



UNIVERSAL PERIODIC REVIEW - OCTOBER 2013

Recommendations for the Government of Malaysia

Birth Registration

Issue	Children from the indigenous and minority, refugee and asylum seeking, irregular migrant, and the rural and urban poor communities still have difficulties in obtaining birth certificates.
Summary	<p>Access to education, healthcare and other basic social services is impeded for children without birth certificates. For Malaysian children, a lack of a birth certificate can also be a barrier to obtaining national identification cards (MyKad) when they reach 12 years of age. In addition to barriers of cost, families have reported difficulties in navigating bureaucratic and overly-rigid requirements for registration.</p> <p>A fear of arrest and detention for being irregular, as well as restrictions on the ability of some migrant workers to marry has meant that some refugee and migrant mothers do not even apply for birth certificates for their children or may also choose to give birth at home. They may also give birth at home rather than in hospital if they are unable to afford hospital delivery fees. According to documentation from UNHCR, children born outside of hospitals are technically also able to apply for a birth certificate provided they and a witness of the birth are able to obtain a note from the doctor¹.</p> <p>The UN CRC Committee in its Concluding Observations (2007): “notes with concern that delays in birth registrations are subject to additional fees and that non-Malaysian children born in Malaysia, such as asylum-seeking and refugee children, children of undocumented migrant workers, children of single mothers and children born in remote areas of the country, are at risk of not being registered at birth”.</p>
Questions	Recommendations
<ul style="list-style-type: none"> • What measures are being undertaken to ensure that all babies are registered immediately after 	<ul style="list-style-type: none"> • Fully implement Article 14(1)(b) Part II(1)(e) Second Schedule of the Federal Constitution to prevent

¹ UNHCR Birth Registration Brochure, Retrieved from: http://www.unhcr.org.my/upload/Brochure_BirthRegistration.pdf



birth regardless of parents' legal status and/or origin?

- What measures are being undertaken to prevent children from becoming stateless?

children from becoming stateless and remove onerous administrative and legal requirements that can result in statelessness.

- Withdraw reservations to Articles 2 and 7 of the UNCRC to ensure children's rights to birth registration, the right to a name and nationality without any form of discrimination.

Child Protection

Issue

There are gaps in the implementation of protection mechanisms, especially for children from marginalized and disadvantaged groups.

Summary

During the 2009 UPR, Germany called for Malaysia to outlaw corporal punishment at home. Bahrain and Iran called for improving the protection of child victims of abuse while the UK recommended the enactment of laws and procedures to protect refugees, migrant workers, and their children.

The UN CRC Committee also made recommendations about the need to strengthen complaint mechanisms for victims of child abuse, to prohibit all forms of corporal punishment in the home and conduct a comprehensive study to assess the nature and extent of this phenomenon.²

Yet a significant number of cases of violence against children continues to go unreported every year, resulting in serious harm and death to children that could have otherwise been prevented. Under- and non-reporting of violence stems largely from the fact that abuse of children, especially sexual abuse, continues to be a taboo subject within Malaysian society.

Caning and other forms of corporal punishment are also used as a lawful disciplinary measure in penal institutions, schools and alternative care settings. Corporal punishment inflicted in the family home also remains legal and is believed to be widespread. The lack of registration and by extension, regulation and monitoring of children's homes, puts children at risk, as substantiated by the cases of **abuse in children's homes**. Malaysia is a destination, transit and source country for **child trafficking**. The lack of proper age verification procedures for child survivors of trafficking means that children are deprived of the rights and special protection measures.

² Committee on the Rights of the Child, Concluding Observations (2007)



Questions	Recommendations
<ul style="list-style-type: none"> • What measures is the government taking to monitor and evaluate the National Child Protection Policy and the National Plan of Action for Child Protection? • What measures is the government taking to ensure that all children, regardless of legal status, ethnicity, socio-economic background, physical and/or mental ability, and nationality, are protected by the National Child Protection Policy and the National Plan of Action for Child Protection? 	<ul style="list-style-type: none"> • Make interagency protocols for coordination between Child Protectors, police, health care officials, NGOs and other service providers in the handling of all cases of violence, abuse, neglect, maltreatment, and exploitation of children publicly available. These protocols should define roles and responsibilities, processes and procedures for reporting, investigating, prosecuting and referring cases of abuse, and information sharing between agencies, and should be disseminated to the wider civil society. • Lift the reservation to Article 37 of the CRC to ensure the protection of children from torture, degrading treatment and punishment.

Access to Education

Issue	Lack of access to education for marginalized and disadvantaged children
Summary	<p>In 2009, Laos, Uzbekistan, United Arab Emirates made UPR recommendations related to efforts to lessen inequalities and disparities in education. Sri Lanka called for continued efforts in providing educational facilities to students with special educational needs.</p> <p>Despite Malaysia’s successes in achieving almost universal primary education and significant progress made towards achieving universal secondary education, important challenges remain for groups of children from marginalized and disadvantaged communities.</p> <p>A 2009 study by the Malaysian Educational Policy Planning and Research Division found that almost 44,000 school-age children have never attended school. The majority of these children are refugees or asylum-seekers, or children of irregular immigrants and foreign workers; however, more than 5,000 are Malaysian citizens and comprised mainly of Orang Asli and Penan children, as well as orphans and</p>



children living in economic hardship³.

Many children from the **refugee, asylum-seeking, stateless and irregular migrant** communities do not have access to formal education, as government schools do not generally accept non-Malaysian or undocumented children. **Children with disabilities, children living in poverty and indigenous children** can also face significant hurdles in accessing education. While on remand, children face restrictions on their freedom of movement and have significantly less access to education than children serving sentences of imprisonment.

Questions	Recommendations
<ul style="list-style-type: none"> • What policies will the Government develop that will enable refugees, irregular migrant children and other marginalised groups to gain access to education? • What measures will the Government take to improve the education system to include children with special needs? 	<ul style="list-style-type: none"> • Guarantee universal access to free primary education, irrespective of citizenship and immigration status, with gradual extension to the secondary level. Until universal access to education is realized, formally recognize and legitimize NGO and community-based learning centres, and permit children attending these centres to sit for official examinations. • Withdraw reservations to Article 28(1)(a) of the UNCRC regarding compulsory and free primary education for all.

³ Ministry of Education, Malaysia. 2009. *Study on Children without Official Identification Documents in Malaysia*. Educational Planning and Research Division, Kuala Lumpur, cited in United Nations Country Team, Malaysia. "Malaysia: The Millennium Development Goals at 2010". April 2011.