

# **Executive Summary: Status Report on Child Rights in Malaysia 2018 Child Rights Coalition Malaysia**



**CRC30** YEARS  
CONVENTION ON THE  
RIGHTS OF THE CHILD

# Background

The **United Nations Convention on the Rights of the Child (CRC)** is the most widely ratified international human rights treaty in the world, articulating in detail the human rights of children and the state's obligation to uphold these rights. **2019 marks the 30th anniversary of the CRC, and an opportunity for states to assess their progress made in protecting and promoting the rights of children.**

Malaysia acceded to the CRC in 1995. As a party to the CRC, **Malaysia is obligated to submit reports to the UN CRC Committee every five years. To date, Malaysia has only submitted one state report.**

In 2012 and 2013, a coalition of child rights NGOs convened to write status reports to evaluate the progress made towards the implementation of Malaysia's obligations under the CRC. The Status Report on Child Rights in Malaysia 2018, prepared by the Child Rights Coalition Malaysia, is the third progress report by civil society.

# Overview of the Report

**The Status Report on Child Rights in Malaysia 2018 (hereinafter referred to as “Status Report”) contains an introductory overview of the current context in Malaysia as relates to child rights, and subsequently goes into a discussion of the critical substantive issue areas.**

The discussion of these issue areas is divided into 16 chapters based on the principles and rights articulated in the CRC. These chapters are as follows:

|            |                                 |
|------------|---------------------------------|
| Chapter 1  | Refugees,                       |
| Chapter 2  | Child Trafficking               |
| Chapter 3  | Citizenship and Statelessness   |
| Chapter 4  | Illicit Adoption                |
| Chapter 5  | Children in Alternative Care    |
| Chapter 6  | Healthcare                      |
| Chapter 7  | Rights of Indigenous Children   |
| Chapter 8  | Education and Child Development |
| Chapter 9  | Disability                      |
| Chapter 10 | Child Participation             |
| Chapter 11 | Child Labour                    |
| Chapter 12 | Child Protection                |
| Chapter 13 | Access to Justice               |
| Chapter 14 | Freedom of Religion and Belief  |
| Chapter 15 | Child Sexual Abuse              |
| Chapter 16 | Freedom of Participation        |



## Chapter 1 – Refugees:

As of the end of 2018, approximately 163,864 refugees and asylum seekers have registered with UNHCR in Malaysia. Among them, 26% are children (42,481) and 712 are unaccompanied and separated children.

Malaysia **is not** a signatory to the 1951 Refugee Convention and has not established a domestic or administrative framework that outlines the rights of refugees.

Refugee children are especially vulnerable to abuse and exploitation and their rights are often violated when it comes to fundamental needs such as healthcare and education.



**2018: 163,864 refugees and asylum seekers**

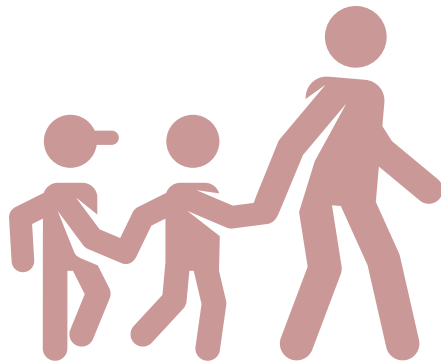
**42,481**

**42,481 of them are children and  
712 are unaccompanied and separated children.**



## Chapter 2 – Child Trafficking

The UN Special Rapporteur on the sale and sexual exploitation of children, Maud de Boer-Buquicchio identified three primary areas of concern on her visit to Malaysia 2018: **child marriage, the sale and trafficking of children for sexual abuse and other forms of exploitation, and prevention, accountability, recovery, and care.**



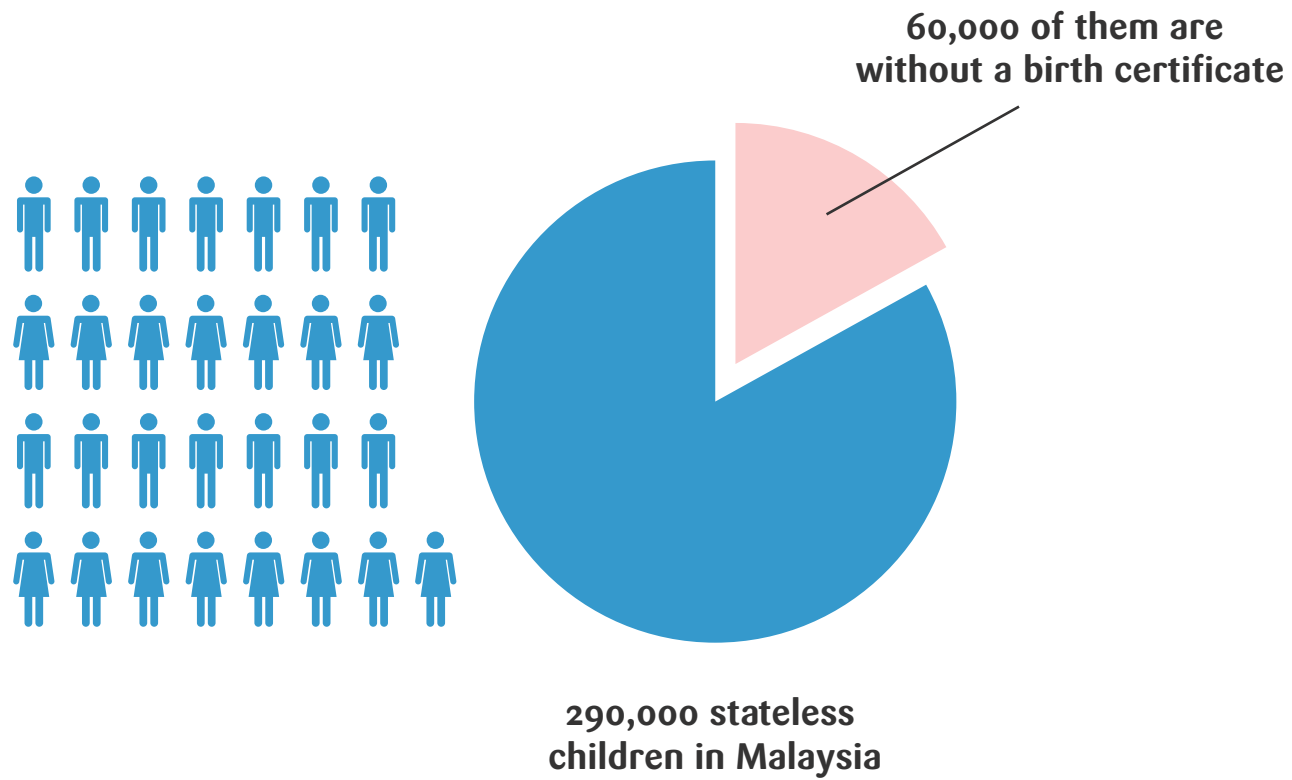
Children from outside Malaysia are primarily trafficked into domestic servitude and sex work, while Malaysian girls have also been found to have been trafficked both internally and externally for sex work.

Child Marriage

The sale and trafficking of children for sexual abuse

Other forms of exploitation, and prevention, accountability,

## Chapter 3 - Citizenship and Statelessness



## Chapter 3 - Citizenship and Statelessness

As of April 2018, **Suriana Welfare Society Malaysia estimated that there are 290,000 children in Malaysia who are stateless and 60,000 of them are without a birth certificate.** According to a coalition of NGOs, there are at least **800,000 statelessness individuals in Sabah, with most of the stateless people living in remote places and many being children of indigenous people.**

Although the **Federal Constitution** contains provisions to prevent and reduce the incidence of statelessness, many children—including adopted children and children born out of wedlock to foreign mothers—fall through the cracks due to gaps in the substance or application of the law.



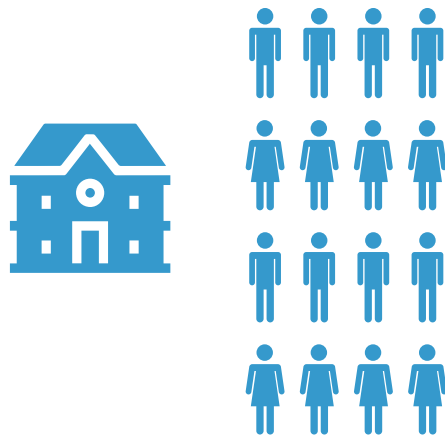
## Chapter 4 – Illicit Adoption

In Malaysia, legal adoption is highly complex and often takes years of paperwork and trips to adoption centres, which results in some childless couples turning to illegal means to adopt a baby. This has enabled opportunists to make millions by selling babies.

A 2016 Al Jazeera documentary revealed how a network of actors including doctors, government officials, and traffickers run the lucrative baby selling trade in Malaysia.



## Chapter 5 - Children in Alternative Care



**1853 registered government-based & NGO-based registered care centers**



**5013 guardians providing care for the 35,491 children living in them.**

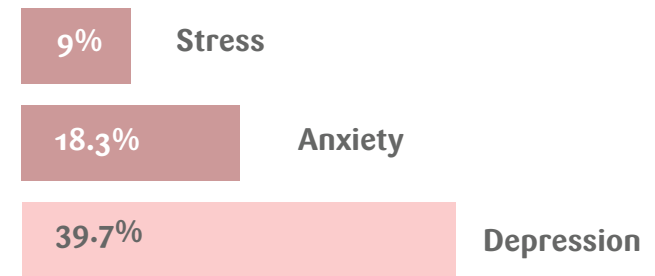
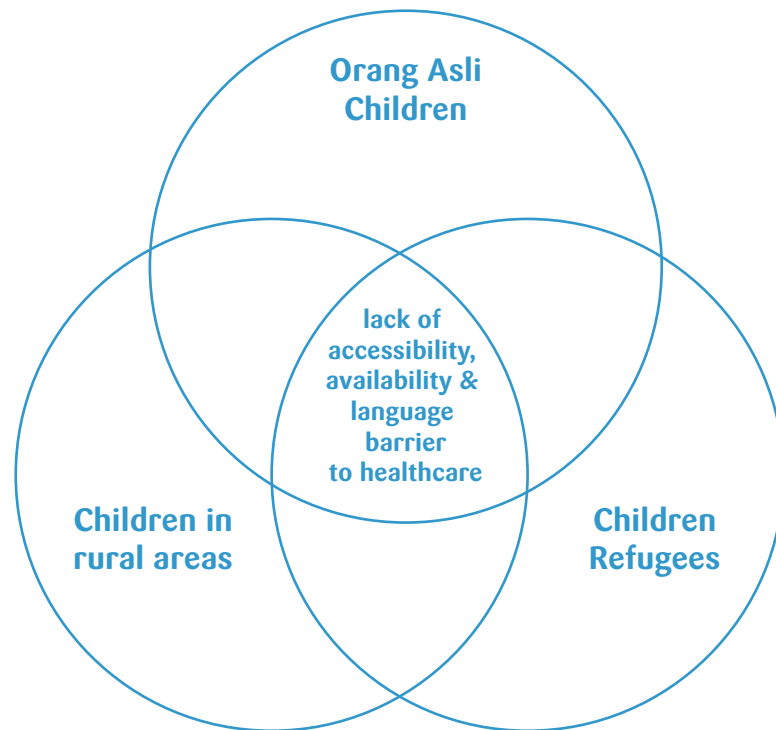
## Chapter 5 - Children in Alternative Care

A child in alternative care is anyone under the age of 18 who is not under the care of their parents. This includes **kinship care, foster care, supported independent living, and residential care such as small group homes, children's villages, and institutional care.** Although official statistics regarding children in alternative care are limited, it is known that there are **1853 registered government-based and NGO-based registered care centers, with 5013 guardians providing care for the 35,491 children living in them.**

The majority of alternative care centers such as daily daycare centers are not licensed and monitored, and the quality of care has not been assessed. Refugee children placed in institutional care are at even greater risk of abuse and exploitation.



## Chapter 6 - Healthcare



Malaysians aged 13-17

## Chapter 6 - Healthcare

National policies, government-led initiatives, and targeted programmes have led to greatly improved health and wellbeing of the general population in Malaysia.

**However, children belonging to vulnerable groups, including children in rural areas, refugee children, and Orang Asli children still experience significant barriers to healthcare, from lack of availability, to lack of accessibility, to language barriers.**

Mental ill health among children and adolescents in Malaysia is a mounting crisis, with approximately **18.3% of Malaysians aged 13-17 suffering from depression, 39.7% from anxiety, and 9.6% from stress.**

Access to comprehensive education around sexual and reproductive health is hindered by religion and morality-based attitudes towards sex.

## Chapter 7 - Rights of Indigenous Children:



Photo by Mee Lin Woon [www.freeimages.com](http://www.freeimages.com)

The rights of indigenous children are often not recognised in Malaysia, despite the country being a signatory to the UN Declaration on the Rights of the Indigenous Peoples. **Indigenous children, especially in rural areas, lack access to education and healthcare whether due to financial constraints or poor infrastructure.**

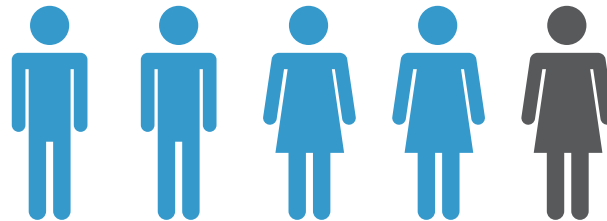
Indigenous children are also more susceptible to becoming stateless and vulnerable to gender-based violence. Sexual violence against indigenous girls has led to higher rates of teenage pregnancy and child marriage.



## Chapter 8 - Education and Child Development:

Currently, only the **six years of primary education is compulsory in Malaysia, and 1 in 5 Malaysian children do not complete their secondary education. Children from vulnerable groups often face barriers even to accessing primary education.**

Children in rural areas lack access to schools due to poor infrastructure. Stateless children and refugees can only access education in Alternative Learning Centres, while **undocumented children are not entitled to free education and standard schooling opportunities.**



**1 in 5 Malaysian children  
do not complete their secondary education**

## Chapter 9 - Disability



Data on children with disabilities in Malaysia remains **inadequate and superficial due to the lack of a comprehensive system to collect data, which is compounded by the weak relationship between registration and service provision.**

Children with disabilities are subjected to a maximum 3-month probation to “determine suitability” to attend school; although there has been a gradual increase of enrolment of children with disabilities in government special education schools, this probation period means exclusionary practices will continue. **Access to quality healthcare services for children with disabilities is also limited.**

## Chapter 10- Child Participation

Although some efforts have been made to **incorporate the voice of the child into policymaking, in Malaysia general attitudes towards children remain paternalistic.**

There is currently no framework or comprehensive set of guidelines available which encourages child participation in the response to domestic violence or other forms of violence against children. There should be policies ensuring that children are given space to participate in decisions that affect them.





## Chapter 11 - Child Labour

Child labour infringes on the human rights of the child, including their right to education, development, and health, and also limits their economic opportunities later in life. There are strict laws against child labour in Malaysia.

**However, these same laws also make allowances for children to work locally and studies show that there are children in employment, particularly from vulnerable communities.** Very little is known about the actual magnitude, nature, and distribution of child labour locally as official data is very limited.



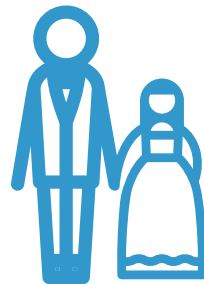
Photo by Jon Ng [www.freeimages.com](http://www.freeimages.com)

## Chapter 12 - Child Protection

There are several laws in place in Malaysia that address child protection and work to prevent and punish harmful practices against children, including domestic violence and sexual offences against children. **However, there are still gaps in the substance and implementation of the law, including when it comes to child marriage.**

**Child marriage is practised in various communities**, but data is not provided regularly by the government.

According to the Ministry of Women (2015), there were 240 applications for Muslim child marriages between 2005 to 2015. Nuptials among non-Muslims below the age of 18 have gone up by about 20% annually in the past four years, with 930 marriages in 2018 alone.



**240 applications for Muslim child marriages between 2005 to 2015**

## Chapter 13 - Access to Justice

Although the CRC and domestic laws in Malaysia articulate the rights of children, the reality is that children in Malaysia are often hindered in accessing justice. In a study by the Child's Rights International Network (CRIN), **Malaysia ranked 130th among 197 countries surveyed on the extent to which the legal system effectively guarantees children's right to access to justice, scoring 41.2%.**

While Malaysia enacted the Child Act in 2001 to fulfil its commitment to the CRC, the CRC has not yet been incorporated into Malaysian law and **is not enforceable in court.**

**Furthermore, child-friendly facilities are not commonly available in the courts, and for cases other than sexual crimes, the child's testimony cannot serve as the sole basis for conviction.**

## Chapter 13 - Access to Justice

| Rank | Country     | Score out 261 | % Score |
|------|-------------|---------------|---------|
| 1    | Belgium     | 213           | 81.6    |
| 2    | Portugal    | 201.5         | 77.2    |
| 3    | Spain       | 201           | 77      |
| 4    | Finland     | 199.5         | 76.4    |
| 5    | Netherlands | 198.5         | 76.1    |
| 6    | Luxembourg  | 197.5         | 75.7    |
| 7    | Kenya       | 196.5         | 75.3    |
| 8    | Iceland     | 194           | 74.3    |



|     |                     |       |      |
|-----|---------------------|-------|------|
| 128 | Uzbekistan          | 112   | 42.9 |
| 129 | Bahamas             | 111   | 42.5 |
| 130 | Antigua & Barbuda   | 107.5 | 41.2 |
| =   | Malaysia            | 107.5 | 41.2 |
| =   | Vanuatu             | 107.5 | 41.2 |
| 133 | Sao Tome & Principe | 106.5 | 40.8 |
| =   | Tanzania            | 106.5 | 40.8 |
| 135 | Botswana            | 105   | 40.2 |

## Chapter 14 - Freedom of Religion and Belief

**Children in Malaysia generally do not enjoy their right to the freedom of religion or belief, as a child's religion or belief is tied closely to their parents or guardians.** A child generally may not convert to another faith without explicit parental permission, although some state laws allow conversion to Islam without permission as young as 15 years old.

**When one party from a civil marriage unilaterally converts their child to Islam and the issue of custody over the child then follows, there is often a question of which laws are to be applied.**

A child's religion correlates with custody, as it is often deemed by the courts to be in the best interest of the child to be raised by the parent who shares the same religion as them. **There are also serious implications for children who are converted to Islam, as conversion out of Islam in Malaysia is nearly impossible and has significant legal consequences.**



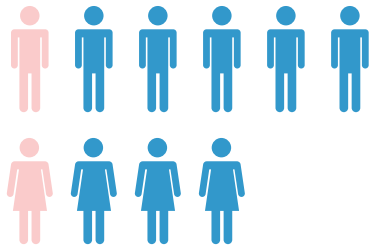
## Chapter 15 - Child Sexual Abuse

1 in 4 girls and 1 in 6 boys in Malaysia are being sexually abused. 96% of the offenders are individuals that the victims and their families know and trust. 94% are cases of incest. As of May 2018, there were 688 child sexual abuse cases received by the Social Welfare Department (JKM).

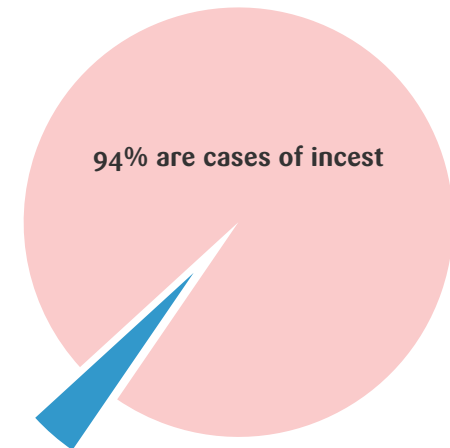
Although there is a strong legal framework—including the **Sexual Offences Against Children Act, the Domestic Violence Act, and the Child Act**—in place to address child sexual abuse, thorough implementation of and training around these laws is lacking.

Among other issues, a lack of coordination among government actors and a lack of child-sensitive procedures make it difficult for child survivors of sexual abuse to access justice.

## Chapter 15 - Child Sexual Abuse



**1 in 4 girls and 1 in 6 boys  
in Malaysia are being sexually abused.**



**688 child sexual abuse cases received by  
the Social Welfare Department (JKM).**

## Chapter 16 - Freedom of Expression



**Malaysia's Child Act does not specifically address the child's right to freedom of expression and peaceful assembly.**

Although efforts have been made to listen to the voice of the child from a policy standpoint, general attitudes towards children remain paternalistic. **Marginalised children in Malaysia experience systemic disadvantages in their capacity to express themselves, access information, and seek redress, especially from stigma and discrimination.**







Since 1982, Women's Aid Organisation has provided free shelter, counselling, and crisis support to women and children who experience abuse. We help women and their children rebuild their lives, after surviving domestic violence, rape, trafficking, and other atrocities. Learning from women's experiences, we advocate to improve public policies and shift public mindsets.

**Together, we change lives.**

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