

DISRUPTING HARM

Evidence from 13 countries on the context, threats, and children's perspectives of online child sexual exploitation and abuse.

Detailed Analysis of Interviews with Government Duty Bearers
Malaysia

This report is a summary of preliminary data collected for this research project. The perspectives contained herein represent the individuals interviewed and surveyed. Support from the Global Partnership to End Violence against Children does not constitute endorsement.

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1. Introduction

Disrupting Harm: evidence to understand online child sexual exploitation and abuse (OCSEA), is a unique and collaborative research partnership between ECPAT International, INTERPOL, and UNICEF Office of Research – Innocenti. Leveraging their specific expertise, each partner sheds light on separate but interconnected areas: context, threats and children’s perspectives on online child sexual exploitation.

- Context by ECPAT International through portraying laws & policies in action;
- Threat by INTERPOL through the collection of crime and other data;
- Children’s voices by UNICEF Office of Research - Innocenti through surveys with children and their caregivers.

The countries of focus in Southern and Eastern Africa region are: Ethiopia, Kenya, Mozambique, Namibia, Rwanda, South Africa, Tanzania, and Uganda. The countries of focus in the Southeast Asian region are: Cambodia, Indonesia, Malaysia, Philippines, Thailand, and Vietnam.

Research took place between 2019 and 2021. Up to nine separate research activities were undertaken in each country by the three project partners. Preliminary analysis for each activity was first conducted before the results across all the nine activities were consolidated into each national country report. These can be found [here](#).

This report is the preliminary analysis conducted by ECPAT International of interviews conducted with an identified sample of government duty bearers whose mandates include addressing online child sexual exploitation and abuse at a national level. The aim of interviews was to identify emerging issues and trends, recent progress and upcoming plans and priorities in Malaysia’s current legislative and policy environment.

In Malaysia, 11 interviews with a total of 18 participants were conducted from July 2020 to September 2020.

ID Number	Ministry/Government Agency	Position
RA1-MY-01-A	Attorney General 's Chamber	
RA1-MY-02-A	Malaysian Communications and Multimedia Commission	Chief Compliance Officer
RA1-MY-02-B		Director, News Media
RA1-MY-03-A	Ministry of Women, Family and Community Development	Under Secretary Policy
RA1-MY-03-B		Assistant Secretary
RA1-MY-04-A	Legal Affairs Division (BHEUU), Prime Minister’s Department	Director of Policy Section
RA1-MY-04-B		Legal advisor
RA1-MY-04-C		Deputy Director of Policy Section
RA1-MY-05-A	Ministry of Health	Director General of Health
RA1-MY-06-A	Human Rights Commission	Children Commissioner
RA1-MY-07-A	Department of Social Welfare	Senior Principle Assistant Director
RA1-MY-07-B		Assistant Director
RA1-MY-08-A	Ministry of Education	Assistant Director

RA1-MY-09-A	Cybersecurity Malaysia	Senior Vice President, Outreach & Capacity Building Division
RA1-MY-09-B		
RA1-MY-09-C		Manager Outreach Capacity & Building Division
RA1-MY-10-A	National Population and Family Development Board	Director
RA1-MY-11-A	Royal Malaysia Police	Head of Bukit Aman Sexual, Women and Child Investigations Division (D11)

In Malaysia, the Interviews were conducted utilizing a semi-structured interview schedule that allowed for exploration of emerging issues. Due to the COVID-19 pandemic, interviews were conducted both in-person and virtually. More information on the methodology and data analysis for this research activity can be found [here](#).

2. Public awareness

As one respondent noted, the widely reported child sexual abuse crimes committed by Richard Huckle in Malaysia spurred the government into urgent action “*Richard Huckle triggered the enactment of Sexual Offences against the Children Act 2017*” (RA1-MY-11-A). Many respondents noted that Malaysia only started raising awareness of crimes relating to OCSEA, especially grooming and child sexual abuse materials, slightly before the enactment of the Sexual Offences against the Children Act 2017,¹ which includes almost all OCSEA offences directly or indirectly, such as online grooming,² sextortion,³ livestreaming of child sexual abuse⁴ and child sexual abuse material.⁵ Prior to the passing of the Act, responses to OCSEA related crimes were largely led by NGOs: “*before we passed the 2017 Act, there were many programmes done by the National Council of Women’s Organisations Malaysia or in collaboration with the government agencies.*” (RA1-MY-06-A).

Since then, there have been some efforts from various key government agencies and NGOs to create public awareness and spread information on child sexual abuse and exploitation. For example, the Ministry of Women, Family, and Community Development launched the ‘*Safe and Unsafe Touch*’ campaign in collaboration with Google, which featured five one-minute videos aiming to raise awareness of the threat of child sexual abuse and exploitation.⁶ The former Deputy Minister, Hannah Yeoh, stated publicly in May 2020 that since its launch last May, the video had received 3.6 million views and that she believed that this campaign was very effective as it continues to reach its intended target group, namely children from zero to six years old (RA1-MY-03-A&B). Respondents also noted a number of other campaigns and programmes aiming to raise awareness on child sexual abuse and exploitation and child Internet safety, namely: the [Cyber Safety Awareness for Everyone \(CyberSAFE\)](#) programme (RA1-MY-09-A, B & C), the [“Click Wisely” programme](#) (RA1-MY-02-A&B), the “*IHSAN Intervention Programme*” (RA1-MY-08-A), a pilot project [“Ekspresi Anak Remaja Lestari”](#) (PEARL) (RA1-MY-08-A), the [Reproductive Health Education Programme](#) (PEKERTI) (RA1-MY-08-A), [PEKA’s Module](#) for parents and guardians (covering cyberbullying, sexting and online child grooming) (RA1-MY-10-A) and the [Sahabat BIJAK: Safe and Protect Programme](#) (RA1-MY-07-A).

The Malaysian Communications and Multimedia Commission has also committed to continue raising awareness of Internet safety for children: “*we have taken the position of continuing with our awareness activities. Our core focus would be on online safety. Malaysian Communications and Multimedia Commission is building people’s capacity to understand the risk, mitigating the risks, and avoiding the risks*” (RA1-MY-02-A&B). Further, Cybersecurity is developing the *National Cyber Ethics Initiative* together with the Ministry of Communications and Multimedia to instil noble values, good conduct, self-discipline, and a sense of responsibility among digital technology users. This effort will support the Cyber Security Strategy 2020-2024. Cybersecurity is also collaborating with the Ministry of Education and will introduce a National Cyber Security Awareness Module at schools nationwide in the first quarter of

¹ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#).

² Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Section 12.

³ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Section 15(b).

⁴ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Sections 8(a), 15(f), 15(e) and 16.

⁵ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Section 4.

⁶ Women, Family and Community Development Ministry of Malaysia. (2019, July 13). [Safe and Unsafe Touch](#) [Video]. YouTube.

2021, that aims to address cybercrime including OCSEA, Internet addiction, social media problems and cyberbullying (RA1-MY-09-A, B & C).

As a result of the increasing number of awareness programmes initiated by various government agencies and NGOs, one participant noted an *“increased number of cases for reporting from sections 27, 28 and 29 of the Child Act 2001”* (RA1-MY-07-A) which mandates reporting by professionals who work with children when child sexual abuse may be suspected. These programmes also show that the government is progressing in creating awareness even though programmes are scattered across many agencies. However, despite laws in Malaysia incorporating specific OCSEA offences, many of these programmes and campaigns did not address OCSEA specifically, except for one or two programmes such as PEKA’s module for parents and guardians. Many of the programmes made no clear distinction between the characteristics of offline and online offences, nor did they highlight the risks involved with or the repercussions of OCSEA. With increasing global penetration of the Internet, new forms of child sexual exploitation and abuse have emerged and expanded to affect children. Therefore, general awareness programmes on child sexual exploitation and abuse will not sufficiently address the risks of OCSEA even though online and offline child sexual exploitation and abuse are closely linked. Further, none of the interviewees alluded to any sufficient monitoring and reporting to ensure that these programmes meet current and future needs, particularly in regards to OCSEA.

While the above indicates an increasing number of programmes and campaigns that have been implemented to raise public awareness of child sexual abuse and exploitation, this does not necessarily mean the public are receptive to them. For example, the uptake of the *Sahabat BIJAK: Safe and Protect Programme* remains low, especially for both primary and secondary school students. One respondent (RA1-MY-07-A) identified that only 4% of 10,202 schools in Malaysia have implemented the programme due to a decrease in financial resources allocated by the government. Further, interviews indicated no measurement of the impact of this campaign appears to be taking place to inform to what extent children absorbed the knowledge shared by the campaign, or how many of the schools actually implemented the safety measures recommended under the programme. Additionally, interviewees indicated that no data appears to be available analysing the different degrees of awareness of OCSEA in rural and city areas/schools: *“reaching out to marginalised groups and those in the rural regions is still a problem* (RA1-MY-10-A). Disparity also exists between different states’ digital connectivity, with some experiencing digital poverty such as a lack of information and communication technology infrastructure and skills⁷ (RA1-MY-11-A). Interviewees also indicated that the level of awareness of OCSEA for frontline workers at district clinics or community clinics is comparatively low compared to hospitals’ frontline workers due to the lack of resources for training and no clear standard operating procedures being in place (RA1-MY-05-A). One interviewee also noted that awareness needs to be raised among lawyers on the need for a child sensitive approach towards all child sexual abuse cases in the criminal justice process: *“the defence lawyers must be able to understand the child victim and be fair to these sensitive cases when they are present to hear the witnesses in those cases.”* (RA1-MY-06-A).

⁷ Dawood, Sharifah. (2019). [Digital Divide and Poverty Eradication in the Rural Region of Northern Peninsular Malaysia. Indonesian Journal of Geography](#). *The Indonesian journal of geography*. 51(2):172.

Despite awareness programmes such as PEKA being put in place for parents, one interviewee was of the view that more awareness must be raised amongst parents concerning the protection of children from sexual abuse and exploitation (RA1-MY-08-A). On this note, one of the participants shared that Cybersecurity Malaysia had recently launched a cyber parenting guideline booklet entitled “*Cybersafe Parenting-Towards Cyber Wellness*” (RA1-MY-09-A, B & C). Others highlighted that while awareness was increasing, the taboo nature of sexual education in Malaysia was limiting progress, “*awareness has increased but taboo is still there*” (RA1-MY-08-A), while another noted “*sex is taboo to society; thus educators, parents and community leaders require sensitisation seminars or exposure to accurate information contained in sexual education modules.*” (RA1-MY-10-A). The topic of sex education in Malaysia has always been taboo, especially among the older generation, and responses to OCSEA need to be understood in this context. It is not clear that sex and sexuality is really being openly addressed and discussed due to these social taboos, but one interviewee did suggest that Malaysian school children at primary and secondary levels still learn “*about the risks of sexual exploitation and sexual abuse and the means to protect themselves through the syllabus of Pendidikan Jasmani dan Pendidikan Kesihatan [Physical and Health Education], Science Education, Islamic Education, and Moral Education*” (RA1-MY-08-A). However, none of these syllabuses have a specific chapter on OCSEA *per se* and with any open discussions about sex highly unlikely, the effectiveness of such reported teaching is questionable.

3. Government ministries/agencies

Capacity

The Unit for children led by the Ministry of Women, Family, and Community Development has limited capabilities, particularly in terms of its workforce. For example, only three officers and one administration official are tasked with issues/functions related to children. (RA1-MY-03-A&B). The Malaysian Communications and Multimedia Commission is adequately equipped with 20 investigating officers and an additional forensic team to support other law enforcement agencies when technical assistance is required, including for OCSEA cases. (RA1-MY-02-A&B). Further, Unit D11 Royal Malaysia Police officers, *“the majority of whom are women, are trained to conduct specialised interviews for the Child Protection Units (CPU)”* (RA1-MY-11-A). Interviewees did not highlight any specific trainings on OSCEA for police officers and deputy public prosecutors.

Children under the age of 18 make up around 29% of the population (9.3 million – 4.8 million males and 4.3 million females).⁸ As of 2019, the state of Selangor recorded the highest population of children – 1.8 million, followed by Sabah and Johor – both recording 1.1 million children. W.P. Putrajaya has the highest percentage of children under 18 (38.8%) compared to the state population (103,800), followed by Terengganu (36.0%) and Kelantan (35.6%). Pulau Pinang recorded the smallest percentage of children at 23.1%.⁹ Nationwide, there are only 19 police officers in Unit D11 to manage and assist with cases of child abuse (RA1-MY-11-A) despite children making up 29% of Malaysia’s total population. One interviewee noted *“there are longer waiting periods in the police station”* (RA1-MY-05-A). *“The police officers are working solo. Efforts demonstrated by some of the police officers during the investigation were done half-heartedly.”* (RA1-MY-01-A). This evidence suggests that Unit D11 are lacking essential human resources to handle investigations across the country of both offline and online cases of child sexual abuse and exploitation.

The Department of Social Welfare has 108 district offices, with 208 gazetted (legally allowed) child protectors across the country to help all children that require assistance, including those who have been affected by OCSEA. There are also 295 assistant protectors appointed by NGO representatives. It was identified that one child protector handles at least 80 cases (neglected, abandoned or exposed, or cases of sexual abuse against children) at one time, which one participant considered to be very different to international standards (RA1-MY-07-A&B). Furthermore, the lack of social workers remains a significant issue that has not been resolved for a long time (RA1-MY-07-A&B). The Department of Social Welfare has approximately 7500 job openings, of which only 6200 have been filled, with roughly only 10% of its employees holding degrees. It was also identified that only 15% of employees were properly trained social workers, largely due to a lack of resources (RA1-MY-07-A&B). Interviews also identified that *“no OCSEA cases have been handled by the Department of Social Welfare thus far”* (RA1-MY-07-A&B). Training remains ongoing for protectors and welfare officers in respect of the protection and rights of children by the Malaysian Social Institute. *“Every year there will be training for the newly joined protectors and existing protectors. One session of 30 to 40 protectors every three to four days”* (RA1-MY-07-A&B). It was observed that these officers require more training, as current training remains

⁸ Department of Statistics Malaysia - Official Portal (November 26th, 2019). [Children Statistics, Malaysia, 2019](#)

⁹ *Ibid.*

inconsistent and officers face little chance to develop their expertise. The Malaysian Communications and Multimedia Commission claimed that they have been conducting regular and consistent training programmes for their own 20 officials as budgets have already been allocated for such programmes (RA1-MY-02-A&B). Additionally, continuous and collaborative training programmes with the Royal Malaysian Police have been provided to Deputy Public Prosecutors (RA1-MY-01-A). It was also noted that *“the Police Academy provides on-the-job training to investigating officer for handling and investigating child sexual abuse cases”* (RA1-MY-11-A).

The Ministry of Health is drafting a training module for frontline health staff in all community health clinics concerning the procedures to be followed for early detection of sexual abuse cases, including OCSEA. The training includes methods to refer the cases to the One-Stop Crisis Centres at hospitals (RA1-MY-05-A). At the same time, the Ministry of Health is also drafting training modules for teachers on detecting signs if there is abuse in schools, which also explains the referral pathway to the One-Stop Crisis Centres in hospitals (RA1-MY-05-A). One participant shared during their interview the case data of the Suspected Child Abuse and Neglect Team records, which revealed that for the year 2017, 9 states reported (2154 cases), for the year 2018, 12 states reported (3308 cases), and for the year 2019, 15 states reported (3696 cases). This data includes all types of abuse, not just sexual abuse, and the records do not disaggregate whether sexual abuse has included an online element or not (RA1-MY-05-A). The guidelines¹⁰ require that any issue related to children (including offline and online sexual abuses) needs to be reported in one day to the Education Department or State Education Department and then followed up after three days. Participants in the interviews reported that the referral pathway from schools was generally well understood. It follows from detecting concerns during counselling sessions, to referring cases to Department of Social Welfare officers directly, the Talian Kasih helpline, the hospital One-Stop Crisis Centre team or a police station (RA1-MY-08-A).

Budget

Almost all participants confirmed that there was no specific budget for OCSEA and that *“more resources need to be allocated”* (RA1-MY-03-A&B). For 2020, the lead Ministry of Women, Family, and Community Development has secured R.2.4 billion (approx. US\$592,592,880 as of January 2021), and 75% of that allocation is for the Department of Social Welfare as one of the most important and influential agencies under the Ministry. However, no special budget for OCSEA was earmarked (RA1-MY-03-A&B). *“The Government’s allocation to the Department of Social Welfare is insufficient and more budget is needed, especially to hire more social welfare officers to provide better services to children.”* (RA1-MY-07-A&B). *“The allocation of PEKERTI programmes are rather limited. The yearly budget is not consistent as it depends on the approved programme for that particular year.”* (RA1-MY-10-A). Other interviewees noted that the government often does not prioritise the importance of protection for children from all forms of exploitation *“Government is prioritizing economic development over social development”* (RA1-MY-03-A&B). *“Allocation is not provided to expand the special court and no additional budget for it”* (RA1-MY-03-A&B).

¹⁰ Office of the Director General of Education Malaysia. (2011, June). [Surat Pekeliling Ikhtisas Bilangan 7 Tahun 2011 Pelaksanaan Standard Operating Procedure \(SOP\)1:3:7 Pelaporan dan Tindakan Menangani Isu Disiplin Murid](#). Government of Malaysia.

Good practices

The Ministry of Women, Family, and Community Development is of the view that “*National Population and Family Development Board’s programmes (PEKA and PEKERTI programmes) are more effective but they have to reach out effectively to specific targeted audiences.*” (RA1-MY-03-A &B). The special Unit in the Attorney General’s Chambers has appointed a psychologist to help encourage information from children who cannot speak of their experience due to trauma or from fear of speaking to authorities. (RA1-MY-01-A). It was observed that the placement of the psychologist in the prosecution team in the Attorney General’s Chambers was very important for both offline and online cases of sexual abuse and exploitation as it will allow child victims to speak up and ensure prosecutors gain valuable information without retraumatizing the child. It is important that all state prosecution teams employ a child psychologist, as currently, there is only one child psychologist in one prosecution team. (RA1-MY-01-A). Additionally, the Malaysian Communications and Multimedia Commission has taken the initiative to direct Internet service providers in the country to provide parental control tools for their subscribers, “*we [Malaysian Communications and Multimedia Commission] have asked the Internet service providers to have parental control tools available for their subscribers. This is available now. But the take up is very little. These are the risk-mitigating tools, but parents are not aware*” (RA1-MY-02-A &B).

4. Policies and laws

Assessment

It was confirmed that Malaysia has ratified all the major international conventions in the fight against child sexual abuse and is a party to several international and regional frameworks except the Budapest Convention¹¹ and the Lanzarote Convention.¹² Malaysia has several key laws prohibiting OCSEA related offences under the Penal Code,¹³ the Communications and Multimedia Act 1998¹⁴ and the Sexual Offences Against Children Act 2017.¹⁵ The Sexual Offences against Children Act¹⁶ covers all online child sexual offences, including live-streaming offences, and there is no necessity for an explicit provision as the definition of child abuse materials is wide enough to cover live-streaming offences (RA1-MY-01-A). Interviews also confirmed other research findings that the live streaming of online child abuse can be charged under section 4 of the Sexual Offences against Children Act 2017, along with section 8 (a) that criminalises exchanging, exhibiting, offering, or making available in any manner, child sexual abuse material.¹⁷ The live streaming of child sexual abuse could also be covered by sections 15 (d) and (e)¹⁸ and 16 of the same Act.¹⁹ In the absence of any provisions expressly criminalising live streaming of child sexual abuse, the discretion would probably lie with the public prosecutor to apply the charge which most suitably covers the constitutive elements of the offence in question. UNICEF Malaysia has praised the country for bringing the Sexual Offences Against Children Act closer to international standards enshrined in the Convention of the Rights of the Child and the Optional Protocol on the Sale of Children, child prostitution and child pornography.²⁰ However, there has been no progress from government agencies in evaluating the implementation of the Sexual Offences against Children Act as there has been no engagement between other agencies on the Act since it was passed (RA1-MY-04-A, B & C).

The majority of interviewees were of the view that existing laws are sufficient to protect children from OCSEA. However, very few cases of OCSEA have been even raised with Unit D11 of the Royal Malaysia Police, and even fewer made it to court in the three years since this law has been in effect. In most cases that went to court, the defendant plead guilty and no trials were conducted. There are concerns that the law is not being used effectively to address the situation in the country due to a competency gap amongst police officials and deputy public prosecutors regarding their interpretations of the legal provisions. For example, many law enforcement officials and even the deputy public prosecutors were not aware that the Sexual Offences against Children Act could be used to prosecute the live streaming of child sexual abuse, meaning no cases of live streaming were ever investigated. One interviewee also noted that the *“the Evidence of Child Witness Act 2007²¹ needs to be amended by raising the age from*

¹¹ Council of Europe. (n.d.). [Parties/Observers to the Budapest Convention and Observer Organisations to the T-CY](#).

¹² Council of Europe. (n.d.). [Lanzarote Convention](#).

¹³ Government of Malaysia. (1936). [Laws of Malaysia – Act 574 - Penal Code](#), as amended in 2017.

¹⁴ Government of Malaysia. (1998). [Laws of Malaysia - Act 588 - Communications and Multimedia Act 1998](#).

¹⁵ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#).

¹⁶ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#).

¹⁷ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Section 8(a).

¹⁸ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Sections 15(f) and 15(e).

¹⁹ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Sections 16.

²⁰ UNICEF. (2017). [UNICEF Malaysia applauds Sexual Offences Against Children Bill 2017](#).

²¹ Government of Malaysia. (2007). [Laws of Malaysia – Act 676- Evidence of Children Witness Act 2007](#).

*16 years old to 18 years old to standardise with the Child Act 2001*²² (RA1-MY-01-A). Despite being introduced 13 years ago, the Evidence of the Child Witness Act has still not been fully implemented in courts as facilities such as video links and blocks are still not available due to budget constraints (RA1-MY-01-A). This issue was even acknowledged by Malaysia’s law minister in October 2019 in response to questions in parliament.²³

One interviewee confirmed that sections 27, 28 and 29 of the Child Act 2001²⁴ impose mandatory duties on professionals working with children to report incidents that involve child sexual abuse, including OCSEA, to authorities (RA1-MY-07-A&B). In addition to this, the Sexual Offences against Children Act imposes mandatory reporting duties on private citizens concerning offences committed under the Act, including OCSEA offences. According to section 19 of the Act, *“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...”*²⁵ This offence is punishable with a fine up to 5,000 ringgit (approx. US\$1,239 as of January 2021).²⁶ Interestingly, it was noted that the Royal Malaysia Police has attempted to utilise this section of the Act to formally request subscribers’ details from Internet service providers,²⁷ arguing that Internet service providers fall under the definition of *“any person”* provided under the Act (RA1-MY-11-A). However, at the time of writing, no prosecution action has been taken against Internet service providers under section 19 of the Sexual Offences against the Children Act 2017²⁸ for not complying with these formal requests (RA1-MY-11-A). It is important to note that even though Internet service providers are not legally required to report and work with law enforcement, they often comply with the request if they have the information within their storage.

Respondents also highlighted how Internet Service Providers are not legally required to remove obscene content from their platforms, as one interviewee noted there is *“no mandatory obligation on the part of Internet service providers to remove the obscene or illegal contents or child sexual materials and there is also no law for data retention and preservation towards Internet service providers”* (RA1-MY-11-A). The Chief Compliance Officer of the Malaysian Communications and Multimedia Commission further added there is *“no obligation for Internet service providers to remove the child abuse materials contents due to principles of the independent carrier...we will not mandate them or impose conditions on them to inspect all traffic that goes through their networks”* (RA1-MY-02-A &B). Instead, when there is a complaint from the public or law enforcement agencies against an Internet service provider, the Malaysian Communications and Multimedia Commission will ask Internet service providers to assist as far as reasonably necessary in preventing the commission or attempted commission of an offence according to section 263 of the Communications and Multimedia Act 1998,²⁹ where powers are provided to the Malaysian Communications and Multimedia Commission to direct Internet service providers to block access to websites by directing to different IP addresses (RA1-MY-02-A &B). Failure to comply with the Commission’s request would be an offence under Section 242 of the same Act.

²² Government of Malaysia. (2001). [Laws of Malaysia - Act 611 - Child Act 2001](#).

²³ Malaysiskini. (2019). [‘No budget, no training’ - why the government is struggling to give child sex victims justice](#).

²⁴ Government of Malaysia. (2001). [Laws of Malaysia - Act 611 - Child Act 2001](#), as amended in 2017, Sections 27, 28 and 29.

²⁵ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Section 20.

²⁶ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Section 20.

²⁷ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Section 19.

²⁸ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Section 19.

²⁹ Government of Malaysia. (1998). [Laws of Malaysia - Act 588 - Communications and Multimedia Act 1998](#), Section 263.

Interviewees also reported that various policies related to addressing OCSEA such as the 2009 National Child Protection Policy³⁰ and the 2009 National Child Policy³¹ exist on paper but are not adequately incorporated in government decisions (RA1-MY-03-A&B). Further, the Child Online Protection Taskforce established in August 2013 does not exist anymore as it was created only to draft the Plan of Action on Child Online Protection.³² There was a coordinating committee established after the launch of the Plan of Action on Child Online Protection in March 2015 which aimed to monitor and evaluate the progress of the plan, however, unfortunately, at the time of writing, this still had not been implemented (RA1-MY-03-A &B). The findings from this interview align with those in a 2019 ECPAT International report on Malaysia, which found that a governing body working on the implementation of the plan is lacking, which has resulted in NGOs taking initiative to keep advocating for it.³³ The Plan of Action on Child Online Protection meeting has also been delayed due to a shortage of resources with the plan set to expire at by the end of this year. The above issues led Interviewees to conclude that the Plan of Action on Child Online Protection was not fully implemented and operationalised by the respective government agencies. *“The Plan of Action on Child Online Protection is failed in Malaysia despite good planning there”* (RA1-MY-03-A &B).

Challenges and limitations

Interviewees noted that the main challenges facing government agencies were limited financial resources and a lack of trained personnel to implement policies and plans effectively (RA1-MY-03-A &B). One of the participants said that *“the implementation of the planned policy is slow and the reason for the lack of the implementation is lack of resources”* (RA1-MY-03-A &B). Many noted the issue with implementation *“the government should focus more on the implementation of planned policies.”* (RA1-MY-07-A &B). There are numerous challenges when implementing plans and policies, such as how to work with child victims during trials, which requires patience and expertise (RA1-MY-01-A), and the increasing complications law enforcement officers encounter as technology develops (RA1-MY-01-A). Further complications arise when considering that the ability and credibility of child victims to give evidence in court is often disputed (RA1-MY-01-A). It is essential that police officers and deputy public prosecutors receive adequate training so they can work with child victims and witnesses effectively in court and cause no further harm to the children. Further, updated knowledge and research on OCSEA is lacking. There have been no significant research studies into OCSEA in Malaysia since a 2013 study on child online risks of a non-representative sample of 420 Malaysian children aged 9-16³⁴ was conducted in Selangor, the area with the highest number of Internet users.³⁵ All interviewees also noted that no specific research on OCSEA *per se* is currently being done in Malaysia and research that is taking place is related to the loopholes of the Sexual Offences against the Children Act and general safety on the Internet.

³⁰ Department of Social Welfare. (n.d.) [National Child Protection Policy](#).

³¹ Department of Social Welfare. (n.d.) [National Child Policy](#).

³² Internet Society. (2017). [Mapping Online Child Safety in Asia Pacific](#).

³³ ECPAT International. (2019). [ECPAT Country Overview: Malaysia](#).

³⁴ Children aged 12-15 were excluded from this study.

³⁵ Teimouri, M. et.al. (2014). [What is Upsetting Our Children Online?](#). *Procedia - Social and Behavioral Sciences*. 155.

Future developments

Based on the interviews conducted, there are currently no plans from the government or related agencies to amend any of the existing laws, especially the Sexual Offences against the Children Act in regards to inserting any new provision on OCSEA. There are also no plans to implement mandatory reporting for Internet service providers in the Multimedia and Communication Commission Act. Other than these laws, the interviews did highlight that *“discussions and consultations towards a review of the National Policy on Children have been ongoing since 2016. Based on the feedback received, the multiple policies and plans of action on children will be consolidated into one comprehensive document. In June 2018, the development of a National Children’s Well-being Roadmap was commenced. However, this has been put on hold due to reviews and the on-going development of a comprehensive policy as a base for the roadmap. Malaysia has approached UNICEF for technical support in the review of the National Policy on Children, and the development of a new consolidated National Policy on Children and accompanying National Children’s Well-being Roadmap. Both documents are envisioned to be launched in 2021 to be in line with the Twelfth Malaysia Plan 2021-2025.”* (RA1-MY-03-A &B).

5. Law enforcement

Law enforcement mechanisms

There has been a total of 15 cases related to OCSEA investigated by Unit D11 of the Royal Malaysian Police since the new law was introduced in 2017. From 2017 to November 2019 there were 12 cases investigated under section 8 of the Sexual Offences against Children Act³⁶ and three cases under section 10 of the same Act.³⁷

13 cases relating to grooming were also investigated under sections 11, 12, and 13 of the same Act³⁸ in the same time period (RA1-MY-11-A). One interviewee identified some trends relating to OCSEA, commenting *“child sexual abuse materials, grooming and sexual extortion are the most common offences under OCSEA categories in Malaysia”* and that *“children between the ages of 7 years old until 15 years old have become the victims under OCSEA in Malaysia”*. They also highlighted that currently, there were no registered cases related to the live streaming of child sexual abuse in Malaysia. (RA1-MY-11-A). Interviews also identified that fewer OCSEA cases have been tried nationally in Malaysian courts compared to offline cases due to a lack of evidence. For example, it was found that the Office of the Children’s Commissioner has received one complaint that met the definition of child sexual abuse material under the Sexual Offences against Children Act which the Office of the Children’s Commissioner had reported to the police for investigation. However, the police took no further action because they felt that there was insufficient evidence to proceed.

The Child Interview Centre in Unit D11 of the Royal Malaysian Police in the capital city has sophisticated recording technology manned by police personnel to interview child victims (RA1-MY-11-A). Children are also provided with anatomically correct toys to describe what happened between the child and the perpetrator (RA1-MY-11-A). However, there are no Child Protection Unit’s at the district level. In some police stations/posts, there is a special room or triage room for children to lodge the police report efficiently and safely (RA1-MY-11-A), but this is not standardised across the country. One interviewee noted *“the police officer will ask the child victim to go to different police stations to lodge the report despite explicit instructions for the police to go where the child victim is located.”* (RA1-MY-05-A). The same participant also said that standard operating procedures in Unit D11 were not implemented properly in all police stations at the district level. Unit D11 claims that *“standard operating procedures exist but for internal use only”* (RA1-MY-05-A). The police officials in Unit D11 must work systematically and transparently when it comes to implementing standard operating procedures to ensure criminal justice actors who are involved in the process understand and navigate children via correct channels to get justice. Under Unit D11, the Malaysian Internet Crime Against Children Investigation Unit was established in Bukit Aman, armed with the latest technology to oversee all Internet related mediums of communication used by offenders to upload, share and promote child abuse materials (RA1-MY-11-A). *“In their fight against sexual abuse against children, Unit D11 Royal Malaysia Police is cracking down hard on anybody or anything that contributes to the sexual exploitation of children including tracking down their IP addresses or the unique numerical label assigned to each device of those viewing child porn*

³⁶ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Section 8.

³⁷ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Section 10.

³⁸ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Sections 11,12 and 13.

websites” (RA1-MY-11-A). However presently, this unit only has three officers (RA1-MY-11-A) and is based at headquarters and therefore unavailable at the state level. It is important that one dedicated officer from the Malaysian Internet Crime Against Children Investigation Unit is placed in all states that have a large number of OCSEA cases in order to aid coordination with headquarters and protect children from sexual abuse and crimes associated with the Internet. The Malaysian Internet Crime Against Children Investigation Unit is also known for conducting the capacity building programmes which includes organised courses for all Unit D11 officers across the country.

Malaysia has access to the International Child Sexual Exploitation database,³⁹ a tool which allows investigators from more than 50 countries to exchange information and share data on cases of child sexual abuse.⁴⁰ One interviewee also confirmed that Unit D11 has *“access to International Child Sexual Exploitation image and video database via the Malaysian Internet Crime Against Children Investigation Unit”* (RA1-MY-11-A). This is crucial considering that there is no national image database in Malaysia (RA1-MY-11-A). It was also observed that Unit D11 has better collaboration links with international agencies/law enforcement entities such as INTERPOL. However, it is suggested that they have not utilised this connection enough in relation to OCSEA. Law enforcement must make use of the international connections as much as possible as *“child sexual offences have increasingly evolved into a borderless crime and therefore require international cooperation”* (RA1-MY-02-A&B). Malaysia has explicitly guaranteed extra-territorial application of its legal provisions related to some manifestations of OCSEA, namely child sexual abuse material/child sexual exploitation material and online grooming.⁴¹

One interviewee claimed that *“the [local] police officers often do not confiscate the mobile phones, by right the phones should have been confiscated and given to the Malaysian Communications and Multimedia Commission to retrieve necessary information contained in the device”* (RA1-MY-01-A). This is due to the lack of training for general police officers outside the specialist D11 unit (RA1-MY-01-A). The same participant said that *“mobile phones very commonly used as evidence in OCSEA cases, especially in grooming cases”* (RA1-MY-01-A). *“WeChat communication compared to WhatsApp communication, is more difficult to retrieve its content”* (RA1-MY-01-A). The Malaysian Communications and Multimedia Commission and the Royal Malaysian Police have formed an internal committee to discuss matters related to enforcement, especially matters related to content enforcement as well as other offences under the general law or penal code (RA1-MY-02-A&B).

CyberCSI under the Malaysian government Cybersecurity agency provides digital forensics services to law enforcement agencies such as onsite evidence preservation, evidence analysis, expert witnesses in court proceedings under section 399 of the Criminal Procedure Code and professional training (RA1-MY-09-A, B & C). *“When it comes to photos, audio, or video, we can do the forensics to ensure that it is authentic and to be a part of the evidence. The technical support in the digital forensic department has been mandated and given the recognition as an expert witness in court under section 399 of the Criminal Procedure Code.”* (RA1-MY-09-A, B & C). The same interviewee informed that defence lawyers cannot question the credibility of the forensic evidence by CyberSecurity Malaysia due to the expertise of the agency. The National Cyber Security Agency has also launched the Malaysia Cyber Security Strategy

³⁹ ECPAT International. (2019). [Briefing Paper: Sexual Exploitation of Children in Malaysia.](#)

⁴⁰ INTERPOL. (n.d.) [International Child Sexual Exploitation database.](#)

⁴¹ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Section 3.

2020-2024⁴² (RA1-MY-09-A, B & C), and will be taking steps to enhance the capacity and capability of law enforcement agencies to tackle cybercrime by developing and implementing a new National CyberCrime Enforcement Plan. Under this forthcoming plan, efforts will be taken to increase the knowledge and skill of judiciary members, prosecutors, law enforcement officers and legal practitioners to prepare them for the intricacies of cybercrimes in the digital era.⁴³

Challenges and limitations

The Chief Compliance Officer of Malaysian Communications and Multimedia Commission acknowledged the pivotal role of Internet service providers in aiding law enforcement mechanisms in Malaysia: *“Especially the platform providers have to play a big role because they are providing the opportunity for perpetrators to go scot-free. So, there must be some mechanism in which they need to provide technically or otherwise enable them to facilitate the investigation. Secondly, the platform provider is to facilitate the removal of such content at first instance, when it appears on the network or their platform.”* (RA1-MY-02-A&B). He went on to add *“there must be an agreement either at the international level or regional level for things that the platform provider needs to provide. While on the government side, they should create more awareness for people to come forward because otherwise, the government would not have an idea of how big the problem is”* (RA1-MY-02-A&B). The users of IP addresses can be identified if Internet service providers provide the users’ information. But in Malaysia, *“the effort to identify users is often hampered due to the lack of mandatory data retention/preservation law in the country”* (RA1-MY-11-A). One of the interviewees noted that *“what we practice now is once we received the information from counterparts, we want to identify the suspect or subscriber. Sometimes, they have no more information available since there is no standard period to keep the data. Digi and TM have an internal policy to maintain the data of the subscribers for at least a month. So, this is what we are facing when we want to request details about the subscriber based on what time he accesses these IP addresses. This is the problem because we are dealing with IP address identification of the perpetrator or offender.”* (RA1-MY-02-A & B). The government needs to include such a requirement to direct service providers to retain data that would benefit law enforcement agencies (RA1-MY-11-A). However, one participant noted the difficulty of finding the balance of child protection and the right to privacy, commenting *“it is a challenge when to balance between the right to privacy v the right to protect these children”* (RA1-MY-02-A & B). In addition to this, it is difficult to prosecute if the perpetrator is outside of the jurisdiction, *“for example, the perpetrator is someone in Indonesia. So, the investigation is here. The child victim is a Malaysian.”* (RA1-MY-02-A & B). Other interviewees noted the difficulty of identifying perpetrators when most users can be anonymous (RA1-MY-02-A & B), and another highlighted the *“lack of trained officers”* as another challenge (RA1-MY-11-A). It was observed that officers with specific skills to investigate and appropriately manage OCSEA cases were seriously lacking in Unit D11. Further, there are no D11 units in district levels and child victims must travel to the state office’s D11 unit. Unit D11 also faced other challenges, with one interviewee commenting *“lack of information communication technology infrastructure, special equipment, and laptops at all levels is another big challenge for D11.”* (RA1-MY-11-A). Finally, there is also no post monitoring system for victims after complaints and settlements of case hearings, as well as when the prosecution has ended (RA1-MY-05-A).

⁴² National Cyber Security Agency. (2020). [Malaysia Cyber Security Strategy \(MCSS\) 2020-2024](#). Government of Malaysia.

⁴³ National Cyber Security Agency. (2020). [Malaysia Cyber Security Strategy \(MCSS\) 2020-2024](#). Government of Malaysia.

6. Successes

Most interviewees were of the view that the introduction of the Sexual Offences against Children Act was timely as it criminalised all manifestations of OCSEA offences, either directly or indirectly. However, concerns were raised that Unit D11 of the Royal Malaysian Police still lacks resources to fully enforce the Act. Nonetheless, many interviewees believed that the introduction of the Act represents significant progress in tackling OCSEA. *“The Sexual Offences against Children Act 2017 is wide enough”* to punish offences relating to child sexual abuse material, child grooming, sexual assault including non-physical assault, and those abusing the relationship of trust with a child (RA1-MY-01-A and RA1-MY-06-A). Another notable development is that *“uncorroborated evidence of a child may also be admissible for offences under this Act or any offences specified under schedule”*, a major shift in how evidence provided by children is treated (RA1-MY-01-A). In addition to legislative measures, Malaysia also launched a special court to handle sexual crimes against children on the 22nd of June 2017, the first of its kind in South East Asia. Participants believed that this court would help expedite cases related to sexual crimes against children and would focus on cases involving child sexual abuse material, grooming and child sexual assault following the Sexual Offences against Children Act (RA1-MY-01-A). Currently, there are only two special courts in Putrajaya and Kuching with all necessary facilities to ensure child friendly court proceedings, such as court recording transcription systems and child waiting rooms equipped with video-link systems to enable children to give evidence without having to face their perpetrator. However, there has been limited progress in expanding these specialised courts to other states, which some interviewees noted was an issue *“the special courts should be expanded to other states as well”* (RA1-MY-01-A). It is also important to note that *Pekeliling Ketua Pendaftar Bilangan 2 Tahun 2017 (Chief Registrar Circular No. 2 Year 2017)* provides that criminal cases, including cases involving sexual offences against children, brought to lower courts need to be resolved/disposed of within 12 months from the registration date (RA1-MY-01-A). In addition to the Circular, the Kuching Special Court has set a target to dispose of cases within six months after they are registered with the court. As well as this, Malaysia has also introduced Special Guidelines for handling cases of sexual offences against children (RA1-MY-07-A&B).

7. Challenges

The development of new technology and emerging applications has further complicated tackling OCSEA, with an increasing number of ways children can be sexually exploited online (RA1-MY-02-A & B). *“For OCSEA offences – challenges in investigations arise especially when pieces of evidence have been deleted and the perpetrator can go anonymous”* (RA1-MY-01-A). Interviewees also reported challenges in referring and reporting cases of OCSEA, with one interviewee stating *“there is no clear referral pathway from district clinics or community clinics to the hospitals where the One-Stop Crisis Centre is located”* (RA1-MY-05-A), and another highlighting that *“underreporting is still a problem, especially in rural areas”* (RA1-MY-07-A). One participant noted that medical professionals were sometimes uncomfortable reporting cases of child sexual abuse and exploitation, *“the health care officers in district clinics or community clinics are not comfortable going through the procedures especially with police and courts”* (RA1-MY-05-A), which therefore meant they often did not take steps to report child sexual abuse cases to the relevant authorities. It is paramount that the government promptly addresses this issue. Further, in Malaysian culture, sex is still a taboo subject (RA1-MY-08-A and RA1-MY-10-A), which extends to considering child sexual abuse and exploitation as taboo as well: *“there are various types of parents- the subject of child sexual abuse is still taboo with some parents”* (RA1-MY-08-A). As well as these challenges, most interviewees raised concerns about a lack of human resources, in particular trained and specialised deputy public prosecutors, investigating officers, social workers and counsellors. A lack of special budgets for training stakeholders was also a widely raised concern.