

ACCESS TO JUSTICE FOR CHILDREN: MALAYSIA

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I. What is the legal status of the Convention on the Rights of the Child (CRC)?

A. What is the status of the CRC and other relevant ratified international instruments in the national legal system?

Malaysia acceded to the CRC in 1995¹ with a number of reservations to address discrepancies between provisions of the CRC and national laws (including Shariah laws).²

In order for an international treaty to have the force of law in Malaysia, it must be explicitly incorporated through legislation.³ The CRC has not been so incorporated.

B. Does the CRC take precedence over national law?

The CRC does not take precedence over any conflicting provisions of Malaysian law.⁴

C. Has the CRC been incorporated into national law?

The CRC has not been incorporated into national law.

However, some of its provisions are implemented by national legislation, most notably the Child Act 2001.⁵ Other child-related legislation in Malaysia includes the Adoption Act 1952, Anti-Trafficking in Persons Act 2007, Child Care Centre Act 1984, Children and Young Persons (Employment) Act 1966, Domestic Violence Act 1994, Education Act 1996 and the Islamic Family Law (Federal Territories) Act 1984.⁶

¹ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en.

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https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en#EndDec.

³ Abdul Ghafur Hamid, Khin Maung Sein, *Judicial Application of International Law in Malaysia, an Analysis*, 31 March 2006, available at:

http://www.malaysianbar.org.my/international_law/judicial_application_of_international_law_in_malaysia_an_analysis.html.

⁴ Ibid.

⁵ Child Act 2001, Act 611, available at: <http://www.unicef.org/malaysia/Child-Act-2001.pdf>.

⁶ http://www.unicef.org/malaysia/childrights_malaysian-laws.html.

D. Can the CRC be directly enforced in the courts?

No, the CRC cannot be directly enforced in the courts. An aggrieved party may only approach the Malaysian courts with regard to a violation of his or her rights by invoking the relevant provisions of any applicable domestic legislation.⁷

E. Are there examples of domestic courts using or applying the CRC or other relevant international instruments?

The CRC has been cited by the national courts in decisions concerning juvenile justice,⁸ as well as cases concerning child custody,⁹ issues of paternity¹⁰ and rights of access to an illegitimate child.¹¹

II. What is the legal status of the child?

A. Can children and/or their representatives bring cases in domestic courts to challenge violations of children's rights?

It appears that cases can be brought in the child's name subject to the conditions outlined in part II.B below.

B. If so, are children of any age permitted to bring these cases by themselves in their own names/on their own behalf, or must the case be brought by or with the assistance of a representative?

All actions on behalf of children must be commenced through a litigation representative.¹² A minor may not bring, make a claim in, defend, make a counterclaim in, or intervene in any proceedings, or appear in any proceedings under a judgment or order notice of which has been served on him, except through his litigation representative,¹³ who has to act by a solicitor.¹⁴

⁷ See *Kok Wah Kuan v Pengarah Penjara Kajang, Selangor Darul Ehsan* [2004] 4 LRC 395, summary available at:

<https://www.crin.org/en/library/legal-database/kok-wah-kuan-v-pengarah-penjara-kajang-selangor-darul-ehsan>.

⁸ *Kok Wah Kuan v Pengarah Penjara Kajang, Selangor Darul Ehsan* [2004] 4 LRC 395.

⁹ *Indira Gandhi Mutho v Ketua Polis Negara* [2014] 1 LNS 1352; *Kevin Goldman v Geraldine Audrey Herrera* [2013] 3 CLJ 1049; *Dr Aparna Sehgal v Dr Jasmeet Singh Sucha Singh* [2011] 1 LNS 719.

¹⁰ *Lee Lai Ching v Lim Hooi Teik* [2013] 4 CLJ 107, see

<http://www.cljlaw.com/default.asp?page=cotw130531>.

¹¹ *Lai Meng v Toh Chew Lian* [2012] 10 CLJ 479; *George Pathmanathan Michael Gandhi Nathan v Ong Eu May* [2011] 1 LNS 419, available at:

<http://kl.kehakiman.gov.my/sites/kl.kehakiman.gov.my/attachments/S8-24-53-2008.pdf>.

¹² Rules of Court 2012, Order 76, rule 1, available at:

<https://zulkiflihasan.files.wordpress.com/2008/06/rules-of-court-2012-01-07-2012.pdf>.

¹³ Rules of Court 2012, Order 76, rule 2(1).

¹⁴ Rules of Court 2012, Order 76, rule 2(3).

When there has been or is a litigation representative of a minor in any proceedings, no other person is entitled to act as a litigation representative in the same proceedings unless appointed by the court as a substitute for the person previously acting in such capacity.¹⁵

C. In the case of infants and young children, how would cases typically be brought?

As with older children, they would need to have a legal representative.

D. Would children or their representatives be eligible to receive free or subsidised legal assistance in bringing these kinds of cases?

Yes, there are two main organisations offering legal aid in Malaysia: the Bar Council Legal Aid Centre (LAC), which was set up by the Malaysian Bar Council, and the Legal Aid Department (LAD), which falls under the Prime Minister's Department. Applicants for legal aid must qualify under a means test.

To qualify for assistance by the LAC,¹⁶ the applicant must have a monthly income of not more than RM650 (for a single person) or a monthly joint income of not more than RM900 (for a married couple), after deduction of monthly expenses. The LAC also provides basic guidelines and directions to applicants who do not qualify for legal aid. The LAC does not handle motor accident cases, debt collection, defamation, conveyancing, probate/letter of administration or any offence that carries a death or life sentence. Every practicing member of the Bar Association is required to take at least one legal aid case per year.¹⁷

The LAC¹⁸ provides free legal aid to applicants whose yearly income does not exceed RM25,000 (on payment of a RM2 registration fee) and subsidised legal aid to applicants whose yearly income is between RM25,000 and RM30,000 (on payment of the RM2 registration fee and a RM300 contribution).¹⁹ If an applicant does not fall within these two categories, they might still apply for an exemption from the Director of the Bureau that would allow them to receive legal aid. The LAD provides legal advice on all aspects of the law, but representation is provided only for certain types of cases, such as proceedings under the Married Women and Children (Maintenance) Act 1950, proceedings under the Married Women and Children (Enforcement of Maintenance) Act 1968 and criminal proceedings under the Child Act and criminal matters falling under the Minor Offences Act 1955 and the Child Act 2001.²⁰

¹⁵ Rules of Court 2012, Order 76, rule 3(4).

¹⁶ http://www.malaysianbar.org.my/legal_aid_centres.html.

¹⁷ <http://www.kllac.com/AboutUs.html>.

¹⁸ http://www.jbg.gov.my/index.php?option=com_content&view=article&id=131&Itemid=148&lang=en.

¹⁹ <http://www.elawyer.com.my/blog/legal-aid-bureau-bira-bantuan-guaman-in-malaysia/>.

²⁰ Legal Aid Act, Act 26, Schedule 3, available at:

<http://www.agc.gov.my/Akta/Vol.%201/Act%2026.pdf>.

Legal aid in criminal matters may be available through the National Legal Aid Foundation, which was established in 2011. For Peninsular Malaysia, NLAFF operates through Legal Aid Centre under the Malaysian Bar, whilst for Sabah, Sarawak and Federal Territory of Labuan, YBGK operates through Legal Aid Department and works closely with Sabah Law Association and Advocates Association of Sarawak.

- E. Are there any other conditions or limits on children or chosen legal representatives bringing cases (e.g., would a child's parents or guardian have to agree to a case being brought)?

The Rules of Court do not specify which persons are eligible to be appointed as a litigation representative. However, unless appointed by the court, a litigation representative cannot bring action on behalf of a minor unless and until the following documents have been filed with the Registry of the Court:

- (a) a written consent on Form 188 to be litigation representative of the minor; and
- (b) a certificate on Form 189 made by the solicitor for the minor certifying:
 - (i) that the solicitor knows or believes that the person to whom the certificate relates is a minor; and
 - (ii) that the person proposing to be the litigation representative has no interest in the cause or matter in question adverse to that of the minor.²¹

III. How can children's rights violations be challenged before national courts?

- A. If there is a potential violation of the Constitution or other principles established in domestic law, or with the CRC or other relevant ratified international/regional instruments, how can a legal challenge be brought?

Children through their litigation representative may initiate legal proceedings in civil court to challenge violations of their rights. The main sources of civil law are the ROC, the Civil Law Act 1956, the Court of Judicature Act 1964, the Subordinate Courts Act 1948, the Limitation Act 1953, court practice directions and circulars, case law decided by courts and the inherent powers of the court. Such action may be commenced in the High Court, Sessions Court or Magistrates Court, subject to the jurisdiction of the court, which depends on the monetary limit, subject matter and territory jurisdiction of the case.²² If any question arises in relation to the application of the Constitution, it must be remitted to the Federal Court.²³

If the violation of a right arises from any decision, order, directive or action made by a public authority, government body, tribunal or local authority, an

²¹ Rules of Court 2012, Order 76 rule 3(7).

²² For more information on the appropriate venue, please refer to part IV.A.

²³ Constitution, Article 128.

application for judicial review can be made to the High Court.²⁴ No application for judicial review can be made unless leave has been granted and the application for leave must be made *ex parte* to a judge in chambers.²⁵ Judicial review is only available against public bodies in relation to their public functions and is not available to enforce private law rights against public bodies.

If a violation of a right amounts to an offence under the Penal Code or under other laws, the victim can file a police report²⁶ or lodge a complaint with the Magistrate.²⁷ There is no limitation on time to do so. Thereafter, the public prosecutor has discretion as to whether to initiate a proceeding and which offence to charge.²⁸

Complaints alleging human rights violations can be made to the Human Rights Commission of Malaysia.²⁹ The Commission may inquire into an allegation of the infringement of human rights when it is brought to its attention by a person acting on behalf of an aggrieved person.³⁰ The Commission may also initiate an inquiry on its own initiative,³¹ but it will not review a matter which has been previously decided or is currently pending before a court.³²

B. What powers would courts have to review these violations, and what remedies could they offer?

Civil courts have the power to order the following remedies: injunctive relief;³³ declarations or orders, for example a declaration of status or an order to require damages to be assessed;³⁴ specific performance;³⁵ and damages.³⁶

Criminal courts may impose the following sanctions, subject to the relevant legislation: fines; imprisonment; and whipping.

²⁴ Rules of Court 2012, Order 53.

²⁵ Rules of Court 2012, Order 53, rule 3.

²⁶ Criminal Procedure Code, Act 593, Section 107, available at: <http://www.agc.gov.my/Akta/Vol.%2012/Act%20593.pdf>.

²⁷ Criminal Procedure Code, Section 133.

²⁸ Criminal Procedure Code, Section 376 and Federal Constitution, Article 145(3), available at: <http://www.agc.gov.my/images/Personalisation/Buss/pdf/Federal%20Consti%20%28BI%20text%29.pdf>.

²⁹ Human Rights Commission of Malaysia Act 1999, Act 597, Section 4, available at: <http://www.agc.gov.my/Akta/Vol.%2012/Act%20597.pdf>.

³⁰ Human Rights Commission of Malaysia Act 1999, Section 12(1)

³¹ Human Rights Commission of Malaysia Act 1999, Section 12.

³² Human Rights Commission of Malaysia Act 1999, Section 13.

³³ Rules of Court 2012, Order 29.

³⁴ Rules of Court 2012, Order 53, rule 2.

³⁵ Rules of Court 2012, Order 21.

³⁶ Rules of Court 2012, Order 22A, Order 37 and Order 53, rule 5.

Any order made by a Court for Children may generally only extend to the date on which the child attains the age of 18,³⁷ however detention after that date may also be ordered if the Court finds that the circumstances warrant it.³⁸

The Human Rights Commission is only empowered to issue non-binding recommendations. If the Commission's inquiry discloses a human rights infringement, it has the power to refer the matter to the relevant authority with the necessary recommendations.³⁹

C. Would such a challenge have to directly involve one or more individual child victims, or is it possible to challenge a law or action without naming a specific victim?

It is to bring an action without naming a specific victim through a relator action, whereby before the name of a person is used in any action as a relator, that person has to give a written authorisation to his solicitor to use his name. The authorisation has to be filed with the Registry of Court.⁴⁰

In addition, applications for judicial review can be made by any person who is adversely affected by the decision, action or omission in relation to the exercise of the public duty or function and do not require direct involvement of the individual child victim.⁴¹

³⁷ Child Act 2001, Section 13.

³⁸ Child Act 2001, Section 14.

³⁹ Human Rights Commission of Malaysia Act 1999, Act 597, Section 13(1)

⁴⁰ Rules of Court 2012, Order 15 rule 11.

⁴¹ Rules of Court 2012, Order 53, rule 2(4).

D. Is any form of collective action or group litigation possible, with or without naming individual victims?

Representative action is allowed if the plaintiff and those represented by that plaintiff are members of a class and they have a common interest; there is a common grievance; and the nature of the relief sought is beneficial to all.⁴²

Actions in relation to certain matters, including the interpretation of statutes, may also be brought on behalf of another person or group of persons if at least one of the following conditions is present:

- (i) the person or persons, cannot be ascertained or cannot readily be ascertained;
- (ii) the person or persons, though ascertained, cannot be found; or
- (iii) though the person or the class of persons and the members thereof can be ascertained and found, it appears to the court expedient (regard being had to all the circumstances, including the amount at stake and the degree of difficulty of the point to be determined) to exercise the power for the purpose of saving expense.⁴³

Several persons may be joined together in one action as plaintiffs with the leave of the court or if there is a common question of law or fact and all rights to relief claimed in the actions arise out of the same transaction or series of transactions.

⁴⁴ However, if it appears to the court that the joinder of parties may embarrass or delay the trial or is otherwise inconvenient, the court may order separate trials or make such other order as may be expedient.⁴⁵

Lastly, collective complaints may be submitted to the Human Rights Commission of Malaysia.⁴⁶

⁴² Rules of Court 2012, Order 12 rule 12.

⁴³ Rules of Court 2012, Order 15 rule 13.

⁴⁴ Rules of Court 2012, Order 15 rule 4(1).

⁴⁵ Rules of Court 2012, Order 15 rule 5.

⁴⁶ Human Rights Commission of Malaysia Act 1999, Section 12.

- E. Are non-governmental organisations permitted to file challenges to potential children's rights violations or to intervene in cases that have already been filed?

Research did not identify any provisions allowing non-governmental organisations to bring or intervene in legal proceedings.

IV. Practical considerations. Please detail some of the practical issues, risks and uncertainties that might be involved in bringing a case to challenge a violation of children's rights, such as:

- A. Venue. In what courts could a case be filed (e.g., civil, criminal, administrative, etc.)? What would the initial filing process entail?

The Malaysian Courts of Justice are made up of the Superior Courts and the Subordinate Courts.⁴⁷ The Superior Courts are the Federal Court (the highest court in the country), the Court of Appeal and the two High Courts.⁴⁸ The Federal Court reviews decisions referred from the Court of Appeal; it has original jurisdiction in constitutional matters and in disputes between states or between the federal government and a state. The Subordinate Courts in Peninsular Malaysia consist of the Sessions Court, Magistrates' Court and the Penghulu's Courts. The Subordinate Courts in Sabah and Sarawak consist of the Sessions Court, Magistrates' Courts and Native Courts.⁴⁹

The Child Act 2001 establishes Courts for Children which hear actions brought under the Act, as well as criminal charges against children in relation to all offences except those subject to the death penalty.⁵⁰ The Court for Children constitutes of a Magistrate who is assisted by two advisers.⁵¹

There are two exceptions to the above, according to which a charge against a child is heard by a Court other than a Court for Children. The first one is when a charge is brought against a person over the age of 18 in respect of an offence allegedly committed while they were under that age.⁵² The second is when a charge is made jointly against a child and a person over the age of 18 years,⁵³ though in that case, the Court shall exercise in respect of the child the powers, which may be exercised by a Court for Children.

Under the Rules of Court, there are two modes of commencing civil actions: (i) by originating summons and (ii) by writ of summons,⁵⁴ depending on the complexity of the case.

⁴⁷ Constitution, Part IX.

⁴⁸ The High Court in Malaya and the High Court in Sabah and Sarawak.

⁴⁹ Globalex, *An Overview of Malaysian Legal System and Research*, available at: http://www.nyulawglobal.org/globalex/Malaysia.htm# 4. Judicial_Authority.

⁵⁰ Child Act 2001, Section 11.

⁵¹ Child Act 2001, Section 11(2).

⁵² Child Act 2001, Section 83(3).

⁵³ Child Act 2001, Section 83(4).

⁵⁴ Rules of Court 2012, Order 5 rule 1.

For civil action, a case could be filed:

- (a) in the Magistrates Court, where the amount in dispute or value of the subject matter does not exceed RM100,000, subject to limitations as to the subject matter;⁵⁵
- (b) in the Sessions Court, where the amount in dispute or value of the subject matter does not exceed RM1,000,000, subject to limitations as to the subject matter;⁵⁶ and
- (c) in the High Court, except as expressly excluded by written law or the Federal Constitution.⁵⁷

For criminal actions, it is up to the public prosecutor whether to institute proceedings. The court in which the criminal action is brought depends on the maximum sentence of the charge. Depending on the age of the child when committing the offence and the nature of the offence, a child accused of committing an offence will either be charged in the Court for Children or criminal court. Moreover the Penal Code stipulates that a child under ten years of age or above ten and under 12 years of age, and who has not attained sufficient maturity of understanding, cannot be prosecuted before a criminal court.⁵⁸

- B. Legal aid / Court costs. Under what conditions would free or subsidised legal aid be available to child complainants or their representatives through the court system (i.e., would the case have to present an important legal question or demonstrate a likelihood of success)? Would child complainants or their representatives be expected to pay court costs or cover other expenses?

For details regarding eligibility for legal aid, please see part II.D above.

In civil suits, the court has discretionary power to award costs (which includes fees, charges, disbursements, expenses and remuneration).⁵⁹ Costs awarded may consist of remuneration that a party pays to his or her solicitor and the sum that one party pays to another party to compensate the latter for the expense such party has incurred in the litigation. Persons in receipt of legal aid would not be generally ordered to pay costs except in a limited number of circumstances provided for in the Legal Aid Act.⁶⁰

⁵⁵ Subordinate Courts Act 1948, Act 92, sections 90, 93, available at: <http://www.agc.gov.my/Akta/Vol.%202/Act%2092.pdf>.

⁵⁶ Subordinate Courts Act 1948, sections 65(1)(b), 69.

⁵⁷ Courts of Judicature Act 1967, section 23(1), available at: <http://www.agc.gov.my/Akta/Vol.%202/Act%2091.pdf>.

⁵⁸ Penal Code 2015, available at: <http://www.agc.gov.my/Akta/Vol.%2012/Penal%20Code%20%5BAct%20574%5D.pdf>.

⁵⁹ Rules of Court 2012, Order 59 rule 2(2).

⁶⁰ Legal Aid Act, Section 21(3)(d).

- C. Pro bono / Financing. If legal aid is not available, would it be possible for child complainants or their representatives to obtain legal assistance from practicing lawyers on a pro bono basis, through a children's rights organisation, or under an agreement that does not require the payment of legal fees up front?

Pro bono legal services are available through practising lawyers, law firms and non-governmental organisations, such as the Malaysian Association for the Protection of Children.⁶¹

Contingency fee arrangements are not recognised in Malaysia, as they are considered to be against public policy.⁶² If such an agreement is entered into, it will be void.⁶³

- D. Timing. How soon after a violation would a case have to be brought? Are there any special provisions that allow young adults to bring cases about violations of their rights that occurred when they were children?

The applicable limitation period varies according to the nature of the claim. For example, actions founded on contract or tort must generally be brought within six years from the breach or occurrence of the damage.⁶⁴ Cases against any public authority discharging its duty must be instituted within 36 months after the act, neglect, default or damage complained of.⁶⁵ In cases concerning children, however, the limitation period is six years from the date the child reaches the age of 18.⁶⁶ There is no limitation period to bring a criminal case.

- E. Evidence. What sort of evidence is admissible/required to prove a violation? Are there particular rules, procedures or practices for dealing with evidence that is produced or presented by children?

Oral evidence, including expert opinions, and documentary evidence are all admissible in Malaysian courts.⁶⁷

In the case of a child witness, the judge has to conduct a preliminary examination of the child to determine if the child should be allowed to testify. Children may testify unsworn if they understand the importance of speaking the

⁶¹ <http://www.hati.my/children/malaysian-association-for-the-protection-of-children-mapc/>.

⁶² Legal Profession Act 1976, Act 166, section 112(1)(b), available at: <http://www.malaysianbar.org.my/laws/LPA.pdf>.

⁶³ Contracts Act 1950, Act 136, Section 24, available at: <http://www.agc.gov.my/Akta/Vol.%203/Act%20136.pdf>.

⁶⁴ Limitations Act 1953, Act 254, Section 6(1), available at: <http://www.agc.gov.my/Akta/Vol.%206/Act%20254.pdf>.

⁶⁵ Public Authorities Protection Act 1948, Act 198, Section 2, available at: <http://www.agc.gov.my/Akta/Vol.%204/Act%20198.pdf>.

⁶⁶ Limitation Act 1953, Section 24.

⁶⁷ Evidence Act 1950, Act 56, available at: <http://www.agc.gov.my/Akta/Vol.%202/Act%2056%20-%20Evidence%20Act%201950.pdf>.

truth, however, defendants in criminal trial may not be convicted on the basis of unsworn evidence, unless it has been corroborated.⁶⁸

If a child under the age of 16 (not including an accused child or a child charged with any offence) is called to give evidence in any proceedings, such person may give evidence in any one or a combination of the following manners:⁶⁹

- a. by having a screen between such person and the accused or a child charged with any offence;
- b. by live link; or
- c. by video recording.

There are also restrictions on media reporting and publication aimed at protecting the identity of child witnesses.⁷⁰

- F. Resolution. How long might it take to get a decision from the court as to whether there has been a violation?

There is no clear timeline as to when decisions will be made. In most cases, the timing of a decision will depend upon the complexity of the case.

- G. Appeal. What are the possibilities for appealing a decision to a higher court?

In Malaysia, the right of appeal is created by statute.⁷¹ Subordinate court (Magistrate Court and Sessions Court) decisions are reviewed by the High Court; High Court decisions are reviewed by the Court of Appeal; and Court of Appeal decisions are reviewed by the Federal Court (subject to leave of court).

- H. Impact. What are the potential short-term and long-term impacts of a negative decision? Is there a possibility for political backlash or repercussions from a positive decision?

Precedent plays an important role in the Malaysian judicial system.⁷² Courts are bound by their own and higher courts' decisions, which means that the negative effects of a bad decision could be felt for many years or until it is overridden by legislation.

⁶⁸ Evidence Act 1950, Section 133A and *Initial report of Malaysia to the UN Committee on the Rights of the Child*, CRC/C/MYS/1, 22 December 2006, at para. 155, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fMYS%2f1&Lang=en.

⁶⁹ Evidence of Child Witness Act 2007, Act 676, Section 3, available at: <http://www.agc.gov.my/Akta/Vol.%2014/Act%20676%20-%20Evidence%20Of%20Child%20Witness%20Act%202007.pdf>.

⁷⁰ Evidence of Child Witness Act 2007, Act 676, Section 14.

⁷¹ Rules of Court 2012, Court of Judicature Act 1964, Rules of Court of Appeal 1994, Rules of Federal Court 1995.

⁷² Globalex, *UPDATE: Introduction to the Malaysian Legal System and Sources of Law*, April 2014, available at: http://www.nyulawglobal.org/globalex/Sources_Law_Malaysia1.htm.

- I. Follow up. What other concerns or challenges might be anticipated in enforcing a positive decision?

The enforcement of awards in civil proceedings is relatively straightforward and governed by the Rules of Court 2012, particularly under Order 48 (Discovery in aid of execution), Orders 46 and 47 (Writs of execution), Order 49 (Garnishee proceedings), Order 50 (Charging orders), Order 51 (Appointment of receivers by way of equitable execution) and Order 52 (Order of committal).

- V. **Additional factors**. Please list any other national laws, policies or practices you believe would be relevant to consider when contemplating legal action to challenge a violation of children's rights.

Malaysia has also acceded to the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography⁷³ and the Optional Protocol on the involvement of children in armed conflict,⁷⁴ but has not signed nor ratified the third Optional Protocol on a communications procedure.⁷⁵

Malaysia has a dual legal system, which means that decisions can be made under either civil law or Shariah law. The Committee on the Rights of the Child has expressed concern that this could give rise to inconsistent treatment of children.⁷⁶ Shariah law applies to Muslims, while civil law applies to non-Muslims, and the two legal systems could result in uncertainty among families of mixed religious background and potentially unequal levels of protection for children of different backgrounds in the courts.⁷⁷

This report is provided for educational and informational purposes only and should not be construed as legal advice.

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https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-c&chapter=4&lang=en.

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https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&lang=en.

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https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-d&chapter=4&lang=en.

⁷⁶ UN Committee on the Rights of the Child, *Concluding Observations to the initial periodic report of Malaysia*, CRC/C/MYS/CO/1, 25 June 2007, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fMYS%2fCO%2f1&Lang=en.

⁷⁷ <https://www.crin.org/en/library/publications/malaysia-national-laws>.