



**Submission to the  
Office of the High Commissioner for Human Rights**

**Contributions to the OHCHR study on the  
Right to Education of Persons with Disabilities**

1. Any restrictions faced by children with disabilities in attending school, whether they exist in laws or policy, or if they exist only as a result of social barriers.
  - Pursuant to the MOE-Ministry of Education’s Special Education Program, children with disabilities in Malaysia have three options for schooling: (i) special education schools (schools catering exclusively for students with disabilities); (ii) the Special Education Integrated Program (special education classes within mainstream primary, secondary and technical/vocational secondary schools); and (iii) inclusive education programs (mainstream schools that integrate between 1-5 students with special needs into mainstream classes).<sup>1</sup>
  - In order to qualify to attend a MOE school, children with disabilities must (i) be able to manage themselves (self-care) and (ii) be certified by a medical practitioner<sup>2</sup> to be either having visual, hearing and/or some learning disability (limited to mild autism, mild down syndrome, attention deficit hyperactive disorder, minimal mental retardation and specific learning disabilities such as dyslexia).<sup>3</sup>
  - Regulation 3 of the Education (Special Education) Regulations 1997 excludes the “uneducable” from MOE schools, though it has been promised by the BPKHas (Special Education Division) at several meetings with NGOs that steps are being taken to delete this provision. According to the Education (Special Education) Regulations 1997, for government and government-aided schools, pupils with special needs who are educable are eligible to attend the special education programme except for the following pupils: “(a) physically handicapped pupils, with the mental ability to learn like normal pupils; and (b) pupils with multiple disabilities or with profound physical handicap or

<sup>1</sup> Preliminary Report: Malaysian Education Blueprint, 2013-2025, September 2012, p. 4-17. Retrieved from <http://www.moe.gov.my/?id=372&lang=en>

<sup>2</sup> Kiwanis Disability and Information Support Centre Malaysia. *KIDSC Factsheet – Ministry of Education Malaysia: Services provided for children with special needs*, 2009. Retrieved from:

<http://www.disabilitymalaysia.com/index2.php?type=view&table=factsheet&id=69>

<sup>3</sup> These being the types of learning disabilities that fall within the purview of the MOE. See Ministry of Education, *Special Education*. Retrieved from: <http://www.moe.gov.my/?id=98>



with severe mental retardation.”<sup>4</sup> Furthermore, “a pupil with special needs is educable if he is able to manage himself without help and is confirmed by a panel consisting of a medical practitioner, and representatives from JKM and MOE, as capable of undergoing the national education system.<sup>5</sup> However, it appears that this “panel” does not actually exist and the Special Education Unit Head or principals actually have the final say.<sup>6</sup>

- Children who do not meet the criteria for admission to MOE schools will be deprived of a formal education and sent to JKM administered Community Based Rehabilitation (CBR) programs. Children who have been placed in the Special Education Program under the MOE but who fail the mandatory three month probation period will also be referred to JKM for continued education through CBRs.<sup>7</sup> No further information is available on the criteria for passing this three month probation period.
2. Does your country have or is currently developing a program or plan to promote inclusion of children with disabilities in regular schools and discourage education in special schools or social institutions? If so, were persons with disabilities and their representative organizations, and other disability related organizations directly involved in the design and application of said program or plan? Please, briefly describe the program (no more than 500 words)
- In 2012, it was reported that the majority (~89%) of students with special needs are enrolled in MOE-Ministry of Education schools are placed in integrated programmes, (~5%) attend special education schools while only (~6%) were in inclusive education programs.<sup>8</sup> In the government’s Preliminary Education Blueprint for 2013-2025, very little emphasis has been placed on implementing inclusive education for children with special needs; instead, attention is focused on developing screening instruments to segregate children with special needs according to their different levels of ‘competency’.<sup>9</sup>

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<sup>4</sup> Regulation 3(1), Education (Special Education) Regulations 1997

<sup>5</sup> Regulation 3(2), Education (Special Education) Regulations 1997

<sup>6</sup> Toran, H. *Disable Children: Rights & Direction*, Presentation at Malaysian Bar Council, May 2012

<sup>7</sup> Kiwanis Disability and Information Support Centre Malaysia. *KIDSC Factsheet – Ministry of Education Malaysia: Services provided for children with special needs*, 2009. Retrieved from:

<http://www.disabilitymalaysia.com/index2.php?type=view&table=factsheet&id=69>

<sup>8</sup> Preliminary Report: Malaysian Education Blueprint, 2013-2025, September 2012, p. 4-17. Retrieved from

<http://www.moe.gov.my/?id=372&lang=en>

<sup>9</sup> Preliminary Report: Malaysian Education Blueprint, 2013-2025, September 2012, p. 4-17. Retrieved from

<http://www.moe.gov.my/?id=372&lang=en>; National Early Childhood Intervention Council (NECIC), *Letdown for Special Needs*



- Generally, the practice of inclusive education in Malaysia is limited to the selective placement of children with special needs from special education classes into mainstream classes.<sup>10</sup> Part of the difficulty lies in the lack of a formal support system for teachers and school administrators to implement inclusive education; large class sizes, together with the absence of cohesive policies on inclusive education, as well as lack of multi-agency collaboration, resources and specialized services for children with disabilities has meant that the approach is still one of integration.<sup>11</sup> The focus remains on helping a particular category of students fit into the mainstream, rather than the school's duty to provide an inclusive education to meet the unique characteristics, abilities and learning needs of every child.
- The Prime Minister and the MOE for extended invitations for feedback on the improvement of the education system. However, feedback given by the National Early Childhood Intervention Council (NECIC) appears to have received limited response from government sectors, and children with special needs have remained largely ignored. The Memorandum on Inclusive Education as National Policy for Children with Special Needs, which was submitted in June 2012 and endorsed by 57 Non-Governmental Organizations throughout Malaysia, has not been followed up by the MOE. Similarly, the Memorandum on Early Childhood Intervention submitted at the 1<sup>st</sup> National Early Childhood Intervention Conference in 2006 did not result in any concrete action being taken for children with special needs.<sup>12</sup> NECIC also raised their concern that revisions to the education system are being done without the involvement of NGOs, parents and professionals who are able to provide valuable feedback before they are implemented as laws.<sup>13</sup>
- The National Autism Society of Malaysia (NASOM) has been providing trained teacher's assistants in a public school in Kuala Lumpur to support students in the inclusion program since 2005. However, in a consultation organized by the CRCM

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Kids, The Star Online, 26 September 2012. Retrieved from

<http://thestar.com.my/news/story.asp?file=/2012/9/26/focus/12080104&sec=focus>

<sup>10</sup> Lee, L.W., *Different Strategies for Embracing Inclusive Education: A Snap Shot of Individual Cases from Three Countries*, International Journal of Special Education, Vol. 25. No 3, 2010, p. 105

<sup>11</sup> Lee, L.W., *Different Strategies for Embracing Inclusive Education: A Snap Shot of Individual Cases from Three Countries*, International Journal of Special Education, Vol. 25. No 3, 2010, p. 106-107

<sup>12</sup> Malaysian Care, Member of NECIC, 13 September 2012

<sup>13</sup> Amar Singh, "Education for all, disabled or otherwise — National Early Childhood Intervention Council", 4 September 2012, The Malaysian Insider <http://www.themalaysianinsider.com/sideviews/article/education-for-all-disabled-or-otherwise-national-early-childhood-intervention-council>



with various NGOs on 30 October 2012, NASOM indicated that there was not financial provision given by the MOE for this program and NASOM was unable to replicate the same model in other schools due to financial limitations.

3. Is the Ministry of Education the only ministry in charge of education or other ministries (eg. Health and Social Affairs) are involved when it comes to persons with disabilities? Please describe how other ministries get involved and specify if their involvement results on the denial of access to mainstream schools (no more than 250 words)
  - There is a Special Education Division under the MOE. There is no collaboration between the ministries in providing education for persons with disabilities at school level.
4. Does your country have effective mechanisms to successfully claim in case of rejection of students with disabilities from mainstream schools? If so, do those mechanisms guarantee for reasonable accommodation when services or support need are not in place? Please provide information on good practices.
  - Malaysia entered formal reservations to the Convention on the Rights of Persons with Disabilities and made a declaration limiting the government's legal application of the principles of non-discrimination and equality. Although the Persons with Disabilities Act (passed in 2008) provides for many rights, there is no penalty or provision for redress against those who discriminate against persons with disabilities. There is also an express prohibition in the PWD Act on legal action against the Malaysian government for violating the rights of persons with disabilities. For this reason, critics have called the PWD Act a "toothless tiger"<sup>14</sup>.
5. Are you aware if your country is involved in international cooperation programmes related to the promotion and implementation of inclusive education systems? If so, is your organization involved in any such programs?
  - According to the Malaysia Education Blueprint 2013-2025, the Ministry will collaborate with specialist organisations such as the Southeast Asian

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<sup>14</sup> US State Department. 2010 Country Reports on Human Rights Practices – Malaysia



Ministers of Education Organisation Regional Centre for Special Education (SEAMEO-SEN).

6. Is there any additional information you wish to provide?
- The Convention on the Rights of Persons with Disabilities (CRPD) came into effect in Malaysia in 2010; Malaysia also adopted the National Policy for Persons with Disabilities 2007, the National Plan of Action for Persons with Disabilities 2008 to 2012, and the Persons with Disabilities Act. However, there are gaps in the framework which are detrimental to children with disabilities.
  - Currently there are 28 special education primary schools and 5 special education secondary schools<sup>15</sup>. In October 2012, there were 2 special education vocational secondary schools in Malaysia.<sup>16</sup> It is unlikely that there are sufficient numbers of special education schools to meet the needs of the actual population with disabilities,<sup>17</sup> particularly at the secondary school level. It is also noted that as of 2011, all 4 special education secondary schools are located in urban areas.<sup>18</sup> Special education schools only cater for students with hearing and visual impairment, as well as those with learning disabilities.
  - As of October 2012, there are 1,292 primary and 679 secondary schools under the Special Education Integrated Program.<sup>19</sup> The majority of students placed in special education classes are students with intellectual and/or behavioural disabilities (including students with cognitive disabilities, autism, or attention deficit hyperactive disorders).<sup>20</sup> The criteria for assessing

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<sup>15</sup> National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 – Malaysia  
<http://www.ohchr.org/EN/HRBodies/UPR/Pages/MYSession17.aspx>

<sup>16</sup> Pusat Maklumat Setempat Pendidikan Khas (One Stop Information Centre for Special Education), *Program Pendidikan Khas Integrasi (Special Education Integrated Program)*, Retrieved from  
[http://pmspk.moe.gov.my/index.php?option=com\\_content&view=article&id=104%3Aprogram-pendidikan-khas-integrasi&catid=59%3Apendidikan&Itemid=97&lang=bn&showall=1](http://pmspk.moe.gov.my/index.php?option=com_content&view=article&id=104%3Aprogram-pendidikan-khas-integrasi&catid=59%3Apendidikan&Itemid=97&lang=bn&showall=1)

<sup>17</sup> US State Department 2010 Country Reports on Human Rights Practices – Malaysia.

<sup>18</sup> Educational Data Sector, Educational Planning and Research Division, Ministry of Education Malaysia, *Quick Facts 2011: Malaysia Educational Statistics*, July 2011. Retrieved from  
[http://emisportal.moe.gov.my/emis/emis2/emisportal2/doc/fckeditor/File/Quickfacts\\_2011/Quickfacts2011.pdf](http://emisportal.moe.gov.my/emis/emis2/emisportal2/doc/fckeditor/File/Quickfacts_2011/Quickfacts2011.pdf)

<sup>19</sup> Pusat Maklumat Setempat Pendidikan Khas (One Stop Information Centre for Special Education), *Program Pendidikan Khas Integrasi (Special Education Integrated Program)*, Retrieved from  
[http://pmspk.moe.gov.my/index.php?option=com\\_content&view=article&id=104%3Aprogram-pendidikan-khas-integrasi&catid=59%3Apendidikan&Itemid=97&lang=bn&showall=1](http://pmspk.moe.gov.my/index.php?option=com_content&view=article&id=104%3Aprogram-pendidikan-khas-integrasi&catid=59%3Apendidikan&Itemid=97&lang=bn&showall=1)

<sup>20</sup> Pusat Maklumat Setempat Pendidikan Khas (One Stop Information Centre for Special Education), *Program Pendidikan Khas Integrasi (Special Education Integrated Program)*, Retrieved from



eligibility for entrance into special education classes is unclear as there are no MOE prescribed rules or policies on whether a child should remain in or be segregated from mainstream learning; instead, the decision rests entirely with the school's administration, following advice from the school's special education teachers and the willingness of mainstream teachers to include children with special needs in their classes.<sup>21</sup>

- The LINUS Screening Tests under the LINUS Program are another means by which children can be placed in special education classes.<sup>22</sup> If a child fails the LINUS Screening Tests repeatedly after LINUS interventions, they will be given a medical assessment; if diagnosed as having learning difficulties; they will be placed in special education classes.<sup>23</sup> There have been reports however, that schools may tend to place poorly performing students (who may or may not have learning difficulties) under special education classes to avoid any impact on the school's overall academic performance in public examinations.<sup>24</sup>
- The drop-out rate for children with disabilities is a major concern, resulting in part from difficulties in access for children who use wheelchairs and from a lack of facilities, programs, and trained personnel to assist children with learning disabilities.<sup>25</sup> The MOE does not have accurate data on the number of children with disabilities who dropout from school.<sup>26</sup>
- Teacher knowledge/training on the provision of special education for children with disabilities, as well as learning support for such children is also lacking.

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[http://pmspk.moe.gov.my/index.php?option=com\\_content&view=article&id=104%3Aprogram-pendidikan-khas-integrasi&catid=59%3Apendidikan&Itemid=97&lang=bm&showall=1](http://pmspk.moe.gov.my/index.php?option=com_content&view=article&id=104%3Aprogram-pendidikan-khas-integrasi&catid=59%3Apendidikan&Itemid=97&lang=bm&showall=1)

<sup>21</sup> Ibrahim, H. *Special Education, Inclusive Practices and the Teaching of Sciences and Mathematics to Children with Special Needs*, Paper presented at the Second International Conference on Science and Mathematics Education, SEAMEO RECSAM, Penang, Malaysia, 13-15 November 2007, p.2. Retrieved from

<http://www.recsam.edu.my/cosmed/cosmed07/AbstractsFullPapers2007/keynotes%20&%20plenary%5CPL001F.pdf>

<sup>22</sup> The LINUS Program, initiated as part of the governments Education National Key Result Areas, is a remedial programme designed to ensure students acquire basic literacy (Bahasa Malaysia) and numeracy skills at the end of 3 years of primary education. The program is targeted at students who have difficulties in reading, writing and arithmetic. It is not however, implemented in all schools, but only in those thus far selected by the MOE .

<sup>23</sup> PEMANDU, *Literacy and Numeracy Program*, Education NKRA Lab. Retrieved from:

[http://pelajaranperak.gov.my/v2/modules/mastop\\_publish/files/files\\_4b2ed3402c1e0.pdf](http://pelajaranperak.gov.my/v2/modules/mastop_publish/files/files_4b2ed3402c1e0.pdf)

<sup>24</sup> Bar Council of Malaysia, *Roundtable Discussion on 'Persons with Disabilities Act 2008 – Right to Education: Report Summary*, 7 September 2009

<sup>25</sup> Human Rights Watch. *Malaysia: Disability Rights Treaty Ratification an 'Important Step*, 16 August 2010. Retrieved from:

<http://www.hrw.org/news/2010/08/16/malaysia-disability-rights-treaty-ratification-important-step>

<sup>26</sup> Kuno, K., *Does Community Based Rehabilitation Really work? Community Based Rehabilitation and Participation of Disabled People*, ISM Research Monograph Series No.5, April 2007.



In a survey<sup>27</sup> administered to parents and service providers of children with disabilities, it was identified that the main challenges faced in having equal access to primary education include: the lack of experienced teachers; facilities which are not friendly for children with disabilities; and schools that are not equipped with adequate learning support systems such as visual support signs with more pictures and teacher aides to assist in group sessions.<sup>28</sup> All respondents also felt that teachers need to be more experienced and qualified in teaching children with special needs as well as the need for attitudinal change of teachers who are not sensitive to the emotional needs of these children.<sup>29</sup>

- According to the National report submitted for the 17<sup>th</sup> session of the Universal Periodic Review, pupils with Special Educational Needs (SEN) are assured 13 years of free education, two years additional compared to the 11 years provided to pupils without SEN. The Government has introduced alternative education pathways for pupils with SEN to meet their learning needs and to help them achieve their full potential, including through: (i) Inclusive Education (IE); (ii) Integrated Special Education Programme (ISEP); and (iii) Special Education Schools. Presently, the Government maintains 33 special schools (28 Special Primary Schools and 5 Special Secondary Schools) for pupils with SEN<sup>30</sup>.
- In the first wave of the Education Blueprint roadmap on “Improving quality and inclusion”, “high-functioning” students with special needs who can cope with the mainstream curriculum and assessments will be encouraged to attend inclusive education programmes. Moderate-functioning students with special needs will attend SEIP. Low-functioning students with special needs will be encouraged to attend special education schools where they can expect to learn a simplified curriculum focused on basic skills, life skills, and social skills”.

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<sup>27</sup> The survey, administered by Malaysian Care in 2011-2012 to parents/guardians (83 respondents), teachers (8 respondents) and service providers (14 centres) of children with disabilities in Malaysia, focused on equal access to education and health services for children with disabilities in the country.

<sup>28</sup> Malaysian Care, *Survey on Equal Access to Education for Children with Special Needs and Early Detection and Intervention (unpublished)*, 2012

<sup>29</sup> Malaysian Care, *Survey on Equal Access to Education for Children with Special Needs and Early Detection and Intervention (unpublished)*, 2012

<sup>30</sup> National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 – Malaysia <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MYSession17.aspx>



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