

MALAYSIA

International Instrument	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a), Succession (d)	Entry Into Force
UN Convention on the Rights of the Child		17 Feb 1995 a	
UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography		12 Apr 2012 a ¹	
Protocol to Prevent, Suppress and Punish Trafficking in Persons		26 Feb 2009 a ²	
UN Optional Protocol on the Involvement of Children in Armed Conflict		12 Apr 2012 a	
UN Convention for the Protection of All Persons from Enforced Disappearance			
Hague Convention on International Child Abduction			

In Malaysia, there are six laws that refer directly or indirectly to missing children:

1. Penal Code of 1936;
2. Immigration Act of 1959;
3. Kidnapping Act of 1961;
4. The Guardianship of Infant Act of 1961;
5. Child Act of 2001; and
6. Anti-Trafficking in Persons Act of 2007.

General Child Protection

The overall landscape of child protection legislation covers a broad range of issues, even including a number of regulations regarding cross-border travel. The Child Act of 2001 (hereafter referred to as the “Child Act”) is the country’s primary legislation for the protection, care, and rehabilitation of children.

Definition of “Missing Child”

A “missing child” is not specifically defined in the Child Act or in any other Malaysian legislation. The Child Act does, however, define a “child in need of protection and rehabilitation” as one who:

¹ Malaysia Reservation upon signature: “1. The Government of Malaysia declares that the words ‘any representation’ in article 2 paragraph (c), shall be interpreted to mean ‘any visual representation’. 2. The Government of Malaysia understands that article 3 paragraph (1)(a)(ii) of the said Optional Protocol is applicable only to States Parties to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, done at the Hague on 29 May 1993.”

² *Id.*

is being induced to perform any sexual act, or is in any physical or social environment which may lead to the performance of such act; (b) lives in or frequents any brothel or place of assignation; or (c) is habitually in the company or under the control of brothel-keepers or procurers or persons employed or directly interested in the business carried on in brothels or in connection with prostitution.³

Abandonment

The Guardianship of Infants Act of 1961 discusses abandonment in the context of guardianship and the powers of the State in situations of neglect. Neither the Child Act nor the Guardianship of Infants Act, make any reference to runaways or children going missing, although a child who is abandoned or neglected can become a runaway or a missing child.

Kidnapping and Abduction

The Penal Code of 1936 includes provisions for all forms of kidnapping and abduction, the buying or selling of a person either inside or outside of Malaysia, and the forcible compelling of a child to leave his or her guardian.⁴

Sections 360 and 372 of the Penal Code of 1936 further criminalize the taking of another person into or out of the country without their consent for the purpose of prostitution or sexual intercourse.⁵ Additionally, the Child Act refers specifically to the bringing or sending of a child into or out of Malaysia under false representation or pretense.⁶

The Kidnapping Act of 1961 does not directly address the kidnapping of children.

Parental Abduction

Malaysia is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction, and parental child abduction is not a crime in Malaysia. However, according to information provided by a Royal Malaysian Police official in the Sexual, Women and Child Investigations Division, the abduction of one's own child may be considered a criminal/punishable offense if there is a court order specifying that the other parent has legal custody of the child.⁷ In this situation, the case would be investigated under Section 361 of the Penal Code of 1936 – Kidnapping from Lawful Guardianship⁸:

Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

³ Laws of Malaysia, Act 611, Child Act 2001, Section 38 – Meaning of child in need of protection and rehabilitation (on file with the International Centre for Missing & Exploited Children).

⁴ Laws of Malaysia, Act 574, Penal Code of 1936, as amended in 2006, Section 360 – Kidnapping from Malaysia; Section 362 – Abduction; Section 369 - Kidnapping or abducting child under ten years with intent to steal movable property from the person of such child (on file with the International Centre for Missing & Exploited Children).

⁵ *Id.* at Section 372 – Exploiting any person for purposes of prostitution.

⁶ Child Act of 2001, *supra* note 186, at Section 42 – Inquiries and detention of a child who has been bought or acquired under false pretences, etc.

⁷ Email correspondence with Ms. Hamidah Yunus, Principle Assistant Director, Sexual and Child Investigation Division, Royal Malaysia Police Headquarters, Apr. 2, 2014 (on file with the International Centre for Missing & Exploited Children).

⁸ Malaysian Penal Code of 1936, as amended in 2006, *supra* note 187, at Article 361 – Kidnapping from lawful guardianship.

Explanation—The words “lawful guardian” in this section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

The Immigration Act of 1959 requires that all Malaysians, including children, have valid travel documents,⁹ but there is no requirement that children must be accompanied by or have written permission from both parents.

Reporting Mechanism

There are no clear reporting mechanisms in place for reporting missing children’s cases, but the general Royal Malaysian Police number 999 accepts calls regarding missing children.¹⁰ Additionally, there is one existing hotline run by two partner agencies dedicated to the protection of children: Talian Nur and Childline Malaysia.

Talian Nur 15999 is a 24-hour hotline that was set up in 2007 by the Ministry of Women, Family, and Community Development to address complaints of abuse, neglect, domestic violence, welfare assistance, and child abandonment.¹¹ In 2010, a private non-profit public safety project, Childline Malaysia, was founded specifically to handle calls from children in need of information, care, and protection. Although Talian Nur and Childline share the same 15999 number, Childline operators only attend to calls from children, while Talian Nur operators accept calls from both children and adults.¹² Childline refers callers to outside agencies for counseling and support. Talian Nur refers criminal cases to the Royal Malaysian Police.¹³

Childline received 3,128 calls from children in 2011. Since its inception in 2007, Talian Nur has received an average of 100 calls per month from adults.¹⁴ Childline Malaysia collaborates with UNICEF, as well as a number of smaller organizations to raise awareness about the helpline and conduct community outreach.

The Sexual, Women and Child Investigations Division of the Royal Malaysian Police’s Bukit Aman Headquarters collects data on missing children based on the information collected in the police reporting system.¹⁵ It is unclear exactly what information is collected.

⁹ Malaysian Immigration Act of 1959/63, as amended in 2006, Section 73 – Provision for internal travel documents (on file with the International Centre for Missing & Exploited Children).

¹⁰ Royal Malaysian Police Force – Missing Persons, *Police Emergency Numbers* ([on file with the International Centre for Missing & Exploited Children](#)).

¹¹ CHILD RIGHTS COALITION MALAYSIA, *Status Report on Children’s Rights in Malaysia December 2012* 14, at http://www.crin.org/docs/Report_on_Childrens_Rights_.pdf (last visited Feb. 21, 2016) ([on file with the International Centre for Missing & Exploited Children](#)).

¹² *Id.*

¹³ *Talian Nur Hotline Launched*, THE STAR ONLINE, Dec. 5, 2007, at <http://www.thestar.com.my/story.aspx/?file=%2f2007%2f12%2f5%2fnation%2f20071205131631&sec=nation> (last visited Feb. 21, 2016) ([on file with the International Centre for Missing & Exploited Children](#)).

¹⁴ *Id.*

¹⁵ Email correspondence with Ms. Hamidah Yunus, *supra* note 190.

Investigation of Missing Child Cases

In 2007, 8-year-old Nurin Jazlin was kidnapped, sexually assaulted, tortured, and murdered near her home in a large township in Kuala Lumpur.¹⁶ This tragic case ignited nationwide horror, voiced on social media, blogs, and news outlets about the inefficiency of local police efforts, poor media ethics, and public insensitivity, pushing the Malaysian Government to prioritize the search for missing children and transform its investigative procedures related to missing child cases.

When receiving a report of a missing child case that does not seem to be a kidnapping, the Royal Malaysian Police will carry out an investigation immediately and inform the control center to alert the police officers on the ground and begin the search.¹⁷ If and when the district's investigating officers believe that an emergency alert should be issued and the parents or guardians agree, the Sexual, Women and Child Investigations Division of the Royal Malaysian Police sends an alert with the child's information to the 31 task force members who then disperse it within their company's departments and units.¹⁸ The task force consists of representatives of banks, media outlets, customs, immigration, maritime, Malaysian airports, local governments, district councils, the Women, Family and Community Development Ministry, and telecommunication companies.¹⁹ The news of the case must be disseminated to all police officers and task force members within 24 hours of the report of a missing child.²⁰ It is then up to each task force member to determine in what medium and how often the alerts are displayed until the child is found.²¹

Alert Mechanism

In 2008, the uncle of murdered Nurin Jazlin drafted a proposal for the creation of an alert mechanism and submitted it to Women, Family and Community Development Minister Datuk Seri Shahrizat Abdul Jalil. The NURIN (Nationwide Urgent Response Information Network) Alert was modeled after the United States' AMBER Alert system and sought to serve as an emergency response system to incite the authorities and the community through a comprehensive network to locate missing children.²² In January 2011, the Malaysian Government approved the NUR (National Urgent Response) Alert.²³

With this achievement, Malaysia became the first – and, to date, only – country in Southeast Asia with a rapid emergency child alert system in place to enhance awareness and enlist community support in the search for missing children. A Task Force, headed by the Royal Malaysian Police and the Ministry

¹⁶ Timothy Lim, *A Big Death of a Small Girl*, UNICEF MALAYSIA, Oct. 3, 2007, at http://www.unicef.org/malaysia/news_7404.html (last visited Mar. 30, 2016) (on file with the International Centre for Missing & Exploited Children).

¹⁷ Email correspondence with Ms. Hamidah Yunus, *supra* note 190.

¹⁸ Tan Choe Choe, *NUR Alert Used in only 5 Cases*, NEW STRAITS TIMES EDITORIAL, Mar. 18, 2012 (on file with the International Centre for Missing & Exploited Children).

¹⁹ *Id.*

²⁰ *Tracing Missing Children Through NUR Alert*, MALAYSIAN DIGEST, Feb. 10, 2011, at <http://www.malaysiandigest.com/archived/index.php/15-features/personality/25148-tracing-missing-children-through-nur-alert.html> (last visited Feb. 21, 2016) (on file with the International Centre for Missing & Exploited Children).

²¹ *Id.*

²² SUKA Society, *NUR Alert for Missing Kids*, at <http://www.sukasociety.org/nur-alert-for-missing-kids/> (last visited Apr. 19, 2016) (on file with the International Centre for Missing & Exploited Children).

²³ ASEAN INTER-PARLIAMENTARY ASSEMBLY, *3rd AIPA Caucus Report, Country Report Malaysia: Welfare and Protection of Children* (2011) (on file with the International Centre for Missing & Exploited Children).

of Women, Family and Community Development, oversees the implementation of the NUR Alert, ensuring that immediate action is taken when a child is reported missing and in immediate danger.²⁴ The NUR Alert is limited to use only for missing children ages 12 and under when there is no suspicion of kidnapping.²⁵ The Royal Malaysian Police believe that the information in kidnapping cases must be kept completely confidential so as not to jeopardize the investigation.²⁶

1,800 children in Malaysia between the ages of 12 and 18 were reported missing between 2010 and 2012.²⁷ As of December 2012, the NUR Alert had only been activated in five missing child cases.²⁸ In February 2014, a newspaper revealed that the alert had been used ten times.²⁹ According to an official at the Royal Malaysian Police, that number increased to 11, 9 of which have since been solved.³⁰

²⁴ *Id.*

²⁵ Tracing Missing Children Through NUR Alert, *supra* note 203.

²⁶ Tan Choe Choe, *supra* note 201.

²⁷ CHILD RIGHTS COALITION MALAYSIA, STATUS REPORT ON CHILDREN'S RIGHTS IN MALAYSIA (2012), *supra* note 194.

²⁸ *Id.*

²⁹ Lee Mei Li, *Reporting a Lost Child*, THE STAR, Feb. 21, 2014, at <http://m.thestar.com.my/story.aspx?hl=Reporting+a+lost+child&sec=lifestyle&id=%7BEA933097-C81C-4D99-B58D-108D8F972D34%7D> (last visited Mar. 30, 2016) (on file with the International Centre for Missing & Exploited Children).

³⁰ Email correspondence with Ms. Hamidah Yunus, *supra* note 190.