

**Sexual Exploitation of Children in Malaysia**  
**Submission**  
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for the Universal Periodic Review of the human rights situation in Malaysia

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*The End CSEC Network Malaysia consists of three organisations: Protect and Save the Children Association; Majlis Kabajikan Kanak-Kanak Malaysia (Malaysian Council for Child Welfare); and Good Shepherd Services. Protect and Save the Children (P.S. The Children) is a non-profit organisation that envisions a world that upholds the right and dignity of every child from sexual abuse and exploitation – where culture that excuses nobody from sexual crime and violence, where communities not only have the courage to speak up, but are also committed to reach out. It advocates, educates and offers case management support and therapy to those who have been sexually abused and exploited.*

*The Malaysian Council for Child Welfare provides care and runs welfare homes for abandoned children, conducts operational research and development – new initiatives/emerging issues (e.g. human trafficking), CSEC, advocacy and IEC (information, education and communication).*

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### **ECPAT International** Special consultative status

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*ECPAT International is a global network of civil society organisations working for the eradication of all forms of sexual exploitation of children. For the past 26 years, ECPAT has acted as the international watchdog, monitoring States' response to sexual exploitation of children, and advocating for robust international measures to protect children from sexual exploitation. ECPAT International currently has 102 network members operating in 93 countries.*

## Justification for Submission

1. The present submission is an update to review the progress that has been made by the Government of Malaysia (GoM) to end sexual exploitation of children (SEC) and assess the level of implementation of the UPR recommendations, pertaining to SEC, made in 2013.<sup>1</sup> New recommendations to end SEC in Malaysia will be made. The recommendations made in this report are in line with the commitment made by the GoM to eliminate all forms of violence against children, including sexual abuse and exploitation with the adoption of the 2030 agenda for Sustainable Development in 2015.<sup>2</sup>
2. The content of this report is mostly based on ECPAT's research and the work experience and research of End CSEC Network Malaysia in the period 2014 to 2018.
3. The scope of this report is limited to SEC and its different manifestations, including exploitation of children in prostitution,<sup>3</sup> online child sexual exploitation (hereinafter 'OCSE'), child sexual abuse materials (hereinafter 'CSAM'),<sup>4</sup> trafficking of children for sexual purposes, sexual exploitation of children in the context of travel and tourism<sup>5</sup> (hereinafter 'SECTT') and child, early and forced marriage (hereinafter 'CEFM').

## Status and developments of sexual exploitation of children in Malaysia

4. Located in Southeast Asia, Malaysia shares borders with Thailand, Singapore, Brunei Darussalam and Indonesia. Malaysia is a federal constitutional monarchy with thirteen states and three federal territories.<sup>6</sup> The head of state and spiritual leader<sup>7</sup> is the King, known as the *Yang di-Pertuan Agong*. The most widely professed religion is Islam; and Buddhism, Christianity and Hinduism to a lesser extent.<sup>8</sup>
5. Malaysia has an estimated population of 31.7 million. The child population of Malaysia corresponds to approximately 9,350 million inhabitants.<sup>9</sup> The majority of Malaysian citizens belong to the Bumiputera (67.4%), and to a lesser extent Chinese (24.6%), Indians (7.3%) and other ethnic groups. Malaysia is also home to migrant workers and refugees or asylum-seekers. Both documented and undocumented migrant workers, mainly from Indonesia and the Philippines, are in important proportion in Malaysia.<sup>10</sup> Concerning refugees and asylum seekers, the United Nations High Commissioner for Refugees (UNHCR) registered in December 2017 152,320 persons, of which approximately 40,000 are children.<sup>11</sup>
6. In the past three decades, the country experienced a significant development transformation, which contributed to the reduction of poverty and income inequalities.<sup>12</sup> In 2016, the GDP per capita in Malaysia amounted to around US\$9,500.<sup>13</sup> The country ranked 59 out of 188 countries in the latest Human Development Index.<sup>14</sup>
7. Official and reliable data on **exploitation of children in prostitution** is difficult to find. In 2011, the Child Rights International Network and child rights activists reported that the exploitation of children in prostitution increased in Malaysia with an average of 150 children being coerced yearly. The reports highlighted that child victims were not only Malaysians, but also originated from Indonesia, Thailand and India.<sup>15</sup> A significant number of young women, mainly from Southeast Asia are forced into prostitution after having been recruited ostensibly for legal work in Malaysian restaurants, hotels and beauty salons. There are also cases, especially amongst Vietnamese women and girls, who entered into brokered marriages in Malaysia and were later forced into prostitution.<sup>16</sup>
8. Despite some efforts, the **exploitation of children through trafficking** remains a challenge Malaysia faces. Malaysia is a destination and, a source and transit country for victims of trafficking.<sup>17</sup> On her visit to Malaysia, the UN Special Rapporteur on Trafficking, Ms. Maria Grazia Giammarinaro, 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.<sup>18</sup> Additionally, she stressed that the rapid repatriation programmes for undocumented migrants implemented by the government's immigration agencies increase the risks for children to be arrested, detained and deported without being properly identified as

victims of trafficking.<sup>19</sup> The corruption of immigration and police officials from Myanmar, Cambodia, Thailand and Malaysia that facilitates the illicit flow of populations through the borders is not easing the task.<sup>20</sup> The mass graves of Bangladeshi and Burmese Rohingya suspected trafficking victims (no specific details were given on the number of child victims) found in mid-2015 at the Thai-Malay border highlight the challenges Malaysian authorities still have to tackle, especially in the detection of trafficking cases, protection of the vulnerable and identified populations and prosecution of the offenders and their accomplices.<sup>21</sup> While media reported that Thai officials were being investigated for their involvement in the border camp, no Malaysian officials or nationals were convicted.<sup>22</sup>

9. In 2016, in Malaysia, the number of mobile subscriptions was 44 million and the number of internet users reached approximately 22 million.<sup>23</sup> The increasing use of ICTs by Malaysian children and young people expose them to various risks, including sexual abuse and exploitation. According to the Communication and Multimedia Commission, 88,5% of children between 10 and 17 are connected to social media. Data shows that nowadays Malaysia has the highest number of internet users uploading and downloading **CSAM** in South-East Asia. Resulting in May 2017 to a number of 117 cases of children sexually assaulted by perpetrators met on the Internet.<sup>24</sup>
10. Data regarding **SECTT** in Malaysia is not available. Like many other countries in Southeast Asia, the tourist flow in Malaysia is growing. In 2015, Malaysia was ranked 12<sup>th</sup> in terms of most international tourist arrivals and it is the 4<sup>th</sup> most visited country in the Asia and Pacific region, after China, Thailand and Hong Kong.<sup>25</sup> Of the 25, 7 million arrivals recorded in 2015, the majority of tourists were coming from neighbouring Singapore (almost 13 million), Indonesia, China and Thailand.<sup>26</sup> Only 3% of the arrivals were from Europe and even less (1%) from the Americas. This data is consistent with the complex and evolving image of the typical travelling sex offender. Studies highlight more and more that offenders may be from the country or region where the abuse takes place, they may be women and victims may be boys.<sup>27</sup> A NGO, Tenaganita, reported that in 2015, 5,000 children were involved in child sex tourism in the regions of Klang Valley, Bukit Bintang and Chow Kit.<sup>28</sup>
11. Data available for **child marriage** in Malaysia are scarce.<sup>29</sup> A representative from the Ministry of Women, Family and Community Development reported that between 2010 and 2015, 9,061 child marriages were recorded.<sup>30</sup> Children from foreign countries may also be victims of child marriage in Malaysia. It was reported by the media that some Bangladeshi and Burmese Rohingya men in Malaysia brought underage girls from their home countries to Malaysia for marriage. Often, the brides were below 18 years old.<sup>31</sup> Strong calls for amendment of the laws (both religious and secular) to ban child marriage have been made by activists in Malaysia, to prohibit marriage between two children and to forbid the marriage of children when it is to escape prosecution and conviction for what could be qualified as statutory rape.<sup>32</sup>
12. In the country's last UPR review in 2013, over 25 recommendations concerning child rights, two were targeting CEFM and six the trafficking of children. No recommendations were made on the exploitation of children in prostitution, online child sexual exploitation and CSAM, nor SECTT.<sup>33</sup>

## General measures of implementation

### *National Action Plans and overall Strategies*

13. Malaysia adopted two national plans of action to implement its policy for the protection of children and promotion of their development. The **National Child Policy's** provides special programmes for vulnerable children and special measures to protect child victims of sexual exploitation, and ensure their rehabilitation and reintegration into their communities or their safe deportation back to their country of origin.<sup>34</sup> The prevention of sexual exploitation of children is also mentioned in the Plan.<sup>35</sup> On the other hand, the **National Child Protection Policy** revolves around seven main objectives that could in turn be classified into four main themes: advocacy, prevention, support service and, research and development.<sup>36</sup> There is not any governing body to ensure the implementation of the child protection policy and it has been

left to the initiative of some NGOs to keep pushing for it.<sup>37</sup>

14. Malaysia also has a **National Action Plan on Trafficking in Persons (2016-2020)**.<sup>38</sup> There are five principles outlined in the action plan, namely participation of civil society, trafficked victims' treatment based on human rights, co-ordination among international bodies, co-ordination among non-governmental organisations and systematic and resilient evaluation. The plan outlines the transformation by the government, following the amendments to the ATIPSOM Act (2007), towards a joint holistic co-operation in the fight against human trafficking.<sup>39</sup>

#### **Recommendations for the GoM to:**

- The National Plans of Action should establish a clear outline of the structure for managing and implementing policies to prevent and combat manifestations of SEC;
- The National Plans of Action should ensure that the same protective measures are provided to all children, especially children in vulnerable situations (e.g. without citizenship, child refugees, and children of undocumented migrants);
- The National Action Plan on Trafficking in Persons should include more specific measures to ensure the protection, rehabilitation and reintegration of child victims of trafficking;
- The competent authorities, especially the Ministry of Women, Family and Social Development, should monitor and assess the results of the current Plans of Action in order to improve the implementation of adequate protection measures for children in the future;
- Allocate sufficient budget and human resources for the implementation, monitoring and evaluation of the plan.

#### *Coordination and Evaluation*

15. Since 2004, the **Ministry of Women, Family and Community Development (MWFCD)** has been the main organ that co-ordinates child protection and child development policies.<sup>40</sup> The **Department of Social Welfare (JMK for *Jabatan Kebajikan Masyarakat*)**, a subunit of the MWFCD, is in charge of providing a wide range of services for other social groups, including children. To address the administration, assistance and social welfare of children, the JMK created the **Children Division** in 2005. The services provided by the JMK are divided into four categories: child protection services, child rehabilitation services, child development services and a witness support service programme for children.
16. To ensure the adequate protection of child sexual abuse victims, the 2001 Child Act established specialised organs that gather representatives from different ministries.<sup>41</sup> The **Co-ordinating Council for the Protection of Children** was the first specialised organ mentioned in the 2001 Child Act to ensure the co-ordination of a national action to protect children.<sup>42</sup>
17. The **Child Protection Teams (*Pasukan Pelindungan Kanak-Kanak*, PPKKs)** have the closest contact with the population as they co-ordinate locally-based services in each districts of Malaysia.<sup>43</sup> They develop and manage the implementation of social and healthcare strategies at the local level. The strategies elaborated by the PPKKs are relayed to and implemented in the communities by different **Children's Activity Centres (*Pusat Aktiviti Kanak-Kanak*, PAKKs)**. However, in the key findings listed by the MWFCD and UNICEF, both the Child Protection Teams and the Children's Activity Centres, although different,<sup>44</sup> often lack the specialised skills necessary to handle resource management, project management and strategy planning; some lack even the training to cover issues surrounding child sexual abuse.<sup>45</sup>

18. National action to address trafficking in human beings is co-ordinated and formulated by the **Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants** (*Majlis bagi Antipemerdagangan Orang*, MAPO).
19. At the civil society level, a group of Malaysian NGOs formed a network of members called the Child Rights Coalition Malaysia, to work at first on an Alternative Report for the Convention of the Rights of the Child for Malaysia.<sup>46</sup> The Coalition monitors the situation of children's rights in Malaysia, but also co-ordinates advocacy activities, organises capacity building trainings and promotes child participation.<sup>47</sup>
20. Finally, partnerships with private companies play an important role in the comprehensive protection of children's rights and prevention of child sexual abuse. Online protection of children has for example been at the core of co-ordinated action between the Malaysian Communications and Multimedia Commission (MCMC); the MWFCDC; several NGOs; Digi mobile and Harvard's Berkman Centre for Internet and Society.<sup>48</sup>

#### **Recommendations for the GoN to:**

- Strengthen coordination and cooperation between the various government departments and agencies working in the areas covered by the OPSC;
- Mobilise sufficient resources to offer training on issues surrounding SEC to state agents as well as to all relevant professionals, in particular border police officers, judges, prosecutors, and social workers;
- Ensure active and meaningful consultation with the civil society organisations in the development of budgets for service delivery for children, to identify and develop priority policies, as well as in the monitoring of their implementation.

#### **Legislative framework**

21. In the country's last UPR review in 2013, only recommendations have been made concerning child trafficking and CEFM. Egypt, Belarus, Philippines, United Emirates Arab and Bhutan recommended to the GoM to strengthen its efforts to eradicate trafficking in persons, especially children and the protection of victims, and fully implement the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act.<sup>49</sup> On the other hand, Sierra Leone and Italy advocated the GoM on the need to put an end on the practice of CEFM.<sup>50</sup>
22. Under Malaysian laws, **prostitution** is illegal and criminalised by the Penal Code.<sup>51</sup> However, the Penal Code does not make a difference between exploitation of children in prostitution or exploitation of adults. The Child Act criminalises more specifically the exploitation of children for the purpose of prostitution.<sup>52</sup> The attempt of any act defined by the Section 3 of the Child Act is punishable by a fine not exceeding MYR50,000 (around US\$11,2000) and/or imprisonment not exceeding 15 years.<sup>53</sup> The Act acknowledges that children who are suspected to be under threat or intimidation for purposes of prostitution may be in urgent need of protection,<sup>54</sup> which may be granted by a special authorisation prescribed by the Protector.<sup>55</sup>
23. The definition of **trafficking** in persons given by the Malaysian Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act is quite similar to the one provided by the international instruments.<sup>56</sup> By virtue of Section 14, the offence of trafficking in children is punishable by imprisonment for a term not less than three years but not exceeding 20 years (15 years for the offence of trafficking in adults) and a fine.<sup>57</sup> The Child Act 2001 provides dispositions on trafficking in and abduction of children<sup>58</sup> and criminalises any unlawful transfer of possessions, including custody or control of a child. Yet, the Child Act seems to impose lighter sanctions than the Anti-Trafficking in Persons and the Anti-Smuggling in Migrants Act, and also acknowledges a possible defence to prosecution, if the "transfer took place in contemplation of or pursuant to a *bona fide* marriage or adoption; and at least one of the natural parents of the child or the guardian of the child was a consenting party to the marriage or to the adoption by the adopting party".<sup>59</sup>

24. In 2017, Malaysia has taken a progressive step in the protection of children from SEC by enacting a new bill that encompasses **OCSE manifestations, namely CSAM/CSEM and online grooming**. The Sexual Offences against Children Act 2017 provides for offences related to ‘child pornography’ and grooming and their penalties.<sup>60</sup> The definition of ‘child pornography’ given by the Malaysia legislation is aligned with the one provided by the OPSC. A unique feature of the Sexual Offences against Children Act is that there is a specific provision for offences committed by a body corporate.<sup>61</sup> According to the Malaysian Chief Justice, 14 cases have been processed under the new Sexual Offences Against Children Act 2017 and 48 cases are still being analysed.<sup>62</sup>
25. For the time being, Malaysia has not established a legal obligation for Internet Service Providers (ISP) to report, remove or block access to websites where sexual abuse materials representing children are available.<sup>63</sup> The Malaysian Government has partially ordered Internet café operators to take measures against obscene, indecent or pornographic materials online in some territories. For instance, the Federal Territory of Kuala Lumpur enacted the Cyber Centre and Cyber Café Rules in 2012 to supervise the granting of professional licenses and to require licensees to provide and keep records of computer usage for each computer available, including personal information on the identity of the users.<sup>64</sup> The rule mentioned is not a federal law and therefore creates gaps among the laws applicable in the different territories. The same year, Malaysia amended Section 114A of the Evidence Act and established a presumption of fact in publication.<sup>65</sup> Section 114A presumes that owners, hosts, administrators, editors or sub-editors have published all the contents that appear under their name, using their photograph or pseudonym (paragraph 1). The same presumption applies to the subscriber of a network service provider (paragraph 2). Subsequently, with the amendment of Section 114A, websites hosts, forum administrators and even social media platforms may be held accountable for the publication of materials depicting sexual abuse of children. A potential tool to prevent and combat the circulation of CSAM, the new Section 114A was, unfortunately, protested online due to its possible limitation of the freedom of expression.<sup>66</sup>
26. Aligned with the Convention on the Rights of the Child, the Child Act 2001 defines a child as a “person under the age of eighteen years”.<sup>67</sup> Although the age of **marriage** is 18,<sup>68</sup> there are numerous exceptions; a girl above the age of 18 can get married if she obtains a special marriage license from the Chief Minister and the consent of her parents/guardians to the union.<sup>69</sup> Additionally, under Islamic tradition, boys can marry at age 18 and girls can marry at age 16; if below these ages, a permission can be granted by the *Syariah* court.<sup>70</sup> It is necessary to forbid the marriage of children when it is to escape prosecution and conviction for what could be qualified as statutory rape.<sup>71</sup>
27. Malaysian law does not contain provisions specifically addressing **SECTT**.
28. However, Malaysia has explicitly guaranteed extra-territorial application to some manifestations of **OCSE**, namely CSAM and online grooming. The recent Sexual Offences against Children Act 2017 states that if the criminalised offences are committed by a Malaysian citizen against a child in any place outside Malaysia, the offender may be prosecuted as if the offence was committed anywhere within Malaysia.<sup>72</sup>
29. The Malaysian Extradition Act 1992 defines an extradition offence as an offence with a punishment of no less than one year imprisonment/death under the laws of a state referred to in the Act as well as under Malaysian law (section 6).<sup>73</sup> The attempt, conspiracy to commit or abetment of the commission of an offence may also be subject to an extradition request.<sup>74</sup> Consequently, domestic law may authorise extradition for OPSC offences. There are two bases for extradition. First, extradition may be granted to countries with which Malaysia has concluded an extradition treaty;<sup>75</sup> examples of these include Australia, Hong Kong and the United States.<sup>76</sup> The second basis for extradition is the administrative decision, which requires the consent of the Minister of Home Affairs (article 2(2)). In both cases, the request for extradition shall be presented before each House of Parliament.<sup>77</sup>

30. The Government of Malaysia and the Governments of Brunei and Singapore have special agreements for extradition, which provides a simplified procedure for extradition.<sup>78</sup> Extraditions may be granted for offences punishable on conviction by imprisonment for a term exceeding six months, the arrest warrant may be issued without being examined by the Session Court and the Magistrate who received the extradition request directs the transfer of the person.<sup>79</sup>

**Recommendations for the GoM to:**

- Consider withdrawing its reservations to articles 2 on non-discrimination, 7 on name and nationality, 14 on freedom of thought, conscience and religion, 28(1) on free and compulsory education at primary level, and 37 on torture and deprivation of liberty, of the Convention on the Rights of the Child;
- Provide special protection to child survivors of trafficking, prevent their detention as criminals, provide them with health care services (including a long-term follow-up) and ensure their rehabilitation and reintegration;
- Raise the age of marriage to 18 years of age for both girls and boys without exceptions;
- Repeal section 376 of the Penal Code, which allows child rape offenders to marry their victims, should be repealed to prevent impunity from SEC crimes;
- Establish a legal obligation for Internet Service Providers (ISP) to report, remove or block access to websites where sexual abuse materials representing children are available;
- Malaysia should amend existing Acts to criminalise SEC offences committed in the context of travel and tourism;
- Effectively fight against impunity and corruption by fully enforcing existing laws and conducting rigorous investigations and prosecuting officials and teachers who commit SEC offences;
- In order to provide more guarantees against impunity from SEC offences, Malaysia should recognise the exercise of extraterritorial legislation in all cases when the offender is a national citizen or a habitual resident, or when the victim is a national;
- Strengthen international cooperation by signing extradition treaties.

**Prevention**

31. In the country's last UPR review in 2013, no recommendation was done on the prevention of children regarding SEC.<sup>80</sup>
32. The GoM carried out various action in order to prevent child sexual abuse. For instance, the GoM included the prevention of child sexual abuse in school curricula and developed the telephone hotline "Childline 15999". This free of charge service is available nationwide, 24 hours per day.<sup>81</sup> In another hand, the Police District, at a community level, organised exhibitions, shows and events in schools and sent prevention message campaigns on mobile phones.<sup>82</sup>
33. The PAKKs are also part of the existing prevention tools as they provide support for the development and protection of children, and generic support for parents.<sup>83</sup> Following similar objectives to the PAKK's, the National Population and Family Development Board, an organ of the MWFCB, established Kafe@TEEN Adolescent Centres in different cities of Malaysia. These Centres organise online forums and indoor activities, provide counselling services and develop youth skills.<sup>84</sup> Besides supporting children and youth, both PAKK and Kafe@TEEN Adolescent Centres prevent children and adolescents from being exposed to abusers and

exploiters while wandering alone in the streets and prevent children from becoming involved in petty crimes and delinquency.<sup>85</sup>

34. NGOs also participate in the broadcasting of information about children's rights and child sexual abuse on radio stations and workshops.<sup>86</sup> Often, the materials are child-friendly, employing cartoons to convey the message.
35. Numerous prevention campaigns were elaborated to address child sexual exploitation through the new technologies. More than 1000 events were organised in Malaysia, including trainings, talks, workshops and activities, the objectives of which were to inform children and adults about the safe use of the Internet, to ensure the security of children, and to encourage children to exhibit responsible conduct when online.<sup>87</sup> Another example is the “#ReplyForAll-MY Campaign”, developed by multi-disciplinary partners; this campaign's goal is ensuring that the Internet is a safe place for children.<sup>88</sup>
36. The involvement of private actors is essential. For example, the telecommunication company Digi participates in the CyberSAFE Initiative, which is a public prevention project.<sup>89</sup> Digi largely contributed to reach the children in schools and inform them about the dangers of the misuse of the Internet.<sup>90</sup>
37. Following the cases of sexual exploitation of children reported in Malaysia, the Government announced through the media that the Social Welfare Department would create a registry for child sex offenders.<sup>91</sup>
38. The involvement of the private sector has not been equal with regards to trafficking of children for sexual purposes. In her report following a visit of Malaysia, the UN Special Rapporteur on Trafficking in Persons, Especially Women and Children suggested that efforts to raise awareness on the issue of trafficking in persons could be increased by involving private companies.<sup>92</sup> To this date, no Malaysian company has joined the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.<sup>93</sup> However, several international private companies operating in Malaysia are members.<sup>94</sup>
39. The National Youth Consultative Council (NYCC), established in 1972 and chaired today by the Ministry of Youth and Sports, monitors the application and evaluation of the National Youth Policy developed in 1997 which aims to empower youth organisations through trainings, awareness raising, programmes etc.<sup>95</sup> Youth participation is also handled by the Malaysian Youth Council (MYC), formed in 1948, this non-governmental organisation hosts the majority of the youth organisations in Malaysia and promotes youth development and participation through the monitoring of the implementation of the National Youth Policy.<sup>96</sup>
40. Even if the 11<sup>th</sup> Malaysian Plan 2016-2020 recognises the importance of youth participation in the process of policy elaboration,<sup>97</sup> child participation in the political and social mechanisms developed to protect them specifically from child sexual exploitation is rare or not efficient enough.
41. Youths between the ages of 18 and 30 can participate in the Youth Parliament of Malaysia, a simulation of the parliamentary proceedings of the Parliament of Malaysia, providing insight into the parliamentary workings. At the beginning of 2017, an advertisement supporting the amendment of the existing laws in Malaysia punishing sexual crimes committed against children could be seen on the website of the Malaysian Youth Parliament.<sup>98</sup> However, none of the resolution taken by the Youth Parliament is binding.<sup>99</sup>
42. Finally, at the regional level, children and youth have been invited to contribute to relevant policies and plans through different events. During the 10<sup>th</sup> Asia and Pacific Prevention of Child Abuse and Neglect Forum, held in Kuala Lumpur from 24-28 October 2015, ECPAT and the International Society for the Prevention of Child Abuse and Neglect (ISPCAN) co-organised and facilitated a Virtual Youth Forum.<sup>100</sup> The Youth Forum virtually brought together over 150 young people from Bangladesh, India, Indonesia, Malaysia, Myanmar, Laos, Pakistan, the Philippines and Thailand to discuss SEC related topics such as sexual exploitation of children in travel and tourism, trafficking of children, child sexual abuse and child marriage.<sup>101</sup>

#### **Recommendations for the GoM to:**

- Continue raising public awareness about SEC, specifically among vulnerable groups, and the sanctions on the crime to all citizens and visitors;
- Increase efforts to raise awareness on the issue of trafficking in person by involving private companies;
- Promote the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism;
- Invest in child empowering prevention programmes on SEC, included in the standard school curricula, and to address its root causes and multiple vulnerabilities that endanger children, families and communities;
- Promote child protective social norms through community development projects, and the media, including social networks;
- Continue investing in a public education programme to raise awareness on online behaviour and safety, knowledge and reporting of online child sexual exploitation and abuse offences;
- Create the registry for child sex offenders;
- Ensure that the child's voice is heard and taken into consideration in all legal and social proceedings affecting the child and more specifically in policies combatting SEC crimes should be developed in Malaysia.

### Protection of the rights of child victims

43. In the country's last UPR review in 2013, United Arab Emirates recommended the GoM to ensure protection and assistance to child victims of trafficking.<sup>102</sup> Furthermore, Ethiopia encouraged the GoM to develop child-friendly courts and specialised responses to children in conflict with the law.<sup>103</sup>
44. The **Royal Malaysia Police** acts as an important law-enforcement agency in curbing child sexual exploitation. The Criminal Investigation Division of the Royal Malaysia Police has a specialised section that investigates sexual crimes and crimes involving children: the Sexual Crime and Children Division, also called D11.<sup>104</sup> The D11 Division is also in charge of developing and co-ordinating nationwide prevention campaigns, training programmes and ensuring that adequate facilities are available for children.<sup>105</sup> The Royal Malaysia Police also operates a specialised anti-trafficking unit, and the immigration and labour departments have trafficking enforcement agents. The capacity of the Special Forces dedicated to anti-trafficking policy was doubled.<sup>106</sup>
45. During the year 2017, **Malaysia's Special Criminal Court on Sexual Crimes Against Children** were established in different States such as Sarawak, Selangor and Johor. Those special courts also target cases on child pornography and grooming following the Sexual Offences Against Children Act 2017.<sup>107</sup> The Minister in the Prime Minister's Department, Datuk Seri Azalina Othman says that next step is to establish courts in the States of Kedah, Perlis, Kelantan, Pahang, Penang, Negeri Sembilan, Melaka, Sabah, Perak and Terengganu. The courts are equipped with court recording transcription, audio visual system and a children's witness room and, special trainings are given to the judicial and legislative officials. For instance, in 2017, out of 303 cases registered, 255 have been solved in Putrajaya special court.<sup>108</sup>

46. As for the legal services provided to minor victims, children and their representatives may be eligible for legal aid and assistance. The Malaysian Bar Council established Bar Council Legal Aid Centres (LACs) which provide free legal advice, intervention and representation before the court to applicants who are not eligible for legal aid.<sup>109</sup> Another type of legal aid and assistance provided by the Legal Aid Department (LAD) may be available to child victims and their representatives; these same services as ones available in LAC are provided to applicants, who may be classified into two categories based on their income.<sup>110</sup> The LAD provides legal advice and assistance to proceedings only in specific cases, but these include the criminal proceedings under the Child Act.<sup>111</sup>
47. Several mechanisms were created to protect and provide support services for children. For example, two units were created to ensure that child victims are identified, receive adequate treatment and, eventually, ensure that they are reintegrated and rehabilitated into their communities: The **Suspected Child Abuse and Neglect (SCAN) Teams** and the **One-Stop Crisis Centre (OSCC)**. Both consist of multi-disciplinary groups of professionals from various medical fields, namely paediatricians, obstetricians and gynaecologists, psychiatrists, forensic pathologists, as well as medical social workers.<sup>112</sup>
48. The Malaysian Child Act also establishes ‘places of safety’ to ensure the care and protection of children<sup>113</sup> and ‘places of refuge’ to ensure the care and rehabilitation of children.<sup>114</sup> These places, institutions or centres are established or appointed by the Minister of Women, Family and Community Development. Following the adoption of the Child Act 2001, the Government created Children’s Homes (*Rumah Kanak-Kanak*).<sup>115</sup> By the end of 2016, there were 13 Children’s Homes in Malaysia with a total capacity of 1,430 children.<sup>116</sup> Concerns may rise regarding the administration of the institutions as juvenile offenders may also be housed in Children’s Homes. While acknowledging the importance of the government-run shelters in the protection of children, the UN Special Rapporteur on Trafficking expressed some concerns about the absence of specialised trainings and capacity-building sessions organised for the staff of the shelters.<sup>117</sup> Private organisations play a major role in ensuring the protection of children who are unable to stay in government-funded Children’s Homes or *Tunas Harapan* Homes. These include faith-based organisations like the *Pertubuhan Kebajikan Anak-Anak Yatim (Peyatim)* managed by the Muslim Association of Malaysia, Shelter Homes and Good Shepherd.

#### **Recommendations for the GoM:**

- Ensure that law enforcement agencies have the resources and skills to identify, investigate and respond to SEC and are able to use victim-centred and child friendly methods when dealing with child victims and witnesses;
- Ensure that child-friendly services are available and regulated by quality standards, put in place by competent and well-trained staff with adequate resources and easily accessible to all children in order to guarantee their physical and psychological recovery and reintegration into their communities; ;
- Inform and educate child victims of SEC about available recovery and reintegration structures;
- Mobilise sufficient financial and human resources to maintain the shelters for child victims;
- Create additional legal provisions to ensure that child victims of SEC have access to legal remedies, regardless of their gender or their background;
- Offer or subsidise tailored recovery and reintegration services to SEC victims.

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- <sup>2</sup>Sustainable Development Goal Targets 5.2, 8.7, and 16.2.
- <sup>3</sup>ECPAT prefers the term ‘exploitation of children in prostitution’ instead of ‘child prostitution’ in line with the recently widely adopted Terminology Guidelines. ECPAT International (2016), “*Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, Adopted by the Interagency Working Group in Luxembourg, 28 January 2016*”, Bangkok: ECPAT, 29, accessed on 15 January 2018, <http://luxembourgguidelines.org/>.
- <sup>4</sup>ECPAT prefers the term ‘child sexual exploitation material’ or ‘child sexual abuse material’ over the often in legal context still used ‘child pornography’ in line with the recently widely adopted Terminology Guidelines. ECPAT International (2016), “*Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, adopted by the Interagency Working Group in Luxembourg, 28 January 2016*”, 39.
- <sup>5</sup>*Ibid.*, 54.
- <sup>6</sup>Government of Malaysia (1957), “Federal Constitution”, 31 August 1957, last amendments on 1 November 2010, article 1 (2) and (3), accessed 11 November 2016, [http://www.agc.gov.my/agcportal/uploads/files/Publications/FC/Federal%20Consti%20\(BI%20text\).pdf](http://www.agc.gov.my/agcportal/uploads/files/Publications/FC/Federal%20Consti%20(BI%20text).pdf), as referenced in ECPAT International (2018), “ECPAT Country Overview: Malaysia”.
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