



**Convention on the
Rights of the Child**

Distr.
GENERAL

CRC/C/MYS/CO/1
25 June 2007

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-fourth session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION**

Concluding observations: MALAYSIA

1. The Committee considered the initial report of Malaysia (CRC/C/MYS/1) at its 1216th and 1217th meetings (see CRC/C/SR.1216 and 1217) held on 25 January 2007, and adopted at its 1228th meeting, held on 2 February 2007, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report and notes that it follows the guidelines for reporting, although the report itself was focused on legal provisions rather than de facto implementation of the Convention. However, it regrets that the report was received more than nine years after the date on which it should have been submitted. The Committee also welcomes the written replies to its list of issues (CRC/C/MYS/Q/1), which provided additional information and allowed for a clearer understanding of the situation of children in the State party.

3. The Committee notes with appreciation the high-level and multisectoral delegation of the State party and further notes with appreciation the constructive efforts made by the delegation to provide additional information and explanation in the course of the dialogue.

B. Positive aspects

4. The Committee commends the State party on its notable improvement in economic and social development, including continuous investments in the health services, the protection infrastructure and the educational system.

5. The Committee notes with appreciation the establishment of the Ministry of Women, Family and Community Development (originally the Ministry of Women and Family Development) in 2001 and the subsequent expansion of its responsibilities, including gender equality, family well-being, child issues and social development in general.

6. The Committee also notes with appreciation the establishment of the special Child Division in 2005 in the Department of Social Welfare to address issues and challenges of children.

7. The Committee welcomes the adoption of the Child Act 2001 (Act 611), which is guided by the principles of the Convention and aims at providing every child with care, protection and psychosocial assistance.

8. The Committee welcomes the adoption of many other laws aimed at protecting and promoting the rights of the child, which are referred to in the concluding observations below.

9. The Committee notes with appreciation the establishment of child-protection teams to coordinate support services at the community level for children in need of care and protection and families in crisis. It notes with satisfaction that the child-protection teams carry out preventive and rehabilitative programmes such as the establishment of child activity centres and crisis intervention centres for children and families in high-risk areas.

C. Factors and difficulties impeding the implementation of the Convention

10. The Committee acknowledges that an exceptional natural disaster caused by the Indian Ocean tsunami of 26 December 2004 claimed lives in Malaysia and left many thousands of children and their families on the western coastline without homes and livelihoods. The Committee also acknowledges that the recent flooding in Malaysia has resulted in the displacement of many thousands of children and that the floods have largely devastated the states of Johor, Pahang and Sabah.

D. Principal subjects of concern, and recommendations

1. General measures of implementation (arts. 4, 42 and 44 (6))

Reservations

11. The Committee notes with appreciation the State party's ongoing efforts to review its reservations to articles 1, 2, 7, 13, 14, 15, 28, paragraph 1 (a) and 37 of the Convention. The Committee is of the opinion that many of the reservations are, with regard to the progress made in the adaptation of the legislation to the requirements of the Convention and in the light of the Vienna Declaration and Programme of Action adopted in 1993 by the World Conference on Human Rights, not necessary; as was also concluded at the Forum on Malaysia's reservations to the Convention on the Rights of the Child, which was held on 29 September 2005.

12. In the light of article 51, paragraph 2, of the Convention, the Committee recommends that the State party expedite its ongoing efforts to review the nature of its reservations to articles 1, 2, 7, 13, 14, 15, 28, paragraph 1 (a) and 37 of the Convention with a view to withdrawing them in accordance with the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, in 1993.

Ratification of international human rights instruments

13. Acknowledging the State party's accession to the Convention on the Elimination of All Forms of Discrimination against Women in 1995, the Committee is of the opinion that the ratification of or accession to other international core human rights instruments would strengthen the efforts of the State party to meet its obligations in guaranteeing the full realization of rights of all children under its jurisdiction.

14. The Committee encourages the State party to ratify or accede to the other major international human rights instruments.

Legislation

15. The Committee acknowledges that in family and religious matters, all Muslims are subject to *Syariah* law and to the jurisdiction of *Syariah* courts and that, correspondingly, non-Muslims are subject to the provisions of civil law and to the jurisdiction of the civil-law judiciary. The Committee observes that these two systems apply different definitions of the child, and that differences in implementing a child's rights may result in legal disputes between non-Muslim mothers and fathers who have converted to Islam. It welcomes the establishment of the cross-sectoral Committee, which includes Muslim clerics, *Syariah* Court judges, legal practitioners, academics and government representatives to address the differences between the two legal systems. The Committee is concerned, however, at the slow pace of enacting and reforming the laws related to the implementation of the Convention.

16. The Committee recommends that the State party conduct an international comparative study on the implications of the dual legal system of civil law and *Syariah* law and, based on the results of this assessment, take necessary measures to reform this dual system with a view to removing inconsistencies between the two legal systems in order to create a more harmonious legal framework that could provide consistent solutions, for example, to family-law disputes between Muslims and non-Muslims. The Committee also recommends that the State party undertake a comprehensive review of the national legal framework with a view to ensuring its full compatibility with the principles and provisions of the Convention. The Committee further recommends that the State party take all necessary measures to expedite the process of necessary law reforms.

National Plan of Action

17. The Committee notes that the process of finalizing a second comprehensive National Plan of Action for Children by the Ministry of Women, Family and Community Development is currently under way and that the Plan will be streamlined with the National Child Policy.

18. The Committee recommends that the State party:

(a) **Ensure that all activities related to the second National Plan of Action are clearly oriented towards the implementation of the full range of rights of the child as enshrined in the Convention, and that the National Plan of Action takes into account the outcome document “A world fit for children”, adopted by the General Assembly of the United Nations at its special session on children, held in May 2002 (resolution S-27/2, annex);**

(b) **Provide a time schedule and sufficient human and financial resources allocation and adequate follow-up mechanisms for the full and effective implementation of the second National Plan of Action at all levels;**

(c) **Continue to ensure the wide participation of civil society, including children and youth, in all aspects of the implementation process.**

Coordination

19. The Committee notes with satisfaction the establishment of two councils: the Coordinating Council for the Protection of Children, under the Child Act 2001 (Act 611), which is the main body mandated to advise the Minister of Women, Family and Community Development on all aspects of child protection, and to coordinate the resources of various government departments involved in child protection; and also in 2001 the National Advisory and Consultative Council for Children, which acts as a national focal point for children's well-being and development. However, the Committee is concerned at the insufficient coordination of implementation at the horizontal and vertical levels, including the Government, states and local communities.

20. **The Committee recommends that the State party further strengthen coordination between the bodies and institutions working on the rights of the child at all levels in order to ensure uniform implementation of the Convention in all states. The Committee also recommends that the Coordinating Council for the Protection of Children regularly report on the monitoring and evaluation of the implementation of the Convention and that these reports be widely disseminated at all levels of society.**

Independent monitoring

21. The Committee welcomes the establishment of the Human Rights Commission of Malaysia (SUHAKAM) by the Human Rights Commission of Malaysia Act in 1999 and, in particular, SUHAKAM's mandate, which includes carrying out analyses and awareness-raising and training activities, as well as receiving and investigating individual complaints of alleged

human rights violations, and visiting places of detention. It notes with appreciation that SUHAKAM monitors the implementation of the Convention on the Rights of the Child through its working groups and organizes regular round tables to address the situation of children.

22. The Committee recommends that the State party ensure that SUHAKAM is provided with adequate human, financial and technical resources and that it has well-trained and sufficient staff to monitor and evaluate progress in the implementation of the Convention at the national and local levels, as well as to receive, investigate and address complaints from children. The Committee emphasizes the need to ensure that this mechanism is easily accessible to children. In these actions the State party should fully take into account the Committee's General Comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child (CRC/GC/2002/2).

Allocation of resources

23. The Committee commends the State party on its significant investment in social and health services, education and child protection but regrets that the impact of budgetary allocations on the implementation of child rights has not been systematically assessed.

24. The Committee recommends that the State party continue to prioritize budgetary allocations for the realization of children's rights to the maximum extent of available resources for social and health services, education and child protection and to allocate more resources for the implementation of special protection measures for vulnerable groups of children (for example, the *Orang Asli*, children living in economic hardship, children of indigenous populations living in remote places, children of migrant workers and child victims of trafficking). The Committee also recommends that the State party establish a systematic assessment of the impact of budgetary allocations on the implementation of the rights of the child and identify the yearly budgetary amount and proportion spent on persons under 18 years of age.

Data collection

25. The Committee takes note of the extensive statistical data provided in the report and particularly in the written replies to the list of issues. It nevertheless, regrets the lack of a national data collection system in respect of all areas covered by the Convention, which limits the State party's capacity to adopt adequate policies and programmes, in particular with regard to under-served groups of children and under-served geographical areas (for example, poverty studies on *Orang Asli* and indigenous populations in Sabah and Sarawak). The Committee also regrets the insufficient data on, for instance, non-Malaysian children living in Malaysia, violence against children, child victims of trafficking for exploitative purposes, sexual exploitation of children, and working children.

26. The Committee recommends that the State party strengthen its mechanisms for data collection by establishing a national central database on children and developing indicators consistent with the Convention in order to ensure that data are collected on all areas covered by the Convention and that they are disaggregated, for example by age (for all persons under 18), sex, urban and rural area and by group of children in need of special

protection (i.e. under-served groups of children and under-served geographical areas, including *Orang Asli* and children belonging to indigenous populations in Sabah and Sarawak, non-Malaysian children living in Malaysia, child victims of violence and child victims of trafficking for exploitative purposes, including sexual exploitation and child labour). The Committee further recommends that the State party use these indicators, as well as collected data, to facilitate the formulation of policies and programmes for the implementation of the Convention.

Dissemination of the Convention, and training activities

27. The Committee welcomes the State party's efforts to promote awareness of the rights of the child, including the awareness-raising workshops organized by the Department of Social Welfare, as well as efforts to disseminate the Convention, in close collaboration with the United Nations Children's Fund (UNICEF), SUHAKAM and non-governmental organizations (NGOs). Nevertheless, the Committee considers that education for children and the public at large and training activities for professional groups on children's rights need ongoing attention.

28. The Committee recommends that the State party strengthen its efforts to disseminate the Convention to children, their parents and the broader public, including appropriate material specifically for children translated into the different languages spoken in Malaysia, including those spoken by migrant children, asylum-seeking and refugee children and indigenous children. In addition, it recommends that the State party undertake systematic education and training programmes on the provisions of the Convention for all professional groups working for and with children, such as civil servants, teachers, social workers, health personnel (including psychologists), judges, lawyers and law-enforcement officials.

2. Definition of the child (art. 1)

29. The Committee shares the State party's view that laws which are not consistent with the definition of the child under article 1 of the Convention should be reviewed to ensure full compliance with the Convention. However, the Committee is concerned at the existence of disparities in national laws. For example, the Children and Young Persons (Employment) Act 1966 (Act 350) defines a child as any person who has not completed his or her fourteenth year, whereas the Child Act 2001 (Act 611) defines a child as a person under the age of 18. The Committee also notes with concern the contradictions between the provisions of the civil law and the *Syariah* law: for example, the Law Reform (Marriage and Divorce) Act 1976 (Act 164) and the Islamic Family Law Act (Federal Territory) 1984 (IFLA) define the minimum age for marriage inconsistently.

30. The Committee recommends that the State party take all necessary measures to harmonize the definition of the child, including the terminology used, in the national laws so as to eliminate inconsistencies and contradictions.

3. General principles (arts. 2, 3, 6 and 12)

Non-discrimination

31. While noting with appreciation the principle of non-discrimination in article 8 of the Federal Constitution, as well as in the preamble of the Child Act 2001 (Act 611) and the special measures taken to advance and protect the status and existence of indigenous peoples, the Committee is concerned that many children belonging to vulnerable groups are likely to experience de facto discrimination in everyday life. These include the *Orang Asli*, indigenous and minority children living in Sabah and Sarawak and particularly in remote areas, asylum-seeking and refugee children (for example, the unregistered children of Filipino refugees holding IMM13 refugee passes), children born out of wedlock and children of migrant workers. Acknowledging the State party's challenges in providing quality services in remote areas of the country, the Committee is concerned that many children are still suffering from disparities in the field of access to social and health services and education. Concern is expressed at the insufficient efforts made to address discrimination based on sexual orientation.

32. In the light of article 2 and other related articles of the Convention, the Committee recommends that the State party carefully and regularly evaluate existing disparities in the enjoyment by children of their rights and on the basis of that evaluation undertake the necessary steps to prevent and combat discriminatory disparities against children belonging to vulnerable groups. These include the *Orang Asli*, indigenous and minority children living in Sabah and Sarawak and particularly in remote areas, asylum-seeking and refugee children (for example, the unregistered children of Filipino refugees holding IMM13 refugee passes), children born out of wedlock and children of migrant workers.

33. Despite the efforts of the State party to address the issue of equality of the sexes, the Committee notes with concern that the persistence of stereotypical attitudes concerning the roles and responsibilities of women and men still constitute an impediment to the full enjoyment of all human rights and fundamental freedoms by girls.

34. The Committee recommends that the State party continue to address the problems faced by the girl child and to raise awareness among the population regarding the equality of girls and boys. It recommends that the State party carry out a study on gender role models. The Committee suggests that local, religious and other leaders be invited to take a more active role in supporting the efforts to prevent and eliminate discrimination against the girl child and to provide guidance to communities in this regard. The Committee also recommends that the State party promote the inclusive role of women in society, including by developing school curricula, such as recommended by the Committee on the Elimination of Discrimination against Women in its observations on the combined initial and second periodic report of Malaysia at its thirty-fifth session in 2006 (CEDAW/C/MYS/CO/2, paras. 15-16).

35. The Committee requests that in its next periodic report the State party include specific information on the measures and programmes relevant to the Convention which it adopted to follow up on the Durban Declaration and Programme of Action of the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related

Intolerance, and taking into account the Committee's General Comment No. 1 (2001) on the aims of education (CRC/GC/2001/1).

Best interests of the child

36. The Committee notes with appreciation the provisions of the Child Act 2001 (Act 611) which incorporate the principle of the best interests of the child, and takes note of many other national laws that enshrine this principle. However, it is concerned that this general principle is not fully applied and duly integrated in the implementation of the legislation, policies and programmes of the State party as well as in administrative and judicial decisions. For example, while the State party has expressed its firm intention not to separate migrant children from their migrant parents to be deported, the implementation of current provisions of the Immigration Act 1959/63 (Act 155) has resulted in detaining and deporting migrant workers without effective efforts to prevent the separation of children from their parents. The Committee also notes that the Law Reform (Marriage and Divorce) Act 1976 (Act 164), as well as the Islamic Family Statutes, are based on a primary presumption that a mother is the best person to take care of a child, leaving the consideration of the best interests of the child as a secondary concern.

37. As regards article 3, paragraph 1, of the Convention, the Committee emphasizes that the Convention is indivisible, that its articles are interdependent and that the best interests of the child is a general principle of relevance to the implementation of the whole Convention. The State party should ensure that the best interests of the child is a primary concern, taken into account in all revisions of the legislation as well as in judicial and administrative decisions, and in projects, programmes and services that have an impact on children.

Right to life, survival and development

38. The Committee welcomes the information provided by the State party that it will amend the Essential (Security Cases) Regulations of 1975 to abolish the imposition of capital punishment on children. The Committee notes that capital punishment is not imposed in practice for offences committed by persons who are under 18 at the time of the offence. Nevertheless, it notes with grave concern that the State party has not yet withdrawn its reservation to article 37.

39. The Committee recommends that the State party, as a matter of priority, expedite its measures to amend the Essential (Security Cases) Regulations of 1975 to abolish the imposition of capital punishment on children. With regard to the State party's reservation to article 37, the Committee refers to its earlier recommendation in paragraph 12 above.

40. The Committee notes with concern the relatively high number of deaths and injuries among children as a result of accidents, including road traffic accidents and drowning, despite the various measures taken by the State party to address this problem.

41. The Committee recommends that the State party continue and strengthen as much as possible its efforts to prevent children's accident-related deaths by systematically enforcing the existing regulations and by introducing awareness-raising campaigns and education programmes aimed at parents, children and the public at large.

Respect for the views of the child

42. The Committee notes with appreciation that children are given an opportunity to express their views on the Government's policies, programmes and matters pertaining to children through the Malaysian Youth Council. However, it expresses concern that traditional perceptions of children as objects and as the "property" of parents and elders rather than as subjects of rights hinder their right to express their views and to participate in the family, schools and local communities. It also notes with concern that in legal and administrative proceedings it is in practice left to the discretion of the judge to decide whether the child is heard. The Committee regrets that the Child Act 2001 (Act 611) does not contain a specific provision on children's participation.

43. The Committee recommends that the State party notably strengthen its efforts, including legislative, to ensure the active participation and involvement of children in all decisions affecting them in the family, schools and other institutions and local communities, in accordance with article 12 of the Convention. It recommends that children's views be systematically heard and taken into consideration in all judicial, administrative and other decisions affecting them, in accordance with the child's age and maturity. The Committee encourages the State party to continue and strengthen collaboration with civil society organizations in this respect. Furthermore, the Committee draws the attention of the State party to the recommendations adopted on the Committee's Day of general discussion on the right of the child to be heard, held on 15 September 2006.

4. Civil rights and freedoms (arts. 7, 8, 13-17, 19 and 37 (a))

Birth registration

44. While commending the State party on its efficient birth registration system, including the use of mobile birth registration units, the Committee notes with concern that delays in birth registrations are subject to additional fees. It also notes with concern that non-Malaysian children born in Malaysia, such as asylum-seeking and refugee children as well as children of undocumented migrant workers, children of single mothers and children born in remote areas of the country, are at risk of not being registered at birth.

45. In the light of article 7 of the Convention, the Committee recommends that the State party continue to implement an efficient and at all stages free-of-charge birth registration system, which covers its territory fully, and undertake awareness-raising campaigns to reach the most remote areas of its territory. The Committee recommends that the State party improve the birth registration system of non-Malaysian children born in Malaysia, children of single mothers and children born in remote areas of the country. Meanwhile, children without official documentation should be allowed to access basic services, such as health and education, while waiting to be properly registered.

Freedom of expression and peaceful assembly

46. The Committee is concerned that the right of the child to freedom of expression, including to present complaints publicly and to receive information, and the right to freedom of association and peaceful assembly are not fully guaranteed in practice.

47. The Committee encourages the State party to take all necessary measures to ensure the full practical implementation of the rights to freedom of expression and freedom of association and peaceful assembly. It also encourages the State party to review its reservations to articles 13 and 15 of the Convention with a view to withdrawing them.

Torture or other cruel, inhuman or degrading treatment or punishment

48. The Committee, while welcoming the State party's statement that it will amend the provisions of the Child Act 2001 (Act 611) which provide for caning of male children, expresses its deep concern that caning is still a lawful penal sanction provided by the Child Act and that it is also used as a disciplinary measure in penal institutions.

49. The Committee urges the State party to immediately abolish all forms of cruel, inhuman or degrading punishments, including caning and other forms of corporal punishment imposed on persons having committed a crime when under the age of 18 and as a disciplinary measure in penal institutions, taking into account the Committee's General Comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/C/GC/8).

5. Family environment and alternative care (arts. 5, 18 (1-2), 9-11, 19-21, 25, 27 (4) and 39)

Parental responsibilities and assistance to parents

50. The Committee notes with appreciation the State party's efforts to develop and enhance the family institution, including the initiative to draft a National Family Policy and Plan of Action. While noting with appreciation the programme known as "Interactive Workshops", which assists parents in the upbringing of their children, the Committee is concerned about the often insufficiency of parenting skills to, among other things, hear and respect the views of the child appropriately. The Committee expresses its concern at part VII, section 46, of the Child Act 2001 (Act 611) on "children beyond control", according to which parents can request the Court for Children to take measures when their child is "beyond control". This results in many of these children being placed in approved schools, Henry Gurney schools and probation hostels together with children in conflict with the law

51. The Committee encourages the State party, in the light of article 5 and article 18, paragraphs 1 and 2, of the Convention, to increase its efforts in developing parental education and awareness, for example, by providing support to parents, including training in parental guidance, skills and joint parental responsibilities. It urges the State party to review part VII, section 46 of the Child Act 2001 (Act 611) on "children beyond control" with a view to abolishing the detention and institutionalization of children based on this provision and recommends that the State party provide special services to parents who have difficulties in the upbringing of their children, including the continuation of the

Interactive Workshops, as well as home and community care support services, and involving the whole family in the counselling process.

Alternative and institutional care

52. The Committee notes that in Malaysia a relatively small number of children live in residential care. It welcomes the cottage system children's homes and the guidelines on "Management of Child Related Care Centres" and in particular the involvement of children in developing these guidelines. Nevertheless, the Committee regrets the absence of a comprehensive evaluation of the alternative-care system. It notes with concern that the quality of children's homes maintained by NGOs is often unknown.

53. The Committee recommends that the State party, taking into account the recommendations adopted on its Day of general discussion on children without parental care, held on 16 September 2005 (see CRC/C/153), carry out a comprehensive, national evaluation of the alternative-care system and based on the results of this evaluation provide children residing in out-of-home care, including foster families, public and private residential institutions and care providers, with adequate social and educational services tailored to respond to the needs of these children. It also recommends that the State party establish effective mechanisms for complaints from children in care, as well as efficient regular periodic review of placement, taking into account the best interests of the child.

54. The Committee also recommends that the State party ensure - for example, by providing guidelines and standards for service provision - that both not-for-profit and for-profit NGOs fully comply with the principles and provisions of the Convention on the Rights of the Child. As regards privatizing or contracting out services to NGOs, the Committee recommends that the State party enter into detailed agreements with the service providers and ensure effective monitoring of implementation as well as transparency of the entire process.

Adoption

55. The Committee acknowledges that the State party has a traditional form of adoption of non-Muslim children as well as an Islamic form of foster care of Muslim children. As regards the adoption of non-Muslim children, the Committee is concerned at the absence of a national uniform adoption law in Malaysia and at the different procedures for adoption between states in Malaysia. Concern is also expressed at the prevalence of informal adoptions, which are neither registered nor monitored.

56. The Committee recommends that the State party review the legislative framework of domestic adoption by introducing a national uniform adoption law to regulate the adoption of non-Muslim children in Malaysia. It urges the State party to strengthen its efforts to prevent informal adoption of children, which is neither registered nor monitored. As regards intercountry adoption, it recommends that the State party ratify the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993).

Violence, abuse and neglect, maltreatment

57. The Committee notes with appreciation that violence against children, such as physical, sexual, mental and emotional violence, as well as abandonment and neglect, are addressed in the Child Act 2001 (Act 611), and that since August 2002 incest has been criminalized by the Penal Code (Act 574). It also notes with appreciation that the Domestic Violence Act 1994 (Act 521) protects the child against violence within the family. It also notes with appreciation the State party's willingness to establish a toll-free helpline for children. However, despite the measures taken to provide protection against violence, abuse and neglect, the Committee notes with grave concern that domestic violence, including violence against children in the family, remains a serious human rights problem in the State party. The Committee notes with concern that, owing to the strong social and cultural taboos, victims and witnesses rarely report these cases, although there exist established mechanisms to receive reports on child abuse and neglect, including a toll-free helpline "*Teledera*" which is, however, limited to reporting on child-abuse cases. It also notes with concern that corporal punishment in the home is lawful.

58. In the light of article 19 and other relevant provisions of the Convention, and taking into account the recommendations of the Committee adopted on its Day of general discussion on violence against children within the family and in schools held on 28 September 2001 (CRC/C/111, paras. 701-745), the Committee urges the State party to:

(a) Develop, as part of the National Plan of Action for Children, a comprehensive national strategy to prevent and respond to domestic violence, ill-treatment of children and child abuse, and further adopt adequate measures and policies to contribute to changing attitudes and cultural practices;

(b) Strengthen the existing mechanisms and procedures to receive, monitor and investigate complaints of child abuse and neglect, including intervention where necessary, and to prosecute cases of abuse and ill-treatment, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected;

(c) Prohibit by law all forms of corporal punishment in the home and conduct a comprehensive study to assess the nature and extent of this phenomenon;

(d) Continue to sensitize and educate parents, guardians and professionals working with and for children by carrying out public education campaigns about the harmful impact of violent forms of "discipline" and promote positive, non-violent, participatory methods of child-rearing;

(e) Ensure that all child victims of violence and abuse have access to adequate care and counselling, and to assistance with recovery and reintegration;

(f) Establish a toll-free, 3-digit helpline with 24-hour service for children and facilitate the collaboration of this helpline with State alliances, such as the police, health, and social welfare systems, and child-focused NGOs, in order to enhance its intervention and follow-up model.

59. With reference to the United Nations study on violence against children, the Committee recommends that the State party:

(a) Take all necessary measures for the implementation of the overarching and setting-specific recommendations contained in the report of the independent expert for the United Nations study on violence against children (A/61/299) taking into account the outcome and recommendations of the Regional Consultations for East Asia and the Pacific (held in Thailand from 14 to 16 June 2005);

(b) Use the recommendations of the Regional Consultations as a tool for action in partnership with civil society and in particular with the involvement of children to ensure that every child is protected from all forms of physical, sexual and mental violence and to gain support for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse;

(c) Consider seeking technical cooperation from UNICEF, the Office of the High Commissioner for Human Rights (OHCHR) and the World Health Organization (WHO).

**6. Basic health and welfare
(arts. 6, 18 (3), 23, 24, 26, 27 (1-3))**

Children with disabilities

60. The Committee notes with appreciation that a number of measures have been taken by the State party to improve the situation of children with disabilities, particularly the establishment of community-based rehabilitation centres which provide diagnosis, rehabilitation, treatment and special education for children with disabilities. The Committee is encouraged by the information that the State party is in the process of finalizing a national policy on persons with disabilities, including a plan of action. Nevertheless, the Committee regrets the insufficient official data on the number of children with disabilities in the State party and that children with disabilities living in remote areas do not have access to the same level of services as children living in other parts of the country.

61. The Committee recommends that the State party, taking into account the Committee's General Comment No. 9 (2006) on the rights of children with disabilities (CRC/C/GC/9), take all necessary measures to:

(a) Reinforce its efforts to adopt the national policy on persons with disabilities, including the national plan of action, and consider formulating a bill on persons with disabilities;

(b) Collect adequate statistical data on children with disabilities and ensure the use of such data in the development of policies and programmes for these children;

(c) Provide children with disabilities with equal access to adequate social and health services, including psychological and counselling services, and tailored services for children with learning difficulties and behavioural disorders, and raise awareness about all services available;

(d) Continue and increase the provision of community-based programmes and services in order to allow children with disabilities to stay at home with their families;

(e) Sign and ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol once open for ratification.

Health and health services

62. The Committee commends the State party on the significant progress achieved in the field of health care and the provision of health services, and especially on its efforts to improve maternal health care and to reduce infant mortality rates. While noting that 10 per cent of people in Malaysia have limited access to medical care, it welcomes the State party's efforts to address this human rights concern, including by launching the Village Health Promoters programme which helps to provide basic medical services to people living in the remote parts of the country. The Committee notes with concern that despite the declining rates of malaria and tuberculosis worldwide, these diseases are re-emerging in the State party. While noting that the State party promotes the six months of exclusive breastfeeding and that it is in the process of revising the Code of Ethics for Infant Formula Products of 1995, which will be released shortly, the Committee notes with concern that exclusive breastfeeding rates remain low. It is concerned that the private health sector does not fully implement the national Code of 1995 and that the distribution of samples and supplies of milk substitutes still takes place in private health facilities. The Committee regrets that the duration of maternity leave is only two months and that daily breastfeeding breaks for working mothers depend on the discretion of the employer.

63. The Committee recommends that the State party continue its efforts to:

(a) Develop the health sector and strengthen the primary-care centres and the preventive health services and address the regional disparities in this regard;

(b) Prevent and reduce the spread of tuberculosis and malaria and, for instance, provide migrant children with regular physical examinations;

(c) Promote exclusive breastfeeding, among other things by strengthening the national Code of Ethics for Infant Formula Products, ensuring that it complies fully with the International Code of Marketing of Breast-milk Substitutes, and by monitoring the implementation of the national Code in both the public and the private health facilities, as well as by extending the length of maternity leave to comply with internationally acceptable standards, and by promoting daily breastfeeding breaks for working mothers who wish to continue breastfeeding their children for a longer period of time.

64. As regards the treatment of tsunami-affected children suffering from post-traumatic stress disorder and other emotional and mental problems, the Committee welcomes the project of Malaysia's HELP University College, with support from UNICEF and the Ministry of Health, which offers long-term psychosocial support, counselling and psychotherapy for these children and their families.

65. The Committee recommends that the State party continue and increase, where necessary, the provision of long-term psychosocial support, counselling and psychotherapy for children and their families traumatized by natural or man-made disasters as long as needed.

Adolescent health

66. The Committee welcomes the State party's efforts to promote adolescent health, including the My Peer Programme which trains peer educators on adolescent reproductive health and kafe@TEEN drop-in centres which provide information and knowledge on adolescent sexuality and reproductive health as well as guidance and other services specifically for adolescents. However, the Committee notes with concern the absence of a comprehensive national youth study, the last national comprehensive survey on sexual and reproductive health of adolescents having been conducted in 1994-1995. It also notes with concern that adolescents have a limited knowledge of reproductive health issues and that pregnant adolescents are often stigmatized.

67. The Committee recommends that the State party, taking into account the General Comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child (CRC/GC/2003/4):

(a) Conduct a comprehensive national youth study and based on the results of this study provide adolescents with tailored and youth-sensitive health services and counselling, and respecting the privacy of the adolescent;

(b) Promote adolescent health, including sex and reproductive health education, in schools and in other appropriate places frequented by adolescents.

HIV/AIDS

68. While sharing the State party's concern that HIV/AIDS is an emerging health issue in Malaysia, the Committee notes with satisfaction that the State party has put the prevention of HIV infections high on its health agenda and has taken measures to raise awareness about HIV/AIDS among adolescents. In particular, the Committee notes with appreciation the adoption in 2006 of the new National Strategic Plan for HIV/AIDS 2006-2010 and its subprogrammes, the establishment of PROSTAR youth centres, in collaboration with UNICEF and with community support, which focus on HIV/AIDS prevention through youth-friendly activities and provide counselling, anonymous HIV screening, peer-to-peer education and leadership opportunities for young people. The Committee also notes with appreciation the initiation of a three-year project to involve Islamic religious leaders in the response to HIV/AIDS, in partnership with the United Nations Development Programme (UNDP), the Ministry of Health, the Department of Islamic Religious Affairs, and the Malaysian AIDS Council (MAC).

69. The Committee is concerned that, despite these actions, the incidence of HIV/AIDS is rapidly rising in the State party and that the existing resources are not sufficient to meet expanding demands in this respect. Since HIV/AIDS continues to be a culturally and religiously sensitive topic in the State party, the raising of awareness on HIV/AIDS in terms of transmission

channels, treatment and preventive measures remains challenging. The Committee is also concerned at the increasing number of children orphaned by AIDS.

70. The Committee recommends that the State party, taking into account the Committee's General Comment No. 3 (2003) on HIV/AIDS and to the rights of the child (CRC/GC/2003/3) and the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37):

(a) Strengthen its efforts to implement the National Strategic Plan for HIV/AIDS 2006-2010 and its subprogrammes in order to prevent the incidence and spread of HIV/AIDS;

(b) Ensure that children infected with HIV and/or affected by HIV/AIDS have access to adequate social and health services, including by strengthening the community-level prevention and treatment programmes;

(c) Ensure that children have access to child-sensitive and confidential HIV/AIDS counselling with full respect for the child's privacy, when such counselling is required by a child, and to accurate and comprehensive information about HIV/AIDS, its transmission channels, treatment and preventive measures, for example in schools;

(d) Establish special programmes to provide protection and support for children orphaned by AIDS;

(e) Seek technical assistance from, among others, the Joint United Nations Programme on HIV/AIDS (UNAIDS), WHO, UNICEF and UNDP and enhance collaboration with the Malaysian AIDS Council (MAC).

Standard of living

71. The Committee commends the State party on its continuous and remarkably successful efforts to reduce poverty in Malaysia. It notes with appreciation the plans to implement the Ninth Malaysia Plan 2006-2010, as well as the estimate that the State party is able to reach the Millennium Development Goal target of halving poverty well before 2015. Despite the State party's considerable progress made in poverty reduction, the Committee notes with concern that indigenous groups, especially indigenous communities in Sabah and Sarawak, and the *Orang Asli* in Peninsular Malaysia, are affected by poverty. It also notes with concern that urbanization and the growing number of low-income or unemployed migrant workers are likely to create new pockets of poverty in cities. Furthermore, the low-income level of single female-headed households gives rise to concern.

72. The Committee recommends that the State party:

(a) Continue to implement the Ninth Malaysia Plan 2006-2010 and to allocate resources for effective poverty-reduction measures at all levels, particularly among the *Orang Asli* and in the indigenous communities of Sabah and Sarawak, as well as in the rural and remote areas of the other less developed states;

(b) Raise the standard of living among its population living in poverty and enhance the capacity to develop and monitor poverty-reduction strategies at all levels, and ensure that children living in low-income households have access to social and health services, education and adequate housing;

(c) Provide children living in poverty with an opportunity to be heard and to express their views when planning and implementing poverty-reduction programmes at the local and community levels.

**7. Education, leisure and cultural activities
(arts. 28, 29 and 31)**

Education, including vocational training and guidance

73. The Committee commends the State party's progress in quantitative expansion and qualitative upgrading of the educational system. It welcomes the Education Amendment Act 2002 (Act A1152) which made primary education compulsory for all children aged 6. The Committee notes as a positive factor that the enrolment rate of girls and boys in primary education is relatively equal but it regrets that according to estimates 200,000 children of primary-school age are not attending school. It also notes with concern the regional disparities in the dropout rates. For example, in Sabah the proportion of children reaching grade 5 has decreased significantly. The Committee also regrets that many children, in particular boys, drop out from secondary education. It also notes the limited provision of vocational education and training.

74. The Committee notes with appreciation the State party's efforts to address the special educational needs of indigenous children and in particular the *Orang Asli* but it notes with deep concern their high dropout rate. Despite the fact that education is provided free of charge and that the State party implements many support programmes such as the Textbook Loan Scheme, the Committee is concerned that other costs of schooling, such as transportation, school uniforms, supplies and extra-curricular activities are likely to cause financial obstacles to education for children from low-income families and deny them equal access to education. It notes with concern that non-citizen children have to pay a school fee and that they are accepted in schools only if they have adequate documents and if places are available. The Committee also notes with concern that the education provided by NGOs does not necessarily comply with the national curricula and that children attending this kind of informal education do not have the right to sit official examinations.

75. In the light of articles 28 and 29 of the Convention, and taking into account the Committee's General Comment No. 1 (2001) on the aims of education (CRC/GC/2001/1), the Committee recommends that the State party continue to allocate adequate financial, human and technical resources in order to:

(a) Ensure that all children have equal access to quality education at all levels and that their access to education is not impeded by economic shortcomings;

(b) Continue to take measures to prevent children from dropping out of primary and secondary education, paying special attention to the reasons for boys' dropping out, and take all necessary measures to address regional disparities in this respect;

(c) Strengthen its efforts to address the special educational needs of the *Orang Asli* and children from other indigenous groups, including by implementing the "Stay with the School Programme";

(d) Provide vocational education and training for children who do not attend or complete regular school education, with a view to facilitating their future access to the labour market;

(e) Include human rights education, including the rights of the child, in the curricula, particularly with regard to the development of respect for human rights, tolerance and equality of the sexes as well as religious and ethnic minorities and indigenous peoples.

76. In this respect, the Committee recommends that the State party seek cooperation with, among others, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and UNICEF, to further improve the education sector.

77. The Committee notes with concern that the corporal punishment of boys is still a lawful disciplinary measure and used in secondary schools.

78. The Committee reiterates that corporal punishment is not compatible with the provisions of the Convention and is inconsistent with the requirement of respect for the child's dignity, as specifically required by article 28, paragraph 2, of the Convention. Therefore, the Committee recommends that the State party prohibit by law all forms of corporal punishment in schools.

79. As regards pre-school education, the Committee welcomes the percentage of children enrolled in pre-school education which has notably risen and that the State party has taken several measures, including by making a national pre-school curriculum for children from five to six years old compulsory in 2003, to promote early childhood development. The Committee is nevertheless concerned at the limited access to pre-school education in Sabah and Sarawak.

80. The Committee recommends that the State party continue to expand pre-school education to cover the whole country, including children living in the most remote areas. It recommends that the State party raise awareness with respect to pre-schools and early-learning opportunities by taking into account the Committee's General Comment No. 7 (2005) on implementing child rights in early childhood (CRC/C/GC/7/Rev.1).

8. Special protection measures
(arts. 22, 38, 39, 40, 37 (b)-(d), 32-36 and 30)

Asylum-seeking and refugee children

81. The Committee notes with appreciation efforts taken by the State party to improve the situation of asylum-seeking and refugee children and their families, particularly the increased cooperation the State party has extended to the United Nations High Commissioner for Refugees (UNHCR) in Malaysia. It notes with appreciation, for example: the issuance of written instructions in 2005 by the Attorney-General not to prosecute immigration-related offences committed by asylum-seekers and refugees holding valid UNHCR documentation; the issuance of written instructions by the Ministry of Health to reduce medical fees for asylum-seekers, refugees, and their children to 50 per cent of the foreigners' rate; and the statement made during the dialogue with the Committee that UNHCR shall be provided with access to refugee or asylum-seeker detainees, including in immigration detention centres.

82. Despite these positive steps taken, the Committee expresses concern at the absence of a legal framework in Malaysia for the protection of refugee and asylum-seeking children. In particular, the Committee regrets that the State party has not acceded to the 1951 Convention relating to the Status of Refugees and its 1967 Optional Protocol, nor to the 1954 Convention relating to the Status of Stateless Persons or to the 1961 Convention on the Reduction of Statelessness. The Committee is particularly concerned that the implementation of the current provisions of the Immigration Act 1959/63 (Act 155) has resulted in detaining asylum-seeking and refugee children and their families at immigration detention centres, prosecuting them for immigration-related offences, and subsequently imprisoning and/or deporting them.

83. In the light of articles 3 and 22 and other relevant provisions of the Convention, the Committee recommends that the State party, taking into account the Committee's General Comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6):

(a) Take urgent measures not to detain children in connection with immigration proceedings unless it is necessary to protect their best interests - and then for the shortest time possible, and establish a screening process to ensure that groups with special needs, such as refugees and asylum-seekers, including their children, are rapidly identified;

(b) Accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol as well as to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness;

(c) Develop a legislative framework for the protection of asylum-seeking and refugee children, particularly unaccompanied children, in line with international standards;

(d) In the absence of a national law on refugees, amend the Immigration Act 1959/63 (Act 155), or at least make use of the exception foreseen under Section 55 of the Immigration Act, with a view to legalizing the status of asylum-seekers and refugees in Malaysia;

(e) If detention is necessary in a particular, exceptional case, take all measures necessary to make this as short as possible and provide for special protection and assistance measures for refugee and asylum-seeking children and their families while in detention, in line with relevant international standards.

84. The Committee notes with concern that many asylum-seeking and refugee children, among them the Muslim children from Myanmar, including the *Rohingya* refugee children who have lived in Malaysia since 1990s, lack access to formal education.

85. With reference to articles 2, 22 and 28 of the Convention, the Committee recommends that the State party take urgent measures to ensure that asylum-seeking and refugee children have access to free and formal primary, secondary and other forms of education, and that in particular refugee and asylum-seeking children who are engaged in informal education have access to official examinations.

86. The Committee also recommends that the State party continue and strengthen its collaboration with UNHCR and other relevant agencies to address humanitarian concerns related to asylum-seeking and refugee children, including by providing them with access to detainees.

Children of migrant workers

87. The Committee takes note of the information that the State party is in the process of submitting a Bill on Foreign Workers to Parliament in 2007. The Committee notes the large number of migrants both documented and undocumented and welcomes the State party's initiative to document and register children of migrant workers and to provide all children in the State party with unrestricted access to education and health services. However, the Committee remains concerned that children of migrant workers still face many difficulties in the enjoyment of their rights under the Convention.

88. The Committee recommends that the State party continue and strengthen its efforts to register and document all children of migrant workers and ensure their unrestricted access to education and health care services. It further recommends that the State party ensure that repatriation of migrant workers with children to their country of origin takes place with due regard to the rule of article 3 of the Convention providing that the best interests of the child shall be a primary consideration. When assessing the best interests of the child, the State party should take into account the totality of the circumstances, including paying attention to issues like the fact that the child is born in the State party, the length of the stay of the child on the State party's territory, the years of education enjoyed in the State party and the need to not separate the child from her/his parents.

89. The Committee recommends that the State party take regional initiatives for negotiations with neighbouring countries in order to establish agreements on measures to deal with the high number of cross-border migrants and the various related problems in a constructive way and in full compliance with international human rights standards. In this regard the Committee encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and to seek technical assistance from the International Organization for Migration (IOM).

Economic exploitation, including child labour

90. The Committee takes note of the information that the State party is in the process of amending the Children and Young Persons (Employment) Act 1966 (Act 350) to provide better protection for working children. The Committee, welcoming the ratification of the 1973 ILO Convention No. 138 concerning Minimum Age for Admission to Employment in September 1997 and the 1999 ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in November 2000 by the State party, is concerned that the enforcement of these two labour rights conventions remains weak. It also notes with concern that the provisions of the Children and Young Persons (Employment) Act permits, among other things, employment involving light work and employment as a domestic servant without detailing the acceptable conditions of such work. The Committee also regrets that the unclear definition of the child (see the Committee's concern in para.29) impedes the full implementation of the 1999 ILO Worst Forms of Child Labour Convention.

91. The Committee is alarmed at the high number of migrant domestic workers in the State party, including child domestic workers who work under conditions that are hazardous and interfere with the child's education, and are harmful to the child's health and physical, mental, spiritual, moral or social development.

92. In accordance with article 32 of the Convention, the Committee recommends that the State party:

(a) Amend the Children and Young Persons (Employment) Act 1966 (Act 350) and other relevant laws and regulations to ensure that acceptable conditions of permissible work, including light work and work as a domestic servant, are clearly and strictly detailed and that the national labour provisions fully comply with international labour standards as well as with the definition of the child as provided by the Convention (article 1);

(b) Vigorously pursue enforcement of minimum-age standards, including requiring employers to have, and to produce on demand, proof of age of all children working on their premises;

(c) Strengthen the labour inspectorate and provide the labour inspectors with all the necessary support, including child labour expertise, with a view to enabling them to monitor effectively at the state and local level the implementation of labour law standards and to receive, investigate and address complaints of alleged violations;

(d) Ensure that all working children, including those in the informal sector, have access to free and compulsory primary education as well as to secondary education, including vocational training, and that the nature of work does not interfere with their schooling;

(e) Seek technical assistance from the ILO International Programme on the Elimination of Child Labour (IPEC).

Street children

93. As regards children living and/or working in the streets, particularly in Sabah, the Committee regrets that the State party could not present studies on the extent and nature of this

problem. It notes with concern that “cleaning operations” have resulted in detaining street children and that negative public attitudes and prejudices against street children exacerbate their difficult situation.

94. The Committee recommends that the State party:

(a) Undertake a study on children living/working in the streets to identify the magnitude of this problem and based on the results of this study develop a comprehensive national strategy with the active participation of street children, NGOs and relevant professionals to address the situation of street children;

(b) Ensure that children living in the streets are not unlawfully arrested and detained, protect them from police brutality and, where needed, secure their access to adequate legal services;

(c) Ensure that street children are reached through trained street educators and counsellors and provided with adequate identity documents, nutrition, clothing and shelter as well as with social and health services and educational opportunities, including vocational and life skills training, in order to support their full development;

(d) Provide street children with adequate recovery and social reintegration services for physical, sexual and substance abuse and promote reunification with their families, when it is in the best interests of the child;

(e) Raise awareness about children living in the streets in order to change negative public attitudes about them;

(f) Collaborate with and support NGOs working with and for street children and seek technical assistance from, among others, UNICEF.

Trafficking in children for exploitative purposes

95. The Committee notes with appreciation the establishment of a Coordinating Committee on Trafficking in July 2006 and it takes note of the information that the State party is in the process of submitting an Anti-trafficking of Persons Bill to Parliament in 2007. Considering that Malaysia is a destination country but also a source and transit country for trafficking in children for the purposes of sexual exploitation and forced labour, the Committee notes with grave concern the absence of a specific law and policy to combat intercountry trafficking. It also notes with concern that trafficked children, although they are victims, are often detained, for example, in the case of missing residence/work permits or falsified documents, and subsequently deported, and that they are not provided with adequate specialist support for social reintegration and recovery. The Committee also notes with deep concern reports suggesting that babies are trafficked from neighbouring countries for sale to childless couples in Malaysia. The absence of data and information on the magnitude of this problem is also a matter of concern.

96. In the light of article 35 and other related articles of the Convention, the Committee recommends that the State party:

(a) Conduct a comprehensive study to assess the nature and magnitude of trafficking in children for exploitative purposes and, based on the findings and recommendations of the study, develop and adopt a national anti-trafficking law as well as a comprehensive national plan of action to prevent and combat all forms trafficking within the country and across its borders;

(b) Strengthen and expand bilateral and multilateral agreements and cooperation programmes with other countries of origin, transit and destination to prevent trafficking in children;

(c) Establish an effective screening process to identify child victims of trafficking and ensure that they are neither detained nor deported and that they are provided with adequate recovery and social reintegration services and programmes;

(d) Take all necessary measures for reunification of children with their families when this is in the best interests of the child;

(e) Ensure that all trafficking cases are investigated and that perpetrators are charged and punished;

(f) Continue to raise public awareness about the detrimental effects of child trafficking and train professionals working with and for children, as well as the general public, to identify, prevent and combat trafficking in children;

(g) Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000);

(h) Strengthen cooperation with, among others, the ILO International Programme on the Elimination of Child Labour (IPEC), IOM and NGOs.

Drug abuse

97. Noting the current policy of the State party to achieve a drug-free Malaysia by the year 2015 and related efforts to prevent and fight drug use by adolescents, including the school-based Student Resilience and Interpersonal Skills Development Education (STRIDE) curriculum, the Committee is concerned at the increasing use of illegal drugs, in particular amphetamines and ecstasy, among adolescents.

98. The Committee recommends that the State party:

(a) Pursue its awareness-raising and preventive measures, including awareness raising of the danger of drugs in the physical and virtual spaces frequented by adolescents, including schools, clubs and the Internet;

(b) Introduce free and easily accessible drug-abuse treatment and rehabilitation programmes and social-reintegration services carefully tailored for children and adolescents who are victims of drug abuse;

(c) **Involve adolescents, including the family and the community at large, in all stages of the development of prevention programmes, and support peer-led prevention initiatives;**

(d) **Consider seeking technical assistance from, inter alia, UNICEF, the World Health Organization (WHO) and the United Nations Office on Drugs and Crime (UNODC).**

Sexual exploitation

99. The Committee notes with appreciation that the Child Act 2001 (Act 611) criminalizes the sexual exploitation of children and that the various provisions of the Penal Code (Act 574) address the issue of the sexual exploitation of children, including child prostitution. It also notes with appreciation the preventive work of Child Protection Teams and Child Activity Centres in this field. Considering the reportedly high demand for commercial sex in Malaysia, the Committee is concerned about prostitution involving children, in particular the vulnerability of certain children to being exploited, such as those without any official record of their existence. It notes the provisions of the Penal Code that prohibit the selling, hiring and dissemination of obscene and offensive material in general, but regrets the absence of specific legislation against Internet-related sexual offences, including child pornography.

100. In the light of article 34 and other related articles of the Convention, the Committee recommends that the State party undertake a national study on the sexual commercial exploitation of children with a view to designing and implementing appropriate policies and measures, including promoting the physical and psychological recovery and social reintegration of child victims of sexual exploitation, and to preventing and combating the sexual exploitation of children in a more targeted way, avoiding the criminalization of child victims. In this regard, the Committee encourages the State party to take into account the Declaration and Agenda for Action and the Global Commitment adopted at the First (Stockholm 1996) and Second (Yokohama 2001) World Congresses against Commercial Sexual Exploitation of Children.

101. The Committee recommends that the State party pay particular attention to the existing risk factors, such as the increasing sex tourism in the region, and continue to collaborate with the Malaysia Tourism Promotion Board (MTPB) and tourism service providers in this respect in order to better meet the Code of Conduct set up by the World Tourist Organization on the protection of children from sexual commercial exploitation in travel and tourism.

102. Finally, the Committee encourages the State party to consider adopting specific legislation on the obligations of Internet service providers in relation to child pornography on the Internet.

Administration of juvenile justice

103. The Committee notes with concern the low minimum age of criminal responsibility which is ten years in the Penal Code (Act 574), and the discrepancies between the minimum age standards in the Penal Code, the interpretation of the Muslim jurists in the *Syariah* Court and the

Syariah Criminal Procedure (Federal Territories) Act 1984. The Committee expresses its concern, among other things, at long (pre-trial) detention periods, delays in dealing with cases involving children and the fact that children in conflict with the law are often subject to negative publicity in the media. Furthermore, the Committee is concerned at the deprivation of liberty at the pleasure of the Yang di-Pertuan Agong or the ruler or the Yang di-Pertua Negeri, which results in the undetermined length of deprivation, causing problems in terms of the development of the child, including her/his recovery and social reintegration.

104. The Committee recommends that the State party continue and strengthen its efforts to ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention and other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the “Beijing Rules”), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the “Riyadh Guidelines”) and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the “Havana Rules”), taking into account the Committee’s newly adopted General Comment No. 10 on children’s rights in juvenile justice (CRC/C/GC/10). It recommends that the State party:

(a) **Urgently raise the minimum age of criminal responsibility at least to the age of 12 and continue to increase it to a higher age level and carry out a study on the discrepancies between the minimum age standards in the Penal Code, the interpretation of the Muslim jurists in the *Syariah* Court and the *Syariah* Criminal Procedure (Federal Territories) Act 1984 to prevent different standards being imposed on children upon entering the criminal justice system;**

(b) **Develop and implement a comprehensive system of alternative measures to deprivation of liberty, such as probation, community service orders and suspended sentences, in order to ensure that deprivation of liberty is used only as a measure of last resort;**

(c) **Amend the existing laws, including the Child Act 2001 (Act 611), in order to ensure that the deprivation of liberty is in full conformity with articles 37 and 40, paragraph 1, of the Convention and take the necessary measures, for example suspended sentencing and early release, to ensure that deprivation of liberty is limited to the shortest time possible;**

(d) **Take efficient legislative and administrative measures to abolish the delays in disposal of cases involving children;**

(e) **Encourage and promote the positive involvement of the media in the reporting on children in conflict with the law and ensure that the media fully respect the right of the child to privacy;**

(f) **Seek technical assistance from the United Nations Interagency Panel on Juvenile Justice, which includes UNODC, UNICEF, OHCHR and NGOs.**

105. As regards the protection of child victims and witnesses at all stages of the criminal justice process, the Committee draws the State party’s attention to the United Nations

Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20).

Children belonging to minorities and indigenous peoples

106. As regards the right of the child belonging to ethnic, religious or linguistic minorities or to indigenous peoples to enjoy his or her own culture, to profess and practice his or her own religion and to use his or her own language, in community with other members of his or her group, the Committee refers to the respective concluding observations above. It also draws the attention of the State party to the recommendations adopted on the Committee's Day of general discussion on the rights of indigenous children (2003) (CRC/C/133, paras. 608-624).

9. Optional Protocols to the Convention on the Rights of the Child

107. The Committee recommends that the State party ratify the two Optional Protocols to the Convention: on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

10. Follow-up and dissemination

Follow-up

108. The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations, inter alia by transmitting them to the members of the Cabinet and the bicameral Parliament, and to states, when applicable, for appropriate consideration and further action.

Dissemination

109. The Committee further recommends that the initial report and written replies submitted by the State party and related recommendations (concluding observations) adopted by the Committee be made widely available in the languages of the country, including through the Internet (but not exclusively), to the public at large, civil society organizations, youth groups, professional groups, and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

11. Next report

110. The Committee invites the State party to submit a combined second, third and fourth periodic report by 19 March 2012 (which is the due date of the fourth periodic report). This is an exceptional measure owing to the large number of reports received by the Committee every year. This report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.

111. The Committee also invites the State party to submit its core document in accordance with the requirements of the Common Core Document in the Harmonized Guidelines on Reporting, approved by the fifth Inter-Committee Meeting of the Human Rights Treaty Bodies in June 2006 (HRI/MC/2006/3).
