

Disrupting Harm

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

Detailed Analysis of Access to Justice and Legal Remedies in Malaysia
Interviews with Justice Actors

Last updated 24/08/21

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.

Contents

Disrupting Harm.....	1
Detailed Analysis of Access to Justice and Legal Remedies in Malaysia.....	1
Introduction	3
Access to The Justice System	5
Services provided to victims of OCSEA during the criminal justice process	5
How OCSEA cases comes to the attention of criminal justice actors	8
Participation in the Justice Process.....	10
Description of how children participate in the criminal justice process	10
Description of what criminal justice professionals see as the hardest part for children taking part in criminal cases against their abusers	10
Description of what is done by different criminal justice professionals (police, judges, prosecutors, lawyers, or other relevant staff) to make the process easier for children	11
Description of what is done by different criminal justice professionals (police, judges, prosecutors, lawyers, or other relevant staff) to make the process harder for children	15
Compensation	18
Successes	20
Challenges / Changes Needed	20

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, 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. It is based on a convenience sample of ten interviews was conducted with a variety of criminal justice professionals in Malaysia. The said sample included state and non-state criminal justice professionals who have personal recent experience working with online child sexual exploitation and abuse (OCSEA) criminal cases, or at least child sexual exploitation and abuse, such as prosecutors, judges, child advocates, case managers, police, or lawyers.

The data was collected through a set of qualitative semi-structured interviews. While the intent was to do face-to-face interviews, four of the ten interviewees had to be interviewed via the online platform Zoom due to COVID19-related restrictions. Written consent forms were completed and signed by all interviewees before all interviews.

ID Number	Organisation	Position
RA4-J-MY-01-A	Advisor to Court of Children in Kuala Lumpur	Advocacy Officer
RA4-J-MY-02-A	Voices of the Children	Board Member
RA4-J-MY-03-A	Attorney General Chamber	
RA4-J-MY-04-A	Attorney General Chamber	

RA4-J-MY-05-A	Women's Aid Organisation	Services Director
RA4-J-MY-06-A	Women's Aid Organisation	Head of Case Management
RA4-J-MY-07-A	Protect and Save the Children	Founder
RA4-J-MY-07-B	Protect and Save the Children	Manager, Projects and Operations
RA4-J-MY-08-A	Legal Aid Department	
RA4-J-MY-09-A	Royal Malaysian Police	Deputy Superintendent of Police
RA4-J-MY-10-A	Sexual Crime Court Against Children	

Access to The Justice System

Malaysia's justice system has improved progressively, especially in terms of helping children involved in sexual exploitation criminal cases against their perpetrators, including OCSEA offences.

Services provided to victims of OCSEA during the criminal justice process

Various government agencies and NGOs offer legal services and victim support services that are inclusive of OCSEA matters. Firstly, in 2017, amendments were made to the Legal Aid Act 1971 [Act 26]¹ introducing, amongst other things, *“legal companion services to children who have been victimised by any criminal sexual assault across all 22 legal aid branches in Malaysia”* (RA4-J-MY-08-A, Legal Aid Department). However, it is important to note that this service is not automatic but is based upon an application by the victim, and it is only applicable to Malaysian citizens.² In other words, non-citizens of Malaysia will not be able to use this service, for instance, matters of child refugees. Nevertheless, an added *“advantage of this service is that it is handled by properly trained legal officers of Grade 41 [legally qualified person] and above”* (RA4-J-MY-08-A, Legal Aid Department).

The interviews confirmed the findings of the desk research regarding the purpose of a legal companion, *inter alia* providing legal advice to the guardian or protector of the child victim, to obtain relevant legal information relating to any criminal proceedings to which the victim is a party, to accompany the victim in any court proceedings, and, with permission of the court, to speak on behalf of the victim.³ It was found from one interviewee that *“most of child sexual abuse cases that come to the Department of Legal Aid are recent and no police reports have been made by the child victims”* (RA4-J-MY-08-A, Legal Aid Department). Hence, the interviewee said that *“whenever the child victims come and seek legal assistance in the Legal Aid Department, the first thing we will do is advise the child victims to lodge a police report”* (RA4-J-MY-08-A, Legal Aid Department).

Additionally, the Legal Aid Department provides legal advice services to all Malaysian citizens including advice on child abuse matters.⁴ This service is not completely free and a minimum registration fee of RM10 will be charged as per the Legal Aid Regulations (Fees and Contributions) 2017.⁵ One respondent added that *“in 2018 alone five child abuse cases have received legal companion services from the Legal Aid Department, and three out of five cases were related to boys. It should be noted that between January and August 2020, eight cases from various states in Malaysia have also received the said services”* (RA4-J-MY-08-A, Legal Aid Department).

However, the interviews showed that almost all cases in which the victims received legal companion services were offline abuse cases and rarely concerned OCSEA. In 2018, a legal companion in Penang succeeded in obtaining a compensation of RM5,000 (approximately 1,193 USD as of August 2021) for a

¹ Government of Malaysia. (1971). [Laws of Malaysia – Act 26 - Legal Aid Act 1971](#), as amended in 2017.

² Government of Malaysia. (1971). [Laws of Malaysia – Act 26 - Legal Aid Act 1971](#), as amended in 2017, Section 2A.

³ Government of Malaysia. (1971). [Laws of Malaysia – Act 26 - Legal Aid Act 1971](#), as amended in 2017, Section 29I.

⁴ Government of Malaysia. (1971). [Laws of Malaysia – Act 26 - Legal Aid Act 1971](#), as amended in 2012, fourth Schedule.

⁵ Government of Malaysia. (2017). [Legal Aid Regulations \(Fees and Contributions\) 2017](#).

child victim of sexual abuse, even though section 426 of the Criminal Procedure Code [Act 593]⁶ mandates that the application for compensation should be made by the Deputy Public Prosecutor (RA4-J-MY-08-A, Legal Aid Department). The interviewee who shared this information explained that *“the compensation was applied for by the legal companion with the consent of the said Deputy Public Prosecutor”* (RA4-J-MY-08-A, Legal Aid Department).

Meanwhile, the interviews showed that there has been no legal companion participation in the Putrajaya Special Court proceedings since its establishment in 2017 (RA4-J-MY-10-A, Sexual Crime Court Against Children). One of the interviewees stated that *“yes, I am aware of the legal companion services, however, in my experience; I have never come across any legal companion services provided by the Legal Aid Department”* (RA4-J-MY-03-A, Attorney General Chamber).

Based on the interviewees’ responses, it appears that the legal companion’s services are not practiced widely due to the nature of the services itself being burdening because an application has to be made by the child victim in order to get the legal companion services. Additionally, there is a lack of sufficient promotion of the service from the Department of Legal Aid. On this issue, one interviewee stated that *“there must be a legal companion for all the cases [all child sexual abuse cases including OCSEA cases]”* (RA4-J-MY-10-A, Sexual Crime Court Against Children).

Therefore, the Legal Aid Department *“must aggressively promote the existence of legal companion services to the primary and secondary schools, Tahfiz Schools, Child Care Centres, NGOs, and other related organisations that deal and interact with children specifically. Legal companion services should be given automatically to all child victims regardless of their parents’ income”* (RA4-J-MY-08-A, Legal Aid Department). Furthermore, according to one interviewee there was an attempt from the Legal Aid Department to engage the States’ Education Departments but *“there was no feedback from them [States’ Education Departments] at all”* (RA4-J-MY-08-A, Legal Aid Department).

Besides its investigative roles and responsibilities, D11 (which is the special “Sexual, Women and Child Investigation Division under the Royal Malaysia Police) also provides support services for both offline and online child abuse cases, namely *“victim care services to child victims via respective care officers”*. *“All Victim Care Centers (VCCs) consist of civilian officers who are registered counsellors”* (RA4-J-MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police). *“This is the primary step before the commencement of an investigation, and this is to ensure that the relevant child is deemed fit for the whole process of investigation by the investigation officer”* (RA4-J-MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police). *“We will provide them with adequate counselling sessions to make sure that the child is ready for the investigation process”* (RA4-J-MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police). This interview also showed that the D11 will be liaising with the Department of Social Welfare to get proper and necessary victim support services, including shelter and foster services, *“we will also call the Social Welfare Department officers, so they will offer their support services to the child victim amongst others to provide shelter”* (RA4-J-MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police).

⁶ Government of Malaysia. (1935). [Laws of Malaysia – Act 593 - Criminal Procedure Code](#), as amended in 2012, section 426.

There are Child Interview Centers in every state in Malaysia, albeit not in every district. Two interviewees informed that when the police officers work with child victims they *“will not be in their official uniform”*, to ensure that the environment is child-friendly. In addition, *“While most of the D11 officers are women, there are some male officers as well”* (RA4-J-MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police and RA4-J-MY-05-A, Services Director, Women's Aid Organisation).

Further, on the services provided by the police, one of the interviewees stated that *“in a regular police station without a proper Child Interview Centre, the investigation officer will be the one who interrogates the child victim. Often enough, the investigation officer in a regular police station is not trained to do these sensitive in nature child interviews. Whereas, in the child interview center, the investigation will be carried by the investigation officer who has been trained to deal with these cases.”* (RA4-J-MY-05-A, Services Director, Women's Aid Organisation).

Another interviewee stated that *“the Child Interview Centre is a great thing, but it should be implemented everywhere because statement taking is sensitive for these children and should not be done in the police station. The Child Interview Centre would be a more child-friendly place and the Child Interview Centre would have someone specialised and capable enough to interview the child.”* (RA4-J-MY-06-A, Head of Case Management, Women's Aid Organisation).

In contrast to the above statements from some of the interviewees, another respondent stated that *“Royal Malaysia Police via D11 had trained officers in all contingents in Malaysia on how to handle online child sexual exploitation cases. Additionally, in Bukit Aman itself, a specialised unit called the ‘Internet Crime Against Children Investigation Unit’ was established with the aim to proactively identify the perpetrators when utilising the internet for communication and interaction purposes such as to groom and procure children for sexual exploitation”* (RA4-J-MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police).

Furthermore, non-governmental organisations (NGOs) such as Protect and Save the Children, Women's Aid Organisation and the Women's Centre for Change, also offer comprehensive victim support services which include emotional and court support for victims of domestic violence and sexual abuse, including child victims. The Women's Aid Organisation Hotline and WhatsApp Hotline Think I Need Aid from Women's Aid Organisation provide free and confidential services to survivors of domestic violence, rape, and other forms of violence including child abuse.

“We assist individuals who seek advice via a hotline. We also do face to face consultation with clients and children. Concerning OCSEA, we have previously received a couple of cases on this. We will also help during the investigation and assist the child victims with court proceeding stages including preparation of the child victim impact statements” (RA4-J-MY-05-A, Services Director, Women's Aid Organisation).

On the same matter, the interviewee added that *“case managers will accompany the child victim and attend the court proceedings as well as to the police station”* (RA4-J-MY-07-A, Founder, Protect and Save the Children).

It should be noted that the Malaysian Bar Council also provides legal assistance services (RA4-J-MY-02-A, Board Member, Voices of the Children). However, the Bar Council’s services are more offender-oriented rather than victim-oriented.

How OCSEA cases comes to the attention of criminal justice actors

The desk review carried out as part of the Disrupting Harm project identified that a police investigation begins when a police report is made by the complainant, according to section 107 of the Criminal Procedure Code [Act 593].⁷ This police report will be referred to as a first information report and is the statement of information relating to the commission of an offence made to the police.

A respondent from Protect and Save Children stated that *“the reporting process in the police station is long and tiring with no to minimum follow-ups from the police”*. The children are often left unknown about the status of their reports. The respondent also noted that *“the reporting process is very long. We go up to seven and a half hours. The shortest was about one hour. So, it varies and is dependable on different police stations as well.”* Subsequently, the report will be referred to an investigating officer from the D11 or State D11 Office. (RA4-J-MY-07-A, Founder, Protect and Save the Children).

Based on sections 27, 28 and 29 of the Child Act 2001 [Act 611],⁸ anyone who has knowledge of any child sexual abuse cases, including medical officers or medical practitioners, members of the family, or childcare providers, must report this information to a Social Welfare Officer. The Social Welfare Officer will then bring the victim to the hospital for medical attention and the case is referred to the police for further action. This was confirmed by several interview interviewees.

“A complainant can be a medical officer who treats a child injury victim, a police officer, or a social welfare officer who receives information about such an incident, a family member of the child victim, school-teacher, NGOs or anyone else.” The same interviewee added, however, that the complaints are mostly from parents: *“Usually [complaints are made] by the parents themselves, but we also have teachers, counsellors from the schools or headmasters and medical officers”* (RA4-J-MY-10-A, Sexual Crime Court Against Children).

Since the passing of the Sexual Offences against Children Act 2017 [Act 792],⁹ it has been mandatory in Malaysia for any person who knows about any child sexual abuse cases to lodge a police report. Information gathered during the interviews found that the mandatory obligation requirement is applicable for OCSEA offences too. The report can be made at any police station. The report is taken by the police officer on-duty and the child will be taken to the hospital for a medical check-up.

A respondent stated that *“for child sexual abuse cases, under the Sexual Offences against Children Act, it is compulsory to report any related information if any to the police. We would usually encourage the*

⁷ Government of Malaysia. (1935). [Laws of Malaysia – Act 593 - Criminal Procedure Code](#), as amended in 2012

⁸ Government of Malaysia. (2001). [Laws of Malaysia - Act 611 - Child Act 2001](#), as amended in 2017, Sections 27, 28 and 29.

⁹ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Section 19

families or the adult who has found out about the matter to do the police report. But if there is any reason that they are afraid to do so or they are worried to go through with it, then Women's Aid Organisation will assist and help lodge the police report about the matter" (RA4-J-MY-06-A, Head of Case Management, Women's Aid Organisation).

The respondent from the Royal Malaysian Police informed that lately D11 is receiving more complaints regarding the offences after the introduction of the section 19 of the Sexual Offences against Children Act 2017. *"Since the introduction of section 19 of the Sexual Offences against Children Act 2017, we have plenty of reports coming in from all the parties mainly from medical officers who handled their cases in the hospitals from the One Stop Crisis Centre."* The same interviewee also added general awareness amongst the Malaysians on sexual offences against children as a reason for the increase in police reports. *The increase of police reports is also due to the awareness given to all parties by the government agencies and NGOs."* (RA4-J-MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police).

Based on the overall observations by interviewees, most NGOs who are working in the child protection field are aware of the mandatory obligation to report, and advise their clients to lodge a police report if they have any information on child abuse. However, one respondent was of the view that the *"general public is still not fully aware that there is a mandatory obligation for reporting child sexual abuse cases"* as provided under the Sexual Offences against Children Act 2017 [Act 792]¹⁰ and further informed that no individual has so far been charged under section 19 of the Sexual Offences against Children Act 2017 [Act 792].¹¹ On that issue, the respondent stated that *"I don't think the general public is fully aware that there is this mandatory obligation to lodge a report for cases of child sexual exploitation. I think we have to increase awareness on this particular section, for the public to fully understand the Act"* (RA4-J -MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police).

Another respondent informed that based on her own experience, *"After 17 cases were reported by our clients, it is disappointing to know that there were no further follow-ups for 16 of the cases. The one case that was followed up by the police, was done so only after the parents of the victim had called them"* (RA4-J-MY-07-B, Manager, Projects and Operations, Protect and Save the Children).

It is important to note that, under section 107A of the Criminal Procedure Code [Act 593],¹² any person who has given information under section 107 of the Criminal Procedure Code [Act 593]¹³ may request a report on the status of the investigation of the reported offences, including OCSEA offences, from the officer in charge of a police station where he had provided the information. The officer in charge of the police station shall give a status report on the investigation of such offence to the informant not

¹⁰ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Section 19.

¹¹ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), Section 19.

¹² Government of Malaysia. (1935). [Laws of Malaysia – Act 593 - Criminal Procedure Code](#), as amended in 2012, Section 107.

¹³ Government of Malaysia. (1935). [Laws of Malaysia – Act 593 - Criminal Procedure Code](#), as amended in 2012, Section 107.

later than two weeks from the receipt of the request. The response from the respondent above shows that the police officials neglected to fully implement section 107A of the Criminal Procedure Code [Act 593]¹⁴ as the interview showed that *“unless a status report is requested, police will not follow up”* (RA4-J-MY-07-B, Manager, Projects and Operations, Protect and Save the Children).

Participation in the Justice Process

Description of how children participate in the criminal justice process

It was found from the interviews that most of the complaints or information from child victims are taken according to the legal provisions under the Criminal Procedure Code, the Child Act 2001 and the Evidence of Children Witness Act 2007.

The interviews also showed that the child victims or their family members often lack information on the criminal justice process, for example if or when a charge is laid, if or not the accused has received bail or if or when a victim will be called to court to testify. One participant stated that *“there must be better adequate guidelines to ensure that the information of the case is shared with the child victims and their families to ensure that parties involved are up to update on the case progress”* (RA4-J-MY-05-A, Services Director, Women’s Aid Organisation). Such lack of information can impede the effective participation of children in the justice process and potentially hamper their access to justice.

The sections below provide concrete examples of what is done to help child victims participate in the judicial proceedings, as well as what the main difficulties are with respect to their participation.

In Malaysia, the national legislation ensures that the child victims of OCSEA fully enjoy their right to recovery and rehabilitation. The Child Act 2001 ensures the protection of children ‘in need of protection and rehabilitation’ under its section 38. According to this section, a child victim of sexual exploitation shall be provided protection and rehabilitation. The Malaysian Child Act 2001 also establishes ‘places of safety’ to ensure the care and protection of children¹⁵ and ‘places of refuge’ to ensure the care and rehabilitation of children.¹⁶ These places, institutions or centres are established or appointed by the Minister of Women, Family and Community Development.

Description of what criminal justice professionals see as the hardest part for children taking part in criminal cases against their abusers

Logistical issues were identified within the course of the interviews. One respondent informed that the main challenge would be assisting children's transportation and logistics to court proceedings as they are concerned about their school attendance. He said that *“our main problem is that families are often worried about transportation and logistics matters”* (RA4-J-MY-01-A, Advocacy Officer, Advisor to Court of Children in Kuala Lumpur).

¹⁴ Government of Malaysia. (1935). [Laws of Malaysia – Act 593 - Criminal Procedure Code](#), as amended in 2012, Section 107.

¹⁵ Government of Malaysia. (2001). [Laws of Malaysia - Act 611 - Child Act 2001](#), as amended in 2017, Section 54.

¹⁶ Government of Malaysia. (2001). [Laws of Malaysia - Act 611 - Child Act 2001](#), as amended in 2017, Section 55.

However, it was further elaborated by other interviewees that, on most occasions, the investigation officers will usually assist the child victims financially to attend the court proceedings. (RA4-J-MY-03-A, Attorney General Chamber and RA4-J -MY-10-A, Sexual Crime Court Against Children).

Another issue that was identified was the inadequacy of child friendly court settings. One respondent stated that facing the perpetrator in court is the hardest part for the child victims. *“I think there are steps that can be taken to protect the victim, especially in terms of isolation [separate rooms for the child victims and the offender] when facing the abuser in the court”* (RA4-J-MY-02-A, Board Member, Voices of the Children).

Another interviewee added that *“the circumstances are even more challenging for the child if the perpetrator is blood-related and a family member”* (RA4-J-MY-04-A, Attorney General Chamber).

It was further explained that the child victims often have a more challenging time in court if screens are used (meaning the child has to be physically present in the same room as the perpetrator) rather than video links, especially if the perpetrator is blood-related. The interviewee said that *“the children will still hear the parent’s voices in the court and that will re-traumatise the child further”* (RA4-J-MY-02-A, Board Member, Voices of the Children).

Another respondent added that *“when facing the perpetrator, the child victim is emotionally re-traumatized”* (RA4-J-MY-07-A, Founder, Protect and Save the Children).

It was also noted that *“victims of sexual abuse include children with disabilities and they too face problems in terms of the lack of disabled-friendly facilities in the criminal justice system. For example, there was a deaf child who was a victim of sexual abuse and was not provided with a qualified interpreter to further assist her in the legal process”* (RA4-J-MY-06-A, Head of Case Management, Women's Aid Organisation).

Description of what is done by different criminal justice professionals (police, judges, prosecutors, lawyers, or other relevant staff) to make the process easier for children

Several initiatives have been taken by criminal justice professionals in Malaysia to make the justice process easier for children.

The introduction of the Sexual Offences against Children Act 2017¹⁷ made the scope of the offences wider, including OCSEA offences, namely those relating to child sexual abuse material, online grooming, extortion, and live streaming of sexual abuse, and thus making it easier for investigations to be launched. One respondent informed that, *“we can focus on the offences under this Act and it is very easy for us to do the investigation”* (RA4-J -MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police). The implementation of the Sexual Offences against Children Act 2017 just started with limited

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

facilities and resources and so it is too early to specify more technical loopholes in the Act at this juncture.

Another respondent stated that the government has amended the Child Act 2001 [Act 611]¹⁸ by inserting a provision to give respective responsibilities and obligations to any assistant protector¹⁹ or police officer who takes a child into temporary custody. They shall immediately notify the Protector²⁰ and within twelve hours upon taking the child into custody bring him/her before a Protector. The appointment of assistant protectors is also intended to enable members of the community to be involved in providing care and protection for these children. It is important to note that all gazette assistant protectors are from NGOs. The interviewee was of the view that *“this is good progress in Malaysia”* (RA4-J-MY-06-A, Head of Case Management, Women's Aid Organisation) and the same view was shared by (RA4-J-MY-05-A, Services Director, Women's Aid Organisation). The introduction of this section 8A provides an immediate protection to child victims regardless of the form of exploitation, especially if the abuse, including sexual abuse, is committed by family members.

Based on the desk research carried out during the Disrupting Harm project, it was identified that section 18 of the Sexual Offences against Children Act 2017 [Act 792]²¹ introduces an exception to section 133A of the Evidence Act 1950 [Act 56] which provides that a person cannot be convicted upon uncorroborated evidence not given under oath by a child of tender years. This exception is to enhance the status of children as witnesses so that their evidence is given appropriate consideration. In other words, a person can be convicted without evidence from child victims being corroborated. Nevertheless, there are no concrete changes before and after the amendments of this provision. In practice, *“the judges will still insist on the corroboration of evidence”* (RA4-J-MY-03-A, Attorney General Chamber). However, according to two interviewees, the Deputy Public Prosecutor will still include the position of the law in the submission (RA4-J-MY-03-A, Attorney General Chamber). *“In our submission, we always highlight the exemption provision, but the judge still requires for the corroborative evidence for the case”* and *“the judge must have the courage to depart from the old practice to admit the evidence”* (RA4-J-MY-04-A, Attorney General Chamber).

Most of the interviewees were of the view that *“the introduction of a specialised court for sexual offences against children is an excellent initiative”* by the government (RA4-J-MY-05-A, Services Director, Women’s Aid Organisation). The Disrupting Harm project desk review identified that to guarantee that the laws are effectively implemented, the Sexual Offences against Children Court was

¹⁸ Government of Malaysia. (2001). [Laws of Malaysia - Act 611 - Child Act 2001](#), as amended in 2017, Section 18.

¹⁹ “Assistant Protector” means a person appointed by the Minister under section 8A of the Child Act 2001. Section 8A of the Child Act 2001 stated that *“the Minister may, by notification in the Gazette, appoint any person to exercise the powers and perform the duties of an Assistant Protector under sections 18, 19 and 20 subject to such conditions as may be specified in the notification.”*

²⁰ “Protector” means the Director General of the Department of Social Welfare, Deputy Director General, Divisional Director of Social Welfare, Department of Social Welfare any Social Welfare Officer appointed under section 8 of the Child Act 2001.

²¹ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#), section 18.

established. This court, the first of its kind in Southeast Asia, was launched in Putrajaya, Malaysia on June 22, 2017, and a second one now exists in Kuching.

One interviewee confirmed that the Sexual Offences against Children Court was created with *“the sole aim to hear and deal with sexual offences cases involving child victims (including OCSEA) under the Sexual Offences against Children Act 2017”* (RA4-J-MY-10-A, Sexual Crime Court Against Children). Currently, this court also hears existing sexual offences cases under other Acts such as the Penal Code and Child Act 2001. It is worth noting that the presiding judge for the court is an experienced judicial officer with a minimum of 20 years’ experience handling various criminal cases, including sexual offences cases. It was confirmed by several interviewees that the special court is equipped with child-friendly waiting rooms and video link facilities. The special court also has a different entrance and exit from those of other courts to enable children to be brought to and from the court with privacy.

One respondent noted that *“First of all, we have one designated court for sexual offences against the children, which is located in Putrajaya. This court only deals with victims who are 18 and below. This court is fully facilitated by proper adequate equipment. We offer video live conferencing and a CRT court recording system. Apart from that, we have a special room called the witness room, wherein these child victims will be placed to testify. In other words, the child is protected from giving evidence in an open court”* (RA4-J -MY-10-A, Sexual Crime Court Against Children).

Cases in the special court are also progressing faster than in an ordinary court, except in certain cases where multiple charges are made against the perpetrator. According to one interviewee, *“this usually occurs when the case involves many victims, or where the incident has occurred a long time ago, perhaps six or seven years ago”* (RA4-J-MY-10-A, Sexual Crime Court Against Children). Another interviewee pointed out that the process before ordinary courts (not specialised court) is a very lengthy and tedious process that sometimes makes the child victims forget crucial information regarding the incident/s (RA4-J-MY-03-A, Attorney General Chamber).

Another positive element of the special court is that the judge uses child-friendly language in the court proceedings, such as telling the child victims that: *“nobody is going to belittle you. Nobody is going to scold you. You may just tell what happened”* (RA4-J-MY-10-A, Sexual Crime Court Against Children).

There do, however, appear to be some ordinary courts which manage to handle child abuse cases in an appropriate manner. One respondent informed that he is of the view that Kuala Lumpur Magistrate Courts is one of the ordinary courts that handles child abuse cases with care and sensitivity. He said, *“In Mahkamah Kuala Lumpur, I am very happy that my Magistrate gave us ample time to ask a lot of questions. Additionally, we allow the child to speak as well. So, the child can say anything he/she wants”* (RA4-J-MY-01-A, Advocacy Officer, Advisor to Court of Children in Kuala Lumpur).

This method enables the court to extract important and sufficient evidence once the judge has gained the confidence of the child victim. (RA4-J-MY-10-A, Sexual Crime Court Against Children). Moreover, when the child victim is unable to acquire a lawyer, it will be the judge who will hear the child victims’ statements. In other words, the questions will be asked by the judge to the child victim. In addition to

this, it was stated that the court will prioritise cases involving child victims regardless of the forms of abuse, *“we prioritise cases according to contextual evidence first and we provide these children with ample time. We make sure they are comfortable, and they do not have to follow our rules if they feel that choose not to, such as if they need to go eat first, they may. Furthermore, when they come into the court, they can observe that the judge sits on the same level as the court advisors and the usage of child-terminology is present. Additionally, a toy room is provided and beneficial for the proceedings”* (RA4-J-MY-01-A, Advocacy Officer, Advisor to Court of Children in Kuala Lumpur).

One interviewee also shared that the use of anatomy dolls in court proceedings have often proven to be very helpful in child abuse cases. They observed that *“the usage of anatomy dolls in court proceedings is very helpful because when giving evidence the children will be asked in the court on exactly how the incident had happened and the usage of a doll helps them illustrate what the perpetrator has done to them accurately”* (RA4-J -MY-10-A, Sexual Crime Court Against Children).

In conclusion, the interviews showed that the specialised court with specialised and experienced judges can generally provide better services to child victims compared to the ordinary courts in Malaysia. Special courts do not yet exist across the country. Thus far, only two special courts exist in Malaysia, namely in Putrajaya and Kuching.

The Special Prosecution Unit under the Prosecution Division, Attorney General’s Chambers has a psychologist to assist the child victims during the pre-trial and/or trial. According to some interviewees, this is an effective approach, and they should have more psychologists helping them (RA4-MY-03-A-justice actor, Malaysia and RA4-MY-04-A-justice actor, Malaysia). One interviewee also mentioned that the Deputy Public Prosecutors will meet the child victims before the commencement of the case or trial in the Court to ensure the child is comfortable during the trial (RA4-J-MY-04-A, Attorney General Chamber).

“There is also good collaboration between the Attorney General’s Chambers and the Royal Malaysia Police, amongst others, to discuss how to extract crucial pieces of evidence from child victims according to the elements of the offences as provided under the law.” During this interaction, the officers from both agencies will discuss how to improve the evidence taking process in the Child Interview Centres (RA4-J-MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police).

According to one interviewee, the Child Interview Centre in D11 is more child-friendly today compared to earlier days (RA4-J-MY-06-A, Head of Case Management, Women's Aid Organisation). They added, *“I think the Child Interview Centre implements and conducts the statement-taking process differently than in the police station itself. It is quite a child-friendly place. they often do not merely ask questions and is dependable on how they can extract crucial information from the child without causing further re-traumatisation. This can be done by having drawings or by using dolls to interact with the child victim. Additionally, it is done by someone who is competently skilled and child-sensitive”* (RA4-J-MY-06-A, Head of Case Management, Women’s Aid Organisation).

RA4-J-MY-05-A, Services Director, Women's Aid Organisation was of the view that these Child Interview Centre facilities should be implemented across the country, including at district levels. However, it is also found that the Child Interview Centre facilities are not maintained regularly by the government due to the lack of resources. Also, a mere Child Interview Centre without trained and skilled police officers will not safeguard the best interest of the child victims.

The Department of Social Welfare provides shelter for victims of neglect, abuse, abandonment, and exploitation regardless of age and race (RA4-J-MY-04-A, Attorney General Chamber). However, most of the social welfare officers are not trained. Some are trained in other disciplines, often irrelevant to child protection. Some social welfare officers do not know the Child Act 2001 [Act 611] well.

One respondent stated that the medical services for both offline and online child sexual abuse cases provided by One Stop Crisis Centre are very effective. She said, *“The One Stop Crisis Centre is more effective in ensuring the child receives whatever support. The strength of the One Stop Crisis Centre is that the doctors there are more committed and are actively involved in helping the children”* (RA4-J-MY-05-A, Services Director, Women's Aid Organisation). As of now, based on the interviews, it was found that not many cases handled by One Stop Crisis Centre related to OCSEA.

Description of what is done by different criminal justice professionals (police, judges, prosecutors, lawyers, or other relevant staff) to make the process harder for children

One respondent informed that, for child sexual abuse cases, no counsellors from the Department of Social Welfare attend the Court together with child victims, to help them navigate the intimidating and confusing criminal justice system process. Due to the lack of counsellors at the Department of Social Welfare, the counsellors only attend certain cases, and according to information from the interviews they currently do not attend cases concerning sexual offences against children including OCSEA cases (RA4-J -MY-10-A, Sexual Crime Court Against Children).

Inappropriate questioning was identified as an issue during the interviews. Primarily, when a police report is lodged, a police officer will record the child's statements according to section 112 of the Criminal Procedure Code²². One respondent informed that *“children are facing difficulties in understanding the questions posed by the police officer during the investigation”* (RA4-J -MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police).

On the same point, another interviewee stated that she is *“aware of cases where child victims have to face inappropriate questions in the police station, occasionally made by unethical police officers or investigative officers who would insinuate that the act and blame rest on the child victims as the reason for the cases to have had occurred”* (RA4-J-MY-05-A, Services Director, Women's Aid Organisation).

²² Government of Malaysia. (1935). [Laws of Malaysia – Act 593 - Criminal Procedure Code](#), as amended in 2012, Section 112.

After the recordings under section 112 of the Criminal Procedure Code²³, there will be another video recording at the Child Interview Centre by another police officer. This video recording evidence shall be admitted as evidence-in-chief during the court proceeding, under the Evidence Act 1950 [Act 56].²⁴ One interviewee stated that *“some of the children’s interviews were done in a regular police station instead of in a special room”* (RA4-J-MY-06-A, Head of Case Management, Women's Aid Organisation).

This same experience was shared by another interviewee, who further added that *“there is no uniformity, which I think increases stress on the children, this is because not all recordings are done in the Child Interview Centre. I think this step is something that must be standardised. Sometimes they will record children’s statements in any normal police station”* (RA4-J-MY-05-A, Services Director, Women's Aid Organisation).

Furthermore, another added that *“different police stations have different kinds of procedures, additionally some may not follow the ethical and proper standard of procedure”* (RA4-J-MY-07-A, Founder, Protect and Save the Children).

Another factor that was deemed to make the process more difficult for child victims was having to go through repeated hearings. Following the recordings at Child Interview Centre, child victims will be asked similar questions again in the court hearings. Answering the same questions repetitively on various occasions can also be mentally challenging for the child victims according to another interviewee (RA4-J-MY-10-A, Sexual Crime Court Against Children).

The same interviewee said that *“when the child victims go for medical examination, they will be interviewed by the Suspected Child Abuse and Neglect Team first, then by the police officers in the Child Interview Centre and lastly in the court by the Deputy Public Prosecutors and the defence lawyers”* (RA4-J-MY-10-A, Sexual Crime Court Against Children).

Another interviewee stated that *“until the trial is completed, the child is expected to hold on to the traumatic memories and remember details of the case. Therefore, due to reinforcement caused by the repetitive nature of the questioning process, the child victims are often traumatised and suffer considerably”* (RA4-J-MY-03-A, Attorney General Chamber).

In addition, another interviewee further informed that *“the child victims frequently have a difficult time recalling their traumatic incidence because it has happened two or three years ago”* (RA4-J-MY-04-A, Attorney General Chamber).

A lot of paper work and documentation in the criminal justice process consume a lot of time until it is further burdening the child victims to remember the details of the case. On this note, one respondent stated *“Some delays take roughly two years, and the main reason for such a delay is mainly because of the documentation and formalisation of the paperwork process. Additionally, it takes about six months to complete the documentation and paperwork process”* (RA4-J-MY-03-A, Attorney General Chamber).

²³ Government of Malaysia. (1935). [Laws of Malaysia – Act 593 - Criminal Procedure Code](#), as amended in 2012, Section 112.

²⁴Government of Malaysia. (2007). [Laws of Malaysia – Act 676- Evidence of Children Witness Act 2007](#), Section 6.

One respondent stated that the criminal justice actors would have all the necessary details from the beginning and, therefore, would deliberately ask the child victims or their families repetitively to restate all the details which are psychologically traumatising and harmful to the child victims and their respective families (RA4-J-MY-06-A, Head of Case Management, Women's Aid Organisation).

Another interviewee said that the entire waiting period in getting through the criminal justice process is very challenging (RA4-J-MY-03-A, Attorney General Chamber).

The medical examination process itself is also challenging for a child. The interviewee said that *“in my experience, the whole medical examination and statement taking process is quite difficult for the child. Based on my experience, the medical team was, however, very patient and they were very understanding”* (RA4-J-MY-06-A, Head of Case Management, Women's Aid Organisation).

Another interviewee further added that the child victim has to wait for the medical check-up (RA4-J-MY-07-B, Manager, Projects and Operations, Protect and Save the Children). There is an inconsistency here as some child abuse cases required a waiting period of up to a month, while other cases simply had to wait for 2 days. The inconsistency is due to different practices by the untrained frontline workers in hospitals, especially in rural areas. The waiting period for the child victims to undergo their medical check-up often shows a lack of competency by the government which further frustrates the parties involved in these cases. Additionally, crucial pieces of evidence for the case from the child victims have often washed away and thus cannot be obtained.

One interviewee informed that, in all cases, the Deputy Public Prosecutors will have further questions in addition to the ones recorded in the video recording during the court proceedings (RA4-J-MY-10-A, Sexual Crime Court Against Children). Two other interviewees also confirmed that the questions from untrained investigating officers during the recording of statements do not fully cover the elements of offences as provided under the law and most of the questions prove to be leading questions ((RA4-J-MY-03-A, Attorney General Chamber and RA4-J-MY-04-A, Attorney General Chamber).

“When the police ask the questions, sometimes the questions do not fully cover the elements of offences provided under the law, hence we have to ask the questions via video links. Sometimes they use leading questions on the child victims. If we observe that this is the situation, we will not use the video recording and proceed with the video live link” (RA4-J-MY-03-A, Attorney General Chamber).

Hence, the Deputy Public Prosecutors are left with no further option but to re-examine the child victim again. The two interviewees agreed that this will further re-traumatise the child victim. They are left with no choice but to proceed with the examination in chief to secure the conviction against the perpetrator, otherwise, the evidence tendered by the prosecution team will not be admitted in the court. One of the interviewees stated that *“As Deputy Public Prosecutors, we will first go through the recorded video interviews by the police. This allows us to determine whether to use that video or not. If too many leading questions were asked by the investigation officer; in that case, we will not use the video recorded by them”* (RA4-J-MY-04-A, Attorney General Chamber). Where possible, the Deputy Public Prosecutors have always preferred video recordings as evidence as this provides fewer errors in the recollection of memory on the part of the victim (RA4-J-MY-03-A, Attorney General Chamber).

One interviewee informed that, in the special court, the judge will ensure that the defence counsels do not keep repeating the same questions to the child in the cross-examination (RA4-J -MY-10-A, Sexual Crime Court Against Children), but this is not applicable in non-specialised courts. The interviewee also explained that repeating the same questions over and over again will make the child victim frustrated and eventually the child victim will say *“I do not know”* for all the questions (RA4-J -MY-10-A, Sexual Crime Court Against Children).

Another respondent was of the view that the High Court is ahead in controlling the cross-examination questions from the defence counsels, however, the Magistrate Court does not do as well at controlling cross-examination: *“recently, two cases in the Petaling Jaya Magistrate Court proved that there are still Magistrates who do not follow proper ethical procedures”*. According to the interviewee, this is due to the lack of experience and skill, as the Magistrates are mostly junior legal officers (RA4-J-MY-02-A, Board Member, Voices of the Children).

Further, it was added that *“facing defence lawyers is challenging for the child victim as the defence lawyer will question the child victims in the court in an unethical manner and may cause confusion to the already fragile and traumatised child”* (RA4-J-MY-07-B, Manager, Projects and Operations, Protect and Save the Children).

Another interviewee confirmed: *“I feel that it is not easy for the child to answer to a defence lawyer and I feel that the child will be more traumatised”* (RA4-J-MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police).

Another noted that there were child victims who faced language barriers when dealing with criminal justice actors (RA4-J-MY-05-A, Services Director, Women's Aid Organisation).

Compensation

In Malaysia, the power of the Criminal Court to order compensation derived from criminal offences is set forth in Section 426 of the Criminal Procedural Code, and the general regime for compensation is provided under Section 432 of the Criminal Procedure Code. According to these provisions, child victims of OCSEA can seek compensation in criminal proceedings from convicted perpetrators.²⁵ Moreover, Section 426 (4) of the Criminal Procedure Code entitles them to institute an independent civil suit for the recovery of any property or the recovery of damages beyond the amount of compensation paid under the order.²⁶ The court shall take into consideration relevant factors when making the order for payment of compensation, amongst others the nature of the offence, the injury sustained by the victim, the expenses incurred by the victim, the loss of income incurred by the victim, the ability of the convicted accused to pay, and any other factors which the court deems relevant. The court also has the power to hold an inquiry if it deems it necessary to do so. This was confirmed by one respondent who stated that *“usually the compensation will be asked by the Deputy Public Prosecutor. For example, for a child sexual exploitation case with 600 charges, we have asked the court for a*

²⁵ Government of Malaysia. (1935). [Laws of Malaysia – Act 593 - Criminal Procedure Code](#), as amended in 2012, Sections 426 and 432.

²⁶ Government of Malaysia. (1935). [Laws of Malaysia – Act 593 - Criminal Procedure Code](#), as amended in 2012, Section 426 (4).

compensation of RM10,000 (approximately 2,386 USD as of August 2021)” (RA4-J-MY-03-A, Attorney General Chamber).

It was observed by one interviewee that the Deputy Public Prosecutors rarely exercise their power accordingly as granted under the law to help the child victims. This interviewee also confirmed that so far there has been only one case before the special court in Putrajaya in which compensation was applied for and granted at RM10,000 (approximately 2,386 USD as of August 2021) (RA4-J-MY-10-A, Sexual Crime Court Against Children). The same case was also referred to by another interviewee (RA4-J-MY-03-A, Attorney General Chamber). This compensation was granted for psychiatric treatment, as the child victim suffered extensively from physical, emotional, and mental disturbance.

Another respondent shared the view that there should also be some kind of compensation for transportation to and from the court as it would ease the child victims’ financial burden (RA4-J -MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police).

Answering the same, another interviewee stated that *“these child victims often have logistics and transportation problems to come to the courts. Often observed, it is the investigation officers who pay out their own money to cover and support these victim’s expenses”* (RA4-J-MY-10-A, Sexual Crime Court Against Children).

Two interviewees (RA4-J-MY-03-A, Attorney General Chamber, and RA4-J-MY-04-A, Attorney General Chamber) expressed severe concerns about the enforcement of the court order after the court has granted compensation. From past experiences, a large number of convicted offenders do not have the financial capacity to pay the compensation. When the convicted offender has defaulted payment of compensation, his/her imprisonment time will be further increased.

The respondent said additionally that *“the compensation money will not go to the child victims. Instead, it goes to the parents of child victims.”* The same interviewee informed that there are no specific guidelines in determining the quantum of the compensation (RA4-J-MY-03-A, Attorney General Chamber).

According to one interviewee, *“many child victims and their families are not aware of the compensation provisions provided for the child victims”* (RA4-J-MY-05-A, Services Director, Women's Aid Organisation).

Another was of the view that in most cases in which the offender pleads guilty, the court will not grant the compensation order, as pleading guilty is seen as a good reason for mitigation of sentences in court. In addition to that, the same interviewee informed that the victim’s family members will not pressure the Deputy Public Prosecutors to seek compensation when the perpetrator is blood-related and a family member (RA4-J -MY-08-A, Legal Aid Department).

Lastly, one interviewee confirmed that *“if the Deputy Public Prosecutor does not seek compensation, then the court has no power to grant any compensation”* (RA4-J -MY-10-A, Sexual Crime Court Against Children). It was observed that the judges’ hands are tied, and they do not have any discretion to decide by themselves if they want to grant compensation to the child victims based on the circumstances of the cases.

Successes

While there are few success stories to share regarding access to justice for OCSEA victims in Malaysia, a couple of promising practices are worth mentioning.

Firstly, interviewees stated that the prosecution division provides psychological services to aid child victims on matters as registered in the courts *“We have special officers trained to provide psychological needs for all children going through the trial process, that includes victims of OCSEA”* (RA4-J-MY-03-A, Attorney General Chamber, and RA4-J-MY-04-A, Attorney General Chamber).

Secondly, while payment of compensation is still highly unusual, there has been one case before the Special Court in Putrajaya in which compensation was applied for and granted at RM10,000 (approximately 2,386 USD as of August 2021). This compensation was granted for psychiatric treatment, as the child victim suffered extensively from physical, emotional, and mental disturbance.

Challenges / Changes Needed

There are several challenges faced by criminal justice professionals. Perhaps the biggest challenge is gaining the confidence of the child before the investigation begins. *“As police officers, we are facing difficulties in gaining confidence from the child victim first”* (RA4-J-MY-01-A, Advocacy Officer, Advisor to Court of Children in Kuala Lumpur).

One major challenge expressed by the interviewees is that OCSEA cases are more time consuming, because it includes psychological abuse such as using a child for grooming and secondly when the perpetrators are from different jurisdictions. *“OCSEA cases are more time consuming if it is done online such as grooming and when the perpetrators come from another state”* (RA4-J -MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police).

Another interviewee shared that *“it is a time-consuming process; I know the investigation officers have so many cases, the D11 also have so many cases. For the welfare department officers also talk to the child and the family members that also needs long hours”* (RA4-J-MY-01-A, Advocacy Officer, Advisor to Court of Children in Kuala Lumpur).

The Deputy Public Prosecutors handle a lot of cases and that is usually the main reason for the delay in child abuse trials. *“A lot of cases handled by one Deputy Public Prosecutor is the main reason for the delay”* (RA4-J-MY-05-A, Services Director, Women’s Aid Organisation).

It is often the case that the trained officers are transferred to other departments and there is no standard time frame for the transfer of the officers that deal with these child sexual abuse cases. *“After the training, the police officers are transferred”* (RA4-J-MY-07-A, Founder, Protect and Save the Children and RA4-J-MY-07-B, Manager, Projects and Operations, Protect and Save the Children).

Another interviewee stated that *“after training officer gets transferred”* (RA4-J-MY-10-A, Sexual Crime Court Against Children). Furthermore, handling the victim/witness during the trial, especially a child witness, requires more patience and expertise. There are times when the child victim refuses to

cooperate and has difficulty testifying in court. All involved parties would have to wait for the child to testify. This makes it difficult for the Deputy Public Prosecutor to conduct the trial (RA4-J-MY-07-A, Founder, Protect and Save the Children and RA4-J-MY-07-B, Manager, Projects and Operations, Protect and Save the Children). Additionally, the credibility of the child to provide evidence in court under stress due to this taxing legal process is often disputed.

It is noted that, in 2010, the Criminal Procedure Code [Act 593]²⁷ was amended to insert a new provision that enables the court to consider a statement made by the victim of an offence or a member of his/her family on the impact of the offence committed against the victim before the court passes sentence. The objective of these amendments is to recognise the rights of the victims of crime. The victim impact statement provides the court with information about the effect of the offence upon the victim or his/her family. The criminal justice process must be fair to both victims and offenders. By having the courts consider victim impact statements before passing sentence, the balance between the offender and the victim in the criminal justice system (which is often offender-oriented) is restored.²⁸ However, according to one interviewee, the victim impact statement taking process itself is traumatising for the child as well as for their family members: *“I would say the Victim Impact Statement itself, expects for any member of the family to include in detail elements of the trauma and what they have experienced from different kinds of perspectives either psychologically or financially or in any other way, which I think can be quite re-traumatising. I feel that from the beginning until the end, the Deputy Public Prosecutors already have the statement from the child and different parties yet they choose to redo this process again which I am sure is quite re-traumatising.”* (RA4-J-MY-06-A, Head of Case Management, Women’s Aid Organisation).

Moreover, the interviews showed that *“there are family members who do not want to co-operate with police officers or support child victims, especially when the perpetrator is blood-related or a family member”* (RA4-J-MY-10-A, Sexual Crime Court Against Children). Continuous harassment and pressure from family members can make the child victims withdraw the case in the court or the police station. Additionally, there are cases whereby the victim and perpetrator choose to settle outside the courts (RA4-J-MY-10-A, Sexual Crime Court Against Children). However, these remedies are usually in the form of giving financial or monetary compensation or by marrying the child victim to the perpetrator to avoid societal shame.

Additionally, it was observed that government agencies do not communicate among themselves effectively. Interviewees further added that the agencies do not share data among themselves and have numerous inconsistencies in data retrieved among the different agencies. *“The government agencies do not communicate inter-agency well and do not work together by sharing crucial data in hopes to aid the investigation.”* The same interviewee added that *“I think data and statistics should be out in the open, this will allow for the public to engage and understand the situation and difficulties.”* (RA4-J-MY-01-A, Advocacy Officer, Advisor to Court of Children in Kuala Lumpur).

²⁷ Government of Malaysia. (1935). [Laws of Malaysia – Act 593 - Criminal Procedure Code](#), as amended in 2012.

²⁸ Government of Malaysia. (2010). [Laws of Malaysia – \[Act A1378\]- Criminal Procedure Code \(Amendment\) Act 2010](#).

There were several suggestions and recommendations from the research interviewees to make it easier/better for children to participate in criminal cases against their abusers. The desk review identified that Evidence of Child Witnesses Act 2007 [Act 676]²⁹ provides for a range of special measures to facilitate children’s testimony. In section 4, the Act provides different ways to limit the contact between the child witness and the accused by holding a barrier between them or by live or recorded video.³⁰ The adoption of the Evidence of Child Witness Act in 2007³¹ affirmed Malaysia’s commitment to adapt its legal procedures to children.³² However, it applies only to children under 16 and is not consistently applied in all cases involving child victims across the nation.³³ On the age limit concerning the application of this Act, one of the interviewees suggested to *“amend the Evidence of Child Witness Act 2017 [Act 676] to raise the children’s age from 16 to 18 years old as the current Act applies only to children under 16 years and is inconsistently applied to all child victim cases”* (RA4-J-MY-04-A, Attorney General Chamber). This is also to ensure that all children below 18 years old who become victims of sexual exploitation, including OCSEA, are protected under Malaysian law as per the international regulations and standard. It was also confirmed by some of the interviewees that the Evidence of Child Witnesses Act 2007 [Act 676]³⁴ allows for a videotaped statement of the child’s police interview to be used as evidence in chief but does not provide for videotaped cross-examination and re-examination.³⁵ Some interviewees acknowledged the implementation of this Act, although some of the facilities cannot be used due to a lack of resources and priority from the government.

Secondly, two of the interviewees, also suggested amending section 426 of the Criminal Procedure Code [Act 593]³⁶ *“to provide more details for determining the quantum of the compensation and introduce guidelines for the Deputy Public Prosecutors who handle child abuse cases on the procedures to apply for compensation in court”* (RA4-J-MY-03-A, Attorney General Chamber, and RA4-J-MY-04-A, Attorney General Chamber). It was also opined that the Deputy Public Prosecutor must actively seek compensation for child victims. On this note, the interviewee stated that *“If Deputy Public Prosecutor did not request for compensation, the judge will not award it”* (RA4-J-MY-03-A, Attorney General Chamber).

Two interviewees suggested that the government should *“expand the special court for sexual offences against children with the same facilities concept including the video link facilities and a separate child witness room to all the states in Malaysia”* (RA4-J-MY-03-A, Attorney General Chamber, and RA4-J-MY-04-A, Attorney General Chamber).

The court facilities are limited and only special courts such as in Putrajaya and Kuching have good facilities for child abuse cases, including video link facilities. Another respondent informed that some

²⁹ Government of Malaysia. (2007). [Laws of Malaysia - Act 676 - Evidence of Child Witness Act 2007](#).

³⁰ Government of Malaysia. (2007). [Laws of Malaysia - Act 676 - Evidence of Child Witness Act 2007](#), Section 4, paragraph 1.

³¹ Government of Malaysia. (2007). [Laws of Malaysia - Act 676 - Evidence of Child Witness Act 2007](#).

³² Government of Malaysia. (2007). [Laws of Malaysia - Act 676 - Evidence of Child Witness Act 2007](#).

³³ Government of Malaysia. (2007). [Laws of Malaysia - Act 676 - Evidence of Child Witness Act 2007, Section 2](#).

³⁴ Government of Malaysia. (2007). [Laws of Malaysia - Act 676 - Evidence of Child Witness Act 2007](#)

³⁵ Government of Malaysia. (2007). [Laws of Malaysia - Act 676 - Evidence of Child Witness Act 2007, Section 6](#).

³⁶ Government of Malaysia. (1935). [Laws of Malaysia – Act 593 - Criminal Procedure Code](#), as amended in 2012, Section 426.

courts do not have a separate room for child witnesses, and the child victims will be placed amongst the adults (RA4-J -MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police).

One respondent shared her experience that *“different courts have different facilities. For example, when we went to Melaka for a case, they had a children's room for children survivors and their families. However, in Petaling Jaya courts or other courts in Klang Valley only normal rooms are available for the child victims”* (RA4-J-MY-05-A, Services Director, Women's Aid Organisation).

Most of the NGO interviewees supported this idea and stated that making video link rooms and child witness rooms available in all courts across the nation will allow for the child victims to prepare to give evidence without having to encounter the accused or his family members. Importantly, one interviewee stated that *“there should not be any key performance index for disposal of sexual offences against children cases”* (RA4-J-MY-03-A, Attorney General Chamber).³⁷

Some interviewees mentioned that introducing a comprehensive and standardised training module on handling cases involving child victims in a sensitive, ethical, and effective manner for law enforcement officers, prosecutors, judges, social workers, teachers, and counsellors would be optimal. It was shared that *“I think when it comes to what is most crucial, it is the interviewing process for these children and therefore, I feel, the police officers may need to be further sensitised or further trained”* (RA4-J-MY-05-A, Services Director, Women's Aid Organisation).

Furthermore, it was added that *“sensitisation training should be given to all the officers, especially new officers that come on board this should also include judges, deputy public prosecutors or anyone else that is involved in this whole process”* (RA4-J-MY-06-A, Head of Case Management, Women's Aid Organisation).

Additionally, it was stated that *“the judges must be equipped with digital knowledge”* and this will help the judges understand better the complexity of OCSEA cases (RA4-J -MY-10-A, Sexual Crime Court Against Children).

There should also be a counsellor from the Department of Social Welfare to attend the court proceedings to help child victims to navigate the intimidating and confusing criminal justice system process and to provide crisis intervention during the trial (RA4-J -MY-10-A, Sexual Crime Court Against Children) along the way with the legal companion.

One respondent shared that *“the children are worried about the involvement of welfare departments, the police force, as well as what is going to happen to their school socialisation and their education, which would also include their general well-being. Of course, the majority of Malaysians do not understand the law, they know about the existence of a law, but they don't know how they can be protected by it”* (RA4-J-MY-01-A, Advocacy Officer, Advisor to Court of Children in Kuala Lumpur).

³⁷ Key Performance Index is used by the Malaysia Government to measure the performance of Government agencies/Courts etc. For the Courts, there is KPI to dispose of cases as soon as possible.

Continuously implementing awareness programmes, especially within schools in rural areas, on the contents of the Sexual Offences against Children Act 2017 [Act 792]³⁸ as well as on online threats such as child sexual abuse material, sexting, sextortion and live streaming offences was also mentioned.

“More awareness needs to be created for the contents of the Sexual Offences against Children Act 2017 in which includes the details of the OCSEA offences” (RA4-J-MY-05-A, Services Director, Women’s Aid Organisation).

“Some schools do not know of the existence of this Act and therefore exposure [awareness raising] of this Act must be done in rural areas. Additionally, this will educate these children on OCSEA” (RA4-J-MY-05-A, Services Director, Women’s Aid Organisation).

Introducing a specific subject on sexual education for primary and secondary school students was also discussed. One respondent stated that *“I think sex education should be a compulsory subject”* (RA4-J-MY-09-A, Deputy Superintendent of Police, Royal Malaysian Police).

Another interviewee stated that *“For me, I think our schools need to step up and need to educate them about what happens, I had an issue personally with my daughter and she goes to an international school and there was something about sexual molestation in her class. This is international school; even they do not tell them if this happens to you and what you need to do”* (RA4-J-MY-02-A, Board Member, Voices of the Children). This suggestion still came up from the interviewees despite the fact that Malaysian school children at primary and secondary levels learn about the risks of sexual exploitation and sexual abuse and the means to protect themselves through the syllabus of Physical and Health Education, Science Education, Islamic Education, and Moral Education.

In addition to that, it was suggested that *“we must have an institution which will help the child victims during the investigation and process of the trial to give them support. I know we have the Social Welfare Department, but I do not think that they can help much because they have a lot of other things to do”* (RA4-J-MY-03-A, Attorney General Chamber).

Another respondent suggested there should be an incentive given to schoolteachers who make a police report for their students’ in sexual abuse cases. *“The schools should provide incentives to teachers who help report the incident to law enforcement officers”* (RA4-J-MY-01-A, Advocacy Officer, Advisor to Court of Children in Kuala Lumpur). It was observed that this could be a good motivation factor for school-teachers to lodge a report when they detect any child abuse cases in the schools. The government should provide sufficient budget allocations for child protection matters, including CSEA and OCSEA issues, and ensure that sufficient human resources are available to handle this issue, as well as additional funding for the Legal Aid Department to provide legal companion services for all child victims (RA4-J-MY-07-A, Founder, Protect and Save the Children and RA4-J-MY-07-B, Manager, Projects and Operations, Protect and Save the Children).

The desk review identified that Malaysia launched a national child sex offender registry that came into

³⁸ Government of Malaysia. (2017). [Laws of Malaysia – Act 792 - Sexual Offences against Children Act 2017](#).

effect in April 2019. As of November 2019, the registry has received 155 applications for background checks which involve some 2,897 employees (existing staff and potential employees).³⁹ Before this date, the Registration of Criminals and Undesirable Persons Act 1969 provided for a registry that included certain sexual crimes but that was not made available for the public.⁴⁰ The new sex offenders' registry, regulated in Sections 118 to 120 of the Child Act,⁴¹ allows people to verify if the individual has committed any sexual offence against children by filling in a form and stating their relationship to the individual at the department's state office, or the department district office.⁴² In this regard, one interviewee was of the opinion that "*the sex offender's registry should be made public*" (RA4-J-MY-01-A, Advocacy Officer, Advisor to Court of Children in Kuala Lumpur).

³⁹ Yeoh, YB MS Hannah (Minister of Women, Family and Community Development, Malaysia). (2019). Speech delivered during the Global Summit To Tackle Online Child Sexual Exploitation held on 11 and 12 December 2019.

⁴⁰ Government of Malaysia. (1969). [Laws of Malaysia - Act 7 - Registration of Criminals and Undesirable Persons Act 1969](#).

⁴¹ Government of Malaysia. (2001). [Laws of Malaysia - Act 611 - Child Act 2001](#), as amended in 2017, Sections 118 to 120.

⁴² Asia Times Staff (2019). [Malaysia launches child sex offender's registry](#), Asia Times.