

## QUALITY ENHANCEMENT OF CHILD CARE CENTRES IN MALAYSIA: AN ANALYSIS ON LAWS AND REGULATIONS

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### ABSTRACT

*The objective of this paper is to explore the literature on child care settings in Malaysia and to analyse existing laws and regulations involving child care centres in Malaysia. The cases of maltreatments and negligence in child care centres happening around the country are alarming. Though there are already existing laws and regulations governing this issue, the repeated cases occurring year by year illustrate to us that the existing legal mechanism needs to be scrutinised for improvements. It is high time for the laws on child care to be reviewed to suit the current demands. Therefore, this paper is undertaken not just to deal with the present problems on child care centres, but also aim to prevent more unwanted incidents in future by enhancing the quality of service provided by child care through legislative limb. Existing provisions, case laws, conference papers, academic journals, textbooks, reports, studies, evaluations and other materials on child care in Malaysia are scrutinised.*

Keywords: child care, child protection, quality

### 1.0 INTRODUCTION

Child care services are one of the necessities of the families. The increasing percentage of women getting involved in the labour force in Malaysia which is 54.1percent in 2015 compared to 46.8percent in 2011 (Talent Corp, 2016) boosts the demand for child care centres (Sulaiman, Othman, Perumal, & Hussin, 2013). It is interesting to note that the escalation of child care services is happening around the world, not just in Malaysia (Omar, Abu, Sapuan, & Aziz, 2010). Moreover, in the Eleventh Malaysia Plan, the government aims to increase women's participation in the labour force to 59percent by 2020 (Economic Planning Unit, 2015). Therefore, it is predicted that there will be a higher demand for child care services in future to accommodate women's participation in the workforce.

In Malaysia, the multiple types of child care centres can be generally names as Taman Asuhan Kanak-Kanak (TASKA) (Ministry of Education, 2008). There are four categories of child care centres as can be seen in Section 5 of Child Care Centres Act 1984 (CCCA) which are home based child care centre, work place based child care centres, community based child care centre, and institution based child care centre.

There is a requirement under the law specifically under Part II of CCCA for the child care centres to register with the Ministry of Women, Family and Community Development (MWFCD). In 2014, according to the statistics from Social Welfare Department (SWD), there are 3760 registered child care centres and 14 234 registered caregivers in Malaysia catering 68 432 children (Department of Social Welfare, 2014). Nevertheless, this statistics does not reflect the exact number of registered child care centres since it includes four to six years old children who attend pre-schools instead of TASKA. Furthermore, according to P.H.Wong, the president of Association of Registered Child Care Providers Malaysia (ARCPM), the current number of registered child care centres is not enough to accommodate almost 3.4 million children below four years old. She also expresses her concern that the present number is far behind the target set under Government Transformation Programme which is 13 200 child care centres by the year of 2020 (Yuen, 2014).

Moreover, the situation discussed above is mainly on the registered child care centres. What about child care centres which are operating illegally without any licence? It is suggested for an investigation to be conducted to find the reasons for their reluctance to register their centres. Some may want to escape from liabilities and procedures burdened upon them and budget constraint in order to complete the registration process (Chiam, 2008). In addition, the reasons may cause by the non-adherence to the legal requirements and the unsystematic monitoring system by the government (Pheng, 2007).

### 2.0 RESEARCH ISSUES

The safety and children development is a pivotal to be given attention. As most of the parents are working and need to have a place for their children to have good care and education, child care settings should provide a solution for this. However, the safety and quality issues of child care centres in Malaysia need for further improvement looking at for instance the raising number of negligent and maltreatment cases which to some extent cause fatal to the children. The research done evaluating the performance of child care centres in Malaysia too showed that there is a need to have a national quality framework for Malaysia child care settings (Unitary International University, 2017) Apart from having to set the quality standards which involves the policies and the related agencies, the legislative limb of the national quality framework also need to be analysed. This is to produce a better legislative framework of child care settings in Malaysia with particular attention to the enhancement of Child Care Centres Act 1984 (CCCA) and Child Care Centres Regulations 2012 (CCCR).

### **3.0 MATERIALS AND METHODS**

The literature review of this paper is done through library-based data collection analysing the relevant textual documents. Focus is given to the analysis of the Malaysian CCCA 1984 and CCCR 2012. Various sources such as the legislations and relevant policies especially policies on early child care development from other jurisdictions are also referred. Besides that, materials are collected from conference papers, academic journals, textbooks and case reports. Basically, this paper involves desk study by collecting sources from libraries and also online databases including the websites from the government departments, NGOs' websites, relevant international bodies concerning the right of children such as UNICEF, OECD, and United Nations Educational, Scientific, and Cultural Organization (UNESCO).

### **4.0 DISCUSSION**

#### **4.1 CHILD CARE CENTRES SERVICES**

Although there are legal provisions on child care centres in Malaysia, the quality of the services is still questionable as the problem of maltreatments in child care centres is still alarming. It shocks everyone in Malaysia when it becomes viral in the social media, the news on the death of a three-month-old baby girl at a child care centre in September 2014 (Cheng, 2014). The baby was found unconscious and was reported to be surrounded by ants at the time the parents picked her up from the child care centre (Sinar Harian, 2014). It is reported that the child care centre only hired four caregivers for thirty-nine children, where it supposed to be nine caregivers. In response to this case, the child care centre was ordered to be closed temporarily (The Star, 2014).

This is not the first incident in Malaysia that involves the death of infants in child care centres. There are numerous incidents alike such as what happened to a six-month-old baby girl, Nur Sofea Insyirah Mohd Sharil who was admitted to the hospital for suffering various injuries caused by her babysitter (News Straits Time, 2014). Another example can be seen on November 2014 where the owner of a child care centre has been charged in the magistrate's court for abusing a one-year-old child in the centre (News Straits Time, 2014).

The statistics from DSW in 2012 has shown that six infants died at child care centres and until July 2012, seven cases has been reported involving infants deaths in child care centres (BERNAMA, 2012). It is worrying to see the increasing cases of malpractices in child care centres especially when it involves the death of infants. These are only some examples of the cases reported for child abuse. It is believed that there are more cases happening in the country go unreported due to various reasons (Ministry of Women Family and Community Development & UNICEF, 2013). Therefore, it is acceptable when an empirical research indicates that parents are not confident with the safety of the children in the child care centres (Kahar & Mohd Zin, 2011).

Those registered child care centres may be required to close their centres temporarily if there were any danger or risk of danger to anyone in the centre as enshrined under Section 16 of CCCA. Section 16 specifically mentions that this order can be made to a registered child care centre. How about unregistered child care centre? It is claimed by ARCPM that, the increasing statistics of child abuses can be attributed by the non-registration of the child care centres which tend to employ unskilled workers (News Straits Time, 2014).

Though there are already existing laws and policies governing this issue, the repeated cases occurring year by year illustrate to us that the existing legal mechanism needs to be scrutinised for improvements.

#### **4.2 NEW LAWS AND REGULATIONS NEEDED?**

Chiam (2008) in her research on child care centres in Malaysia asserted that it is timely for a recent research on child care centres to be done so that the policies drafted, the provisions legislated, and training provided to child care providers and caregivers suit the current time and demand. In addition, it has been almost 30 years since the birth of CCCA 1984. Therefore, it is reasonable for an evaluation to be made to the provisions of the act itself. The act which was passed with the main focus to set minimal standards and requirements (Chiam, 2008) should be upgraded to ensure more quality protection of children is provided especially by the child care centres.

Besides that, it is undeniable that Malaysia has progressively developed various policies and plans in protecting children. Nevertheless, a holistic child protection legal mechanism is still not in place. It is claimed that this may due to the birth of 'instant policy' which is invented reactively in response to the society's need and demand (Kahar & Mohd Zin, 2011).

Therefore, a study on the current laws and regulations are needed. The loopholes in the existing legal mechanism should be remedied with necessary modifications. There is a need to develop basic standards and principles of child care protection in child care centres in order to enhance the quality of child care protection in the country. In addition, it is suggested that improvements and lessons may also be taken from other jurisdiction's experience to be suited in Malaysia context.

#### **4.3 CHILD CARE CENTRES: THEORETICAL FRAMEWORK**

##### **3.3.1 The Right of Children in Malaysia**

Malaysia has ratified The United Nations Convention on the Rights of the Child (UNCRC) with reservations in 1995. Malaysia also became the state party to the International Labour Organization (ILO) Minimum Age Convention 138, and ILO Convention 182 on the Worst Forms of Child Labour. However, Malaysia has not acceded to the two Optional Protocols to the UNCRC or the Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime (Ministry of Women Family and Community Development & UNICEF, 2013).

Ratifying UNCRC is one of the concrete proofs that the government is ready to protect children through domestic laws and at the same time adhere to the international conventions. However, the question is how effective the legislations are in protecting children especially those who are placed at the child care centres?

### **3.3.2 Child Care Centres Act 1984 & Child Care Centres Regulations 2012**

A survey was conducted by The United Nations Children's Fund (UNICEF) and Ministry of Social Welfare in 1982 on overview of the services and standards of care of child care centres in Malaysia. The outcome of the survey reported that child care services in Malaysia did not even reach the level of satisfactory (Yusof, Wong, Ooi, & Hamid-Don, 1987). Consequently, CCCA was passed to set minimal standards and regulations for child care services (Chiam, 2008).

This act mainly highlights on the registration, control and inspection of child care centres. This act regulates child care centres which take care of children under the age of four years for a fee. Amongst the programme strategies to ensure that child care centres are run as demanded by the act include training programmes for child care providers, programme formulation for children, monitoring and evaluation of the programme, and awareness campaign (ASEAN, 2007).

Meanwhile, Child Care Centre Regulations 2012 (CCCR 2012) are enforced starting from 1 January 2013. One of the vital issues addressed in these regulations is the adult to child ratio. The ratio for children from birth until one-year-old is one child care provider to look after three children. For children aged one year and above the ratio is one caregiver to take care of five children, while for three years until four years old, the ratio is one caregiver to look after ten children. Besides that, the child care centres are required to prepare and display a balance diet menu schedule and schedule of daily activities appropriate to the age of the children. These regulations shed a new light for a better care and protection for the children in the child care centres. However, the implementation needs to be closely examined.

One of the salient parts of CCCA is on registration. Child care centres are required to register with DSW. When a centre is registered, DSW may monitor the centre to ensure that it abides the provisions in the act. Through registration, it is believed that quality of child care providers would be maintained (Ministry of Education, 2008). It is claimed that one of the obvious gaps in monitoring child care centres is ensuring registration on part of the private centres. Legal action can be taken against child care centres which do not comply with CCCA 1984, CCCR 2012 and Child Care Centre Regulations (Compounding Offences) 2011. For each offence, a maximum compound of RM5000.00 may be imposed. Cancellation of registration, instruction for temporary closure of the child care centre and seal of the premise or prosecution may also be imposed on the offenders (Department of Social Welfare, 2013). If a person were to be prosecuted, upon conviction he shall be fined not exceeding RM10000.00 or imprisoned not exceeding two years or both as enshrined in Section 17 of CCCA 1984.

It appears that there is a positive development after the launch of the campaign "Jom Daftar Taska dan Pusat Jagaan" in June 2011. In 2010, there are only 483 registered child care centres. However, starting from June 2011 to May 2012, the numbers raised 124percent to 1086 (Parliament, 2012). On top of that, a positive development may also be seen when the DSW reported that registered child care centres in 2014 were 3760 (Department of Social Welfare, 2014). Nevertheless, the numbers of illegal or unregistered child care centres are still high. Since 2014, there are 1685 illegal child care centres identified across Malaysia. It is stated that failure to adhere to the ministry requirements was one of the reasons why child care operators reluctant to register their centres (BERNAMA, 2016b).

Therefore, there is an urgent need to review the legislation on registration as to find the solutions on how to cater this problem. The reluctance of child care centres to register their child care centres may jeopardise the children's safety. Furthermore, the child care providers of illegal child care centres too are not professionally trained and this may lead to abuse and negligent cases involving children in child care centres.

In addition, it is a requirement for the child care providers and child minders to join ten days basic child care courses run by agencies approved by MWFC (Ministry of Education, 2008). Nevertheless, starting from 2013, Basic Child Care Course is no more available. Instead, there is a requirement for all the child care providers to attend PERMATA Child Care Course. The content of the course is based on PERMATA curriculum which has been developed referring the 'Sure Start' curriculum used in Pen Green Centre, Colby, England. The content was then enhanced to suit the local culture and the spirit of National Education Philosophy (Mansor, 2011). This curriculum has also taken into consideration the curriculum of the Basic Child Care Course implemented by DSW and Certificate in Basic Early Education for Children in Care Centres from KEMAS. During pioneer project from 2007 to 2009, the curriculum has been revised few times and has been developed and acknowledged as the National Curriculum under the Child Care Education and Early Education Policy in 2008 (Bahagian pendidikan awal kanak-kanak PERMATA, 2013).

PERMATA child care course may be a solution in training the child care providers to be more professional in dealing with the children. However, the effectiveness of the training still needs to be scrutinised. The more alarming problem is the reluctance of child care operators to send their child care providers to training due to various reasons including the cost of the courses. This may be one of the requirements which make the child care operators unwilling to register with DSW.

On the part of examination and inspection, a taskforce was set up in 2006 to examine three major issues with regards to early childhood care and development. One of the issues was to develop a Quality Improvement Accreditation System (QIAS) to rate child care centre (Chiam, 2008). This system is a mechanism of quality control by using a standardised instrument. Inspection may be done by the DSW officer four times annually. In addition, star rating was also suggested to be included in the plan involving registered child care centres (Ministry of Education, 2008). Nevertheless, Chiam (2008) criticised that thorough

inspection involving all child care centres may have problems due to limited numbers of inspection officers. Moreover, as the system includes self-assessment by the child care centres apart from the inspection from DSW officers, not all child care centres are ready to do this. On top of that, this system may not be fruitful in improving overall qualities of child care centres since unregistered childcare centres will not participate in this accreditation.

The increasing maltreatment cases in child care centres which to the extent causing death is one of the pushing factors for the amendment to be done to CCCA in 2006. Nevertheless, the amendments were more on administrative purposes (Chiam, 2008). The amendments *inter alia* highlight the additional categories of child care centres (Mohd & Kadir, 2012). Besides that, the amendments also touch on increasing duration for an issuance of a licence, and the requirement to display of licence in a conspicuous place in the premise. Nevertheless, Chiam (2008) praised the positive action to lower the adult to child ratio from 1:5 to 1:3 for children aged below one year. The requirement of home-based child care centres to register is also worth to be mentioned as one of the efforts to enhance the quality of child care in Malaysia.

#### **3.3.4 Child Act 2001 (CA)**

The introduction of CA was one of the positive responses in the effort to promote children the best interest in accordance with UNCRC (Kahar & Mohd Zin, 2011). Under Section 31(1) of CA, a person who neglects, abandons, or exposes the child to abuse shall be liable to a fine not exceeding RM20 000.00 or to imprisonment up to ten years or both. On July 2016, Child Act (Amendment) Bill 2015 has been gazetted involving the amendment to Section 31(1). The punishment has been increased to RM 50 000.00 and maximum imprisonment from 10 to 20 years (Mahmood, 2016). The child registry containing criminal records of convicts of crimes against children will also be expanded. This allows for the employers to screenings the potential employees' criminal records before hiring them (BERNAMA, 2016a).

Despite various efforts and measures were taken by the government in curbing child abuse cases, children are still exposed to the danger of abuse seeing from the increasing number of abuse cases through years. According to statistics from DSW, from 2011-2013, 11378 abuse cases are reported (Parliament, 2014). Meanwhile, as from January to April 2014, 1430 abuse cases were reported (Mohd Zain, 2015). It is predicted that the number does not reflect the whole situation as presumably there are cases that are not reported to DSW.

It is claimed that the country's existing development plans and policies are not comprehensive to protect all children in Malaysia. Children who are highly risked for family violence and heinous crimes within society are not well protected under the existing legal mechanism (Kahar & Mohd Zin, 2011). Indeed, the birth of Child Act 2001 is a vital response in upholding child's best interest to be in conformity with the principles of UNCRC. However, it is asserted that there is still room for improvements for the act the provide a better protection to the children (Mohd, 2007). Moreover, the act is claimed to be more victim-centred and does not have enough emphasis on family. It appears that, in Malaysia, the government interventions with regard to child protection is mainly through statutory provisions to protect children who have already abused, maltreated, rather than preventive approach (Ministry of Women Family and Community Development & UNICEF, 2013).

Internationally, looking at the practice done by other countries such as United Kingdom, New Zealand, and United States, Canada, and Australia, child protection legislation gives more emphasis on preventive measure rather than reactive mechanism once the child has experienced maltreatment or abuse. This is done through voluntary cooperation with parents and more family-based approach (Ministry of Women Family and Community Development & UNICEF, 2013).

Nevertheless, the recent amendment to CA 2001 was a great move made by the government. The amended act is hoped to be a comprehensive tool in providing a better protection to the children, especially from abuse and maltreatments.

## **5.0 COMPARISON TO DEVELOPED COUNTRIES**

Due to scarcity of the research in Malaysia, comparisons and examples or studies conducted in other countries may be taken as guidance. However, direct comparisons may not be made in ascertaining the level of quality between countries. This is because the philosophies of childcare in different countries are differently laid out. Therefore the factor such as localities should be first scrutinized in order to make any comparisons.

Most of the research on childcare are been done in the United States of America (US). Therefore, can comparisons to US be made? Munton et al (2002) were of the opinion that, as far as United Kingdom is concerned, UK and the US have similar philosophies regarding childcare which is attachment theory. What is meant by attachment theory is that, children should be provided with maternal care. Therefore in non-parental care, the care should be like a mother caring for her child. Furthermore, the markets of childcare in both countries are dominated by private sector, and staffing systems are segregated according to childcare and pre-school unlike most of the countries in mainland Europe where their early year settings are mostly integrated and the dominant players are public sector. (Munton et al, 2002).

It is concluded therefore, the US research shall be relevant to UK childcare for three main similarities which are similar attachment philosophy for child care settings to replace maternal care, private market driven and non-integrated system of governance of splitting system between child care and pre-school settings.

The situation in Malaysia could also share some similarities with UK and the US. Malaysia too has similar underlying philosophy that childcare is more to child rearing and custody replacing maternal care when parents are out for work. Besides that, although we have public child care settings, the child care settings in Malaysia are driven by private sector too like UK and

the US. Malaysia too has split system differentiating “TASKA” under the auspice of MWFC and “TADIK” under Ministry of Education.

## 6.0 CONCLUSION

As the demand for child care services is increasing nowadays, quality of the service should always guarantee the safety, health and development of the children. The existing laws and regulations are amongst the aspects to be examined in providing a better quality of services to the children placed in the child care centres. There is a need to tackle the issue of registration or licensing of child care centres by enforcing laws upon the illegal or unregistered child care centres. By registering the centres, the operator and child care provider need to at least meet the minimum requirements of laws and regulations in order to ensure that the children are at safety hands. The element of ratio, group size, physical environment, health and safety for instance need to be analysed further in producing an enhanced version of laws and regulations of child care centres in Malaysia. Furthermore, another aspect of this issue is the problem of implementation. As highlighted by Rozita Kamil who is the President of Negeri Sembilan Association of Child care, as far as child care centres are concerned, the question now is on the issue of implementation. The insufficiency of monitoring and enforcement may contribute to the low quality and increase abusive cases amongst infants and toddlers in child care centres.

The increasing maltreatments on children happening across the country should be the pushing factor for a better legal mechanism to be implemented as soon as possible. The worries of the parents sending their children in the hand of child care minders should be taken into account. The laws providing protection of children from abuse in child care centres too need examination. The background check of the operator, manager, supervisor and most importantly the child care providers need to be done accordingly.

Therefore, an enhancement on the written laws as well as effective approaches to implementing the laws is needed to be the basis for developing basic principles and standards of child care protection of child care centres in Malaysia. This is to ensure that children especially those in the vulnerable age are given a better protection. Proven models from the developed countries may be taken into consideration to set an example to our system in Malaysia.

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