

Children affected by migration in ASEAN Member States

COUNTRY BRIEF: MALAYSIA

Southeast Asia is a major migration hub comprising countries of origin, destination and transit – with some countries being a mix of all three – for a large number of migrants. Migrants include displaced persons moving both within and between countries for diverse and mixed purposes. In 2020 alone, there were 1.3 million (1,266,009) child migrants in ASEAN and in 2021, around 630,000 (627,390) refugees from ASEAN countries in the world were children. Natural disasters and conflict led to more than 2.5 million (2,522,801) internal displacements of children in 2021. Millions more children remained behind while parents migrated for work, leaving many children at risk.

Data snapshot: Malaysia migration trends

- According to the latest available data, 408,200 child migrants moved to Malaysia in 2019. However, the population of child migrants residing in the country is likely to be much larger, owing to the large number of irregular migrants.¹
- 50 per cent of migration to Malaysia is thought to be irregular,² though this proportion is likely to be much higher among migrants who move from neighbouring countries.
- By the end of October 2022, there were 182,780 registered refugees and asylum seekers in Malaysia, of which 48,130 were children.³
- While the true number of stateless persons living in Malaysia is unknown due to data gaps, there are 111,298 stateless persons under UNHCR's mandate, the vast majority of whom are forcibly displaced persons, including Rohingya persons residing in Malaysia.⁴

Malaysia is one of the main destination countries for migration in the Southeast Asian region, owing largely to the country's strong and stable economy. As much as 50 per cent of migration into Malaysia is thought to be irregular.⁵ Irregular migration is driven by costly, complex and lengthy legal processes which limit the viability of regular migration and the options for parents to migrate with their children lawfully. This has led to a highly precarious existence for children and their families as they try to navigate life without the protection and security that regular status provides. Malaysia is also home to substantial populations of child refugees and asylum seekers who have fled conflict and persecution.

This country brief summarizes the key findings of a report on the situation of children affected by migration in ASEAN Member States, along with an in-depth case study on child labour and other protection risks faced by migrant children (including children of undocumented migrant parents) living on palm oil plantations in Sabah. The regional study examined the unique drivers of child migration and displacement; the ways in which children are affected by migration, including associated protection risks; and the laws, policies and services for children and families affected by migration.

¹ International Organization for Migration Malaysia, 'Malaysia, Migration Overview', March 2021, <www.iom.int/sites/g/files/tmzbd486/files/country/docs/Malaysia/infosheet_2021_v6.pdf>.

² Harkins, Lindgren and Suravoranon, *Risks and Rewards: Outcomes of labour migration in South-East Asia*, p. 45.

³ The vast majority of asylum seekers and refugees (157,680) were from Myanmar, comprising 105,790 Rohingyas, 23,290 Chins and 28,600 from other ethnic groups from conflict-affected areas or who were fleeing persecution in the country; United Nations High Commissioner for Refugees, 'Figures at a Glance in Malaysia', <<https://www.unhcr.org/en-au/figures-at-a-glance-in-malaysia.html>> (data as of October 2022).

⁴ This includes around 9,040 stateless persons living in West Malaysia. It also includes stateless Rohingya persons living in Malaysia: United Nations High Commissioner for Refugees, *Global Trends: Forced displacement in 2021, 2022*, Full Tables, Table 5. The true population of stateless persons residing in East Malaysia is unknown: United Nations High Commissioner for Refugees, 'Ending Statelessness in Malaysia', <www.unhcr.org/en-my/ending-statelessness-in-malaysia.html>.

⁵ Harkins, Benjamin, Daniel Lindgren and Tarinee Suravoranon, *Risks and Rewards: Outcomes of labour migration in South-East Asia*, International Organization for Migration, International Labour Organization and Rapid Asia, 2017, p. 45.

It is important that the unique situation and needs of children affected by migration are understood so that more effective and targeted policy and programmatic responses can be developed. Until recently, much of the migration literature focused on the experiences of, and the impact on, migrant adults. Children and their interests have been largely invisible, with little knowledge generated about the unique drivers or impact of migration and particular migration policies on children.

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‘Children affected by migration’ is a broad umbrella term that encompasses children (those aged under 18 years)⁶ who move or have moved within their country of origin or across the border into another State, temporarily or permanently. This includes children who migrate voluntarily or involuntarily (as a result of forced displacement due to natural disasters or conflict); or for economic, social, educational or cultural reasons. It includes children who move individually or to accompany parents who have migrated. It also includes children who remain behind while one or both of their parents migrate (‘children remaining behind’).⁷



School children stand in a window of their classroom at an Alternative Learning Centre in a slum settlement in the Malaysian state of Sabah. © UNICEF/UN0248120/Shehzad Noorani

⁶ This is in accordance with international definitions of childhood in particular as set out in the Convention on the Rights of the Child, Article 1. It should be noted that in the domestic laws of some ASEAN States, such as Thailand, children who have attained majority through marriage are not included within the definition of ‘child’ in the Child Protection Act 2003. In addition, in some domestic laws, such as the Philippine Republic Act 7610, a child over the age of 18 who cannot fully take care of themselves because of a physical or mental disability or condition is included within the definition of a child.

⁷ Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of migration, CRC/C/GC/22 16 November 2017, para. 9. See also UNDESA, which defines an international migrant as anyone who changes their country of usual residence, ‘Recommendations on Statistics on International Migration, Revision 1’, 1998; and International Organization for Migration, ‘IOM Definition of “Migrant”’, <www.iom.int/who-is-a-migrant>.



1. Profile of children affected by migration in Malaysia

Malaysia is host to the second largest population of migrants from ASEAN Member States.⁸ International migrants typically travel to Malaysia from other, lower-income countries in the region in search of better economic opportunities. Malaysia's economy is highly reliant on migrant labour: It is estimated that the country hosts 2 million documented and an even greater number of undocumented migrant workers, with foreign workers constituting upwards of 30 per cent of the country's workforce.⁹ The majority of migrants originate from Southeast Asian countries with comparatively less robust economies, such as Cambodia, Indonesia, Lao PDR and Myanmar. The exact number of international migrants residing in Malaysia is unknown. This is mainly due to the fact that a large proportion of migration occurs irregularly, outside of Malaysia's migration laws and regulations. The journeys are often facilitated by smuggling networks.¹⁰

Malaysia has the second largest population of child refugees and asylum seekers among ASEAN Member States;¹¹ these children have fled violence, persecution and human rights violations in their home countries. The refugee population in Malaysia is primarily from ethnic minority groups in Myanmar fleeing conflict and persecution, and the remaining refugees and asylum seekers come from around 50 different countries.¹²

A substantial number of stateless persons also live in Malaysia. It is difficult to know exactly how many stateless children there are as conflation between non-citizenship, statelessness and undocumented status has resulted in inaccurate and misleading data.¹³ However, it is thought that statelessness exists among children of Indonesian and Filipino migrant workers and among Indigenous communities in Sabah and Sarawak with disputed nationalities.¹⁴ The substantial population of displaced Rohingya persons that reside in Malaysia are stateless.

⁸ International Labour Organization, *Countries of Origin and Destination for Migrants in ASEAN*, Bangkok, 2015.

⁹ United States Department of State, *2021 Trafficking in Persons Report: Malaysia*, p. 373.

¹⁰ See United Nations Office on Drugs and Crime, *Smuggling of Migrants in Asia and the Pacific: Current trends and challenges*, Volume II, 2018, pp. 78–87.

¹¹ Migration Data Portal, 'Migration Data in Southeastern Asia' (data from 2020), < <https://www.migrationdataportal.org/regional-data-overview/south-eastern-asia>>, accessed 12 December 2022.

¹² 'Figures at a Glance in Malaysia'.

¹³ UNICEF Malaysia, *Situation Analysis of Women and Children in Malaysia*, 2020, p. 80.

¹⁴ 'Ending Statelessness in Malaysia'.

2. Drivers of (child) migration

Children in Malaysia migrate and are affected by migration for a range of reasons. The figure below explains the drivers of migration in Malaysia, including individual and family drivers, along with factors that operate at community and structural levels in a child's life.



Structural drivers

- Economic development, along with opportunities for higher wages, encourage regular and irregular international migration flows into Malaysia.
- Bilateral agreements have encouraged migration to fill labour shortages in the economy, particularly in lower-skilled jobs.
- Conflict and unrest have resulted in a large proportion of refugees and asylum-seeking children and families residing in Malaysia, mainly from Myanmar.



Community drivers

- Social and family networks, particularly with previous experience of migration, provide children and families with information, access to opportunities and logistical and financial support that encourages their migration.



Family drivers

- Economic hardship and poverty in families can drive migration.



Individual drivers

- Malaysia is a destination country for children from ASEAN Member States, including Indonesia, who are looking for schooling in a more developed education system.
- Child marriage can be considered a driver of migration, as marriage may be seen as a negative coping mechanism driven by conflict and displacement.
- Child and family migrants can also be driven by a desire to improve their socioeconomic status, along with a desire for independence and self-sufficiency.

3. Protection risks

Migrant, refugee, asylum-seeking, stateless and undocumented children are exposed to a range of protection risks, including sexual exploitation and trafficking, child labour and economic exploitation. They also experience challenges in accessing basic services. Being undocumented or lacking legal status places children at greater risk.

Stateless children and families may face challenges in obtaining birth certificates and other forms of documentation due to a lack of knowledge about the processes involved, giving birth outside of hospitals (given the high cost to non-Malaysian nationals)¹⁵ and the fear of being reported to immigration officials if they are residing in Malaysia irregularly.¹⁶ Those who do register for a birth certificate may nevertheless not be entitled to access basic services such as public schools and medical treatment from public hospitals.¹⁷

Refugee and asylum-seeking children and irregular migrants are at risk of being detained and exposed to exploitation and abuse in immigration detention centres. The Home Ministry reported that there were 1,179 children detained in immigration detention centres as of 29 January 2023.¹⁸ There are 14 immigration centres in operation,¹⁹ none of which have separate facilities for children, meaning that children are held together with adults, with reports of “appalling”²⁰ conditions and exposure to physical violence by officers,²¹ exposure to abuse by adult detainees and poor physical and mental health.²² In 2022, 150 deaths were documented in detention, including the death of seven children.²³ Changes brought about by the COVID-19 pandemic increased the risk of detention for children in Malaysia: there were reported to have been large-scale arrests of undocumented migrants, including children, couched as containment measures to stop the spread of COVID-19.²⁴

There are also concerns that boats containing refugees and asylum seekers, including children, from Myanmar following the outbreak of hostilities, have been intercepted and turned back. In September 2020, more than 300 Rohingya arrived in Indonesia after seven months at sea, over half of whom were girls aged 18 and under.²⁵ Malaysian authorities are reported to have intercepted and pushed back at least 22 boats, at least one of which was known to be carrying women and children, into international waters.²⁶ The Malaysian air force cited containment of COVID-19 as justification for escorting boats out of Malaysian waters.²⁷ Where boats were permitted to disembark, passengers, including children, were charged with violation of immigration offences and sentenced to imprisonment.²⁸ In February 2021, a judicial review was filed to challenge the deportation of 1,200 people from Myanmar who were being held in immigration detention centres across Malaysia.²⁹

While recent prevalence data are unavailable, **migrant children are reported to be exposed to hazardous forms of child labour in different industries in Malaysia,** including, in particular, palm oil plantations. While the exact number of migrant children is unknown, the Earthworm Foundation has estimated that there are between 40,000 and 60,000 Indonesian children living in palm oil plantations in Sabah,³⁰ while the Government of Indonesia estimates the number to be around 60,000 Indonesian children living in or around plantation areas

¹⁵ For parents who give birth outside of a hospital, it is necessary to apply separately to a formal healthcare provider to validate the birth and issue a medical certificate of birth.

¹⁶ Allerton, C., ‘Statelessness and the Lives of the Children of Migrants in Sabah, East Malaysia’, *Tilburg Law Review*, vol. 19, nos. 1–2, 2014, pp. 26–32.

¹⁷ *Situation Analysis of Women and Children in Malaysia*.

¹⁸ According to a written Parliamentary reply from the Malaysian Home Ministry, 3 November 2020; Pemberitahuan Pertanyaan Jawab Lisan Dewan Rakyat Mesyuarat Ke Tiga, Penggal Ke Tiga, Parlimen Keempat Belas, Soalan No: 45, <<https://pardocs.sinarproject.org/documents/2020-november-december-parliamentary-session/oral-questions-soalan-lisan/2020-11-03-parliamentary-replies/2020-11-03-par14p3m3-soalan-lisan-45.pdf/view>>; ‘Home Ministry: 756 children held at immigration detention centres nationwide as of Oct 26’, *The Star*, 4 November 2020; Human Rights Watch, ‘Malaysia: End abusive immigration detention, release children, allow UN refugee agency access to detained migrants’, Press release, 20 November 2020.

¹⁹ International Detention Coalition, *Strengthening Alternatives to Immigration Detention for Children: Mapping and assessment of residential care centres In Peninsular Malaysia*, July 2020, p. 6.

²⁰ Save the Children, *Unlocking Childhood: Current immigration detention practices and alternatives for child asylum seekers and refugees in Asia and the Pacific*, May 2017, p. 37.

²¹ *Ibid.*

²² Child Rights Coalition Malaysia, *Status Report on Child Rights in Malaysia 2019, 2020*, p. 81.

²³ Malaysia Now, ‘Government Pressed to Probe Deaths of 150 Foreigners in Detention Last Year’, *Reuters*, 23 February 2023, <www.malaysianow.com/news/2023/02/23/govt-pressed-to-probe-deaths-of-150-foreigners-in-detention-last-year>.

²⁴ United Nations Malaysia, Singapore and Brunei Darussalam, ‘Use Alternatives to Detention in the Fight Against COVID-19’, Press release, 2 May 2020, <<https://malaysia.un.org/index.php/en/98719-use-alternatives-detention-fight-against-covid-19>>; Hamid, A., et al., *Human Rights and Covid-19: What now for the Rohingya?* 2020; Ahmed, Kamal, and agencies, ‘Malaysia Cites Covid-19 for Rounding Up Hundreds of Migrants’, *The Guardian*, 2 May 2020, <www.theguardian.com/global-development/2020/may/02/malaysia-cites-covid-19-for-rounding-up-hundreds-of-migrants>.

²⁵ Mahla, Deepmala, and Hassan Noor, *Rohingya are Being Left to Die at Sea. Who cares?* Save the Children, 17 September 2020, <savethechildren.net/blog/rohingya-are-being-left-die-sea-who-cares>.

²⁶ *Status Report on Child Rights in Malaysia 2019*, p. 109.

²⁷ Ratcliffe, Rebecca, ‘Hundreds of Rohingya Refugees Stuck at Sea, Say Rights Groups’, *The Guardian*, 17 April 2020, <www.theguardian.com/global/2020/apr/17/malaysia-and-thailand-urged-to-help-stranded-rohingya-refugees>, accessed 19 December 2022.

²⁸ *Status Report on Child Rights in Malaysia 2019*, p. 109.

²⁹ Amnesty International Malaysia, ‘Amnesty International Malaysia Condemns Deportation of More Myanmar Nationals, Including Children’, Press statement, 23 February 2023, <www.amnesty.my/2023/02/23/amnesty-international-malaysia-condemns-deportation-of-more-myanmar-nationals-including-children>.

³⁰ Earthworm, ‘Training Palm Oil Companies in Malaysia on Protecting Children in Plantations’, 23 August 2021, <www.earthworm.org/news-stories/tools-strengthen-child-protection-malaysian-palm-oil>.

in Sabah.³¹ A growing body of evidence indicates that children living on these plantations are often engaged in work, including labour that is harmful to their physical and mental development.³²

Protection risks for migrant children living on palm oil plantations in Sabah

Qualitative research was carried out in 2022 in Sabah on child labour and other protection risks faced by migrant children (including children of undocumented migrant parents) living on palm oil plantations. The research involved a series of in-depth interviews with key informants. The findings from the case study suggest a high incidence of children of migrant workers working on the plantations, usually in the context of providing informal assistance to their parents rather than being hired openly or directly by plantations. Children of migrant workers face numerous risks and challenges accessing services, including lack of documentation, discrimination and isolation, as well as limited access to education.

Research participants noted that work on the palm oil plantations is highly risky and can be detrimental to children's physical safety, development and education. In addition to child labour, other serious protection risks were identified, including arrest and detention by immigration authorities, violence, trafficking and exploitation. Irregular status was often identified as the root cause of children's heightened vulnerability to risk. Inadequate parental supervision and natural and human-made hazards and risks present in the physical environment of the plantations were among other protection concerns highlighted by respondents.

Teacher in Lahad Datu: *"The work is definitely dangerous especially for children because they can easily injure themselves. The surrounding environment at the work site is dangerous... Once they have started work, it definitely affects their schooling because they become too tired to do homework or concentrate. And of course work becomes a distraction... Once they are injured while helping their parents work, it will affect their schooling. They may miss some schooling days. The only benefit I see from these kids working is adding to the monthly family income. That is all."*³³

NGO representative: *"Last October I met with two kids who were aged 5 and 9 years old when they were detained. They were detained in Tawau for 1.5 years. Their father and uncle died in detention beside them in March 2021, so for six months they were without a guardian in a detention centre together with adults."*³⁴

NGO Representative: *"There have been many cases of fires occurring [in plantation accommodation] due to kids attempting to cook, fights between them, acts of sexual violence... all of this is happening because there is no childcare service."*³⁵

A lack of protection systems and services available to migrant children in plantations coupled with their irregular status, which leads to reluctance to access basic services due to fears of being identified as undocumented, were found to be the main barriers to children's protection.

³¹ Earthworm, 'Children in the Plantations of Sabah: Stakeholder consultation workshop report – challenges for businesses and recommendations for improved sustainability practices', 2017.

³² See, for example, Wahab, A., 'Understanding Children Assisting Parents, Working Children and Child Labour in the Palm Oil Sector in East Malaysia (Sabah)', Institute of Malaysian & International Studies (IKMAS), National University of Malaysia (UKM).

³³ Group interview, teachers in Lahad Datu, 12 March 2022.

³⁴ Individual interview, NGO participant, 16 March 2022.

³⁵ Individual interview, NGO participant, 16 March 2022.

4. Policies, laws and services for children affected by migration

ASEAN Member States, including Malaysia, have taken important steps towards protecting the rights of children affected by migration.

In particular, the ASEAN Declaration on the Rights of Children in the Context of Migration, which was adopted in November 2019, and the Regional Plan of Action on implementing the Declaration, adopted in October 2021, provide a solid framework for the protection of children in the context of migration. Malaysia has also ratified the United Nations Convention on the Rights of the Child, which sets out a comprehensive framework of rights, including for children affected by migration. However, Malaysia maintains reservations to several Articles of the CRC, including Article 7 (birth registration, name, nationality, care), which it maintains is applicable only if it is in conformity with its Constitution, national laws and policies.

Malaysia is not party to the 1951 Refugee Convention. Asylum seekers and refugees (including children) are treated as undocumented migrants, and no domestic legal route exists for asylum seekers to be granted refugee status. Asylum seekers can register with UNHCR and apply for refugee status; however, this status is not recognized under domestic law and consequently does not exempt the individuals from prosecution or administrative sanctions for breaching immigration law.³⁶ However, the National Security Council has issued a Directive which allows individuals registered with UNHCR to stay temporarily in Malaysia on humanitarian grounds.³⁷

The Government of Malaysia has passed a number of laws and policies relating to children. A central law is the Child Act 2001, which applies to all children regardless of their legal status. This Act sets forth a legal framework for the protection of children who have been abused, neglected or abandoned by their parents/guardians as well as for children in conflict with the law. The Child Act, while not containing any overarching best interests principle, does reference the best interests of the child in a number of provisions, including, for example, the requirement that a court treats the best interests of the child as the 'paramount consideration' when considering an order relating to a child in need of care and protection or protection and rehabilitation.³⁸ However, there is no specific provision in law requiring the identification, assessment and referral of children affected by migration, including unaccompanied and separated children, to child protection services.

Malaysia's Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act (as amended in 2022) provides a protective framework for child victims of trafficking that is broadly compliant with international human rights standards. Malaysia also provides a comprehensive legal framework that protects children from hazardous child labour. This includes the Children and Young Persons (Employment) Act 1996, which contains prohibitions relating to the employment of children, including limitations on working hours; and forms of acceptable and hazardous work. The National Action Plan on Anti-Trafficking in Persons (2021–2025) contains a specific objective on combating child trafficking and child labour, and recognizes refugee and migrant children as a vulnerable group.

While children may be criminally charged for immigration offences, the Child Act contains a number of protective provisions relating to the arrest and detention of children for criminal offences, including immigration-related offences.³⁹ These include time limits for bringing children before a court and release of children on bail⁴⁰ and restrictions on imprisonment: A child under 14 years of age cannot be placed in prison for any offence (however, they may be detained in facilities by the Department of Social Welfare), and a child over 14 should not be imprisoned if she/he can be suitably dealt with in any other way.⁴¹

Despite this largely protective legal framework, challenges in implementing an effective system of protection remain in practice. There are limited services for children affected by migration, for example, a lack of suitable alternative care placements,⁴² and challenges in immigration personnel identifying protection risks among migrant, refugee and asylum-seeking children. Also, monitoring and enforcement of child labour laws appears to be quite limited in practice. Migrant children also face a number of barriers accessing protection systems. There is a lack of robust age assessment procedures, meaning that older children have been incorrectly classified as adults and placed in immigration detention facilities for adults. Not only is this a violation of international standards on children's rights but can also result in family separation within the facility and challenges in proving/verifying family relationships upon release.⁴³ Service provision for child refugees and asylum seekers are mainly provided by UNHCR, together with community-based and non-government service providers, which have limitations in coverage and capacity.

It should also be noted that the Immigration Act allows irregular child migrants, like adults, to be held in immigration detention, which contravenes international law. Under this Act, children may be detained in depots, vessels or aircrafts, prisons, police stations, or other places designated by the Director General.⁴⁴ However, in April 2020, the Cabinet approved a small-scale pilot alternatives to detention programme (ATD Pilot) for the release of unaccompanied and separated children from immigration detention centres, in collaboration with two civil society organizations. The ATD Pilot, which in Phase 1 is focused on the safe return of children where it is in their best interests, commenced in February 2022 with standard operating procedures finalized by relevant government ministries. However, as of March 2022, children have yet to be released from immigration detention into the ATD Pilot.⁴⁵

³⁶ United Nations Children's Fund, *Closing the Gap: Feasibility review for withdrawal of Thailand's reservation to Article 22 of the Convention on the Rights of the Child in relation to refugee and asylum-seeking children*, UNICEF, undated, pp. 6 and 37.

³⁷ MKN Directive No. 23 ('Illegal Immigrants Holding UNHCR Cards Management Mechanism'). Also, a Circular issued by the Attorney General's Chambers provides a degree of immunity from prosecution for immigration offences for those refugees and asylum seekers who are registered with UNHCR.

³⁸ Sections 30 and 40, Child Act.

³⁹ Section 83, Child Act: "Notwithstanding anything contained in any written law relating to the arrest, detention and trial of persons committing any offence, a child who is alleged to have committed an offence shall not be arrested, detained or tried except in accordance with this Act."

⁴⁰ Section 84, Child Act.

⁴¹ Section 96, Child Act.

⁴² *Strengthening Alternatives to Immigration Detention for Children: Mapping and assessment of residential care centres In Peninsular Malaysia*.

⁴³ *Ibid.*, p. 7.

⁴⁴ Malaysia, Immigration Act 1959/63, Articles 27, 31 and 34.

⁴⁵ International Detention Coalition, *Immigration Detention and Alternatives to Detention in the Asia-Pacific Region*, Alternatives to Detention Thematic Work Stream of the Regional UN Network on Migration in Asia and the Pacific, 2022, p. 14.

5. Suggested next steps



Data and research

It is recommended that the Government of Malaysia strengthen data collection and reporting and commission comprehensive research on the number and profile of children affected by migration in Malaysia, including refugees, asylum seekers and unregistered stateless children/ undocumented migrant children, and conduct research on their risks and needs.

Research findings should be widely publicized to all relevant government and non-government stakeholders, to enable them to develop concrete, evidence-based programmes to address the key challenges facing children. Gaining a robust and comprehensive understanding of the scale, profile, protection risks and needs of children affected by migration is crucial to the development of effective, targeted policies and programmes.



Law and policies

It is recommended that the Government of Malaysia increase avenues for safe and legal migration and stay in Malaysia for migrants, refugees and asylum-seeking children and their families.

This should include the development of a national legal or administrative process for the legal recognition and protection of asylum seekers and refugees. It should also include increasing avenues to enable children and families to regularize their status, including by providing a legal route by which migrant worker parents can bring their children with them (i.e., dependent visas available for all families, regardless of income).

It is recommended that the Government of Malaysia amend the Immigration Act and related policies to end immigration detention of children and promote the use of safe, community-based alternatives to detention, including through supporting the ATD Pilot.

Alternative options could include family and community placement schemes, bail or guarantor or case management approaches that support the care and supervision of children and their families while ensuring compliance with immigration proceedings. Unaccompanied and separated children should be placed in foster care, supervised independent living, or other family- or community-based living arrangements.

It is also recommended that the Government of Malaysia remove legal barriers to birth registration for children affected by migration and address practical barriers.



Programmes

It is recommended that the Government of Malaysia take action to ensure that the child protection system and services are more inclusive of children affected by migration.

The Government, the private sector and NGOs should collaborate to ensure that all children affected by migration have access to protective services and essential services, including affordable healthcare and quality education. Strategies should be developed and implemented to improve the responsiveness and accessibility of the child protection system to children affected by migration.



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