

## 2e: Child

### I: Child Participation

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Despite Malaysia's ratification of the UNCRC and relevant laws for child participation, children's voices are still unheard, if not silenced in Malaysia. The culture of perceiving children as incapable of understanding or knowing about matters that concern them is the root cause of the lack of empowerment for children to participate in family, schools, community and child-related policy-making decisions. Child participation in Malaysia today is limited to manipulation, decoration and tokenism, the first three 'rungs' of Hart's ladder of child participation, which outlines increasing levels of power and control over decision-making that adults can give to children. Children's opinions are not included in decisions on laws, policies and programmes that affect them. Children's freedom to express their views are not nurtured or institutionalised, and safe spaces for them to speak out are lacking.

#### **1. Empower children as child rights advocates and rights holders.**

(Child Cluster, CSO Platform for Reform, Proposal 2E-1)

Uphold Articles 12-17 of the UNCRC, amplify and institutionalise child participation in law and policy-making decisions, programme design, planning and implementation.

#### **2. Create awareness of children on child rights.**

Include children from diverse and marginalised groups, in keeping with the UN Children's Fund (UNICEF) principle of leaving no child behind.

**3. Establish the Rukun Tetangga, residential associations and educational institutions as safe spaces to nurture, educate and empower children to express their views.**

**4. Increase adult-initiated shared decision-making processes with children and child-initiated and directed participation within the next five years.**

**5. Promote inclusivity and holistic participation in schools.**

- i. Allow children to choose the arts or science stream, sports and other extracurricular activities.
- ii. Enable all children from marginalised and diverse communities to access national primary and secondary schools.

**6. Encourage teachers to act as guides instead of instructors.**

## II: The Right to be Safe

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From 2011 to 2018, there were 13,846 reported cases of child neglect, 10,046 of physical abuse and 8,112 of sexual abuse, according to the Ministry of Women, Family and Community Development (MWFCD) in 2019.

The existing laws, policies, guidelines and procedures to protect children are not aligned with the UNCRC. For example, the Syariah law permits child marriage; national security is cited as an excuse to arrest, detain and deport child refugees; the Education Regulations Act 2006 allows corporal punishment; and child rights and protection are poorly reflected in the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2017.

Although a child protection system exists, and services include an integrated system to respond to child abuse and neglect at major government hospitals nation-wide, there are still gaps in accessing and receiving quality services in the OSCC and Suspected Child Abuse and Neglect (SCAN) teams in major government hospitals, planning, implementation and inter-agency coordination between authorities, NGOs and private sectors on child protection prevention and response mechanisms. With only 208 child protectors to manage child abuse, neglect and exploitation cases nationwide, the ratio of child protectors to children is 1:45,142. Existing services and helplines are not coordinated, insufficient and

inaccessible to marginalised communities, and absent in many states and districts. Due to delayed and fragmented services, child survivors experience revictimisation—they recount their horrific experiences repeatedly during reporting and investigation; the trauma prevents them from reporting and seeking further help, despite mandatory reporting.

Cases of child abuse are also underreported due to discrimination and stigmatisation, gender stereotyping, social, cultural and religious barriers, and poor awareness. Adding to this, the data on child abuse, neglect and exploitation is collected on an ad hoc and siloed basis, lacking inter-agency coordination.

Specialised and competent judicial officers, prosecutors, enforcement officers, social workers and service providers lack the knowledge and skills to support child abuse, neglect and exploitation survivors with safe placements, case management, medical, psychosocial, SRHR, alternative care, judicial and legal support, and rehabilitation in a timely manner. Police are reluctant to investigate child marriages, domestic violence and online crimes against children if a police report has not been lodged, so early interventions and rescue efforts are hindered. Specialised rehabilitation programmes for sex offenders are lacking, thus increasing the risk of repeated offences.

Vulnerable, marginalised children who lack status and documentation—essentially rendered invisible in society—lack access to the child protection system and services, and are thus more susceptible to all forms of violence. They have been trafficked into debt bondage situations, subjected to worst forms of child labour, sexually exploited and sold into child marriages—little wonder that Malaysia is in the bottom, Tier 3 Watch List of the 2021 Trafficking in Persons Report of the US Department of State.

A top-down approach in mitigating the problem has not helped. Policies, programmes, services, and educational communication materials are not developed with participation from children and families, including marginalised communities, and therefore not age, gender, culturally and linguistically appropriate, or disabled-friendly.

## **7. Synergise relevant national laws and policies to align with the UNCRC, CEDAW, and other international legal instruments and frameworks.**

Include online child protection in the National Child Policy and Action Plan.

## **8. Accept and implement UN Resolution 71/175 to end child marriage.**

(Child Cluster, CSO Platform for Reform, Proposal 2E-2)

- i. Raise and standardise the age of sexual consent and marriage to 18 years.
- ii. Expand the National Strategy Plan in Handling the Causes of Child Marriage to include comprehensive prevention and response programmes, and make this accessible to all marginalised children, i.e. refugees, stateless, undocumented.

## **9. Mainstream child safeguarding and prevention of sexual exploitation and abuse into all organisations.**

Institutionalise and capacitate these actions in all levels and fields, i.e. government, health, education, community- and faith-based organisations, NGOs, the private sector and all other stakeholders.

## **10. Establish an Independent Children’s Commissioner to report directly to Parliament.**

(Sallawahiu Mohd Salleh, IKRAM, Proposal 2E-3)

The Commissioner should have the powers to oversee, regulate and address all forms of violence affecting children.

## **11. Institutionalise community-based and child-friendly curriculum on child rights, child development, child protection, including mandatory reporting and comprehensive sexuality education in the national and private educational systems.**

This includes learning centres, madrasahs, and faith- and community-based organisations.

(Child Cluster, CSO Platform for Reform, Proposal 2E-2)

**12. Increase funds and resources for the national inter-agency child protection case and information system and services.**

**13. Establish an inter-agency child protection information and case management system including a referral pathway for child protection service providers and alternative care providers.**

**(Child Cluster, CSO Platform for Reform, Proposals 2E-4 & 2E-5)**

- i. Institutionalise a dedicated, confidential and non-discriminatory hotline with adequate and trained responders.
- ii. Institutionalise and amplify competent and specialised teams providing rescue, legal, psychosocial, medical, rehabilitation and case management services.
- iii. Institutionalise child-centred processes, procedures and child-friendly consultations and interview techniques in programmes, systems and services across all fields, i.e. welfare, enforcement, legal, judiciary, healthcare including mental health, SRHR, education, labour and national security.

**14. Map, enhance and make accessible child-friendly services for all children and families.**

**15. Establish and monitor specialised alternative care arrangements for orphans, unaccompanied and separated and at-risk children, focusing on kinship care, foster care and community-based care.**

**16. Establish and monitor rehabilitation programmes for underage sex offenders and children who manifest inappropriate risky sexual behaviours.**

**17. Meaningfully engage children, families and communities, including marginalised groups, to participate in decisions affecting them.**

- i. To promote girls to stay in school and complete their tertiary education, and prevent child labour and trafficking, incentivise parents or caregivers through financial aid or employment.

- ii. Empower children, families and communities to keep themselves safe from all forms of violence by institutionalising dialogue, awareness raising and empowerment programmes nationwide.
- iii. Ensure education communication, development and advocacy materials are age, gender, culturally and linguistically appropriate, and disabled friendly.
- iv. Ensure children and families participate in decision-making processes on law and policy development and reforms, planning, operations, resource mobilisation, budget, designing, implementing and monitoring multi-sectoral child protection prevention and response programmes and services.

**18. Amplify action-oriented research on violence against children and use evidence-based data as a basis to advocate for law and policy reforms, programmes on prevention and response.**

**19. Replicate Petaling Jaya’s Child Council initiative.**

Amplify child councils in all states and districts, ensuring child representatives from all diverse and marginalised groups.

**20. Stop the arrest, detention and deportation of undocumented, refugee and asylum-seeking and stateless children.**

(Child Cluster, CSO Platform for Reform, Proposal 2E-5)

### III: Barriers to Education

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Non-citizen children of Malaysians, migrant, undocumented, stateless and refugee children are not enrolled in national schools as they face severe restrictions for admission to national schools due to their status. Parents are forced to seek costlier alternatives and/or place their children in madrasahs or learning centres where the quality of education and safety of children are not monitored or regulated by the state authorities. The bureaucracy that surrounds the admission of these children into the national school system often results in children being admitted much later in the academic year and/or non-admittance. Even after being admitted, the status of their enrolment is not permanent as there is no system of automatic renewal; instead, they must repeat the admissions

process annually. These group of children in the national school system, learning centres and madrasahs are ineligible for many schemes and aid, incurring additional costs of education. In some cases, children are prohibited from sitting for examinations and representing their schools in state and national-level competitions.

School and learning centre closures and online education in the past two years had resulted in children dropping out of schools and learning centres, failing to catch up with their peers and increasing their risk to online child abuse, bullying, exploitation and addiction. These children with little or no access to education will be placed in higher grades without any assessment against their current literacy levels. The current online education solution instructs teachers to conduct their lessons virtually, without much thought or research given to the methodology of online teaching which necessitates due consideration be given to the attention span of children, screen time and continuous engagement of all children including those from poor socio-economic backgrounds, disabled and marginalised communities.

## **21. Amend the Education Act 1996 to allow all children in Malaysia equal access to primary, secondary and tertiary education.**

This is regardless of citizenship, documentation and social background status.

(Child Cluster, CSO Platform for Reform, Proposal 2E-6)

## **22. Extend welfare assistance programmes to all students regardless of citizenship status.**

Examples of such programmes are the Textbook Loan Scheme and Supplementary Food Programme.

## **23. Standardise student enrolment.**

## **24. Maintain and increase attendance and enrolment in schools.**

- i. The MOE must trace every child registered in school in 2020 and 2021, and identify absentees and dropouts in all schools, learning centres and madrasahs.

- ii. Institutionalise a monitoring system across all schools, learning centres and madrasahs to mitigate the risk of children dropping out of school and ensure all children are enrolled in the school system in 2022.
- iii. Every child registered in schools and learning centres and madrasahs must have the means or capacity to access online schooling.

## **25. Enforce effective learning assessments.**

Schools must enforce and conduct systematic and effective assessments on children to identify their knowledge levels in each of the core subjects regardless of the grades they are in. For early primary years, these assessments must include reading, arithmetic, comprehension and motor skills. Based on the assessments, vulnerable children should be allowed to drop down a grade or a standard by extending the relevant support so that they can catch up. Schools must be empowered to put these placements in effect regardless of whether parents, after advisement, consent or not.

## **26. Strengthen the education syllabus and teaching methodology.**

- i. Include online and hybrid learning, consider the learning needs of children with shorter attention spans, and children from disabled and marginalised communities.
- ii. Make available hybrid methods of teaching which allow for more classroom participation, inter-class bonding and encourage or foster student interactions.

## **27. Provide specialised support to vulnerable children.**

- i. Offer tutoring sessions three-to-five times a week for up to three months, in groups of about three, either during regular school hours or before or after school to enable vulnerable students to catch up
- ii. Offer targeted teaching, literacy and numeracy programmes, especially for vulnerable students and those from marginalised and disabled communities.
- iii. Make available access to financial aid, technological devices and the internet for children from marginalised and vulnerable backgrounds to access hybrid ways of learning.
- iv. Reduce the student-teacher ratio.

## **28. Increase children’s protection and well-being.**

- i. Make available and amplify personal skills development, social skills and physical education lessons in all schools, learning centres and madrassahs.
- ii. Promote and enable children to engage in more social interaction activities in schools, learning centres and madrasahs.
- iii. Make available trained child-friendly counsellors and teachers in all schools, learning centres and madrasahs to institutionalise prevention and response programmes and services to address children’s protection and mental health issues, including mitigating the risk of online crimes against children and internet addiction.
- iv. Institutionalise child-safeguarding policies and procedures with confidential mechanisms aligned with the national mandatory reporting for children to safely report on abuse, neglect and exploitation in schools, learning centres and madrasahs.

## **29. Institutionalise capacity building for all teachers on online, child-friendly and inclusive education and teaching methodology.**

(Srividhya Ganapathy, CRIB (Child Rights Innovation & Betterment) Foundation, Proposal 2E-7)

## **30. Institutionalise duty of care for all school workforce to prevent burnout and inefficiencies.**

(Child Cluster, CSO Platform for Reform, Proposal 2E-6)

## **IV: Barriers to Health**

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Non-citizen children of a Malaysian parent are designated as foreigners in public medical facilities, which carry additional fees compared with citizens. These children are made vulnerable when their guardian is unable to afford these higher rates—only those born in Malaysia under the age of 12, holding a Malaysian birth certificate and with at least one parent who is a citizen or permanent residence holder, and those under the age of 18 adopted by Malaysian parents and with certified adoption papers are able to enjoy the same rate as citizens. The unaffordable cost of healthcare makes it difficult for parents and children to access essential health services. COVID-19 has underscored the crucial need for

good access to healthcare; a child's life can all too easily become endangered if the cost of treatment is too expensive.

**31. The health sector must provide for comprehensive and holistic care of children and address all aspects of UNCRC, i.e. child survival, protection, development and participation.**

**32. Amplify and institutionalise inter-agency coordination and collaboration efforts to enable multi-sectoral responses to overcome cross-cutting health issues.**

For example, the impact of COVID-19 on the mental health of children.

33. Improve knowledge gaps and research to address emerging health issues of children.
34. Increase budgetary allocations for health programmes, services and recruitment of more trained staff on children and maternal health in all government hospitals and clinics.
35. Facilitate and maximise resource mobilisation between the private and public health sectors.
36. Establish an inter-agency disaggregated data on children and maternal health issues and make this information accessible to all stakeholders for advocacy and programmatic interventions.
37. Facilitate systematic and regular open and confidential consultations with key government agencies, NGOs, civil society and children, families and communities to improve the quality of health services and care for child survivors.
38. Amplify Suspected Child Abuse and Neglect teams under the One Stop Crisis Centres across all government hospitals and clinic in all states
39. Institutionalise child-safeguarding policies, child-centred processes and child-friendly consultation techniques in all national and private hospitals and clinics through triage to prevent revictimisation.
40. Make available adolescent-friendly healthcare services and programmes to all adolescents from diverse and marginalised communities.
41. Capacitate all hospital and clinic staff on child rights, child development, child protection and mandatory reporting.
42. Make available comprehensive sexuality education, sexual and reproductive health and mental health programmes and services to all children, families and communities from diverse and marginalised backgrounds.

**43. Allow all children with a Malaysian parent and children born overseas to Malaysians who may not hold a Malaysian birth certificate to access public healthcare at the same rate as Malaysians.**

(Child Cluster, CSO Platform for Reform, Proposal 2E-8)

**44. Allow undocumented, migrant, stateless and LGBTIQ+ children non-discriminatory access to healthcare and education at no cost.**

**45. Grant maternal care, vaccination and immunisation services free of charge to non-citizen children and parents.**

**46. Remove the two-year limit on filing documentation for citizenship with the National Registration Department.**

**47. Include all children regardless of status and documentation in the regular prevention, and response programmes and services of the Ministry of Health (MOH).**

(Datuk Dr Raj Abdul Karim, Malaysian Council of Child Welfare; Child Cluster, CSO Platform for Reform, Proposal 2E-8)

## **V: Barriers to Acquiring Malaysian Citizenship**

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Children born overseas to a Malaysian mother and foreign father and children born to Malaysian fathers and foreign mothers outside of a legally recognised marriage face challenges in acquiring Malaysian citizenship.

**48. Grant Malaysian citizenship to children if either the parent or adopted parent is Malaysian, notwithstanding the marital status of the parent and regardless of the place of birth of the child.**

(Child Cluster, CSO Platform for Reform, Proposal 2E-9)

**49. Uphold the rights of all Malaysian citizens to confer their nationality onto their children regardless of gender, marital status, as well as the child’s place of birth and adopted status.**

The right to confer citizenship must respect Article 8(2) of the Federal Constitution which prohibits discrimination against citizens on the basis of gender.

(Bina Ramanand, Family Frontiers, Proposal 2E-10)

**50. Withdraw reservations to Article 9(2) of CEDAW and Article 7 of the UNCRC.**

## VI: Divorced Foreign Parents’ Rights

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The immigration authority denies visas to divorced foreign parents, even those with joint custody of their children. These parents are asked to return to their home countries, which denies them visitations and co-parenting of their Malaysian children.

**51. Grant foreign, divorced parents Long-Term Visas or Residence Pass, or both, with the right to employment to enable financial support, visitation and co-parenting of the Malaysian child.**

This is to minimise the psychological and emotional impact of the divorce on the children.

(Bina Ramanand, Family Frontiers, Proposal 2E-10; Child Cluster, CSO Platform for Reform, Proposal 2E-11)

## VII: Refugee Children

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Despite Malaysia’s ratification of the UNCRC and CEDAW, and the existence of national laws to protect all children, refugee children continue to be discriminated against in accessing national child protection systems and services, including documentation, enforcement, legal and justice, welfare, education and healthcare systems. Some common threats they face are arrest, detention, deportation, abuse, neglect, exploitation—including child marriage, begging, trafficking—rape, online crimes, poverty, mental health issues and risky care arrangements. Poor

community structures, harmful traditional practices and limited awareness amongst all stakeholders on refugee children, child development, rights and protection exacerbate the vulnerabilities of refugee children. During the COVID-19 crisis, refugee children experienced xenophobia, unsafe care arrangements, and constraints with livelihood, food aid and accessing helplines due to their illegal status, language barrier and poor awareness among the general Malaysian public on refugees' plight.

**52. Include refugee children and families in national action plans, programmes and services on child protection prevention and response.**

Allow refugee children non-discriminatory access to child protectors, Bukit Aman Sexual, Women and Children's Investigations Division (D11), special courts for children, SCAN team, SRHR, income-generating activities and awareness programmes.

**53. Ratify the 1951 Refugee Convention and the related 1967 Protocol, withdraw all reservations to the UNCRC (Articles 2 and 37) and harmonise the Immigration Act with national laws and policies to protect children, in accordance with UNCRC (Article 22) and CEDAW.**

(Child Cluster, CSO Platform for Reform, Proposal 2E-12)

**54. Amplify evidence-based and action-oriented research on issues affecting refugee children.**

**55. Provide alternatives to detention, particularly non-institutionalised care, for all unaccompanied and separated children.**

**56. Institutionalise dialogue, regular awareness raising and capacity building on refugee issues, relevant laws and policies with all stakeholders.**

This includes best-interest procedures and determination, as well as confidential reporting mechanisms towards maximising resources, enabling fair access, strengthening services and ensuring that perpetrators of child abuse, neglect and exploitation are convicted.

**57. Avail refugee children and families to interpretation services and child-friendly, gender-sensitive, culturally appropriate education and communication materials in refugee languages on child rights, protection and support services.**

**58. Establish an inter-agency case and information management system on refugee children.**

**59. Include refugee children in child parliament or child participation groups, to nurture their participation in programming and policymaking processes and decisions.**

## VIII: Children Living in Remote Areas

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Lack of or no access to basic services reduces opportunities for children in remote areas, exacerbates their experience of poverty and widens the inequality gap. School attendance can involve long, costly journeys; likewise, the medical care available to them is typically basic and may only offer minimal treatments, sometimes with no doctor in attendance. Tapped water supply and electricity, and access to an internet connection remains a problem for many children in remote areas. Service providers from both the public and private sectors must understand the practical issues that distance creates for these children, the majority of whom are the Orang Asal of Sarawak and Sabah and Orang Asli in the peninsula. All of them have their own strong, unique, indigenous cultures which need to be understood and honoured by service providers. Disregarding how these factors have a significant influence on their lives has led to some children being denied the MyKad, which then disadvantages them for life.

**60. Ensure implementing services are apt, designed to be inclusive and culturally sensitive, and aim to reach the children in their original locations.**

Where this is not feasible, enable compensation for expenses incurred in accessing the services.

**61. Create empowering partnerships with remote communities to produce workable solutions.**

For example, provide preschool facilities at village level by training local people; build supportive, informative networks for children with special needs in their village and nearest schools.

(Child Cluster, CSO Platform for Reform, Proposal 2E-13)

**62. Ring-fence financing to ensure budgets for developing services are protected.**

Include travelling and training costs so that service providers and key members in the community can jointly develop services.

**63. Provide affordable and safe transport for children in remote areas to schools.**

**64. Accelerate internet connectivity in rural areas and use it to link people to services.**

**65. Assist children who lack access to online classes and follow up with those dropping out from schools.**

**66. Allow all children in remote areas to attend school and access welfare and healthcare services while their citizenship status is being clarified.**

Clarification of their citizenship status can be done through joint collaboration between community leaders, the school, welfare and education departments.

**67. Bring indigenous culture and knowledge into the classroom to increase interest, self-esteem and unity among children of different backgrounds.**

Use the internet to link rural and urban children so that knowledge of contrasting environments is shared, building mutual respect and broadening horizons.

**68. Disaggregate data to meaningfully track information on what is happening to children from different indigenous communities.**