

# Malaysia

## National Child Protection Legislation

### National Legislation

- Age of Consent: **16 years old for females (age for males not mentioned)**

[Penal Code 2015](#)

#### **Section 375 - Rape**

A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the following descriptions:

- (a) against her will;
- (b) without her consent;
- (c) with her consent, when her consent has been obtained by putting her in fear of death or hurt to herself or any other person, or obtained under a misconception of fact and the man knows or has reason to believe that the consent was given in consequence of such misconception;
- (d) with her consent, when the man knows that he is not her husband, and her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married or to whom she would consent;
- (e) with her consent, when, at the time of giving such consent, she is unable to understand the nature and consequences of that to which she gives consent;
- (f) with her consent, when the consent is obtained by using his position of authority over her or because of professional relationship or other relationship of trust in relation to her;
- (g) with or without her consent, when she is under sixteen years of age.

- Age of Marriage: **18 years old**

[Law Reform Marriage and Divorce Act](#)

#### **Section 10 - Avoidance of marriages where either party is under minimum age for marriage**

Any marriage purported to be solemnized in Malaysia shall be void if at the date of the marriage either party is under the age of eighteen years unless, for a female who has completed her sixteenth year, the solemnization of such marriage was authorized by a licence granted by the Chief Minister under subsection 21(2).

- Age of Criminal Responsibility: **10 years old**

[Penal Code 2015](#)

#### **Section 82 - Act of a child under 10 years of age**

Nothing is an offence which is done by a child under ten years of age.

#### **Section 83 - Act of a child above 10 and under 12 years of age, who has not attained sufficient maturity of understanding**

Nothing is an offence which is done by a child above ten years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequence of his conduct on that occasion.

- **Extraterritoriality**

[Penal Code 2015](#)

**Section 4 - Extension of Code to extraterritorial offences<sup>1</sup>**

(1) The provisions of Chapters VI, VIA and VIB shall apply to any offence committed—

- (a) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft whether or not such ship or aircraft is registered in Malaysia;
- (b) by any citizen or any permanent resident in any place without and beyond the limits of Malaysia;
- (c) by any person against a citizen of Malaysia;
- (d) by any person against property belonging to, or operated or controlled by, in whole or in part, the Government of Malaysia or the Government of any State in Malaysia, including diplomatic or consular premises of Malaysia, any citizen of Malaysia, or any corporation created by or under the laws of Malaysia located outside Malaysia;
- (e) by any person to compel the Government of Malaysia or the Government of any State in Malaysia to do or refrain from doing any act;
- (f) by any stateless person who has his habitual residence in Malaysia;
- (g) by any person against or on board a fixed platform while it is located on the continental shelf of Malaysia; or
- (h) by any person who after the commission of the offence is present in Malaysia, as if the offence had been committed in Malaysia.

(2) In this section—

- (a) “offence” includes every act done outside Malaysia which, if done in Malaysia, would be an offence punishable under this Code;
- (b) “permanent resident” has the meaning assigned by the Courts of Judicature Act 1964 [Act 91].

[Sexual Offences against Children Act 2017 \(English\)](#)

**Section 3 - Extra-territorial application**

Where an offence under this Act is committed by a Malaysian citizen against a child in any place outside Malaysia, he may be dealt with in respect of such offence as if the offence was committed at any place within Malaysia.

- **Dual Criminality**

[Penal Code 2015](#)

**Section 3 - Punishment of offences committed beyond, but which by law may be tried within Malaysia**

Any person liable by law to be tried for an offence committed beyond the limits of Malaysia, shall be dealt with according to the provisions of this Code for any act committed beyond Malaysia, in the same manner as if such act had been committed within Malaysia.

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<sup>1</sup> Chapter VI deals with offenses against the state, Chapter VIA covers offenses related to terrorism, and Chapter VIB covered offenses related to organized crime.

- **Mandatory reporting requirements**

[Child Act 2001](#)

**Section 27 - Duty of medical officer or medical practitioner**

(1) If a medical officer or a registered medical practitioner believes on reasonable grounds that a child he is examining or treating is physically or emotionally injured as a result of being ill-treated, neglected, abandoned or exposed, or is sexually abused, he shall immediately inform a Protector.

(2) Any medical officer or registered medical practitioner who fails to comply with subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(3) If the registered medical practitioner referred to in subsection (1) is a medical officer, he may take the child referred to in that subsection into temporary custody until such time as the temporary custody of the child is assumed by a Protector or police officer.

**Section 28 - Duty of member of the family**

(1) If any member of the family of a child believes on reasonable grounds that the child is physically or emotionally injured as a result of being ill-treated, neglected, abandoned or exposed, or is sexually abused, he shall immediately inform a Protector.

(2) Any member of the family who fails to comply with subsection (1) commits an offence and shall on conviction be released on a bond on conditions to be determined by the Court.

(3) Any member of the family who fails to comply with any of the conditions of the bond provided for in subsection (2) commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding two years or to both.

**Section 29 - Duty of child care provider**

(1) If a child care provider believes on reasonable grounds that a child is physically or emotionally injured as a result of being ill-treated, neglected, abandoned or exposed, or is sexually abused, he shall immediately inform a Protector.

(2) Any child care provider who fails to comply with subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding two years or to both.

[Code of Criminal Procedure](#)

**Section 13 - Public to give information of certain matters**

(1) Every person aware—

(a) of the commission of or the intention of any other person to commit any offence punishable under the following sections of the Penal Code: 121, 121a, 121b, 121c, 122, 123, 124, 125, 126, 130, 143, 144, 145, 147, 148, 302, 304, 307, 308, 363, 364, 365, 366, 367, 368, 369, 372, 372a, 372b, **376, 376b, 377c, 377ca, 377e**, 382, 384, 385, 386, 387, 388, 389, 392, 393, 394, 395, 396, 397, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, and 460; or

(b) of any sudden or unnatural death or death by violence or of any death under suspicious circumstances, or of the body of any person being found dead without its being known how that person came by death, shall in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, immediately give information to the officer in charge of the nearest police station or to a police

officer or the nearest penghulu<sup>2</sup> of the commission or intention or of the sudden, unnatural or violent death or of the finding of the dead body, as the case may be.

(2) If any person discovers any dead body and he has reason to believe that the deceased met with his death through an unlawful act or omission he shall not remove or in any way alter the position of the body except so far as is necessary for its safety.

[Sexual Offences against Children Act 2017 \(English\)](#)

**Part VII, Section 20- Failure to give information**

Notwithstanding section 13 of the Criminal Procedure Code [Act 593], any person who fails to give information of the commission of or the intention of any other person to commit any offence under this Act, or any offence under the Schedule where the victim is a child, to the officer in charge of the nearest police station, commits an offence and shall on conviction, be liable to a fine not exceeding five thousand ringgit.

- **Obligations of Educational Institutions**

No specific relevant obligations were found.

- **Prohibition to hold certain positions**

[Education Act 1996](#)

**Section 106 - Power of Registrar General to refuse to register a person as a teacher**

The Registrar General may refuse to register a person as a teacher under this Act if he is satisfied that the person—

- (a) is under the age of eighteen years;
- (b) has no qualifications to teach or has qualifications which in the opinion of the Registrar General are inadequate for the purpose;
- (c) has made a statement which is false or misleading or which he knew is false or misleading in, or in connection with his application for registration or has intentionally suppressed any fact which is material to the application;
- (d) suffers from some physical or mental defect or disease rendering him, in the opinion of the Registrar General, unsuitable to be a teacher;
- (e) has been convicted of an offence by a court of law and sentenced to imprisonment for a term of not less than one year or to a fine of not less than two thousand ringgit; or
- (f) is not a fit and proper person to be registered as a teacher.

**Section 110 - Revocation of registration after notice**

(1) If the Registrar General is satisfied—

- (a) that it is expedient so to do on any of the grounds set out in paragraphs 106(c) to (e);
- (b) that a registered teacher has committed a breach of or has failed to comply with any condition imposed under subsection 109(2);
- (c) that the registration of a teacher was obtained by reason of mistake or of any false or misleading statement in connection with an application for registration; or
- (d) that there are reasonable grounds to believe that the continued registration of the person as a teacher will be prejudicial to the interests of an educational institution or the pupils, he may serve on the teacher a notice of intention to revoke his registration.

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<sup>2</sup> Penghulu is defined as a district or village headman in Indonesia, Malaya, or British Borneo. See, Merriam Webster Dictionary, at <https://www.merriam-webster.com/dictionary/penghulu>.

(2) A teacher upon whom a notice pursuant to subsection (1) is served may, within twenty-one days of the notice being served upon him, appeal to the Minister.

(3) If no appeal is made within the period specified in subsection (2) or if an appeal having been made is rejected, the Registrar 64 Laws of Malaysia ACT 550 General shall forthwith revoke the registration and serve on the teacher a notice informing him that the registration has been revoked.

(4) No revocation of registration shall be made under this section on any of the grounds set out in paragraphs 106(d) and (e) by reason of any fact or matter occurring before the date of registration of a teacher and disclosed to the Registrar General before that date.

#### [Sexual Offences against Children Act 2017 \(English\)](#)

##### **Part V, Section 17 – Person in relationship of trust**

(1) If a person who commits any offence under this Act or any offence under the Schedule against a child, is in a relationship of trust with the child, such person shall, in addition to the punishment to which he is liable for such offence, be punished with imprisonment for a term not exceeding five years and shall also be punished with whipping of not less than two strokes.

(2) In this section, a person is said to be in a relationship of trust with the child if the child is under his care, supervision or authority, including but not limited to—

(a) a parent, guardian or person who is related through full-blood or half-blood, or through marriage or adoption, including de facto adoption;

(b) a person who looks after one or more children for valuable consideration for any period of time;

(c) a teacher, lecturer or warden of a kindergarten, school, public institution of higher learning or private institution of higher learning;

(d) any person providing healthcare services in a Government healthcare facility or private healthcare facility as defined in section 2 of the Private Healthcare Facilities and Services Act 1998 [Act 586];

(e) a coach; and

(f) a public servant of whatever rank in the course of his duty under any written law in respect of the child.

#### ▪ **Employment Law**

No relevant provisions were found.

#### ▪ **Criminal Law - Defamation**

##### [Penal Code 2015](#)

##### **Section 499 - Defamation**

Whoever, by words either spoken or intended to be read or by signs, or by visible representations, makes or publishes any imputation concerning any person, intending to harm, or knowing or having reason to believe that such imputation will harm the reputation and shall also be liable to fine of such person, is said, except in the cases hereinafter excepted, to defame that person.

**First Exception**—It is not defamation to impute anything which is true concerning any person, if it is for the public good that the imputation should be made or published. Whether or not it is for the public good is and shall also be liable to fine a question of fact.

**Second Exception**—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

**Third Exception**—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

**Fourth Exception**—It is not defamation to publish a substantially true report of the proceedings of a Court, or of any Legislative Assembly, or of the result of any such proceedings.

**Fifth Exception**—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

**Sixth Exception**—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

**Seventh Exception**—It is not defamation in a person having over another any authority, either conferred by law, or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

**Eighth Exception**—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of accusation.

**Ninth Exception**—It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

**Tenth Exception**—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

#### **Section 500 - Punishment for defamation**

Whoever defames another shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

### Sexual Offences Against Children

#### [Sexual Offences Against Children Act 2017 \(English\)](#)

#### **Section 4 – Child Pornography**

In this Act—

(a) “child pornography” means any representation, whether visual, audio or written or the combination of visual, audio or written, or by any other means—

- (i) of a child engaged in sexually explicit conduct;
  - (ii) of a person appearing to be a child engaged in sexually explicit conduct;
  - (iii) of realistic images of a child engaged in sexually explicit conduct; or
  - (iv) of realistic images of a person appearing to be a child engaged in sexually explicit conduct;
- and

(b) “sexually explicit conduct” includes actual or simulated of the following:

- (i) sexual intercourse, or lascivious acts including physical contact involving genital to genital, oral to genital, anal to genital, or oral to anal, between persons of the same or opposite sex;
- (ii) bestiality;
- (iii) masturbation;
- (iv) sadistic or masochistic abuse in a sexual context;
- (v) lascivious exhibition of the genital, buttock, breast, pubic area or anus; and
- (vi) use of any object or instrument for lascivious acts.

**Section 5 - Making, producing, directing the making or production of, etc., child pornography**

Any person who makes, produces, directs the making or production of, or participates, engages or is involved, in any way, in the making, production or the directing of the making or production of, any child pornography commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding thirty years and shall also be punished with whipping of not less than six strokes.

**Section 6 - Preparation to make, produce or direct the making or production of child pornography**

Any person who makes any preparation to make, produce or direct the making or production of any child pornography commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding ten years and shall also be liable to whipping.

**Section 7- Using a child in making, producing, directing the making or production of, etc., child pornography**

Any person who uses or causes a child to be used in the preparation to make or produce, or in the preparation to direct the making or production of, or in the making or production of, or in the directing of the making or production of, any child pornography commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding twenty years and shall also be punished with whipping of not less than five strokes.

*Explanation*—This section does not apply where the preparation to make or produce or the preparation to direct the making or production of child pornography or where the making or production or the directing of the making or the production of child pornography uses a person appearing to be a child.

**Section 8 - Exchanging, publishing, etc., child pornography**

Any person who—

- (a) exchanges, publishes, sells, lets for hire, distributes, exhibits, advertises, transmits, promotes, imports, exports, conveys, offers or makes available, in any manner, any child pornography;
- (b) obtains, collects or seeks any child pornography; or
- (c) participates in or receives profits from any business that he knows or has reason to believe is related to any child pornography,

commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding fifteen years and shall also be punished with whipping of not less than three strokes.

**Section 9 - Selling, etc., child pornography to a child**

Any person who sells, lets for hire, distributes, exhibits, advertises, transmits, promotes, conveys, offers or makes available, in any manner, any child pornography to a child commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding fifteen years and shall also be punished with whipping of not less than five strokes.

**Section 10 - Accessing, etc., child pornography**

Any person who accesses, or has in his possession or control, any child pornography commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding ten thousand ringgit or to both.

*Explanation*—A person is said to access child pornography if he knowingly causes child pornography to be viewed by, or transmitted to, himself.

**Section 12 - Sexually communicates with a child**

(1) Subject to subsection (3), any person who—

- (a) sexually communicates with a child; or

- (b) encourages a child to sexually communicate, by any means, commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding three years.
- (2) For the purposes of this section, a person is said to sexually communicate if—
  - (a) the communication or any part of the communication relates to an activity that is sexual in nature; or
  - (b) any reasonable person would consider any part of the communication to be sexual.
- (3) No person shall be convicted for an offence under this section if the communication is for education, scientific or medical purposes.

### **Section 13 - Child grooming**

- (1) Any person who communicates by any means with a child with the intention to commit or to facilitate the commission of any offence under section 5, 6, 7, 8, 15 or 16 or any offence under the Schedule against the child commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding five years and shall also be liable to whipping.
- (2) In any proceedings under this section, the fact that any offence under section 5, 6, 7, 8, 15 or 16 or any offence under the Schedule has been committed need not be specified or proven.

### **Section 14 - Meeting following child grooming**

- (1) Any person who, having communicated by any means with a child, meets with the child with the intention to commit or to facilitate the commission of any offence under section 5, 6, 7, 8, 15 or 16 or any offence under the Schedule against the child commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding ten years and shall also be liable to whipping.
- (2) In any proceedings under this section, the fact that any offence under section 5, 6, 7, 8, 15 or 16 or any offence under the Schedule has been committed need not be specified or proven.

### **Section 15 - Physical sexual assault on a child**

Any person who, for sexual purposes—

- (a) touches any part of the body of a child;
- (b) makes a child touch any part of the body of such person or of any other person;
- (c) makes a child touch any part of the child's own body; or
- (d) does any other acts that involve physical contact with a child without sexual intercourse, commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding twenty years and shall also be liable to whipping.

*Explanation*—The act of touching may involve the act of touching with any part of the body or with an object and may be done through anything including anything worn by the person touching or by the child touched.

### **Section 16 - Non-physical sexual assault on a child**

**16.** Any person who—

(a) for sexual purposes—

- (i) utters any word or makes any sound, or makes any gesture or exhibits any object or his body or any part of his body with the intention that such word or sound shall be heard, or such gesture or object or body or part of his body shall be seen by a child;
- (ii) makes a child exhibit the child's body or any part of the child's body so as it is seen by such person or any other person;
- (iii) repeatedly or constantly follows or watches or contacts a child by any means; or
- (iv) threatens to use any representation whether visual, audio or written or the combination of visual, audio or written, or by any other means, any part of the body of a child or the child engaged in an activity that is sexual in nature;



- (b) engages in an activity that is sexual in nature in the presence of a child;
- (c) causes a child to watch another person engaging in an activity that is sexual in nature;
- (d) causes a child to watch or hear any representation, whether visual, audio or written or the combination of visual, audio or written, or by any other means, of another person engaging in an activity that is sexual in nature; or
- (e) makes a child engage in an activity that is sexual in nature, commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding ten years or to a fine not exceeding twenty thousand ringgit or to both.

### [Penal Code 2015](#)

#### **Section 372 - Exploiting any person for purposes of prostitution**

(1) Whoever—

- (a) sells, lets for hire or otherwise disposes of, or procures, buys or hires or otherwise obtains possession of, any person with such intention that the person is to be employed or used for the purpose of prostitution or of having sexual intercourse with any other person, either within or outside Malaysia, or knowing or having reason to believe that the person will be so employed or used;
- (b) by or under any false pretence, false representation, or fraudulent or deceitful means made or used, either within or outside Malaysia, brings or assists in bringing into, or takes out or assists in taking out of, Malaysia, any person with such intention that the person is to be employed or used for the purpose of prostitution or of having sexual intercourse with any other person, either within or outside Malaysia, or knowing or having reason to believe that the person will be so employed or used;
- (c) receives or harbours any person—
  - (i) who has been sold, let for hire or otherwise disposed of, or who has been procured, purchased, hired or otherwise obtained possession of in the circumstances as set out in paragraph (a); or
  - (ii) who has been brought into or taken out of Malaysia in the circumstances as set out in paragraph (b), knowing or having reason to believe that the person is to be employed or used for the purpose of prostitution or of having sexual intercourse with any other person, either within or outside Malaysia, and with intent to aid such purpose;
- (d) wrongfully restrains any person in any place with such intention that the person will be used or employed for the purpose of prostitution or of having sexual intercourse with any other person;
- (e) by means of any advertisement or other notice published in any manner or displayed in any place for prostitution service or a service which a reasonable person would understand it to be a prostitution service, offers any person for the purpose of prostitution or seeks information for that purpose or accepts such advertisement or notice for publication or display;
- (f) acts as an intermediary on behalf of another or exercises control or influence over the movements of another in such a manner as to show that the person is aiding or abetting or controlling the prostitution of that other, shall be punished with imprisonment for a term which may extend to fifteen years and with whipping, and shall also be liable to fine.

(2) For the purpose of paragraph (1)(d), it shall be presumed until the contrary is proved that a person wrongfully restrains a person if he—

- (a) withholds from that person wearing apparel or any other property belonging to that person or wearing apparel commonly or last used by that person;
- (b) threatens that person to whom wearing apparel or any other property has been let or hired out or supplied to with legal proceedings if he takes away such wearing apparel or property;
- (c) threatens that person with legal proceedings for the recovery of any debt or alleged debt or uses any other threat whatsoever; or

(d) without any lawful authority, detains that person's identity card issued under the law relating to national registration or that person's passport.

(3) In this section and in sections 372A and 372B, "prostitution" means the act of a person offering that person's body for sexual gratification for hire whether in money or in kind; and "prostitute" shall be construed accordingly.

### **Section 375 - Rape**

A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the following descriptions:

- (a) against her will;
- (b) without her consent;
- (c) with her consent, when her consent has been obtained by putting her in fear of death or hurt to herself or any other person, or obtained under a misconception of fact and the man knows or has reason to believe that the consent was given in consequence of such misconception;
- (d) with her consent, when the man knows that he is not her husband, and her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married or to whom she would consent;
- (e) with her consent, when, at the time of giving such consent, she is unable to understand the nature and consequences of that to which she gives consent;
- (f) with her consent, when the consent is obtained by using his position of authority over her or because of professional relationship or other relationship of trust in relation to her;
- (g) with or without her consent, when she is under sixteen years of age.

### **Section 375B - Gang Rape**

Whoever commits gang rape shall be punished with imprisonment for a term of not less than ten years and not more than thirty years.

### **Section 376 - Punishment for rape**

(1) Subject to subsections (2), (3) and (4), whoever commits rape shall be punished with imprisonment for a term which may extend to twenty years, and shall also be liable to whipping.

(2) Whoever commits rape on a woman under any of the following circumstances:

- (a) at the time of, or immediately before or after the commission of the offence, causes hurt to her or to any other person
- (b) at the time of, or immediately before or after the commission of the offence, puts her in fear of death or hurt to herself or any other person;
- (c) the offence was committed in the company of or in the presence of any other person;
- (d) without her consent, when she is under sixteen years of age;
- (e) with or without her consent, when she is under twelve years of age;
- (f) with her consent, when the consent is obtained by using his position of authority over her or because of professional relationship or other relationship of trust in relation to her;
- (g) at the time of the offence the woman was pregnant;
- (h) when by reason or on occasion of the rape, the woman becomes insane;
- (i) when he knows that he is afflicted with the Human Immuno-Deficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) or any other sexually transmissible disease and the virus or disease is or may be transmitted to the woman;
- (j) when by reason or on occasion of the rape, the woman commits suicide; or
- (k) when he knew of the mental disability, emotional disorder or physical handicap of the woman at the time of the commission of the crime, shall be punished with imprisonment for a term of not less than ten years and not more than thirty years and shall also be liable to whipping.

(3) Whoever commits rape on a woman whose relationship to him is such that he is not permitted under the law, religion, custom or usage, to marry her, shall be punished with imprisonment for a term of not less than eight years and not more than thirty years, and shall also be punished with whipping of not less than ten strokes.

(4) Whoever whilst committing or attempting to commit rape causes the death of the woman on whom the rape is committed or attempted shall be punished with death or imprisonment for a term of not less than fifteen years and not more than thirty years, and shall also be punished with whipping of not less than ten strokes.

#### **Section 377E - Inciting a child to an act of gross indecency**

Any person who incites a child under the age of fourteen years to any act of gross indecency with him or another person shall be punished with imprisonment for a term of not less than three years and not more than fifteen years, and shall also be liable to whipping.

#### [Child Act 2001](#)

#### **Section 31(1) - Ill-treatment, neglect, abandonment or exposure of children**

(1) Any person who, being a person having the care of a child—

(a) abuses, neglects, abandons or exposes the child in a manner likely to cause him physical or emotional injury or causes or permits him to be so abused, neglected, abandoned or exposed; or

(b) sexually abuses the child or causes or permits him to be so abused, commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding ten years or to both.

#### **Section 43 - Offenses**

(1) Any person who—

(a) sells, lets for hire or otherwise disposes of, or buys or hires or otherwise obtains possession of, a child with intent that the child is to be employed or used for the purpose of prostitution, either within or outside Malaysia, or knowing or having reason to believe that the child will be so employed or used;

(b) procures a child for purposes of prostitution or for the purposes of having sexual intercourse with any other person, either within or outside Malaysia;

(c) by or under any false pretence, false representation, or fraudulent or deceitful means made or used, either within or outside Malaysia, brings or assists in bringing into, or takes out of or assists in taking out of, Malaysia, a child with intent that the child is to be employed or used for purposes of prostitution, either within or outside Malaysia, or knowing or having reason to believe that the child will be so employed or used;

(d) brings into Malaysia, receives or harbours a child knowing or having reason to believe that the child has been procured for purposes of prostitution or for the purposes of having sexual intercourse with any other person, either within or outside Malaysia, and with intent to aid such purpose;

(e) knowing or having reason to believe that a child has been brought into Malaysia in the circumstances as set out in paragraph (c) or has been sold, let for hire, or hired or purchased in the circumstances as set out in paragraph (a), or in contravention of any other written law receives or harbours the child with intent that he is to be employed or used for purposes of prostitution either within or outside Malaysia;

(f) detains a child in a brothel against the child's will;

(g) detains a child in any place against the child's will with intent that the child is to be employed or used for purposes of prostitution or for any unlawful or immoral purpose;

(h) by means of any advertisement or other notice published in any manner or displayed in any place offers a child for purposes of prostitution or seeks information for that purpose or accepts such advertisement or notice for publication or display;

(i) acts as an intermediary on behalf of a child or exercises control or influence over the movements of a child in such a manner as to show that the person is aiding or abetting or controlling the prostitution of that child;

(j) engages or hires, for any valuable consideration, a child to provide services for that person's sexual gratification; (k) attempts to do any act in contravention of this section, commits an offence and shall on conviction—

(aa) in the case of offences under paragraphs (a) to (h) or paragraph (k), be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding fifteen years or to both; and

(bb) in the case of an offence under paragraph (i) or (j), be liable to a fine not exceeding fifty thousand ringgit and to imprisonment for a term of not less than three years but not more than fifteen years and shall also be punished with whipping of not more than six strokes.

(2) Any person who is convicted of a second or subsequent offence—

(a) under paragraphs (1)(a) to (g) or paragraph (1)(k), shall be liable to whipping of not more than ten strokes; and

(b) under paragraphs (1)(i) or (j), shall be punished with whipping of not less than six strokes but not more than ten strokes, in addition to any term of imprisonment imposed in relation to such offence.

(3) Sections 173A and 294 of the Criminal Procedure Code shall not apply in respect of offences under paragraphs (1)(i) and (j).

#### **Section 44 - Presumptions relating to section 43**

For the purposes of section 43, it shall be presumed until the contrary is proved that a person—

(a) who takes or causes to be taken into a brothel a child has disposed of the child with the intent or knowledge mentioned in paragraph 43(l)(a);

(b) who receives a child into a brothel or harbours a child in a brothel has obtained possession of the child with the intent or knowledge mentioned in paragraph 43(l)(a);

(c) has detained a child in any brothel or in any place against the child's will if, with intent to compel or induce him to remain in the brothel or the place, that person—

(i) withholds from the child any wearing apparel or any other property belonging to the child or any wearing apparel commonly or last used by the child;

(ii) threatens the child with legal proceedings if the child takes away any wearing apparel or any other property which has been lent or hired out or supplied to the child;

(iii) threatens the child with legal proceedings for the recovery of any debt or alleged debt or uses any other threat; or

(iv) without any lawful authority detains the child's identity card issued under the law relating to national registration or the child's passport.

#### **Section 48 - Unlawful transfer of possession, custody or control of child**

(1) Any person who takes part in any transaction the object or one of the objects of which is to transfer or confer, wholly or partly, temporarily or permanently, the possession, custody or control of a child for any valuable consideration commits an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(2) Any person who without lawful authority or excuse harbours or has in his possession, custody or control a child with respect to whom the temporary or permanent possession, custody or control has been transferred or conferred for valuable consideration by any other person within or outside

Malaysia commits an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(3) For the purposes of subsection (2), if any person harbours or has in his possession, custody or control a child without lawful authority or excuse, the child shall, until the contrary is proved, be presumed to be a child with respect to whom the temporary or permanent possession, custody or control has been transferred or conferred for valuable consideration.

(4) It shall be a defence in any prosecution under this section to prove that—

(a) the transfer took place in contemplation of or pursuant to a bonafide marriage or adoption; and

(b) at least one of the natural parents of the child or the guardian of the child was a consenting party to the marriage or to the adoption by the adopting party, and had expressly consented to the particular marriage or adoption.

#### **Section 49 - Importation of child by false pretences**

Any person who—

(a) by or under any false pretence or representation made; or

(b) by fraudulent or deceitful means used, either within or outside Malaysia, brings or assists in bringing a child into Malaysia commits an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

#### **[Anti-Trafficking in Persons Act 2007](#) (amended 2014)**

##### **Section 14 - Offence of trafficking in children**

Any person, who traffics in persons being a child, for the purpose of exploitation, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine.

##### **Section 16 - Consent of trafficked person irrelevant**

In a prosecution for an offence under section 12, 13 or 14, it shall not be a defence that the trafficked person consented to the act of trafficking in persons.