcare centres.⁷⁸⁷

The Department of Social Welfare also runs programmes to support families through **child activity centres**.⁷⁸⁸

At the national level, parenting courses are offered by the National Population and Family Development Board (LPPKN). There are also regional examples; the Welfare, Women and Community Wellbeing Ministry of Sarawak offers parenting programmes to promote child-friendly parenting, including, for example, the Parenting Teenagers Course that provides guidance to young parents.⁷⁸⁹

Under the Education Act, pre-schools must adhere to the Standard National Pre-school Curriculum (KSPK), which sets guidelines for all pre-school providers. The KSPK was revised in 2016 to ensure a **uniform standard of quality** in public and private pre-schools throughout Malaysia.

In 2015, the MOE established a **Minimum Quality Standard Assessment for Pre-schools**. In 2017, 98.86 per cent of the 23,285 Pre-schools that completed the assessment met the Minimum Quality Standard prescribed for pre-schools by the Government.⁷⁹⁰ However, this tool relies on self-assessment and it is important that the results of these assessments are verified to ensure that pre-schools are in fact achieving a high standard of teaching.

The Department of Social Welfare runs programmes to support families through child activity centres. At a national level, parenting courses are offered by the National Population and Family Development Board (LPPKN).

785 Hussin, N et al, *Parental Perceptions of Childcare Service Quality: A Descriptive Analysis*, International Journal of Academic Research in Business and Social Sciences, 9(2), 2019, pp. 1004-1013.

786 Government of Malaysia, 1984, *Act 380: Child Care Centre Act*.

787 Government of Malaysia, 1984, *Act 380: Child Care Centre Act*, Part II, Section 5(a)-(d).

788 CELCIS, *Family support programmes, Malaysia*, <https://www.alternativecareguidelines.org/PromisingPractice/Familysupportprogrammes,Malaysia/tabid/2584/language/en-GB/Default.aspx?tabid=2585&language=es-ES>, accessed 25 September 2019.

789 The Star, "Parenting programme to help build strong family ties" 30 May 2017, <https://www.thestar.com.my/metro/community/2017/03/30/parenting-programme-to-help-build-strong-family-ties#UC9MTf8tEEvg7mCO.99>, accessed 25 September 2019.

790 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

Equitable access to ECCD: Policy implications

Efforts should be made by the GOM to ensure universal and equitable access to ECCD. In particular, the GOM should:

Increase the number of affordable ECCD places across all areas of Malaysia, to ensure equitable access.

Provide partly or fully subsidised places to children from poor households.

Improve the supply and quality and ensure the cultural relevance of ECCD for OA children.

Ensure that inclusive ECCD programmes are available for children with disabilities, and that quality, tailored support to parents / carers of children with disabilities is available and accessible.

Improve quality monitoring and ECCD services and make this information available publicly, to reassure parents considering enrolling their children.

Improve the knowledge base on parenting in Malaysia, and on the needs and challenges facing parents / carers in the delivery of quality and nurturing caregiving.

4.4. QUALITY OF EDUCATION AND LEARNING OUTCOMES

Pupils' performance in international standardised tests provide some evidence of challenges in the quality of education provided in Malaysian secondary schools, as compared to other education systems. In addition, there are significant concerns over inequality in education and learning outcomes across gender and in relation to rural/urban (and urban poor) divides, as well as for children from ethnic minority groups.⁷⁹¹

Quality of education is a matter of concern to Malaysian adolescents. In the 2019 Change for Children Survey, respondents were asked to select priority areas of focus if they were head of the United Nations. The second most popular selection among Malaysian

adolescents (74 per cent) was 'inclusive quality education for all children, including children with disabilities, migrant and refugee children.'⁷⁹² According to a U-Report poll carried out in 2019 involving 318 respondents, the highest number of respondents (62.9 per cent) said that quality of education was the most important challenge facing adolescents in Malaysia.⁷⁹³

4.4.1. The situation

Results from international and national tests demonstrate that, while standards are improving, Malaysia continues to lag behind in terms of learning outcomes, and there are some disparities in outcomes.

International tests

Data from the Program for International Student Assessment (PISA) show that, in 2018, **students in Malaysia scored below the OECD average** in reading,

⁷⁹¹ See Part 3.5.3.

⁷⁹² UNICEF, *Change for children survey* (2019), p. 10.

⁷⁹³ UNICEF Malaysia, U-Report Poll on 'Views of Youth For A Better Malaysia', September 2019.

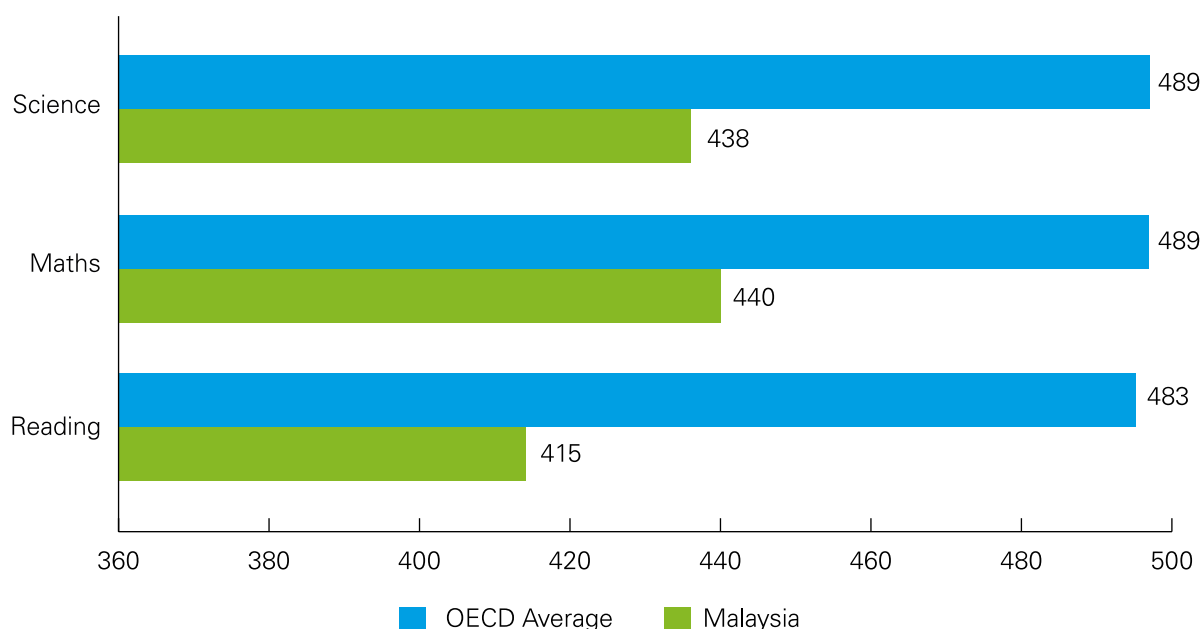
mathematics and science. While Malaysia has made some improvements over the last ten years, Malaysian students are still under-performing in comparison to international averages. In the most recent PISA assessment (2018), 54 per cent of Malaysian students attained minimum proficiency in reading, 59 per cent in maths and 63 per cent in science, against the OECD average of 77 per cent (reading), 76 per cent (maths) and 78 per cent (science).⁷⁹⁴ Though it is noted that this represents a positive trend over the past 10 years: in 2009, almost 60 per cent of the 15 year-old Malaysian students who participated in PISA failed to meet the minimum proficiency level in maths, and 44 per cent and 43 per cent failed to meet minimum proficiency in reading and science respectively.⁷⁹⁵ However, while there was some improvement, Malaysian students still performed substantially lower than OECD averages in all subjects (see Figure 47).

National examinations

Children take national examinations at the end of year 6 – Ujian Pencapaian Sekolah Rendah (UPSR) and year 11 – Sijil Pelajaran Malaysia (SPM); though the centralised assessment (PT3) has replaced the Penilaian Menengah Rendah (PMR). The aggregated results of these examinations give an indication of educational outcomes for Malaysian students and in turn, can be used as an indicator of quality in educational provision.

Outcomes at UPSR level have improved in recent years. For example, in the English Language Papers, the percentage of passes increased from 82.6 per cent to 85.6 per cent in comprehension but decreased from 77.1 per cent to 73.6 per cent in writing between 2016 and 2017.⁷⁹⁷ Furthermore, the State average GPA increased in every state in 2017 when compared to the previous year.⁷⁹⁸

FIGURE 47: Mean PISA test scores in reading, maths and science – Malaysia and OECD (2018)



Source: Schleicher, A (2019)⁷⁹⁶

⁷⁹⁴ OECD, *Results from PISA 2018: Malaysia*, 2019, https://www.oecd.org/pisa/publications/PISA2018_CN_MYS.pdf

⁷⁹⁵ OECD, *Results from PISA 2018: Malaysia*, 2019.

⁷⁹⁶ Schleicher, A, *PISA 2018: Insights and interpretations* (2019), p. 6.

⁷⁹⁷ MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

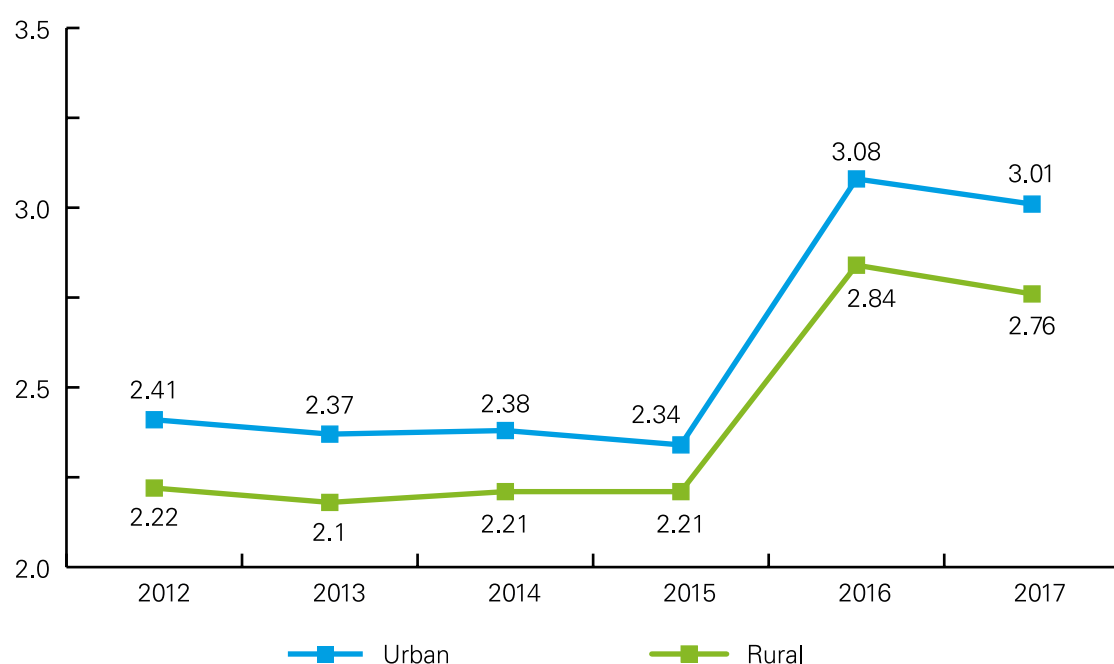
⁷⁹⁸ MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

Looking at Grade Point Average (GPA), **girls outperform boys** for the UPSR, with a national GPA of 2.9 compared to 2.7 for male students.⁷⁹⁹ There is also an **achievement gap in national examinations between urban and rural schools**. Urban schools perform better at UPSR level with an average GPA of 3.01 compared to 2.76 in rural schools.⁸⁰⁰ This achievement gap has increased in recent years from 0.19 points in 2012 to 0.25 in 2017, suggesting that although overall results are improving in both rural and urban schools, these improvements are not equitably distributed. Variation also exists across and within states: in 2011, there were almost 20 percentage points difference between the results in larger, better performing states such as Johor than the lowest performing state, Sabah, and 16 out of 20 of the lowest performing states were in Sabah and Sarawak.⁸⁰¹

At the end of the 11th Grade, students must take the SPM or Malaysian Certificate of Education examination, in order to graduate from secondary school. It is sat before students enter form six or technical education. Students must take seven compulsory subjects and then can elect to take subjects in a number of other areas. In 2017, results showed improvement in pass rates in all states of Malaysia.⁸⁰³

Girls outperform boys in the SPM, with a national Grade average of 4.58 compared to 5.41 for boys (where a lower score represents a higher grade).⁸⁰⁴ **Urban schools outperform rural schools**, with the urban-rural gap wider than for the UPSR. The MEB sets the target for reducing the rural/urban gap in national examinations by 50 per cent by the end of Wave 2 in 2020.⁸⁰⁵ Whilst the gap did not reduce between 2016 and 2017, it has significantly narrowed since 2012.⁸⁰⁶

FIGURE 48: Achievement for UPSR, GPA, in urban and rural schools, 2012-2017



Source: Ministry of Education Malaysia (2018)⁸⁰²

799 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025, 2018.

800 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025, 2018.

801 MOE, Malaysia Education Blueprint 2013-2025, 2018.

802 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025, 2018.

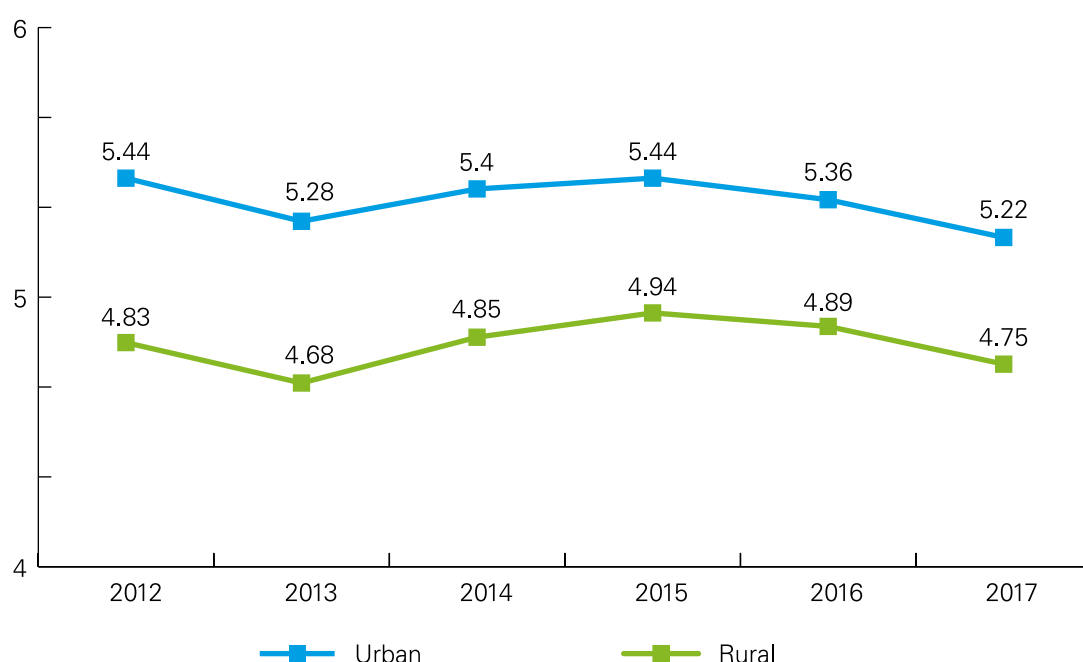
803 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025, 2018.

804 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025, 2018.

805 MOE, Malaysia Education Blueprint 2013-2025 (Pre-school to Post-Secondary Education).

806 MOE, 2017 Annual Report: Malaysia Education Blueprint 2013-2025, 2018.

FIGURE 49: Achievement for SPM, GPA, in urban and rural schools, 2012-2017



Source: Ministry of Education Malaysia (2018)⁸⁰⁷

Across all examinations, children from poor households and schools with a larger proportion of students from poor households have lower achievement, suggesting a **socio-economic achievement gap**.⁸⁰⁸

Public perceptions of the education system are reportedly mixed, with industry leaders and employers expressing concern over the extent to which students are being equipped with the right skills, noting **the lack of higher-order thinking skills** (problem-solving and creative thinking) and low level of English proficiency.⁸⁰⁹

4.4.2. Causal analysis

Immediate causes

Quality of teaching: One of the most obvious immediate causes of poor quality in the education system is the underperformance of teachers. A 2013 report by World Bank⁸¹⁰ noted the poor quality of teachers as one barrier to improving quality and learning outcomes in Malaysia: 93 per cent of those applying to a Bachelor of

Education and 70 per cent of those offered a place in the programme did not have the necessary qualifications and only three per cent of offers were granted to applicants considered high-performers.

Engagement of students: It is also essential that students are engaged in learning, so that quality is realised in practice. The gender and rural/urban disparities in achievement suggest that it may be necessary to focus on engaging boys and children from rural areas more effectively.

Underlying causes

Curriculum challenges: The curriculum is key to quality learning outcomes that are relevant to the modern workforce. An assessment conducted following the 2011 Trends in International Mathematics and Science Study (TIMSS), an international assessment of maths and science achievement in schools, found that 'students in Malaysia were falling behind in TIMSS because they lacked the opportunity to develop Higher Order Thinking Skills'.⁸¹¹

807 MOE, *Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

808 MOE, *Malaysia Education Blueprint 2013-2025*.

809 MOE, *Malaysia Education Blueprint 2013-2025*.

810 World Bank, *Malaysia's economic monitor: High performing education* (2013).

811 TIMSS, 'Encyclopaedia, Malaysia,' <http://timssandpirls.bc.edu/timss2015/encyclopedia/countries/malaysia/>, accessed 10 December 2019.

In the adolescent consultations, participants mentioned quality education as an important issue and noted in particular that teaching is 'too exam orientated' and 'too theoretical' / not practical.⁸¹² Adolescents in the consultation in Sabah mapped the causes for the challenges to the school curriculum (see Figure 50).

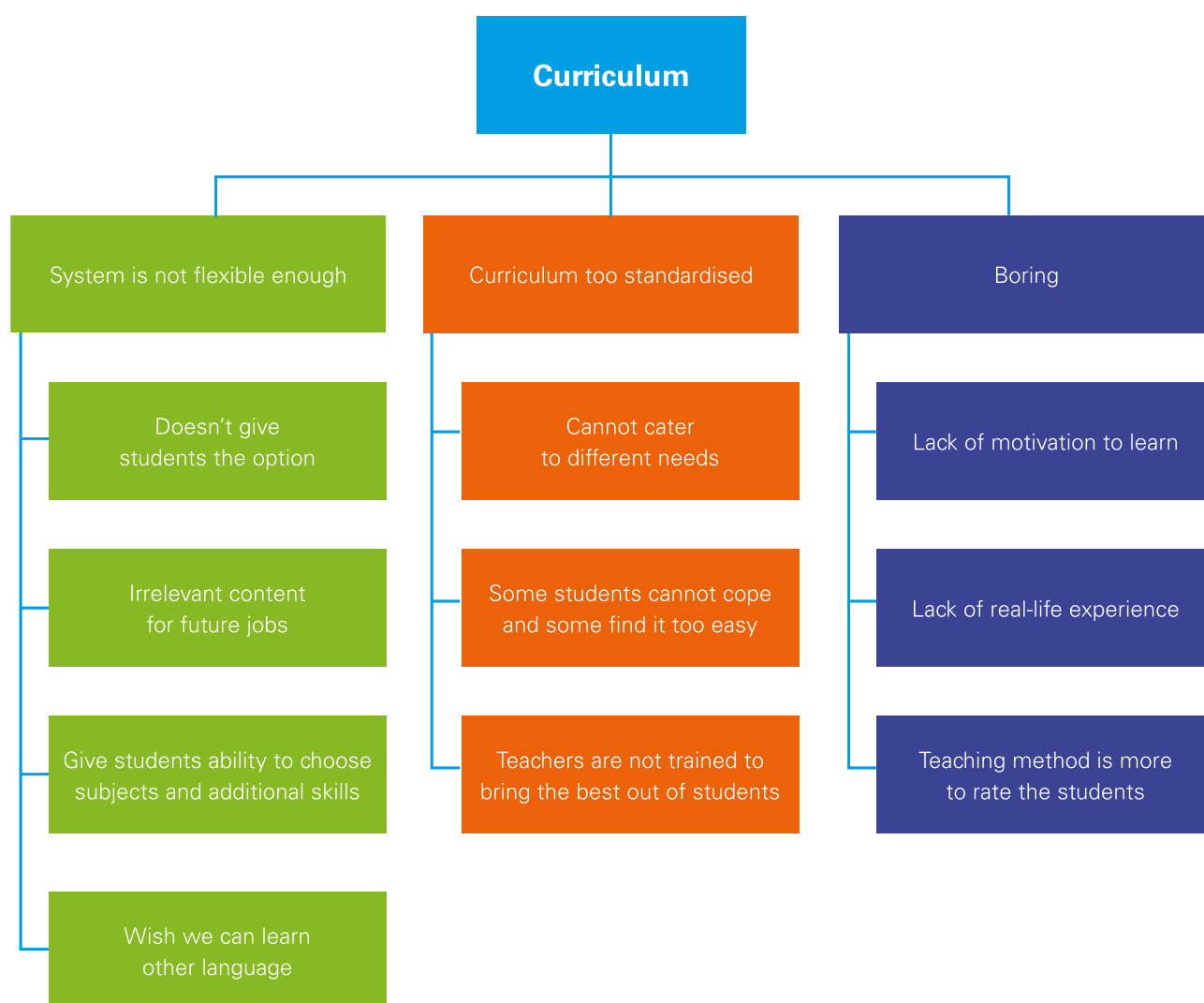
Systemic causes

Governance and centralisation: Notably, some countries that spend less on education continue to be ranked considerably higher than Malaysia in international

tests (PISA).⁸¹³ This suggests that the considerable Government spend on education in Malaysia may not be allocating funds to factors that have the biggest impact on learning outcomes.⁸¹⁴

The World Bank report noted the lack of autonomy at schools as another challenge, finding that rigidity in the syllabuses and their delivery impeded quality learning; the high degree of centralisation in the education system was also found to have impeded the efficient production and distribution of education services.⁸¹⁵

FIGURE 50: Mapping of causes for poor education curriculum, adolescent consultation in Sabah, 2019



812 UNICEF Children Adolescent Consultation, Peninsula (Selangor), Sabah (Kota Kinabalu) and Sarawak (Kuching) in November 2019.

813 OECD, Country Note, *Programme for International Student Assessment, Malaysia*, 2018, p. 10, https://www.oecd.org/pisa/publications/PISA2018_CN_MYS.pdf, accessed 9 December 2019.

814 Ministry of Education Malaysia, *Malaysia Education Blueprint 2013-2025*.

815 World Bank, *Malaysia's economic monitor: High performing education* (2013).

Quality of education and learning outcomes: Policy implications

It is crucial that the GOM prioritise improving the quality of education provision across all levels of education. In particular, it could:

Continue to strengthen the national curriculum to provide higher quality education, in line with international standards, and ensure the relevance of education to the modern market and society.

Make curricula responsive and inclusive to ensure continued enrolment and engagement across ethnicities and religious groups.

Strengthen teacher training and recruitment of quality teachers.

Strengthen inspection and quality assurance of national curriculum and of teaching.

Increase student engagement through innovative, engaging school programmes, activities and clubs.

4.4.3. Government response

Following the 2011 TIMSS assessment, Malaysia endeavoured to update the curriculum, text books and teaching and introducing a new curriculum for science and maths in 2017.⁸¹⁶

4.5. INCLUSIVE EDUCATION

Inclusive education, as defined in the Salamanca Statement⁸¹⁷ entails 'recognition of the need to work towards 'schools for all' – institutions which include everybody, celebrate differences, support learning, and respond to individual needs.' Inclusive education begins with the premise that all learners have unique characteristics, interests, abilities and particular learning needs and, further, that learners with special education

needs must have equal access to and receive individual accommodation in the general education system. Inclusion implies transition from separate, segregated learning environments for persons with disabilities, to schooling in the general education system.

The Malaysian Education Rules (Special Education) 1997 set out three different types of special educational provision: special schools, integration programmes (SEIP) and inclusive programmes (IEP). The first, Special Educational Schools, include schools for the blind or deaf, for example, and provide separate educational facilities to children with special educational needs. The second, Special Education Integrated Programmes are separate classes in mainstream schools, which most commonly serve children who are diagnosed with Down's syndrome, mild autism, developmental delays, attention deficit hyperactivity disorders, and specific learning disabilities.⁸¹⁸ While the final, Inclusive Education

816 TIMSS, 'Encyclopaedia, Malaysia,' <http://timssandpirls.bc.edu/timss2015/encyclopedia/countries/malaysia/>, accessed 10 December 2019.

817 The Salamanca Statement emerged from the 1994 the Salamanca World Conference on Special Needs Education, <http://unesdoc.unesco.org/images/0009/000984/098427eo.pdf> 4, 10 December 2019.

818 Zalizan M. Jelas & Manisah Mohd Ali, *Inclusive education in Malaysia: Policy and Practice*, International Journal of Inclusive Education, 2014.

Programmes, are where children are included fully in mainstream schools, with additional support.⁸¹⁹

4.5.1. The situation

Primary education is compulsory in Malaysia and children with disabilities have the right to access education with 'reasonable accommodation' to meet their individual needs. However, **a tiered system exists** where most children with disabilities do not realise their right to a quality, inclusive education, but instead experience segregated (as in special education) or integrated education systems.⁸²⁰

A 'zero reject' policy stipulates that no child can be turned away from education, though, as noted earlier in this report, this does not include all children who are stateless, undocumented migrant children or refugees. Since its implementation, over 10,000 children with disabilities have been enrolled in education.⁸²¹ Though education continues to be difficult to access for many children with disabilities.

Available data suggests that **one in three children with disabilities is out of school** compared with one in seven of their peers without disabilities.⁸²²

Additional barriers to education for children with disabilities are often encountered by **children from rural areas and those who come from lower economic backgrounds**, and their invisibility is often compounded by unsupportive parental attitudes and societal stigma among their peer group and the community.⁸²³ A recent UNESCO Global Education Monitoring report showed that low-income families with children with disabilities in Malaysia often kept children with disabilities out of school in favour of sending their siblings without disabilities.⁸²⁴

As set out in Figure 51, the enrolment of students with disabilities in the Inclusive Education Program (IEP) has seen a 21 per cent increase from 2013 to March 2017 in mainstream education.

FIGURE 51: Enrolment of students with special education needs (SEN) in IEP March 2017

YEAR	TOTAL NUMBER OF SEN STUDENTS	NUMBER OF SEN STUDENTS IN IEP	PERCENTAGE (%)
2013	56,406	5,376	9.06%
2014	58,006	10,700	18.44%
2015	75,715	16,899	23.24%
2016	76,166	23,048	30.26%
2017 (as of May)	74,694	22,465	30.08%

Source: MOE, 2017⁸²⁵

819 The 5th National and 3rd International Conference on Education (NICE), A Preliminary Study on Leading Special Education in National School in Malaysia: Special Education Integrated Programme (SEIP), 2p. 155.

820 MOE, *Malaysia Education Blueprint 2013-2025*.

821 The Star, 'Dr Mazlee: over 10,000 special needs children enrolled in schools under zero reject policy,' 7 May 2019, <https://www.thestar.com.my/news/nation/2019/05/07/over-10000-special-needs-children-enrolled-in-schools-under-zero-reject-policy/>

822 UNICEF, *Issue Brief, Children with Disabilities in Malaysia*, 2019.

823 UNESCO, *Policy guidelines on inclusion in education*, 2009, <https://unesdoc.unesco.org/ark:/48223/pf0000177849>, accessed 10 December 2019.

824 UNESCO, *Global Education Monitoring 2019*, <http://unesdoc.unesco.org/images/0026/002658/265866E.pdf>, accessed 10 December 2019.

825 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, p. 230.

While the enrolment rate of children with disabilities in mainstream schools is rising, it remains low at 50.49 per cent in 2018, compared to 40.9 per cent as at 2017.⁸²⁶ Effective transitions from special education approaches to inclusive education requires **careful planning and structural changes** to ensure that learners with disabilities are not placed within the regular or mainstream school system without the appropriate accommodation and supports that ensure an inclusive learning environment. It is unclear whether sufficient planning and transitioning has been carried out in order to ensure the provision of meaningful and quality inclusive education in practice.

4.5.2. Causal analysis

Immediate causes

Gaps in availability of skilled staff: Gaps exist in the availability of sufficiently trained teachers, specialists, health support staff and resource personnel in Malaysia

in order to ensure the effective implementation of inclusive education. The absence of this service in the schools has been a major barrier to the full implementation of inclusive education in Malaysia.⁸²⁷

Underlying causes

Attitudes towards children with disabilities: Family and community attitudes towards children with disabilities and disability itself leads to stigmatisation of children with disabilities, and reluctance on the part of families to register as a person/child with disabilities for the purposes of health and education programming and support.⁸²⁸

Structure of educational provision: There are three different types of provision for education of children with special educational needs, only one of which is (at least on paper) 'inclusive'. The other two forms involve segregation either within mainstream schools, or in entirely separate schools.



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A teacher guides her student with disabilities at a school in Kuala Lumpur, Malaysia.

826 MOE, *Annual Report 2016, Malaysia Education Blueprint 2013-2025*.

827 Lay Wah Lee and Hui Min Low, *The Evolution of Special Education in Malaysia*, British Journal of Special Education, Volume 41 Number 1, 2014.

828 UNICEF, *Childhood Disability in Malaysia*, 2017.

Systemic causes

Gaps and barriers in diagnostic health services:

Rates of disability in Malaysia seem unusually low, which suggests that many children are not receiving the right type of inclusive education because their disabilities are not being identified. Although this may lead to de facto inclusion because they are not considered to have a disability, it also likely leads to children receiving inadequate educational support and could lead to early drop out or disengagement / barriers to participation.

Data gaps: The absence of household survey data on children with disabilities has inevitably led to poor targeting and inadequate provision of services.

4.5.3. Government response

The **Malaysia Education Blueprint 2013-2025** sets out a preference for inclusive education of children with special educational needs and has set a target of having 75 per cent of students with special needs enrolled in an Inclusive Education Programme by 2025. Concern has been expressed that this target is too low.⁸²⁹

The Special Educational Division of the Ministry of Education has created **Special Education Service Centres** throughout Malaysia in order to bring related services together. However, due to the lack of staff posts created for these services, they remain limited.⁸³⁰

Inclusive education: Policy implications

In order to ensure the right to education for all Malaysian children, it is imperative that the GOM prioritise the development of quality, inclusive education and ensure that barriers are removed for children with disabilities accessing inclusive education. It could:

Strengthen the legal framework to support children with behavioural difficulties as children with disabilities.

Ensure the supply of trained, skilled teachers in mainstream schools and increase their capacity to deliver quality, inclusive education and ensure the supply of quality support staff for children with disabilities.

Raise awareness of disability in the community to address stigmatisation and ignorance around children with disabilities and their access to education and other services.

Strengthen support and accessibility measures for children with disabilities to attend school.

⁸²⁹ United Nations Malaysia, *Leave no-one behind: Ensuring a prosperous nation through inclusivity and well-being for all*, Policy Brief, 2019.

⁸³⁰ Lay Wah Lee and Hui Min Low, *The Evolution of Special Education in Malaysia*, British Journal of Special Education, Volume 41 Number 1, 2014.

4.6. VIOLENCE, ABUSE AND NEGLECT OF CHILDREN (VAC)

Available data indicate that children in Malaysia are exposed to violence, abuse, neglect and exploitation across a range of settings. Violence is an issue that is of some concern to Malaysian adolescents. In the 2019 Change for Children Survey, respondents were asked to select priority areas of focus if they were head of the United Nations. Among the five most popular selections for Malaysian girls and those who did not reveal their gender was 'ending gender-based violence such as rape, sexual violence and child marriage' (60 per cent of girls and 66 per cent of children who did not reveal their gender selected this issue).⁸³¹

4.6.1. The situation

The 2017 NHMS focused on adolescents across three different age groups: early adolescence (10-14 years old), middle adolescence (15-17 years) and late adolescence (18-19 years).⁸³² According to the survey, 25.3 per cent of adolescents (aged 10-19) stated that they had been **physically attacked**, with a significantly higher incidence among males (at 31.4 per cent) compared to females (19.3 per cent). Prevalence rates were highest in Kuala Lumpur (at 30 per cent) and lowest in Terengganu (19.2 per cent). The NHMS reported no significant difference between rates in urban and rural areas. When disaggregated for ethnic group, Indian adolescents had the highest rate of being physically attacked at 35.3 per cent, while Malays had the lowest rate at 24.1 per cent.⁸³³

One quarter (24.9 per cent of adolescents) reported being involved in **physical fights** in the past 12 months, with more males than females reporting fighting (at 32 per cent compared to 17.9 per cent). This time, the highest rates were reported in WP Kuala Lumpur (at 28.2 per cent) and the lowest in Kedah (21 per cent), but, again, there was no significant difference between urban and rural locations. Indian adolescents reported the highest rates of fighting, at 36.2 per cent, while Chinese reported the lowest rates, at 22 per cent. For both physical attacks and fighting the youngest children (Form 1) reported the highest prevalence rates.

The **gender disparities** in relation to physical violence as compared to reporting of children in need of care and protection are revealing. More boys report being involved in physical attacks in the NHMS but more cases involving girls are referred for being in need of care and protection. This could suggest that girls tend to be subject to different forms of violence and abuse, or that forms of violence and abuse against girls are more likely to be detected.



Protection needs of children with disabilities

It is important to recognise that children with disabilities have additional vulnerabilities to violence, exploitation, abuse and neglect, and therefore may require additional attention to their protection needs. Children with disabilities in Malaysia are protected from discrimination by the Child Act 2001 and the Persons with Disabilities Act 2008, as well as the National Policy and the National Plan of Action for Persons with Disabilities. However, a 2014 Report on Children with Disabilities in Malaysia found that few policies and provisions catered for children with disabilities specifically, despite their heightened risk of violence, exploitation, abuse and neglect and recommended, in particular, stronger data collection and information gathering on child protection and children with disabilities.



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Norbashirah, 16, visually impaired student of Setapak Special Education School reads a book produced by UNICEF "It's About Ability: an Explanation to the Convention of the Rights of People with Disabilities" which was converted to Braille through a UNICEF project with the Malaysian Association for the Blind in 2013.

831 UNICEF, *Change for children survey* (2019), p. 10.

832 MOH, *National Health and Morbidity Survey*, 2017, preface.

833 MOH, *National Health and Morbidity Survey*, 2017, p. 160.



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Girl, 8, is abused by one of her family members. Her case is being handled by a social worker from the Department of Social Welfare. The social worker has been trained under a pilot project aimed at ensuring that child protection workers have the professional competencies to respond to child maltreatment cases.

Violence, abuse and neglect in the home

The 2017 NMHS reported that adolescents experience **physical violence in the home** at a prevalence rate of 11.8 per cent, (the highest in Selangor and lowest in Melaka), with a slight difference in urban and rural locations at 11.4 per cent and 12.3 per cent respectively.⁸³⁴ There was no significant difference in violence against girls compared to boys and, again, adolescents in Form 1 reported the highest prevalence rates (at 18.1 per cent). The lowest prevalence rates of physical violence in the home were reported by Malay children (at 9.9 per cent), with Indian children reporting the highest rates (at 24.4 per cent).⁸³⁵

Verbal abuse rates were reported at 43.2 per cent for all adolescents in the home, with the highest rates recorded in Sabah (50.1 per cent) and the lowest in Kedah (36.9 per cent). Significantly more girls than boys reported experiencing verbal abuse (49.2 per cent compared to 37.2 per cent) and there was no significant difference between urban and rural areas. Malay children reported the highest prevalence of verbal abuse in the home (52.3 per cent), with Chinese children reporting the lowest (29.6 per cent).

Sexual violence

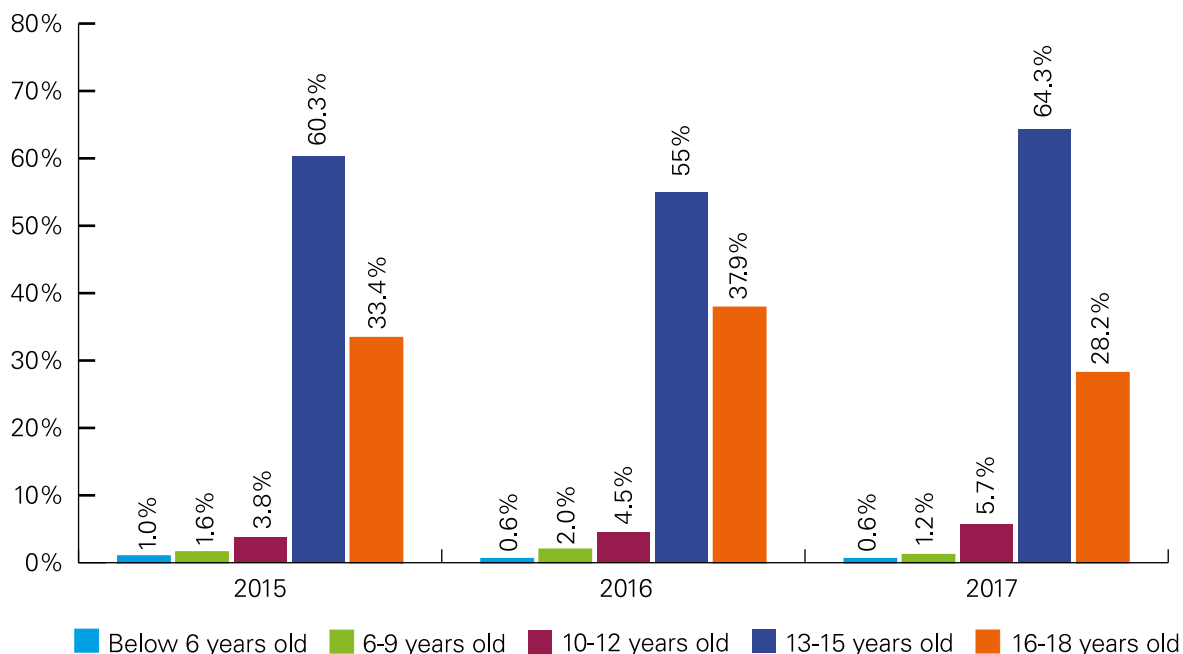
Children in Malaysia are protected by, among other laws, the Sexual Offences against Children Act 2017, which criminalises a wider range of sexual offences against children, as well as by the Child Act 2001 and the Penal Code. The Royal Malaysia Police force publishes some data relating to criminal sexual offences against children. When reading these data, it is important to recall that they reflect **reported** criminal cases. This is a limitation as there may be limited reporting by victims, particularly given the potential stigma associated with sexual offences and problems accessing justice. It should also be noted that these statistics may include cases involving children who have engaged in 'consensual' sex prior to the minimum age of sexual consent.

The following charts reflect data relating to offences against children but do not provide total figures. However, these can be contextualised using data mentioned in Part 3 from MWCDFD, which reveals that, between 2010 and May 2017, 22,134 children were reported to be **sexually abused**, while 13,272 children were reported to have been raped. The data also reported 6,014 cases of children being sexually molested and 796 cases of incest.

⁸³⁴ MOH, *National Health and Morbidity Survey*, 2017, p. 161.

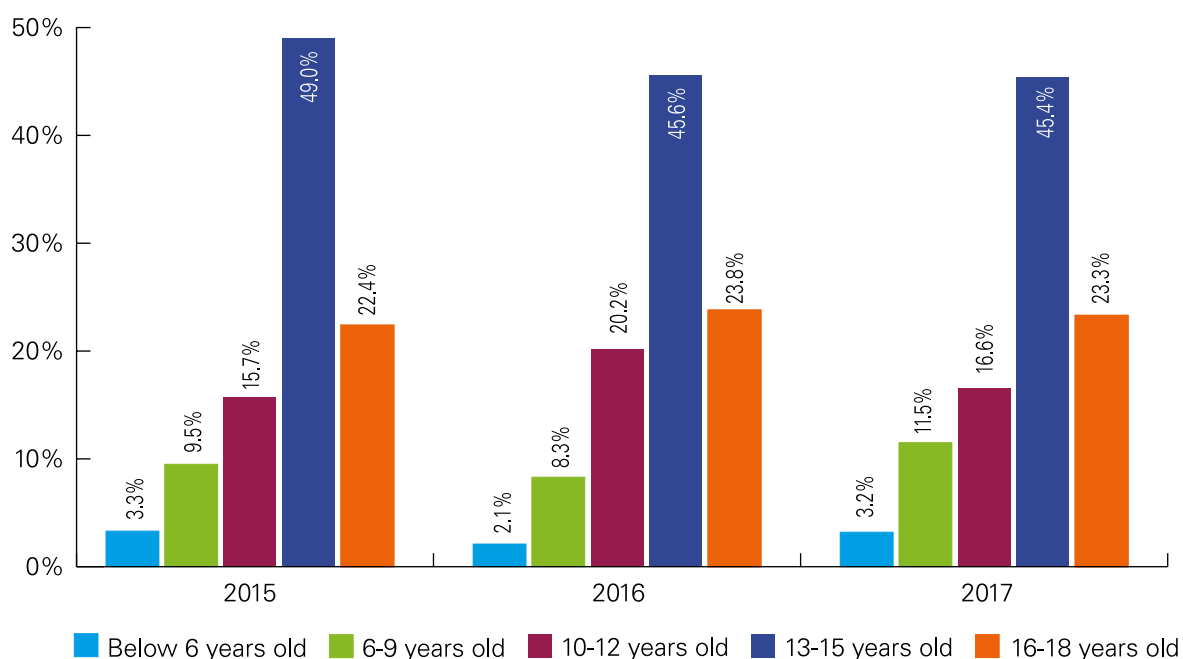
⁸³⁵ MOH, *National Health and Morbidity Survey*, 2017, p. 161.

FIGURE 52: Distribution of victims of rape below the age of 18 (according to age group), from 2015 to September 2018



Source: Official Statistics of the Royal Malaysia Police⁸³⁶

FIGURE 53: Distribution of victims of incest below 18 (according to age group), from 2015 to September 2018



Source: Official Statistics of the Royal Malaysia Police⁸³⁷

Violence in schools

Corporal punishment is not illegal in schools and the 2006 Education Regulations allow light caning against boys, while Section 5(1) of the Education (School Disciplines) Regulations 1959, as amended in 2006, strictly prohibits corporal punishment against girls.⁸³⁸ However, the level to which the prohibition of caning girls in school is implemented in practice was brought into question in June 2019 when a video of a parent confronting a teacher who she alleged had caned the parent's school girl daughter was shared widely on social media.⁸³⁹ Under Section 5(2), records of all punishments (including types of wrongdoings, strokes of the cane, parts of the body caned, name and signature of the enforcer and witness during caning) conducted must be kept confidential on a form approved by the Registrar. It is highly concerning, however, that the use of corporal punishment in schools appears to be supported by wide community acceptance of corporal punishment as a legitimate disciplinary measure. For example, according to a recent report conducted by YouGov, from a sample of 619 Malaysian parents, 47 per cent agreed that physical punishment by teachers is acceptable.

Regulation 6 of MOE Circular Letter No 7/2003⁸⁴⁰ gives school principals authority to cane students and allows this power to be delegated to other person(s) such as a disciplinary teacher. However, for this delegation to be effective, the principal must first issue an official appointment letter authorising the disciplinary teacher to administer the punishment, thereby helping to prevent other teachers, not so appointed, from following suit without similar authorisation.⁸⁴¹ As well as categorising offences as "heavy," "medium," and "light," parts of the body liable to caning according to the above categories are clearly outlined.⁸⁴² Teachers must also not cane students out of sheer anger or for revenge, but to teach them that every offence carries a punishment.⁸⁴³

The use of excessive force amounting to inhumane punishment is strictly prohibited by the Ministry. Accordingly, teachers who infringe the guidelines may face disciplinary action from the Ministry's Disciplinary Board, in addition to facing both criminal and civil liability under common law. At the same time, school authorities may also be liable to pay damages to the student. Teachers who exceed their limits in applying corporal punishment to a child may be held liable for assault or 'voluntarily causing hurt' under Sections 351 and 321 of the Penal Code respectively.

In one case, a 13-year-old boy alleged that his teacher caned him in the toilet for failing to bring his physical education attire to school. The male teacher followed him inside and hit his thighs with a thick cane, a punishment that was claimed to be too severe for such a young boy. Accordingly, the case was investigated under Section 323.⁸⁴⁴

There are no other data relating to corporal punishment of children in schools. According to a news report from April 2017, however, the National Union of the Teaching Profession president responded to a UNICEF call to abolish corporal punishment.⁸⁴⁵ The Union president was, further, reported to have noted that the use of corporal punishment in schools was limited: 'In fact, a circular from the Ministry has been issued to schools to guide teachers on (ways of using) a cane on a child. (It should be used in a way which) helps educate and reprimand students (when they commit) wrongdoing.'⁸⁴⁶ This is, of course, contrary to the provisions of the CRC, which requires a total prohibition of the use of corporal punishment.

836 Administrative data provided to researchers.

837 Administrative data provided to researchers.

838 Education (School Disciplines) Regulations 1959, r.5(1)(a)-(b).

839 The Star Online, 'Video of teacher scolded by parent for caning schoolgirl goes viral on social media', 25 June 2019, <https://www.thestar.com.my/news/nation/2019/06/25/cikgu-besar-gets-a-stern-telling-of-video-of-teacher-scolded-by-parent-for-caning-schoolgirl-goes-viral-on-social-media>, accessed 23 September 2019.

840 The circular was passed on 29 October 2003 by the School Division Department, MOE, 21 May 2018, <http://www.moe.gov.my/en/pekeliling-ikhtisas-view?id=707>

841 Kementerian Pendidikan Malaysia, *Professional Circular No KP 0504/11 (144)*.

842 Syafiq, A, 'Caring vs Caning, Why Experts Find Punishment Through Rewards Works Better With Children Today', *Malaysian Digest*, 6 April 2017, <http://www.malaysiandigest.com/features/667840-caring-vs-caning-why-experts-find-punishment-through-rewards-works-better-with-children-today.html>, accessed 10 December 2019.

843 MOE, *Ikhtisas Circular Letter No 7/1995*.

844 The Star, 'Student Caned For Not Understanding Instructions', 23 January 2013, <https://www.thestar.com.my/news/community/2013/01/23/student-caned-for-not-understanding-instructions>, accessed 10 December 2019.

845 New Straits Times, 'Is Malaysia ready to ban corporal punishment in schools? Experts weigh in', 28 April 2017 <https://www.nst.com.my/news/nation/2017/04/234649/malaysia-ready-ban-corporal-punishment-schools-experts-weigh>, accessed 11 December 2019.

846 New Straits Times, 'Is Malaysia ready to ban corporal punishment in schools? Experts weigh in', 28 April 2017.

Peer-to-peer bullying

Bullying appears to be quite widespread in Malaysia and is an issue of concern to adolescents. The NHMS 2017 data relating to bullying showed that 16.2 per cent of adolescents reported having been bullied in the previous 30 days, with higher rates among males (18.7 per cent) than females (13.7 per cent).⁸⁴⁷ Children in Form 1 were most likely to have experienced bullying, at 22.8 per cent. The data were disaggregated by ethnic group and Indian children reported the highest rates of bullying (at 26.0 per cent), while Chinese children had the lowest rates (at 13.9 per cent). The two most reported forms of bullying were 'being made fun of because of how body or face looks' at 15.9 per cent and 'being made fun of with sexual jokes, comments or gestures' at 14.1 per cent. Bullying in relation to religion was least common, at only 4.7 per cent.⁸⁴⁸

Cyberbullying was not addressed in the NHMS 2017 but smaller-scale studies have sought to shed light on the issue among Malaysian children. In 2016, Telenor Group released its findings on a survey relating to the prevalence of cyberbullying in Malaysia, Bangladesh and Thailand. The survey involved 1,896 students aged 12 to 18 years old. It was reported that almost 37 per cent of Malaysian school students had encountered cyberbullying or had been cyberbullied before. For context, this figure is lower than the 49 per cent reported amongst Bangladeshi school students and higher than the 33 per cent reported amongst Thai school students. Just under half of these children (47 per cent) indicated that they had sought parental advice when they encountered difficulties online.⁸⁴⁹

In 2018, the *Pertanika Journal of Scholarly Research* published a survey involving a sample population of 375 students aged nine to 16 years from four rural and four urban schools, both of which are located in Selangor.⁸⁵⁰ Of the sample population, 12.0 per cent indicated that

they had sometimes 'received nasty or hurtful things' and 0.3 per cent indicated that they had often 'received nasty or hurtful things'; 8.5 per cent reported having had nasty or hurtful messages about them passed around or posted where others could see, while 0.5 per cent indicated that this had happened often.⁸⁵¹

It is notable that a report released by the Multimedia and Communication Commission in 2017 reported that of 3,469 respondents (2,402 Internet users and 1,067 non-users), only 17.2 per cent of parents installed parental control software in devices used by their child and 47.4 per cent claimed that they trusted their child enough that they found using the software unnecessary while 15.3 per cent did not want to pay for the service.⁸⁵²

A study carried out in 2016 on 1,487 public secondary school students in Negeri Sembilan between 15 to 16 years measured the prevalence of interpersonal victimisation among respondents.⁸⁵³ Of this number, 92.2 per cent indicated that they used at least one social networking website.⁸⁵⁴ More than half (52.2 per cent) reported to have experienced online victimisation over the past 12 months.⁸⁵⁵ This was found to be more prevalent among boys than girls (at 54.8 per cent compared to 49.9 per cent). More female respondents experienced sexual solicitation than male respondents (20.8 per cent and 17.2 per cent respectively), while male respondents showed a higher prevalence of online harassment than female respondents (at 52.2 per cent and 43.3 per cent respectively).⁸⁵⁶

Of the 92.2 per cent of respondents who had at least one social networking website, 32 per cent admitted that they had engaged in online harassment or solicitation.⁸⁵⁷ This was more prevalent in male respondents than female respondents (at 37.6 per cent and 27.0 per cent respectively). 31.8 per cent engaged in online harassment, whereas 2.7 per cent had engaged in sexual solicitation.⁸⁵⁸

847 The survey defined bullying as "when a student or group of students say or do bad and unpleasant things to another student, such as teasing a lot in an unpleasant way or leaving out of things on purpose in the past 30 days."

848 MOH, *National Health and Morbidity Survey*, 2017, p. 161.

849 Sarina Yusuf, Md. Salleh Hassan, Bahaman Abu Samah, et al., *Parental Attachment and Cyberbullying Experiences among Malaysian Children*, *Pertanika Journal of Scholarly Research*, 4(1): 67-80, 2018, p. 69; Telenor Group, 'Telenor Group Supports 'Stop Cyberbullying Day 2016' Across its Markets in Asia', <https://www.telenor.com/media/press-release/telenor-group-supports-stop-cyberbullying-day-2016>, accessed 11 December 2019.

850 Sarina Yusuf, et al., *Parental Attachment and Cyberbullying Experiences among Malaysian Children*, 2018 p. 70.

851 Sarina Yusuf, et al., *Parental Attachment and Cyberbullying Experiences among Malaysian Children*, 2018 p. 71.

852 Malaysian Communication and Multimedia Commission, Internet Users Survey., 2017, <https://www.mcmc.gov.my/skmmgovmy/media/General/pdf/MCMC-Internet-Users-Survey-2017.pdf>, p. 21.

853 Marret, M.J., et al. *Factors associated with online victimisation among Malaysian adolescents who use social networking sites: a cross-sectional study*. *BMJ Open*. 7(6), 2016, p. 1, <https://bmjopen.bmj.com/content/bmjopen/7/6/e014959.full.pdf>

854 Sarina Yusuf, et al., *Parental Attachment and Cyberbullying Experiences among Malaysian Children*, 2018 p. 4.

855 Sarina Yusuf, et al., *Parental Attachment and Cyberbullying Experiences among Malaysian Children*, 2018 p. 5.

856 Sarina Yusuf, et al., *Parental Attachment and Cyberbullying Experiences among Malaysian Children*, 2018 p. 8.

857 Sarina Yusuf, et al., *Parental Attachment and Cyberbullying Experiences among Malaysian Children*, 2018 p. 8.

858 Sarina Yusuf, et al., *Parental Attachment and Cyberbullying Experiences among Malaysian Children*, 2018 p. 5.

Online sexual exploitation

The increasing **use of ICTs** by Malaysian children and young people is also known to expose them to risks, including risks of sexual abuse and exploitation. According to the Malaysian Communication and Multimedia Commission (MCMC), 88.5 per cent of children in Malaysia between the ages of 10 and 17 are connected to social media. At the same time, Malaysia has the highest number of internet users uploading and downloading child sexual abuse materials in Southeast Asia. The risks to children are clear: in May 2017, there were 117 cases of children who were sexually assaulted by perpetrators met on the Internet. GOM efforts to tackle the risks and harms of online sexual exploitation are growing and ongoing. In November 2019, MCMC hosted a Research Symposium focusing on Digital Citizenship that included a discussion session on children and the digital age. In April 2019, the Commission held an industry Seminar and Workshop on Child Sexual Exploitation & Abuse.⁸⁶¹

Violence against women and girls

Violence against women is defined as 'any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.'⁸⁶² Violence against women encompasses many forms of violence, including physical, sexual, emotional, cultural, spiritual, financial violence and forms of coercive control.

Prevalence data on violence against women in Malaysia are not available, which presents a significant data gap and limitation in understanding the situation for women and girls in Malaysia. Of particular additional concern is the lack of data relating to stateless, undocumented, refugee and asylum seeking women and girls, who may experience gender-based violence or intimate partner violence but for whom it could be difficult to report these incidents, for fear of bringing their status as stateless or undocumented to the attention of the authorities.

Adolescent Voices

Bullying

A recent U-Report poll of 1,498 adolescent students found that 50 per cent of respondents reported having been bullied in school. A majority of these respondents (74 per cent) stated that they had not reported the bullying incident, and most of these students chose not to report because they didn't think it would help (42 per cent) or were afraid of repercussions (24 per cent).⁸⁵⁹

Over National Kindness Week in April 2018, UNICEF, the Ministry of Education Malaysia, youth reporters R.AGE, NGO Women & Girls and the Borneo Marathon worked together on a highly acclaimed campaign under the hashtag #Standtogether to run thirty winning projects submitted by thirty schools across Malaysia. Activities included awareness raising posters and videos and a concert and have led to a Kindness Tour.⁸⁵⁹

859 U-Report Malaysia, Poll, <https://malaysia.ureport.in/v2/opinion/2550/>, accessed 11 December 2019.

860 UNICEF Malaysia, "Standing together to curb bullying", <https://www.unicef.org/malaysia/stories/standing-together-curb-bullying>, accessed 23 September 2019; ASEAN, *Ending violence against children in ASEAN Member States Mid-term review of priority areas under the ASEAN Regional Plan of Action on the Elimination of Violence against Children 2016-2025*, p. 21.

861 MCMC, "Working together for better online child protection", <https://www.skmm.gov.my/media/press-releases/working-together-for-better-online-child-protection>, accessed 23 September 2019.

862 UN General Assembly. 1993. Declaration on the Elimination of Violence against Women. A/RES/48/104. http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/48/104 [11.07.17]. This definition continues to be used in documents that set out international commitments to responding to VAW: see e.g. Commission on the Status of Women, Elimination and prevention of all forms of violence against women and girls: Agreed conclusions (2013), para. 11. Note that the Declaration does not set a lower age limit for VAW. However, most studies on intimate partner violence against women define a 'woman' as an ever-partnered female age 15 or older. See WHO, *Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence*, 2013.

4.6.2. Causal analysis

Immediate causes

Violent behaviours: Ultimately, the cause of violence against children and women is the people who perpetrate this harm. This includes a full range of individuals, including parents (violent discipline), partners (intimate partner violence), students (peer bullying), teachers (corporal punishment) and strangers.

Reporting barriers: The stigmatisation of certain types of violence, in particular sexual violence, is a barrier to help-seeking which can perpetuate VAC and result in impunity for perpetrators.

Underlying causes

Social and cultural norms: Anecdotal evidence shows that social and cultural norms and approaches towards violence against children, including sexual violence, can enable VAC – due to fear or risk of stigma, children, women and their families are encouraged to handle cases informally, rather than through formal procedures.

Limited skills and availability of support in schools:

There are gaps in the number of counsellors in the country who can give special attention to students with disciplinary issues, 'which means that teachers often have little recourse but to resort to corporal punishment to address misbehaviour in schools.'⁸⁶³

Gaps in social welfare workforce and services: The Child Act 2001 provides the blue print for the delivery of a functioning child protection system, but the social work service is yet to be fully professionalised.⁸⁶⁴ As a result, child protectors have reported feeling 'under-skilled to confidently work with families and children at risk, especially when it comes to case assessment and management'.⁸⁶⁵ Limitations in capacity (and lack of training) in relation to child protection and child justice are also reported among the police, prosecutors and magistrates, with the lack of clear guidance compounding issues around insufficient training. Further, the system

requires strengthening to shift from a focus on emergency response to proactive prevention and early intervention.

The Women's Aid Organisation has also identified lack of adequate skills among professionals in the response to domestic violence, due to poor training and awareness.⁸⁶⁶

Reports suggest the child protection system and provision of child protection services in Malaysia, particularly at the secondary and tertiary level, are inconsistent and do not reach all areas.⁸⁶⁷ Further, though the DSW was reported to have issued guidance on the delivery of child protection services in 2017, a 2018 UNICEF study found that many child protectors (i.e. members of the social welfare workforce) had not received training in this guidance.⁸⁶⁸ UNICEF's 2018 study found that no guidance was provided in relation to the best interests of the child, or listening to the child during child protection and related proceedings.⁸⁶⁹

Systemic causes

Legal and policy framework: One of the challenges around VAC is that the current legal framework does not provide adequate protection of children. For example, corporal punishment of children is not illegal in the home or in schools (though its use on girls is prohibited in schools). Further, policy measures to address VAC, including regulations to prohibit corporal punishment in schools and the implementation of the Plan of Action on Child Online Protection 2015-2020 has not been publicly reported and the Task Force to support its implementation is not yet active. The laws on the minimum age of marriage (set out below), which allows for the marriage of persons under 18 years has also been noted as a systemic driver of domestic violence.⁸⁷⁰

Data gaps: There are no baseline survey data on violence against children (VAC) and no Multiple Indicator Survey or Demographic Household Survey to provide a clear picture of VAC in Malaysia. This inevitably leads to limited understanding of VAC and limited ability to effectively target programmes and resources.

863 New StraitsTimes, 'Is Malaysia ready to ban corporal punishment in schools? Experts weigh in' 28 April 2017, <https://www.nst.com.my/news/nation/2017/04/234649/malaysia-ready-ban-corporal-punishment-schools-experts-weigh>, accessed 11 December 2019.

864 UNICEF and ASEAN, *Ending violence against children in ASEAN member States*, 2016, p. 119.

865 UNICEF and ASEAN, *Ending violence against children in ASEAN member States*, 2016, p. 121.

866 Women's Aid Organisation, *Where's the Child?*, 2019, <https://wao.org.my/wp-content/uploads/2019/04/Wheres-the-Child.pdf>, pp. 126-7.

867 UNICEF Malaysia, *Child Protection System in Malaysia*. Kuala Lumpur: Ministry of Women, Family and Community Development, 2013, pp. 56-71.

868 UNICEF Malaysia, *Baseline Survey: Stakeholder Knowledge of Child Abuse & Neglect and their Roles and Obligations to Prevent and Respond*, Hong Kong, 2018, p. 44.

869 UNICEF Malaysia (2018). *Baseline Survey: Stakeholder Knowledge of Child Abuse & Neglect and their Roles and Obligations to Prevent and Respond*, p. 45.

870 Women's Aid Organisation, *Where's the Child?*, 2019, <https://wao.org.my/wp-content/uploads/2019/04/Wheres-the-Child.pdf>, pp. 126-7.

Bullying

At a consultation with 35 adolescents in Kuching, Sarawak, participants identified priority issues and mapped out the causes of these issues. Bullying was identified as an issue and participants mapped the following causes:

1

Cyber bullying

- Nowhere for emotional outlet
- No contentment
- Low self confidence
- Jealousy
- Peer support

2

Excessive verbal bullying

- To feel power
- Attention-seeking
- Gain friends via bullying
- Lack of parental attention
- Validation
- Peer pressure

3

Gender bullying

- Dominance
- Ego
- Physical appearance
- Different looks
- Choice of partner
- They don't understand the concept of dating the same gender

4.6.3. Government response

There is an **absence of current policies and strategies on child protection and VAC**, though there has been some developments in the context of online protection (see below). There are also some notable gaps in the law. Children in Malaysia are not protected from corporal punishment in the home if it can be interpreted to fit within the exclusion set out in Article 89 of the Penal Code 1936, which states: 'Nothing, which is done in good faith for the benefit of a person under twelve years of age ... by or by consent, either express or implied, of the guardian or other person having lawful charge of that

person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person...'

Corporal punishment is not illegal in schools. The 2006 Education Regulations allow light caning against boys. Unfortunately, this is in line with the GOM's reservation to article 37 of the CRC, which allows for torture, other cruel, inhuman or degrading treatment or punishment.⁸⁷¹ Section 5(1) of the Education (School Disciplines) Regulations 1959, as amended in 2006, strictly prohibits corporal punishment against girls,⁸⁷² whereas boys are limited to blows with a light cane on the palm or buttocks over clothes.⁸⁷³

871 UNTreaty Database, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en#EndDec

872 Education (School Disciplines) Regulations 1959, r.5(1)(a).

873 Education (School Disciplines) Regulations 1959, r.5(1)(b).

The MWCDF (alongside other agencies) developed the **Plan of Action on Child Online Protection**, which was endorsed in February 2015. However the implementation of the Plan of Action on Child Online Protection 2015-2020 has not been publicly reported. DSW has also continued to implement the programme “Save and Protect: Wise Kid Campaign” in schools in order to raise awareness about safety and protection, including online.⁸⁷⁴ The Plan of Action on Child Online Protection focuses on advocacy, prevention, intervention and support services, and was due to receive a new steering group in late 2019 to reinvigorate its implementation. Other efforts to address online child protection include the MOE and the Ministry of Science, Technology and Innovation’s CyberSAFE programme in 2009 and school-based ICT programmes,⁸⁷⁵ and two MCMC-led conferences on the importance of private sector partnerships to address Child online exploitation.

A tragic case in 2017, in which a child was bullied, beaten and eventually died, has led to a multi-stakeholder response from the GOM, and a renewed and strengthened interest in addressing bullying, including the ‘StandTogether’ campaign.⁸⁷⁶

The Plan of Action on Child Online Protection focuses on advocacy, prevention, intervention and support services.

Violence against children: Policy implications

The GOM should take coordinated, multi-sector action to address VAC in all of its forms, including:

Development of a multi-sector, integrated national strategy and action plan on the prevention of VAC, as well as response to and support of victims of VAC and VAW and on strengthening child protection.

Strengthening of the legal framework relating to VAC, to ensure all forms of VAC are criminalised.

Raise awareness of positive parenting and non-violent discipline techniques.

Provide support within schools to identify children at risk of VAC, and safeguarding procedures to address this.

Strengthen data collection and analysis in relation to VAC and VAW, making sure invisible groups are included in the data.

874 ASEAN, *Ending violence against children in ASEAN Member States Mid-term review of priority areas under the ASEAN Regional Plan of Action on the Elimination of Violence against Children 2016-2025*, p. 21.

875 UNICEF and ASEAN, *Ending violence against children in ASEAN member States*, 2016, p. 116-7.

876 ASEAN, *Ending Violence against children in ASEAN Member States Mid-term review of priority areas under the ASEAN Regional Plan of Action on the Elimination of Violence against Children 2016-2025*, p. 21.

4.7. CHILD MARRIAGE

Child marriage, which is defined as marriage in which at least one person is below the age of 18 years, is prohibited in international law.⁸⁷⁷ Child marriage can place children – particularly girls – at risk of significant psychological, physical and sexual harm. Early pregnancy, which often either drives or results from child marriage can cause physical and mental harm to adolescent girls.

There is no policy in Malaysia addressing the issue of child marriage and **child marriage is not prohibited**. Instead, child marriage is lawful, with different legal implications for non-Muslims and Muslims. Non-Muslims can marry under civil marriages or in line with their ethnicity / customary practices. In civil marriages, there is an absolute prohibition of marriage for girls below the age of 16 years and for boys below the age of 18 years.⁸⁷⁸ Girls between the ages of 16 and 18 may only marry with a license granted by the Chief Minister (or equivalent). In August 2018, Selangor increased the minimum age of marriage for girls from 16 to 18 years and the Department of Syariah Judiciary has produced a comprehensive Standard Operating Procedure (SOP) to encourage States to impose a stricter procedure before permission to marry can be given.⁸⁷⁹

Customary law in Malaysia does not provide any minimum age to marry but those below the age of 18 years require the consent of their parents and must fulfil a number of other customary requirements before getting married.

Muslim girls may marry with parental consent when they reach the age of 16 and Muslim boys may marry when they reach 18 years. However, both girls and boys may marry below these ages with the permission of a judge of a Syariah Court, with no absolute minimum age set out under customary law. According to a recent

UNICEF report, 'judges also often rule from the position that child marriage is a viable solution to social problems such as pre-marital sexual activity and pregnancy out of wedlock, especially in the case of the latter, as marriage is perceived to save the baby from illegitimacy.'⁸⁸⁰

The current GOM is seeking to strengthen the legal and policy framework against child marriage, including through development of standard operating procedures, which came into force in July 2018.⁸⁸¹ Some States are in the process of reviewing or considering reviewing the minimum age of marriage and raising it to 18 years for both boys and girls. The Federal Government is in the process of amending the Islamic Family Law (Federal Territories) Act 1984 to increase the minimum age of marriage for Muslim women to 18 years old (the minimum age for Muslim men is already 18 years old). While for non-Muslims, the Government is in the process of enacting a standard operating procedure (SOP) to strengthen the procedure for underage marriage applications by taking into account the development, health and welfare of the underage applicants.

4.7.1. The situation

Data on child marriage prevalence in Malaysia are incomplete, given the lack of household survey data on child marriage. According to UNICEF's 2017 State of the World's Children data set, five per cent of males and six per cent of females aged 15-19 were married at the time the data was collected (during the period of 2011-2016). According to administrative data from the Ministry of Women, Family and Community Development (MWFC), the number of applications received for marriages in which at least one party was under 18, between 2008 to June 2018 are as follows (though it is noted that applications for child marriage does not indicate overall prevalence of child marriages, as it does not include child marriages which take place informally – i.e. without an application (see Figure 54).

877 Article 16(2), CEDAW: The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory; see also article 24(3), CRC.

878 Law Reform (Marriage and Divorce Act 1976), section 10.

879 Parliamentary Questions, Hansard, 21-31 October, Dato' Sri Azalina Othman Said [Pengerang] asked the Minister of Women to specify when the Ministry will make amendments raising the minimum age limit of marriage to 18 years which is under the jurisdiction of the Federal Government through the Islamic Family Law (Provinces) Act (Federal) 1984 and the Family Law Enactment / Ordinance of Islam in various states as well as the Law Reform Act (Marriage and Divorce) 1976.

880 UNICEF, *Child marriage in Malaysia* (working paper), 2018, p. 3.

881 Parliamentary Questions, Hansard, 21-31 October, Dato' Sri Azalina Othman Said [Pengerang] asked the Minister of Women to specify when the Ministry will make amendments raising the minimum age limit of marriage to 18 years which is under the jurisdiction of the Federal Government through the Islamic Family Law (Provinces) Act (Federal) 1984 and the Family Law Enactment / Ordinance of Islam in various states as well as the Law Reform Act (Marriage and Divorce) 1976.

FIGURE 54: Number of child marriage applications (2008 to June / September 2018)⁸⁸²

Applications for Muslim marriages (Shariah law) ⁸⁸³	11,424 (2008 to June 2018)
Child marriages in civil law	5,409 (2008 to September 2018)
Customary marriages in Sarawak ⁸⁸⁴	450 (boys); 4,650 (girls) (2008 to September 2018)

The Malaysian Joint Action Group for Gender Equality (JAG) reported in 2015 that ‘an estimated 16,000 girls were married before the age of 15 as at October 2010’, while, in 2014, the United Nations Population Fund (UNFPA) reported ‘15,000 Malaysian girls who were married before the age of 19’.⁸⁸⁵ According to the population censuses from 2000 and 2010, the number of ever-married 15-19-year-olds (noting that this figure includes some marriages which are not defined as child marriage, which is marriage in which at least one person is under 18 years) has increased: from 12,109 to 73,278 for males (an increase from 1.1 per cent to 5.2 per cent), and from 54,349 to 82,034 for females (an increase from 4.9 per cent to 6.1 per cent),⁸⁸⁶ contrary to global trends.

Child marriages include those in which **two adolescents marry** and also those in which **an adolescent marries an adult**: data from a recent UNICEF report involving 2,143 cases analysed from applications to the Syariah Court from seven states found that only 54.6 per cent were marriages between children; 36 per cent were marriages between children and young adults (up to 25 years of age) and 9.4 per cent were marriages between

children with older adults (older than 25 years).⁸⁸⁷ While child marriage occurs in all communities in Malaysia, **rural women** were more likely than urban women to marry under the age of 15 years and also under the age of 18 years.⁸⁸⁸ High rates of child marriage applications to the Syariah court were found in Sarawak, Kelantan and Terengganu.⁸⁸⁹ Although child marriage affects Muslims more than non-Muslims, the number of non-Muslims marrying below the age of 18 has doubled in the past four years (from 426 in 2015 to 930 in 2019).⁸⁹⁰

4.7.2. Causal analysis

A range of inter-related causes and systemic drivers are associated with child marriage in Malaysia.

Immediate causes

Legal provisions and permission: Marriage of girls and boys is permitted under all legal systems within Malaysia, either as an absolute provision, in the case of Muslim girls aged 16 years and over, or as an additional step in obtaining permission if certain (non-specified) criteria are met. This makes child marriage in Malaysia possible.

882 Malaysian House of Representatives, Answer to Question 45 by Dato’ Seri Dr. Wan Azizah Dr. Wan Ismail, Deputy Prime Minister and Minister of Women, Family and Community Development in 14th Parliament session, 15 October 2018.

883 It should be noted that this figure includes applications in relation to both the male and female party to the marriage.

884 It should be noted that this figure includes applications in relation to both the male and female party to the marriage.

885 UNICEF, *Child marriage in Malaysia* (working paper), 2018, available at: <https://www.unicef.org/malaysia/media/711/file/Child%20marriage%20in%20Malaysia.pdf>, p. 19.

886 Tey, Nai P. ‘The State of the Youth in Malaysia’, *Population Statistics Malaysia 2018*, Population Studies Unit (PSU), 2019, p. 131-132.

887 UNICEF, *Child marriage in Malaysia* (working paper), 2018.

888 UNICEF, *Child marriage in Malaysia* (working paper), 2018, p. 132.

889 UNICEF, *Child marriage in Malaysia* (working paper), 2018, p. 9.

890 Statistics from the National Registration Department (NRD), cited in Tang, A. ‘Non-Muslim child marriages on the rise’, The Star online, 15 July 2019 [available at: <https://www.thestar.com.my/news/nation/2019/07/15/nonmuslim-child-marriages-on-the-rise>]



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"For every child: I ask for you to know your rights and stand up for them, regardless of who you are. That's because everyone is a person, with a birth right." Photo and caption: Rohit Rhaarje Singh Bhatt, 16 | Picture My Rights, 2017/18

Underlying causes

Attitudes towards adolescent relationships: Social, cultural and religious perceptions and attitudes towards adolescent relationships and sexuality and the shame associated with sexually active adolescents 'perpetuates the practice of child marriage'.⁸⁹¹ Social sanctions against pre-marital sex are reinforced in the Muslim community through the existence of Syariah criminal law. Provisions of the Syariah Criminal Offences law punish excessive close proximity with a member of the opposite sex (known as *khalwat*),⁸⁹² as well as premarital and extra-marital sexual activity (known as *zina*).⁸⁹³

Adolescent fertility: Where children are sexually active and girls become pregnant, this brings to the fore attitudes towards adolescent relationships, such that

girls and boys may be encouraged/required to marry.⁸⁹⁴ Child marriage can thus be seen as a 'solution' to being pregnant outside of marriage. For instance, Muslim parents may marry children (both girls and boys) where they have committed *zina* or as a means to prevent *zina* from occurring.⁸⁹⁵ Discriminatory laws that place a barrier on the registration of babies born outside of marriage or within six months of marriage (see above) reinforces the idea of the 'illegitimacy' of children born to unmarried parents.

Gaps and barriers in sexual and reproductive health services:

Lack of knowledge about contraception increases the risks of adolescent pregnancy, an underlying cause of child marriage.⁸⁹⁶ Also, where adolescents face barriers to accessing sexual and reproductive health services, because of social stigma around attending or

891 Federation of Reproductive Health Associations, Malaysia and Asian-Pacific Resource and Research Centre for Women, *Country Profile on Universal Access to Sexual and Reproductive Health: Malaysia*, 2015, p. 8.

892 Section 27 Syariah Criminal Offences (Federal Territories) Act 1997.

893 Section 23 Syariah Criminal Offences (Federal Territories) Act 1997.

894 Federation of Reproductive Health Associations, Malaysia and Asian-Pacific Resource and Research Centre for Women, *Country Profile on Universal Access to Sexual and Reproductive Health: Malaysia*, 2015, p. 8.

895 Sisters in Islam and Asian-Pacific Resource and Research Centre for Women (ARROW), *Child Marriage: Its Relationship with Religions, Culture and Patriarchy*, 2018, p. 20 <https://arrow.org.my/wp-content/uploads/2018/03/National-Report-Child-Marriage-Single-Page.pdf>

896 UNICEF, *Child Marriage in Malaysia*, (working paper), p. 30.

asking for services, or because service providers are unwilling to provide services to unmarried adolescents,⁸⁹⁷ this can lead to girls falling pregnant, which is an underlying cause of child marriage.

Though sexual and reproductive health services exist in primary, secondary and tertiary healthcare facilities nationwide and guidelines direct health clinics to provide contraception and other services to adolescents, lack of awareness, stigmatisation and poor quality of services can act as a barrier to adolescents' access.⁸⁹⁸ When adolescent girls do get pregnant, they may then be forced to marry in order to avoid having a child outside of marriage (see Part 2 and 3 relating to birth registration and citizenship for children of unmarried parents).

Systemic causes

Gender inequality: A recent report suggests that gender inequality and gender perceptions may lead to child marriage: daughters may be seen as an economic burden on a struggling family, with limited economic opportunities compared to boys. However, the report cautions against viewing this as the main reason for child marriage, or as a driver of child marriage in all cases, as

'statistics seem to show that education is widely available to girls, and the girls with economic options can contribute to the betterment of the family.'⁸⁹⁹

Legal framework: There have been reported cases of perpetrators attempting to avoid prosecution by convincing the victim's family to drop charges by marrying the underage victim. However, perpetrators can still be convicted under statutory rape laws. In 2015, one such perpetrator was sentenced to 12 years imprisonment for the offence of raping a 12-year-old girl in February 2013, although he married the victim in May 2013.⁹⁰⁰ The current Government did include a manifesto pledge to set 18 as the minimum age for marriage but this has not yet been enshrined in law.⁹⁰¹

4.7.3. Government response

In October 2019, the Minister of Women, Family and Community Development was asked a parliamentary question about the government's efforts to address child marriage, which include the **National Strategic Plan** in Handling the Causes of Child Marriage.⁹⁰² The Minister responded that some things are not under control of

Adolescent Voices

Child marriage

At a consultation with 52 adolescents in Petling Jaya, Selangor, participants identified priority issues and mapped out the causes of these issues. Child marriage was identified as an issue and participants mapped the following causes:

- Families forced the child into marriage
- Mindset of getting out from poverty
- Victim of abuse
- Trauma (emotional and mental)
- Stigma from peers, family and community
- Marriage is a solution to cover up for family dignity (teen pregnancy)

897 Federation of Reproductive Health Associations, Malaysia and Asian-Pacific Resource and Research Centre for Women, *Country Profile on Universal Access to Sexual and Reproductive Health: Malaysia*, 2015, p. 8.

898 Federation of Reproductive Health Associations, Malaysia and Asian-Pacific Resource and Research Centre for Women, *Country Profile on Universal Access to Sexual and Reproductive Health: Malaysia*, 2015, p. 8.

899 Federation of Reproductive Health Associations, Malaysia and Asian-Pacific Resource and Research Centre for Women, *Country Profile on Universal Access to Sexual and Reproductive Health: Malaysia*, 2015, p. 8.

900 The Star Online, 'Rohani: Girl who married rapist doing fine', 7 August 2017, <https://www.thestar.com.my/news/nation/2017/08/07/rohani-girl-who-married-rapist-is-fine/>

901 UNICEF, *Child marriage in Malaysia* (working paper), 2018, p. 4.

902 Malay Mail, 'DPM: Seven states won't ban child marriage', 19 November 2019, <https://www.malaymail.com/news/malaysia/2019/11/19/dpm-seven-states-wont-ban-child-marriage/1811186>, accessed 12 December 2019.

the Federal Government, but that a draft amendment to the Islamic Family Law Act 1984 [Act 303] has been prepared by JAKIM to amend the minimum age of marriage to 18 years for girls. The Minister also noted that six states had agreed to the proposed amendment and prohibition of child marriages: Selangor (who had already enacted the amendment), Penang, Sabah, Johor, Melaka and Perak, but that seven states (Sarawak, Pahang, Terengganu, Perlis, Negeri Sembilan, Kedah and Kelantan) had rejected the amendment. The Minister also reflected that the Ministry of Home Affairs had set out standard operating procedures to limit granting of exceptions allowing girls aged 16 and 17 to marry under the Marriage and Divorce Act 1976 [Act 164].⁹⁰³

Key interventions that could help address child marriage include more comprehensive sexual **education** and **greater access** to SRH services,⁹⁰⁴ **gender-sensitive** education, and awareness-raising on the harmful impacts of child marriage to address social and cultural norms that are accepting of child marriage.⁹⁰⁵ On 16 January 2020, the GOM launched the **National Strategy Plan in Handling the Causes of Child Marriage**. It sets out a range of strategies and actions to address the key causes of child marriage including low household income and poverty; lack of access to SRH and parenting skills; lack of access to education and poor school attendance; stigma and social norms; gaps in laws; and the need for improved data.

Child marriage: Policy implications

The GOM should consider the following actions to prevent and respond to child marriage:

Strengthen the legal framework to prohibit marriage under the age of 18 years in all legal systems, without exception (or at least greatly restrict the circumstances in which exceptions can be granted and a minimum age below which exceptions cannot be granted).

Raise awareness among children and adolescents and the adults in their lives about the negative consequences of child marriage.

Strengthen sexual health education to reduce adolescent pregnancy, as a key driver of child marriage.

Facilitate birth registration and documentation among invisible and vulnerable groups as a protection against child marriage.

Strengthen data collection and analysis in relation to child marriage, making sure invisible groups are included in the data.

903 Parliamentary Questions, Hansard, 21-31 October, Dato' Sri Azalina Othman Said [Pengerang] asked the Minister of Women to specify when the Ministry will make amendments raising the minimum age limit of marriage to 18 years which is under the jurisdiction of the Federal Government through the Islamic Family Law (Provinces) Act (Federal) 1984 and the Family Law Enactment / Ordinance of Islam in various states as well as the Law Reform Act (Marriage and Divorce) 1976.

904 UNICEF, *Child marriage in Malaysia* (working paper), 2018, p. 39.

905 Sisters in Islam, Asian-Pacific Resource and Research Centre for Women, *Child Marriage: Its Relationship with Religion, Culture and Patriarchy*, 2018, p. 9.

4.8. FEMALE GENITAL MUTILATION/CUTTING

Female genital mutilation/cutting (FGM/C) refers to any procedure that involves the partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons.⁹⁰⁶ While the practice of FGM/C varies in nature, it is often a painful and traumatic procedure that is linked to short, mid-term and long-term health consequences, such as infections, haemorrhaging, depression, birth complications and infertility.⁹⁰⁷

4.8.1. The situation

Data on the practice of FGM/C in Malaysia are not available, meaning it is not possible to assess the degree to which children in Malaysia are protected from FGM/C. However, anecdotal evidence suggests that the practice is **widespread**. For instance, a recent study published in the British Medical Journal online found that 99.3 per cent of 605 participants had undergone FGM/C. The practice in Malaysia is less severe than in many other contexts and does not involve removal of tissue; a drop of blood is considered a requirement for the fulfilment of the ritual.⁹⁰⁸ It is characterised by nicking the tip of the clitoris and teasing out a piece of the tissue using a pen knife or razor. It is typically performed on children aged 0-15 years, including on very young children – as young as one or two months old.⁹⁰⁹

Most FGM/C is carried out by traditional healers who do not have medical training, without anaesthesia and sterilisation, though the studies have also noted

a trend towards '**medicalisation**' – the increased use of medical doctors to perform female genital cutting⁹¹⁰ across Malaysia and other countries in Southeast Asia where FGM/C is practiced (Indonesia and Thailand).⁹¹¹ Worryingly, there are no clear practice-based manuals or guidelines for health practitioners practicing FGM/C, and it has been reported in Thailand that more of the clitoris is removed in FGM/C conducted in clinical settings compared to that practiced by traditional healers.⁹¹²

4.8.2. Causal analysis

Immediate causes

Cultural and religious beliefs: The drivers of FGM/C in Malaysia are primarily the cultural and religious belief that it is required by Islam (in the study mentioned above, of the 605 participants, 87.6 per cent believed it to be required by Islam).⁹¹³

Underlying causes

Gender inequality: Different and inter-connected reasons for the practice have been documented, including the need to control a girl's sexuality and protect her virginity, and for hygiene and cleanliness.⁹¹⁴

Systemic causes

Legal framework: FGM/C is not prohibited by the law in Malaysia, and there have been no directions issued in relation to the practice by the Malaysian Medical Council. Instead, a 2009 ruling from the Fatwa Committee of Malaysia's National Council of Islamic Religious Affairs made female circumcision obligatory for all Muslim women, unless it is harmful.⁹¹⁵

906 WHO, *Eliminating Female genital mutilation: An interagency statement* OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO, 2008.

907 WHO, *Eliminating Female genital mutilation: An interagency statement* OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO, 2008.

908 Rashid A, Iguchi Y, *Female genital cutting in Malaysia: a mixed-methods study*, BMJ Open 2019, p. 9.

909 Rashid A, Iguchi Y, *Female genital cutting in Malaysia: a mixed-methods study*, BMJ Open 2019, p. 9.

910 Note that the study authors preferred the term 'cutting'.

911 This characterisation of the practice of female genital mutilation in Malaysia as being somehow different to practices elsewhere is further evidenced by a 2018 statement by the Deputy Prime Minister Datuk Seri Dr Wan Azizah Wan Ismail (pic) who is also the Women, Family and Community Development Minister, who commented "we are not the same as Africa". The Star, 'Defending female circumcision in Malaysia', 16 November 2018, <https://www.thestar.com.my/news/nation/2018/11/16/defending-female-circumcision-in-msia-dpm-says-only-accredited-medical-professionals-can-perform-the/#WsMbCvdpTgt56spy>, accessed 10 December 2019.

912 Rashid A, Iguchi Y, *Female genital cutting in Malaysia: a mixed-methods study*, BMJ Open 2019, p. 9.

913 Rashid A, Iguchi Y, *Female genital cutting in Malaysia: a mixed-methods study*, BMJ Open 2019, p. 9.

914 Rashid A, Iguchi Y, *Female genital cutting in Malaysia: a mixed-methods study*, BMJ Open 2019, p. 9.

915 The Malaysian Insight, "Why is Malaysia still practising female genital mutilation?," <https://www.themalaysianinsight.com/s/36377>

4.8.3. Government response

At present, the GOM has not taken steps to address FGM/C.

FGM/C: Policy implications

The GOM should consider the following actions to address FGM/C:

Prohibit FGM/C in law.

Improve data and understanding of prevalence of FGM/C, making sure invisible groups are included in the data.

Strengthen gender rights awareness, and awareness raising on the harms of FGM/C to girls.

4.9. CHILDREN IN INSTITUTIONS

Children in Malaysia may be placed in institutions as a form of **alternative care**, in the context of **immigration** or within the **criminal justice system**. The negative impact of institutionalisation on children's development and rights is well documented; according to international standards, deprivation of liberty should be a last resort in the case of children,⁶⁸⁹ and institutional care is also considered harmful to children. This includes institutionalisation as a form of alternative care⁶⁹⁰ and in other forms of institutions such as for immigration detention purposes, in response to 'beyond control' behaviour or as a result of being in conflict with the law.⁶⁹¹

4.9.1. The situation

Children placed in institutions as a form of alternative care

Data in relation to children in institutions in Malaysia are incomplete, and a review of the data is scheduled for 2020.⁶⁹² Data from 2014 to 2016 show no pattern of decreasing use of institutions over this short period of time, though there was a general dip in institutionalisation in 2015.⁶⁹³ Importantly, the Child Act 2001 was amended in 2016 to require the Court to take 'into consideration that it is desirable to place a child in a family-based care', though guidance on the application of this is not available.⁶⁹⁴

These data do not take into account **undocumented migrant children, refugees or asylum seekers** who are separated from their parents and subsequently detained in an immigration detention centre, including in Kota Kinabalu.⁶⁹⁵ In such cases, as discussed in Part 2, children may not be able to be deported if they are stateless, or if they are undocumented and cannot prove their national identity. Once again, these children are rendered 'invisible' in the data, and therefore their situation cannot be completely understood.

689 Article 37(b), CRC.

690 UNICEF, *Children in alternative care*, 2017, <https://data.unicef.org/topic/child-protection/children-alternative-care/>

691 Call for a Global Study on Children Deprived of Liberty, *Children Deprived of Liberty: The Need for a Global Study*, 2014.

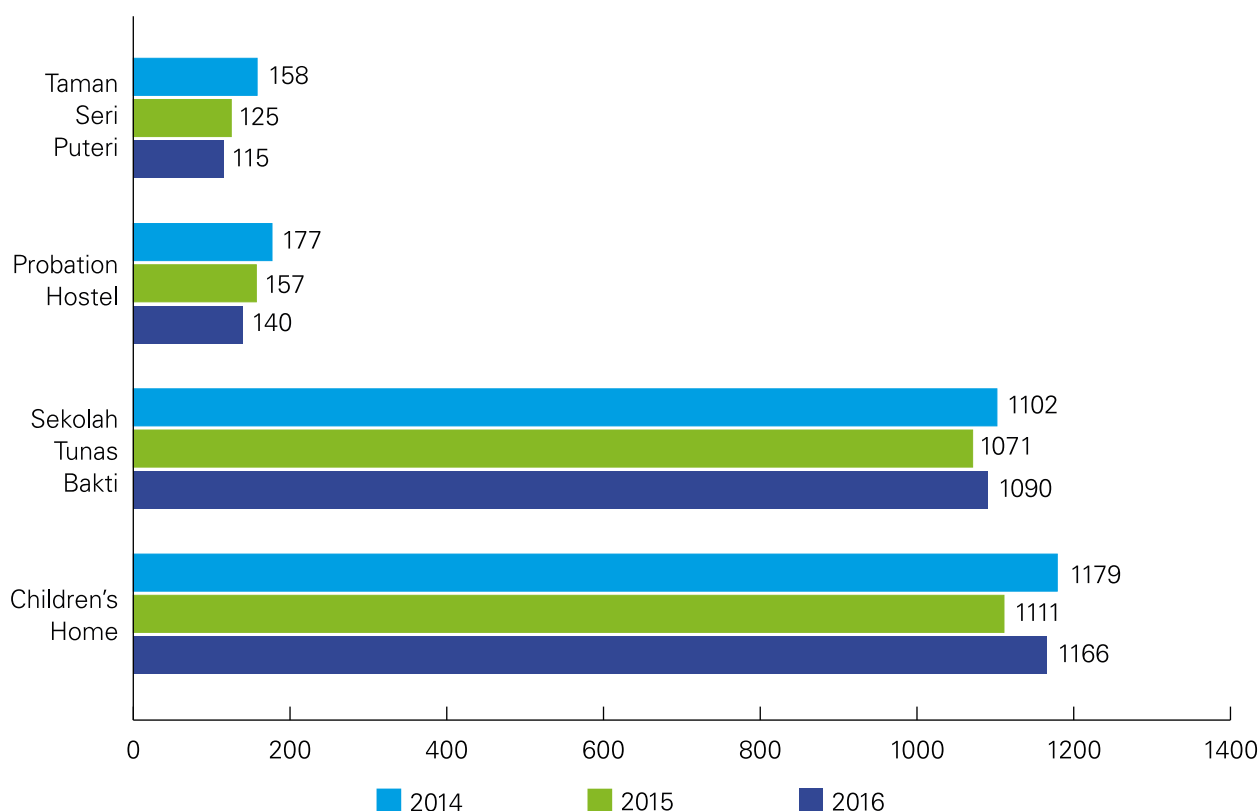
692 UNICEF Malaysia Country Office.

693 DOSM, *Children Statistics*, 2017.

694 UNICEF and ASEAN, *Ending violence against children in ASEAN member States*, 2016, p. 115.

695 New StraitsTimes, '32 illegals detained in integrated operation in Kota Kinabalu', 23 September 2018, <https://www.nst.com.my/news/crime-courts/2018/09/414071/32-illegals-detained-integrated-operation-kota-kinabalu>, accessed 10 December 2019.

FIGURE 55: Number of children in children's institutions



Source: DOSM, 2018⁹²³

The UN Committee on the Rights of the Child has noted concerns over disparities in treatment of Muslim and non-Muslim children within the alternative care context, in relation to the different treatment afforded to children depending on which state the child lives in.⁹²⁴

Detention in the criminal justice system

Children in Malaysia may also be detained in correctional institutions if they are found to have committed a **criminal offence**, and placed in probation centres if they are considered to be **'beyond control'**. There are several different types of institutions for children in conflict with the law: nine probation hostels, nine Approved Schools operated by the Department of Social Welfare, three Henry Gurney Schools, and nine Integrity schools which fall under the Prisons Department, and six Juvenile

Rehabilitation Centres which also fall under the Prisons Department.⁹²⁵

Children can be detained post-conviction if they are given a custodial sentence, but they can also be held in detention pre-trial, either where this has been reviewed by a Court/magistrate under the Child Act 2001, or by the police under the Prevention of Crime (Amendment) Act 2017 or Security Offences (Special Measures) Act. Under the Prevention of Crime (Amendment) Act 2017, for example, a police officer can hold a child in police custody for up to 60 days.⁹²⁶

A 2013 study by UNICEF found that **pre-trial and post-trial detention** rates in Malaysia were moderate but that 52.7 per cent of children held in pre-trial detention had been accused of non-violent, property offences. The study also found that 77 per cent of children who were

923 DOSM, 'Children Statistics publication, Malaysia, 2018', 2018.

924 Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Malaysia, CRC/C/MYS/CO/1, 25 June 2007, para 55.

925 The Star Online, 'Do you know about schools in prison', 11 July 2017.

926 Free Malaysia Today, 'Stop detaining children under POCA, SOSMA, Putrajaya urged', 30 January 2019.

adjudicated to have committed an offence were given alternative sentences, but that some were given long, fixed-term custodial orders for Henry Gurney or Approved Schools and others over the age of 14 years were sentenced according to adult 'terms of imprisonment'.⁹²⁷ When children are detained for being **beyond control**, they can no longer be deprived of their liberty in an Approved School (STB). However, children may be placed in institutions such as probation hostels or centres (though the Child Act 2001, as amended in 2016, enshrines the principle that it is desirable to place children in family care).⁹²⁸ The definition of 'beyond control' is sufficiently broad so that children can be detained for disobedience, running away from home, engaging in romantic or sexual relationships or using drugs or alcohol.⁹²⁹

Children in immigration detention

As noted earlier, when children are detained for immigration purposes in Malaysia, they are likely to spend an average of five months in one of the 12 immigration detention centres in Peninsular Malaysia, in which conditions are said to be 'appalling'.⁹³⁰ As also noted previously, the Special Rapporteur on the human rights to safe drinking water and sanitation has expressed concern in access to quality WASH in immigration detention centres and prisons.⁹³¹ This suggests that children who are deprived of their liberty in immigration or 'justice' detention at high risk of experiencing rights violations.

4.9.2. Causal analysis

Immediate causes

Permissive laws: A legal framework that permits children to be placed in probation centres if they are beyond control (or in need of care and protection/refugees) is the immediate cause of children being placed in institutions. Their reasons for being considered 'beyond control' may vary, but the law allows them to be detained for so called 'status offences', including on the request of their parents under a 'Children Beyond Control Written Request to the Court'.⁹³²

Underlying causes

Lack of alternative responses: Children who are deprived of their liberty because they are 'beyond control' or because they are 'in need of care and protection' are prime examples of children who are unlikely to meet the international standard that their deprivation of liberty is as a last resort and for the shortest appropriate period of time. Thus, their detention suggests a lack of alternatives, such as parenting programmes, psycho-social behavioural programmes and diversion, for example, or a lack of knowledge or confidence in alternatives.

Systemic causes

Legal framework: Whilst elsewhere in the region, many States have a history of institutionalisation, and are therefore engaged in deinstitutionalisation activities, Malaysia does not have a history of institutional care.⁹³³ However, institutionalisation of children is possible under a number of different provisions of the child protection and child justice legal and policy framework. When children are found in need of care, custody or control, and where it is decided to remove them from parental care under Sections 35-37 of the Child Act 2001, children may be placed in Children's Homes, Sekolah Tunas Bakti (rehabilitation centres), Probation Hostels or Taman Seri Puteri (Shelters) under section 38-39 of the Child Act.

4.9.3. Government response

Although the amendment to the Child Act 2001 in 2016 changed the legal framework so that '**children beyond control**' are now placed in temporary placements (probation hostels) rather than being sent to institutions for long term deprivation of liberty, the Act still permits temporary institutionalisation of children who are beyond control. The Child Law 2001 does not contain separate provisions for diversion, but prosecutors have the power to divert children from the formal justice process, which could reduce institutionalisation.⁹³⁴

927 UNICEF, Ministry of Women, Family and Community Development, *The Malaysian Juvenile Justice System: A Study of Mechanisms for Handling Children in Conflict with the Law*, 2013.

928 Section 46(3) and 46(5), Child Act 2001, as amended 2016.

929 UNICEF, Ministry of Women, Family and Community Development, *The Malaysian Juvenile Justice System: A Study of Mechanisms for Handling Children in Conflict with the Law*, 2013.

930 Save the Children, *Unlocking Childhood*, 2017, p. 37.

931 Office of the Human Rights Commissioner, Statement at the conclusion of the official visit to Malaysia by the Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Leo Heller.

932 My Government, 'Children Beyond Control', <https://www.malaysia.gov.my/portal/content/28926>, accessed 13 December 2019.

933 UNICEF and ASEAN, *Ending Violence against Children in ASEAN member States*, 2016, p. 114. There is also a lack of foster care placements, and alternatives to institutional care.

934 UNICEF EAPRO, *Diversion not detention: A study on diversion and other alternative measures for children in conflict with the law in East Asia and the Pacific*, 2017, p. 14; 43-44.

Children in institutions: Policy implications

The GOM should work to reduce and prevent institutionalisation and detention of children in all contexts, and in particular should:

Improve the legal framework to promote alternatives to institutionalisation and to limit use of institutionalisation for children in need of care and protection or who are 'beyond control'.

Improve data and understanding of institutionalisation, including the drivers and circumstances of placement in institutional care.

End immigration detention of children, develop family-based community options and ensure deprivation of liberty is always as a last resort and for the shortest appropriate period of time, and that children are not unnecessarily separated from family members.

Introduce and strengthen diversion and alternative (non-custodial) sentencing measures.

Train and sensitise child justice workers on child-friendly justice and the harms of deprivation of liberty of children.

4.10. THE CLIMATE CRISIS AND ENVIRONMENTAL DEGRADATION

Malaysia is expected to experience increased impacts from temperature rise, rainfall, floods and droughts.⁹³⁵

In addition to these, Malaysia is already experiencing significant deforestation rates⁹³⁶ that risk reducing children's nutritional intake, as well as urbanisation⁹³⁷ and waste production rates⁹³⁸ that are producing increased pollution, negatively affecting children's health, as it continues on the path of development.

Increased average surface temperature will likely have significant impacts on the agricultural sector and food security, affecting children's nutrition, increase risk of child mortality due to heat-related illnesses, increase risk of water-borne diseases and exacerbate water stress in areas dependent on groundwater aquifers.⁹³⁹

The expected **increased rainfall** in all regions of Malaysia could result in potential increased flood events,⁹⁴⁰ increased risk of diarrhoea for children and increased risk of spread of water-borne diseases like cholera as well as mosquito breeding grounds that can lead to dengue and malaria.⁹⁴¹ Droughts, together with potentially cumulative impacts of El-Niño and other regional climatic factors,⁹⁴²

935 Office of the Human Rights Commissioner, Statement at the conclusion of the official visit to Malaysia by the Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Leo Heller.

936 Global Forest Watch, 2019, <https://www.globalforestwatch.org/>, accessed 10 December 2019.

937 MOESTECC, Malaysia, *Third National Communication And Second Biennial Update Report To The UNFCCC*, 2018.

938 Kaza, S., Yao, L., Bhada-Tata, P. and Van Woerden, F., *What a waste 2.0: a global snapshot of solid waste management to 2050*, 2018.

939 UNICEF and Seoul National University, *Country Profiles on Children's Health and Environment in East Asia and the Pacific Region*, 2018 (forthcoming).

940 MOESTECC, Malaysia, *Third National Communication And Second Biennial Update Report To The UNFCCC*, 2018.

941 UNICEF, *Country Profiles on Children's Health and Environment in East Asia and the Pacific Region*, to be published.

942 MOESTECC, Malaysia, *Third National Communication And Second Biennial Update Report To The UNFCCC*, 2018.



© UNICEF Malaysia/2017/Muhammad Luqman Al-Hakim

"For every child, living in a clean environment is essential. Let's reduce pollution and save energy to welcome a better tomorrow. We don't inherit the earth from our ancestors, we borrow it from our children." Photo and caption: Muhammad Luqman Al-Hakim, 14 | Picture My Rights, 2017/18

can pose significant health risks to children,⁹⁴³ especially those living in urban areas, and can also result in decreased levels of productivity.⁹⁴⁴ In addition, extreme-weather events that lead to floods can be devastating to social service infrastructure (like schools and hospitals), negatively affecting children's access to these services.⁹⁴⁵

In addition to the climate change-related changes, human activity contributing to **environmental degradation** also poses a significant threat to Malaysian children. In addition to contributing to air pollution, loss of forested areas has also been linked to increased vector-borne disease risks (for example, malaria) and reduced nutritional intakes among children.⁹⁴⁶

Air pollution in Malaysia primarily stems from urban sources (industry, transportation) and forest fires (peatland fires etc.).⁹⁴⁷ While the ambient air pollution in most Malaysian cities are not extremely high (20-50 µg/m3),⁹⁴⁸ seasonal haze from neighbouring states poses a high risk⁹⁴⁹ to children's health such as through respiratory illnesses (asthma, lung cancer etc.), developmental issues⁹⁵⁰ and potential disruption to necessary services⁹⁵¹ (school closures etc.).

Lastly, **waste pollution** poses a significant health risk to children. Compounded by rapid urbanisation (74.3 per cent in 2015⁹⁵²) and unsustainable waste disposal practices,⁹⁵³ Malaysia's waste management practices

943 El-Fadel, M., Ghanimeh, S., Maroun, R. and Alameddine, I., *Climate change and temperature rise: Implications on food-and water-borne diseases*, Science of the Total Environment, 437, 2012, pp. 15-21.

944 Goodman, J., Hurwitz, M., Park, J. and Smith, J., *Heat and learning*, 2018.

945 UNICEF, *Regional Analysis of Climate Change Impacts on Education in East Asia-Pacific* (to be published).

946 Jones, A.D., Acharya, Y. and Galway, L.P., *Deforestation and child diet diversity: a geospatial analysis of 15 sub-Saharan African countries*, The Lancet, 389, 2017, p.S11.

947 Hashim, Zailina *Air quality and children's environmental health: is our future generation at risk?*, 2012.

948 World Health Organization, *WHO Global Ambient Air Quality Database* (update 2018), <https://www.who.int/airpollution/data/cities/en/>, accessed 10 December 2019.

949 ASEAN Specialised Meteorological Centre, *VIIRS Hotspot – Daily*, 2019, <http://asmc.asean.org/asmc-haze-hotspot-daily-new#Hotspot>.

950 UNICEF and Seoul National University, *Country Profiles on Children's Health and Environment in East Asia and the Pacific Region*, 2018, (to be published).

951 UNICEF, *Indonesia: 10 million children at risk from air pollution due to wild forest fires*, 2019, <https://www.unicef.org/press-releases/indonesia-10-million-children-risk-air-pollution-due-wild-forest-fires>, 4 October 2019.

952 MOESTECC, Malaysia, *Third National Communication And Second Biennial Update Report To The UNFCCC*, 2018.

953 Greenpeace Malaysia, *The Recycling Myth, Malaysia And The Broken Global Recycling System*, 2018.

can pose a risk to children. From January to July 2018, 754,000 tonnes of plastic waste were directed to Malaysia, especially after China introduced a plastic-waste import ban.⁹⁵⁴ While Malaysia has banned plastic waste imports, illegal dumping and incineration of wastes, especially those containing harmful chemicals like plastics and e-waste, negatively affects the health of nearby communities.⁹⁵⁵ In addition, chemicals that leach into drinking water sources, from both landfills and agricultural activities, can lead to negative developmental and other health impacts on children who depend on such water sources.⁹⁵⁶

Climate change and environmental degradation and pollution are matters of concern to adolescents, particularly those in certain areas. According to the 2019 Change for Children Survey, 44 per cent of respondents identified 'a clean environment and climate action' as priorities, while 93 per cent of children in Selangor and 86 per cent of children Sarawak nominated it as a priority issue.⁹⁵⁷

4.10.1. Causal analysis

Immediate causes

Behaviours: Climate change and environmental degradation appear driven by a combination of industrial actions, as well as social and industrial behaviours outside of Malaysia, including waste burning by households, as well as farming and industrial practices.

Underlying causes

Enforcement of legal framework: Though the GOM has made efforts to strengthen the legal and policy framework to act against climate change and environmental degradation, lack of enforcement against illegal activity means that it persists.

Systemic causes

Fiscal policies: The GOM has prioritised the interests of large industries and has not developed 'green' fiscal policies, such as incentivisation of clean energy and other sustainable practices.

Adolescent Voices

Climate crisis

At a consultation with 52 adolescents in Petaling Jaya, Selangor, participants identified priority issues and mapped out the causes of these issues. The climate crisis was identified as an issue and participants mapped the following causes:

1

Deforestation

- Profit and business
- Greedy human nature
- Demand for paper products
- Land for agriculture and development
- Growing population

2

Air pollution

- Slash and burn
- Smoke from vehicles
- Burning rubbish
- Smoke from industries
- Waste at landfill

954 Greenpeace Malaysia, *The Recycling Myth, Malaysia And The Broken Global Recycling System*, 2018.

955 Man, M., Naidu, R. and Wong, M.H., *Persistent toxic substances released from uncontrolled e-waste recycling and actions for the future*, Science of the Total Environment, 463, 2013, pp. 1133-1137.

956 Leong, K.H., Tan, L.B. and Mustafa, A.M., *Contamination levels of selected organochlorine and organophosphate pesticides in the Selangor River, Malaysia between 2002 and 2003*, Chemosphere, 66(6), 2003, pp. 1153-1159.

957 UNICEF, *Change for children survey* (2019), p. 10.

4.10.2. Government response

To address some of these impacts, the Ministry of Energy, Science, Technology, Environment and Climate Change (MESTECC) has announced a partnership with the Government of the United Kingdom (UK) in the area of **climate change and low carbon initiatives**.⁹⁵⁸ This will involve a scoping study on a climate change institutional and legal framework, as well as capacity building through secondment of technical assistance and skills share.⁹⁵⁹ By 2020, MESTECC plans for the Government of Malaysia to adopt a **Climate Change Act**. In addition, MESTECC is planning to launch a green financing roadmap to encourage green investments, especially in renewable energy.⁹⁶⁰



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A father and his sons play together in a river in Sabah while waiting for fishes to be caught in their net.

The climate crisis and environmental degradation: Policy implications

The GOM could take the following actions to respond to climate change:

Improve legal framework protection of the environment, including through international agreements.

Development of 'green' fiscal policies that incentivise sustainable industries and disincentivise environmental degradation.

Engage in social behavioural change activities to discourage burning waste and plastic use, and to encourage sustainable behaviours.

Work together with adolescents and young people to help drive climate action in the country.

958 MESTECC, *Malaysia And United Kingdom To Collaborate On Climate Change And Low Carbon Initiatives In Four-Year Intensive Programme*. <https://www.mestecc.gov.my/web/wp-content/uploads/2019/05/MALAYSIA-AND-UNITED-KINGDOM-TO-COLLABORATE-ON-CLIMATE-CHANGE-AND-LOW-CARBON-INITIATIVES-IN-16-MAY-2019-web.pdf>

959 MESTECC, *Malaysia And United Kingdom To Collaborate On Climate Change And Low Carbon Initiatives In Four-Year Intensive Programme*.

960 The Malaysian Reserve, 'Govt to launch green financing roadmap in 2019', 2019, <https://themalaysianreserve.com/2018/11/28/govt-to-launch-green-financing-roadmap-in-2019/>



Boy in an orphanage. The orphanage cares for children who come from a poor background.

5

Enabling Environment for Children: Gaps and Challenges

“All children are created equal and must be given equal opportunities to develop intellectually, physically and spiritually. Spaces must be created for us to express ourselves. With freedom comes responsibility.”

—Cathryn Anila, 14 | Picture My Rights, 2017/18

It is clear from the recent actions to strengthen the legal framework for protection of children that there is the political will in Malaysia to implement most aspects of the CRC and to meet SDG commitments, though reservations and limitations continue to exist. This section seeks to support implementation and achievement of the CRC and development goals by analyzing the cross-cutting systemic causes of the key deprivations discussed in Parts 3 and 4, drawing out

causal factors that affect multiple sectors. The causal analysis is structured according to the *Ten Determinants Framework* set out in UNICEF’s SitAn Guidance.⁹⁶¹ According to this framework, causal factors determining child rights outcomes can be grouped into four broad dimensions: the enabling environment, supply-side constraints, demand-side constraints, and the quality of existing services.

FIGURE 56: Summary of Ten Determinants Framework



961 See Table 3, page 20 of UNICEF’s SitAn Procedural Manual.

5.1. ENABLING ENVIRONMENT

5.1.1. Gaps in the legal and policy framework

Earlier sections of this report identified a number of remaining **gaps in the legal and policy framework** for the children in Malaysia. These include challenges across a range of outcome areas for children and women, including, for instance:

SYSTEM STRENGTHENING

There is no legislation supporting the professionalisation of the Social Welfare Workforce, leading to challenges in strengthening the social welfare system. The system of identification, assessment, referral, response and monitoring of child protection concerns, for instance, should be set out more clearly in the law (Child Act 2001). It should be noted, however, that a Social Workers Profession Bill, which aims to professionalise the social welfare workforce, has been drafted and is expected to be tabled soon.⁹⁶²

EDUCATION

Education is compulsory at the primary school level but not at secondary/tertiary levels, meaning that many children drop out of secondary education and are more likely, therefore, to enter unskilled jobs, with lower future employment prospects.

There is no law or policy on access to education for pregnant adolescents and adolescent mothers, meaning that barriers to these adolescents accessing education are not prohibited or challenged by the legal and policy framework.

CHILDREN WITH DISABILITIES

The registration system only allows for the registration of disabilities in certain categories, which may mean some children fall through the gaps.

NUTRITION

The WHO protocol to treat children with severe wasting is not in place in Malaysia, potentially exposing children to risk.

There is no mandatory legislation restricting the marketing of breastmilk substitutes and no legislation on marketing of unhealthy foods and beverages to children. There is also no mandatory front of pack labelling that signposts foods high in fat, salt and sugar. Further, the legal and regulatory framework does not support women's rights to breastfeed or express milk while working, negatively impacting breastfeeding rates and/or return of women to the workplace.

While guidance on school food environments exists – including school meals and what is allowed and not allowed to be sold in schools, it is not mandatory and not monitored and enforced.

CHILD PROTECTION

There is no legal provision providing for the total prohibition of corporal punishment in the home, in schools and in settings other than as a punishment for a crime.

The minimum age of criminal responsibility is set too low (at 10) compared to the international minimum standard of 14.

It remains possible for children to be found 'beyond control', which is a status offence, and for them to be placed in probation centres as a result.

962 The Star, 'DPM: Social work to be recognised profession with tabling of Social Workers Profession Act', 9 October 2019, <https://www.thestar.com.my/news/nation/2019/10/09/dpm-social-work-to-be-a-recognised-profession-with-tabling-of-social-workers-profession-act>, accessed 21 January 2020.

The absence of legislation for the professionalisation of the Social Welfare Workforce is just one example of a gap in the legal and policy framework. Though work is underway to develop such a law, until this is done, there will continue to be challenges in strengthening and professionalising the social welfare workforce – a crucial component of child protection and social protection systems.

Complex discrepancies between the Sexual Offences Against Children Act 2017, which makes it an offence to commit a sexual act against a person under 18 years, regardless of consent,⁹⁶³ Section 376(2) of the Penal Code, which criminalises consensual sex under the age of 16 (the age of statutory rape) and the legal age for marriage for girls causes confusion over what is and is not legal for children. The provisions of the Sexual Offences Against Children Act 2017, in effect, criminalise sexual acts between adolescents even though the Penal Code sets the age of consent for sex at 16. Under Section 19 of the Sexual Offences Against Children Act, any person who has knowledge of an offence under the Act has a responsibility to report it⁹⁶⁴ – placing providers of sexual and reproductive health services in a difficult (potentially criminally liable) position.

The criminalisation of same-sex relationships is also likely to have a negative impact on LGBTI+ adolescents' access to information and services. Legal restrictions on adolescents' ability to access SRH is also associated with dominant social and cultural norms that stigmatise sex outside of marriage (see below).

Several other areas within the legal framework reflect gender inequality. For example, girls may be married, legally, at a lower age than boys. Further, citizenship provisions are gender discriminatory.

In addition to these gaps and inconsistencies in the legal and policy framework that undermine the protection of children and their rights, there is an absence of coordinated or integrated multi-sector policies on particular vulnerable or at risk populations.

5.1.2. Governance and coordination

Strong institutions, good governance practices and robust frameworks for cooperation at all levels of government are essential in ensuring that laws and policies are implemented effectively and that they

are translated into improved outcomes for children, adolescents and women.

While Malaysia has a governance framework and institutions that support the implementation of children's rights, **limited multi-sector working and coordination** between Government departments at the national level appear to have limited the ability for the GOM to respond effectively to some issues, particularly those deprivations that require a multi-sector and multi-pronged approach. This is particularly evidenced by the lack of a unified National Child Protection Policy or Plan to set out governance and coordination mechanisms, including well-defined aims, objectives, activities, responsibilities and monitoring methodologies. Also, there is very limited multi-sector work on nutrition. As set out above, the drivers of Malaysia's triple burden of malnutrition are varied, interconnected and require strong, multi-sector work to address effectively. Siloed working practices by Government Ministries and agencies has hampered the development of effective, integrated policies, plans and programmes.

Limited coordination at the policy/national level also appears to filter down to the implementation of programmes 'on the ground.' For example, when parents visit health centres for routine visits (e.g. to receive immunisations), no information on nutrition is provided. This is a missed opportunity for screening and providing preventative information and services to address malnutrition.

Fragmentation of services and programmes across multiple Government agencies is also a barrier to effective, integrated and holistic programming and service delivery. For example, the fragmentation of over 100 social protection programmes across 10 Government agencies has contributed to the development of a social protection system characterised by poor governance, inadequate targeting and ineffective outcomes among the country's most poor and deprived populations. Approaches have tended to focus on **immediate causes without addressing the broader determinants or drivers** of deprivations, which may account for the overall appearance of progress, but risks leaving vulnerable groups behind. For instance, limited multi-sector working has resulted in a response to stunting that focuses very narrowly on the provision of 'food baskets' without addressing broader issues on household vulnerability to food insecurity, poor maternal nutrition, limited access to

963 Part II, Sexual Offences Against Children Act 2017.

964 Section 19, Sexual Offences Against Children Act 2017.

quality WASH in some areas and so on.⁹⁶⁵ Finally, there are concerns that **corruption** among police and border force officials fuels the influx of undocumented, migrant labourers into some areas in Malaysia, which then exposes children to the risk of being exploited through child labour without recourse to protection or support.⁹⁶⁶ Children and families who are stateless without documentation may feel fearful of raising concerns over their ill-treatment or exploitation in labour settings, a fear likely exacerbated if their entry into Malaysia was connected or touched by corruption along the way.⁹⁶⁷

5.1.3. Financing

Inadequate budget allocations is a significant barrier, impacting on a range of issues and populations. In the health sector, there appear to be gaps in the effective

coordination of the public and private systems, leading to challenges of **sustainable financing**. The two-tiered system with quite different goals may be unsustainable in the longer term. Closer partnership, collaboration and sharing of services and personnel among the public and private health sector may create a more integrated system of medical information and expertise access may lead to greater cohesion and efficiency of healthcare services.

There is also **limited accountability** for Government spending: programmes are rolled out without monitoring and evaluation frameworks and it is therefore difficult to measure programme results and assess the efficiency of Government spending.



© UNICEF Malaysia/2017/Ooi Wei Hang, Jonathan

"For every child, they have their rights to enjoy their early life. Parents as their guidance should ensure that they own a genuine happiness in their childhood. Happiness is essential for every single child." Photo and caption: Ooi Wei Hang, Jonathan, 17 | Picture My Rights, 2017/18

965 Kok, D., *Stunting in Malaysia: Cost, causes and courses for action*, JCI-JSC Working Paper, 2019.

966 UNODC, *Transnational Organized Crime in east Asia and the Pacific*, 2013, 42-43, as referenced in ECPAT International, *ECPAT Country Overview: Malaysia*.

967 ECPAT, *Submission to Universal Periodic Review on Sexual Exploitation of Children in Malaysia*, <https://www.ecpat.org/wp-content/uploads/2018/07/Universal-Periodical-Review-Sexual-Exploitation-of-Children-Malaysia.pdf>, 2018, p. 4.

5.1.4. Inequality and disparities

The analysis in previous sections showed huge inequalities and disparities in enjoyment/fulfilment of rights for children within **invisible** and **vulnerable groups**, including children from poor households, stateless children, refugee children, undocumented migrant children, unregistered children, children with disabilities, LGBTI+ children and indigenous children. Many of these inequalities stem from **enabling environment level decisions**, including laws and policies that have disparate impact and intent in relation to these groups.

Policy and programme development has at times not taken account of equity issues. For example, social assistance is currently not being adjusted to account for the **different costs of living between rural and urban areas**. Since 2015, urban households in Malaysia are facing higher costs of living compared to rural households, mainly attributed to the rise in urban food prices and housing costs, both of which account for the two biggest expenditure components for the urban household.⁹⁶⁸

Key manifestations of inequality and disparities include, for instance:

POVERTY

Migrant children, refugees, stateless children and unregistered Malaysian children are absent/invisible in official figures of poverty. Income inequality remains high.

HEALTH

Children from ethnic minority groups experience higher rates of under-5 mortality.

NUTRITION

Child malnutrition affects the urban poor and children from ethnic minority groups at higher rates than for others.

WASH

Children from indigenous groups have more limited access to WASH; children who are LGBTI+ may struggle to access WASH, especially menstrual hygiene management services.

PROTECTION

Children from ethnic minority groups are overrepresented in statistics relating to children who are identified as in need of care and protection.

EDUCATION

Gender disparities continue in education: boys perform less well than girls, but girls are less engaged in STEM subjects and teen mothers may be prevented from accessing education; OA children have higher drop-out rates at all levels of education and children with disabilities have comparatively low education access rates.

PARTICIPATION

Children with disabilities appear to be particularly vulnerable to exclusion from participation. This is connected to the knowledge, attitudes and practices of their immediate families and their communities.

968 Malaysia Economic Monitor June 2018, *Navigating change*. World Bank Group Global Knowledge Research Hub in Malaysia, pp. 60. <https://openknowledge.worldbank.org/bitstream/handle/10986/30996/132903.pdf?sequence=1&isAllowed=y>

5.1.5. Data and information management

There are limited publicly available data relating to birth registration, violence against women and girls, child trafficking and child labour. Without disaggregated data on these and other indicators, it is not possible to determine to what extent children are facing rights deprivations, but it is also impossible for the Malaysian Government to plan interventions and to address inequities. On the other hand, there have been several elements within this section for which data have been available. Data from the Department of Social Welfare has been useful in relation to several areas within the child protection system, and it is useful that the National Health and Morbidity Survey 2017 focused on adolescent health and well-being.

Invisibility is a problem. It appears that some children are systematically excluded from data collection and data systems, including children who are undocumented, children who are born to foreign parents and refugee children. This reinforces the invisibility of these groups of children: without data on their needs and situation, it is impossible for Government to plan and target resources effectively. It also renders the Government essentially unaccountable for the outcomes of these groups of children.

The National Information System for Social Issues and Screening of Sexual Offender System in the Child Registry are two examples of data and case management systems that can act as centralised hubs for information, but there is, currently, no online system to allow for efficient **data sharing** across government agencies.

Gaps in administrative data systems are also a barrier. For instance, health systems data track children under 23 months, but there is then no routine screening or growth monitoring until children are attending school. This creates a considerable gap between 23 months and five years in which routine health and growth checks are not being carried out. This is a crucial age for detecting and preventing or addressing important nutrition and health problems.

Further, whilst all justice agencies (police, DPP, courts, JKM, Prisons Department) currently collect data on children involved in the justice system, there is a lack of uniformity across the sector in how information is recorded and disaggregated, gaps in the information that is systematically collected, and no mechanism for centralised collection and analysis of data to inform policy and programme development.

As mentioned above, **limited data** exist on the impact, effectiveness or efficiency of programmes aimed at addressing the needs of children and families. This has a negative impact on the ability of the Government to implement effective, evidence-based interventions.

5.1.6. Social norms

Social behavioural norms appear to have strong influences at the systems level. In the area of child protection, female genital mutilation/cutting and corporal punishment are prohibited under the CRC and other international standards but are permitted and practiced in Malaysia, reportedly with significant public attitudinal support. The restrictive legal and policy framework on abortion compounds the stigmatisation of pregnancy outside of marriage to result in unsafe abortion practices by unskilled and unregulated providers.⁹⁶⁹

5.1.7. National priorities and child rights

Malaysia's **reservations to key international instruments** and policies and laws that exclude certain groups of children from legal status and services (e.g. refugee children), minimise protection to them (e.g. children with disabilities) and criminalise others (e.g. LGBTI+ children) suggests an opposition on the part of the Government(s) of Malaysia to extending all rights to all children.

Malaysia's concern with other interests over the protection of children's rights – for example, border security and economic interests, has limited the protection afforded to children, particularly marginalised groups of children.

969 Siti Fathilah Kamaluddin, *A Follow-up Profile of Women Seeking Pregnancy Terminations in a Clinic in Urban Malaysia: 1998-2005*, Jurnal Sains Kesihatan Malaysia (Malaysian Journal of Health Sciences) vol. 8, no. 1, 2010, pp. 5-11.

5.2. SUPPLY SIDE CONSTRAINTS

5.2.1. Resource constraints

Key to effective implementation of child rights through appropriate systems and structures is adequate numbers of **qualified, skilled and competent professionals**. The Child Act 2001 provides the blue print for the delivery of a functioning child protection system, but, the social work service is **yet to be fully professionalised**.⁹⁷⁰ As a result, child protectors have reported feeling 'under-skilled to confidently work with families and children at risk, especially when it comes to case assessment and management'.⁹⁷¹ Limitations in capacity (and lack of training) in relation to child protection and child justice are also reported among the police, prosecutors

and magistrates, with the lack of clear guidance compounding issues around lack of training. Further, the system requires strengthening to improve from a focus on emergency response to proactive prevention and early intervention.

5.2.2. Geography and physical access

There are also some concerns about **equitable access to services based on geography**. UNICEF reports that child protection team-based services 'are usually based in urban areas and the more remote communities in East Malaysia would not be able to access these services.' Further, according to UNICEF, 'remote areas (most notably in East Malaysia) remain greatly underserved in terms of the number of trained D11 personnel available to conduct specialised investigations'.⁹⁷²



© UNICEF Malaysia/2018/Noorani

Nur Fitri, 15, walks 6km to her school from her home in a palm plantation, in Sabah. Remote areas remain greatly underserved in the number of trained professionals who are key to effective implementation of child rights.

970 UNICEF and ASEAN, *Ending violence against children in ASEAN member States*, 2016, p. 119.

971 UNICEF and ASEAN, *Ending violence against children in ASEAN member States*, 2016, p. 121.

972 UNICEF and ASEAN, *Ending violence against children in ASEAN member States*, 2016, p. 121.



© UNICEF Malaysia/2018/Noorani

Sitting in a canoe, children fish near a slum settlement on water in the state of Sabah.

The provision of healthcare to **rural and remote communities** especially in Kelantan, Pahang, Sabah and Sarawak is challenging. Persons living in rural and more remote areas experience barriers to accessing healthcare services, limiting their ability to get the care they need.

5.2.3. Inadequate service provision

Analysis in this SitAn has revealed **gaps in services** in some areas. For example, as an effort to prevent mental health difficulties, the GOM has increased access to crisis helplines and has strengthened supportive initiatives such as the Healthy Mind Programme and screening/interventions in secondary schools. This report has also noted the need to develop **targeted services**, including, in particular, for children in vulnerable groups, such as children with disabilities.

As another example of the need for additional infrastructure, there is a clear need for **additional pre-schools**. The Education Blueprint aims for half of pre-school enrolments to be supported by private pre-schools. Although in theory this makes pre-school more accessible by increasing supply, the reality is that low-income households cannot afford many private pre-schools. Whilst publicly-provided pre-school is either free-of-charge, or involves a minimal fee, places in these schools are limited. More childcare services are needed to cover demand for ECCD in Malaysia. This is becoming more prominent as a higher percentage of women are re-entering the workforce after having children, a result of rapid economic development in the country.⁹⁷³

973 Foong, L et al, *Private Sector Early Child Care and Education in Malaysia: Workforce Readiness for Further Education*, 2018.

5.3. DEMAND SIDE CONSTRAINTS

5.3.1. Financial access

Food insecurity appears to be one of the factors contributing to malnutrition among children. The underlying cause for child malnutrition is related to diet and nutrition, particularly the unavailability of healthy food at a more affordable price than junk food, or the ability to afford enough food at all, during and after pregnancy and for children, women and families. For instance, almost all residents in low-cost flats in KL according to a recent study stated that high food prices prevent them from preparing healthy meals for their children.⁹⁷⁴ Further, women from the poorest economic groups may have far more **limited access to proper diet and dietary supplements**, including iron, while pregnant, leading to anaemia and childhood underweight.

As shown earlier, private provision of ECE is key to increasing access. However, private pre-schools are likely to be significantly more costly to parents and families than public pre-school classes. In an attempt to mitigate this barrier, fee assistance is available to pre-school-aged children from families with a household income of less than RM500 per capita. 32,378 students received this assistance in 2017, with a total of RM18 million provided.⁹⁷⁵ However, this assistance is not universal and it is likely that many families will still **face financial barriers to accessing ECE**.

The low enrolment rate at the upper secondary level also indicates that poor upper-secondary school-aged children – particularly boys – are **under pressure to leave school early** and enter the labour market to become an income earner for their family. A more inclusive social assistance scheme could help prevent children from having to work to support the family's income. However, interventions are also needed to improve the cost and quality of school to reduce child labour.⁹⁷⁶

5.3.2. Social, cultural and gender norms

Dominant social and cultural norms, practices and beliefs can **limit reporting and impede help-seeking**

behaviours and access to services. Social stigma around sexual activity among adolescent girls and boys can inhibit help-seeking behaviours following sexual violence and can make it more difficult for adolescent girls and boys to seek access to SRH services that would support them to engage in safer sexual practices, and to reduce childhood pregnancy, which is a driver of child marriage.

Gender norms may also be used to justify violence against children in all settings and could make it less likely for cases involving children to come to the attention of authorities for support. This seems particularly acute in relation to boys, who report greater rates of violence than girls but are less frequently referred as children in need of care and protection. Further, social norms and cultural attitudes may be used to justify violence against children, including corporal punishment, FGM/C and harmful practices such as child marriage.

The data also show that girls and boys experience violence differently, and that they experience different types of violence. There is a strong **relationship between gender and violence** and the way it is experienced. For example, peer-to-peer violence between girls is very different in nature when compared to incidences between boys. Cyberbullying for girls is likely to be linked to the fact that they are female, whereas cyberbullying for boys may be linked to the gaming they're doing, or ethnicity, or their perceived sexuality. It is important to examine and understand these gender disparities and power differentials/ consequences in order to effectively address violence against women, girls and boys.

Dominant social norms, including **discriminatory gender norms**, contribute to poor social and health outcomes for boys and girls. In the area of health, conflicting liberal and religious norms around premarital sex appear to negatively affect young people's access to sexual and reproductive health (SRH) services and may contribute to Malaysia's persistent adolescent fertility rate.

Social stigma facing **children with disabilities** among peers, parents and communities is a barrier to access to education and other services.⁹⁷⁷

974 UNICEF, *Children Without*, 2018.

975 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

976 Rosati, F, *Can cash transfers reduce child labor?*, IZA World of Labor, 2016, p. 293. <https://wol.iza.org/articles/can-cash-transfers-reduce-child-labor>

977 UNESCO, *Policy guidelines on inclusion in education*, 2009, <https://unesdoc.unesco.org/ark:/48223/pf0000177849>

5.3.3. Limited knowledge, awareness and understanding

Limited awareness among the population may be contributing to poor health and nutritional outcomes among children. For example, bad eating habits and lack of knowledge on food preparation, processing, and child feeding practice contributes to an inadequate composition of meals taken by individuals within the household. However, this is caused and compounded by advertising of unhealthy food and breastmilk substitutes, and by the obesogenic environment, in which unhealthy foods are cheap and readily available. While **misinformation** leads to lack of knowledge, the abundance of unhealthy foods makes poor eating choices convenient, more practical, and often less expensive.⁹⁶¹

There is also a **lack of understanding** among some families of the importance of early childhood development and education; they likely do not see the need to send their children to pre-school.⁹⁶² Also, limited awareness of SRH, associated with limited access to quality CSE, can also be seen to place a barrier to access to SRH information and services and can result in risky behaviours.

5.3.4. Physical access barriers

Unbalanced regional development affects access to education, health and other services. Physical access to public kindergartens among rural households in Sarawak is the lowest compared to other states in Malaysia, as noted above. Physical access to public secondary schools is even worse. Nearly two in three rural households in Sarawak are located more than four kilometres away from public secondary schools, which explains why Sarawak has the lowest completion rate for secondary schools in the country.⁹⁶³ Further, in some locations, critical services such as health, or birth registration are limited to infrequent mobile registration, making it challenging for parents in these areas to access services or comply with the law.⁹⁶⁴

5.4. QUALITY

There remain some gaps in the **quality of service provision** in Malaysia. In relation to ECCE, for example, in 2016, the Cabinet of Malaysia approved the requirement that all pre-school teachers should have at least a Diploma in ECCE, to ensure that teachers would be able to provide appropriate teaching to young children.⁹⁶⁵ The Government's aim is to implement this minimum requirement for all teachers by 2020. However, as of 2017, only 44.4 per cent of pre-school teachers had obtained the diploma (or a higher qualification) in ECCE.⁹⁶⁶ This is likely to have an effect on the quality of ECE provision in Malaysia and effort should be made to ensure that the universal target is achieved.

In the context of **child protection**, a high quality child protection system not only provides a mechanism to address individual cases of violence, abuse, neglect and exploitation (including, in some cases, holding the perpetrator to account), it can also play a role in changing society's attitudes towards such acts. As discussed above, the Child Act 2001 sets out a child protection system blueprint. Several matters relating to quality were raised under 'supply' and are therefore not repeated here. However, it may be useful to consider one specific effort to improve the quality of services that may highlight some key areas requiring improvement. In 2015, the Malaysian Government and partners engaged in a pilot activity to 'enhance the professional service response in the identification and management of high-risk child abuse and neglect cases continued in Petaling and Kuala Langat districts'.⁹⁶⁷ This activity focused on identification and case management of cases as two key elements of an effective, high quality child protection system services. Based on the pilot's success, the good practices and lessons learned were rolled out to 15 other districts within Malaysia.

961 New Straits Times, 'Ban junk food ads, gov't urged', 18 August 2019, <https://www.nst.com.my/news/nation/2019/08/513741/ban-junk-food-ads-govt-urged>; New Straits Times, 'Environment drives childhood obesity', <https://www.nst.com.my/news/2016/08/168955/environment-drives-childhood-obesity>, 29 August 2016.

962 EPU, *Mid-term review of the Eleventh Malaysia Plan 2016-2020*, 2018.

963 DOSM, Vital Statistics, Malaysia, 2017, https://www.dosm.gov.my/v1/index.php?r=column/cthemeByCat&cat=165&bul_id=NXRCRDh0RENGeU13bC9EdzJ1cUFtZz09&menu_id=L0pheU43NWJwRWVSZklWdzQ4TihUUT09

964 Malay Mail, 'Sabah NRD Defends setting up of mobile unit to help register births in remote locations', 25 January 2019, <https://www.malaymail.com/news/malaysia/2019/01/25/sabah-nrd-defends-setting-up-of-mobile-unit-to-help-register-births-in-remo/1716396>, accessed 10 December 2019.

965 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

966 MOE, *2017 Annual Report: Malaysia Education Blueprint 2013-2025*, 2018.

967 UNICEF and ASEAN, *Ending violence against children in ASEAN member States*, 2016, p. 118.



Malaysia has a good record on education, but enrolment rates and achievements are lower in rural areas and particularly among Orang Asli and indigenous children. In response, UNICEF is working with Malaysia's Ministry of Education to reduce disparity and improve their access to quality education.

6

Conclusions and Cross-Cutting Implications

“For every child, their dreams are like waves, no matter how big the ocean is, it will still pound on the shore, washing over rocks and sand, no matter how bizarre and different their dreams are, they still want one thing - LOVE!”

—Khizarizza Ariffin, 16 | Picture My Rights, 2017/18

Overall, Malaysia has shown **good progress** across all child outcome areas; however, the SitAn identified a number of areas in which Malaysia is **falling behind** or in which progress is reversing. These include: the triple burden of malnutrition, adolescent health, equitable access to quality ECCD, quality of education and improved learning outcomes, inclusive education, violence, abuse, neglect and exploitation of children, child marriage, FGM/C, institutionalisation of children and the climate crisis and environmental degradation.

It should also be noted that any progress made by the GOM in improving the situation of children should be considered against **disparities and inequalities** experienced by vulnerable groups. There remain groups of children that do not enjoy the benefits of the progress made by the GOM in furthering children's rights and who are being left behind their peers. These include indigenous children, children from poor households,

stateless, undocumented, refugee and migrant children, children with disabilities and LGBTI+ children. These children are rendered invisible or marginalised through lack of legal status or the application of discriminatory laws, exclusion from data collection systems, social stigmatisation and by virtue of policy vacuums, which all impact on their ability to access essential services and realise their rights. Further, patriarchal social norms reflected in and reinforced by gender discriminatory legislative and policy frameworks continue to fuel and perpetuate gender inequalities.

It is imperative that the Government of Malaysia address these issues and disparities as a matter of priority and accelerates progress in these areas. This is necessary to ensure that Malaysia is on track to meet key global development goals (SDGs) and national development targets and ensure that children in Malaysia survive, thrive and develop to their full potential.

A number of cross-cutting barriers and bottlenecks to the full realisation of children's rights were identified. The following are the key conclusions drawn from these cross-cutting issues, and the future implications of these:

1

Gaps in the **legal and policy framework** limit protection, respect for and fulfilment of the rights of children in Malaysia. These gaps act as a structural barrier to the realisation of the rights of children in Malaysia. The implications for future actions are:

- a. Withdrawing Malaysia's reservations and declarations to the CRC and other international instruments would lead to greater clarity over the commitment to these rights, and stronger implementation of all rights on the ground, given concerns that the existing reservations undermine non-discrimination; an underpinning principle of the CRC.
- b. Amending the Child Act 2001 and associated legal framework to ensure the prohibition of corporal punishment in all settings, to remove status offences, including being 'beyond control' and to prohibit child marriage would draw the legal framework in line with international standards, and would improve child outcomes where the legal framework acts as a barrier.
- c. Developing a National Action Plan for Child Protection / Children to strengthen the organisation and mandate for delivery of better, and better coordinated and integrated, actions for children.

2

System-based limitations in the social welfare and child protection systems lead to gaps in the planning and delivery of social and child protection services.

- a. Social welfare workforce strengthening is a key pathway to better implementation of laws, policies and programming across all children's rights, particularly when working in partnerships across all agencies, including health, nutrition, water, social protection, child justice and child protection.

3

Primary services have reached a good level of coverage in many outcome areas, but **secondary and tertiary services** are lacking, leaving more vulnerable children behind.

- a. Where primary services are considered to have good level of progress, it is essential to continue to strengthen the higher levels of intervention to ensure that children are not left behind. For example, while the basic level of health delivery may be strong, disparities may exist in access to health interventions for some groups.
- b. There is a need for professionally trained social workers to support delivery of many services, including child protection and related services and to address family and community-based child protection in a multidimensional way.

4

The **changing global, regional and country context** has added dimensions to old challenges and have created new concerns.

- a. Significant challenges in nutrition have led to a triple burden of malnutrition which sees perpetuation, and even worsening of stunting and wasting and micronutrient deficiencies, as well as obesity, much of which is linked to changing lifestyles and the obesogenic environment, even as groups remain undernourished.
- b. Escalating environmental degradation and climate change continues to emerge as a key theme for future sustainability and implementation of the rights of all women and children.

5

In all outcome areas, **vulnerable groups** are not being afforded full access to their rights under the CRC and are most affected by some of the critical emergent developments such as environmental concerns, adolescent health concerns and nutritional deprivations, and are suffering poorer outcomes as a result.

- a. Failure to protect the rights of vulnerable groups is a serious failing that will be demonstrated by missed targets under the 2030 SDG Agenda. In order to address this, steps would ideally be taken to address the causes of discrimination and disparity at all levels and for all vulnerable groups, including children from poor households, children with no or uncertain status (including stateless children, refugee children and undocumented migrant children), children with no birth registration, children with disabilities, LGBTI+ children and indigenous children.

6

There are **significant data gaps** relating to child outcomes that prevent a comprehensive analysis and understanding of the situation for children and women in Malaysia, with many groups rendered essentially **invisible**.

- a. Stateless, undocumented, refugee and some indigenous groups remain invisible in the data, preventing a true understanding of outcomes for children and women in Malaysia.
- b. Without accurate, disaggregated data, it is not possible to measure progress towards the SDGs and other international, national and local targets. Proper, fit-for-purpose data and case management systems are essential to address this gap.
- c. At present, it is reported that undocumented, stateless and some migrant children are, variably, not 'counted' in a number of different data sets. Including these children in data sets used for planning is important as it is essential to have a complete picture of all children in Malaysia, to protect the rights of all children in Malaysia and in order to measure progress towards the SDGs accurately.

For every child

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Wherever he lives.
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A future.
A fair chance.
That's why UNICEF is there.
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