

The Legal Landscape of Childcare Centres in Malaysia: An Overview from Stakeholders

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ABSTRACT

This research examines challenges in Malaysia's legal framework for childcare centres, focusing on the Childcare Centre Act 1984 and Regulations 2012. The rise in dual-career households has led to increased demand for childcare, resulting in unlicensed operators. Despite existing laws, the growth of unregistered centres highlights enforcement issues. The study uses questionnaires and secondary sources to gather data from stakeholders. Findings reveal moderate confidence in the current framework, with recognized gaps in regulation, enforcement, and procedural clarity. Key concerns include inadequate safety standards, complex registration processes, and insufficient monitoring of unregistered centres. Stakeholders stress the need for trained caregivers to ensure quality services. The study concludes that improvements to the legal framework are necessary, including clearer regulations, streamlined registration, and strict enforcement. These measures aim to create safer childcare centres, enhancing child welfare and supporting economic growth, aligning with SDG Goal 3 on improving children's health and well-being.

Keywords: Childcare Centre, Child Legal Framework, Child Maltreatment, Neglecting, Registration

INTRODUCTION

The 1950s saw the beginning of early childhood care and education in Malaysia and at that time, childcare institutions were not managed by pre-established standards or rules (Bahbibí *et al.*, 2021). To set fundamental criteria for the rules and regulations governing the operation of childcare Centres, the Malaysian government subsequently enacted the Childcare Centre Act of 1984. (Nor Shamimi *et al.*, 2021). The measure received Royal Assent on September 4, 1984 and on 6th September 1984, it was published in the Gazette. The primary focus of the Act is on the regulations pertaining to the registration, control, and inspection of childcare centres as well as related matters. The operator, manager, supervisor and childcare provider are some of the entities that may be involved in overseeing the functioning of the child centre services. The creation of an environment and space that would support young children's growth was the main reason for opening the childcare centre. Nevertheless, as of August 2022, 1916 child care centres still hadn't registered with the Community and Welfare Department (JKM) (Nora, 2022). Compared to previous years when only 1685 out of 3238 childcare institutions were found to be unregistered, this number is on the rise. The number of the childcare centres has increased with time since there are now insufficient registered childcare centres to accommodate the nearly 3.4 million children under the age of four (Mashitah *et al.*, 2018). The increasing demand for childcare Centres among dual-career parents and guardians seeking immediate solutions for their children's needs has led to the proliferation of unlicensed operators. (Aziz, 2001). Malaysia relies on the Childcare Centre Act 1984 and the Childcare Centre Regulations 2012 to regulate these concerns. However, registration procedures have always been ignored, which has resulted in the JKM's proper inspection and control being neglected. Children who

are placed to unregistered childcare institutions may unfortunately suffer significant effects on their emotional, psychological and developmental outcomes. This highlights the need for clear regulations and standards for childcare centres to operate effectively and ensure the well-being of children. In addition, this improvement is also for the sake of economic prosperity and fairness for both current and future generations where sustainable development becomes a comprehensive concept that covers various facets of society. Consequently, nations, international agencies and business organizations have incorporated sustainable development as a central element in their policy documents (Badruesham et al, 2021).

LITERATURE REVIEW

History of The Passing Malaysia Childcare Centre Legal Framework

Started in the 1950s, Malaysia's preschool education programme experienced notable expansion during the 1960s (Imran et al., 2010). Due to the high costs of preschool education in the 1950s, children from wealthier families were prioritized (Hussin, 1993). Christian institutions that run churches then took initiatives to finance and oversee preschools (Chiam, 2008). The literature contends that despite the Childcare Centre Act 1984 being enacted over two decades ago and undergoing several revisions, it has only managed to set the most basic standards and regulations for childcare services (Nor Shamimi *et al.*, 2021). The 1984 Childcare Centre Act 1984 modifications hardly promoted high-quality childcare, which prompted several common criticisms of the childcare centres' responsibility in ensuring child welfare in Malaysia (Mokhlis & Mokhtar, 2019). The amendments merely introduced specific categories of childcare centres and extended the duration of operational permits, concentrating more on administrative matters rather than ensuring the provision of quality childcare. Every piece of literature that addresses the shortcomings in Malaysia's childcare centres legal framework calls for improvement, especially in light to effectively protect the fundamentals of child welfare through careful drafting of legislation.

Problem of the Childcare Centre in Malaysia

As of 2020, the Welfare Department (JKM) had taken action against 274 childcare centres and in the following year, 1,916 childcare centres in Malaysia were found to be unregistered, according to Siti Zailah Yusof, the former Deputy Minister of Women, Family and Community Development. Although there are no comparable statistics, the literature indicated that the ambiguity of the laws and policies pertaining to licencing, the ambiguity of the centre registration procedures and the dearth of information regarding current laws and procedures in Malaysia have all contributed to this troubling issue (Chin *et al.*, 2021). Many operators feel that establishing new TASKAs or other childcare centres is challenging because the registration process involves dealing with various agencies, whose approval and processing protocols are complex and time-consuming (Nor Azah Aziz *et al.*, 2021).

The reason for this issue stemmed from the convoluted and erratic childcare centre registration rules, as the operators were perplexed when various authorities asked for more paperwork and processes (Boon, 2010). The officers did not share a common knowledge of the government's policies, laws and regulations since they would instruct various things when they encountered various officers and operators had to adjust each time (Zoharah et al., 20017). This is partly due to the fact that the current Malaysian legal framework, such as the Childcare Centre Act of 1984, only offers the most basic guidelines for the management and structure of childcare centres (Mashitah & Nur Amalina, 2021). These regulations adversely affect the quality of early childhood services due to the lack of uniformity in drafting rules at the lower administrative level.

Effect of the Problems to the Childcare Centre in Malaysia

Jamilah et al. (2023) conducted a comprehensive survey of 150 childcare centres across urban and rural areas, revealing significant disparities in service quality and adherence to best practices which underscores the urgent

need for more robust regulatory frameworks and standardized quality assurance measures in the Malaysian childcare sector. The most concerning issue is the absence of standardized procedures in line with the JKM standards, especially regarding food, safety and daily activities, particularly in unregistered childcare centres (Kahar & Mohd Zain, 2011). However, this issue could not be addressed properly for the unregistered childcare centres as no inspection and control could be conducted thoroughly by the JKM (Foong *et al.*, 2021). This situation was clearly depicted during Covid-19 outbreak as many parents became pressured due to the closure of many childcare options that provided decent and licensed services (Asma' Afifah *et al.*, 2023).

The quality of childcare centre services also suffers from a shortage of trained and capable carers in early childhood centres, as a subsequent effect of the unregistered childcare Centres (Suriani *et al.*, 2020). This might be due to the fact that the majority of Malaysian childminders have minimal to no formal education and lack proper training in centres (Chiam, 2008). Due to the scarcity of individuals with advanced degrees or professional experience, especially in early childhood care and education, the quality and competency of childcare services are significantly affected (Lydia *at al.*, 2018). The worst situation is when childcare minder training just uses the out-of-date module and that early childhood specialists have not been consulted in order to update the foundational curriculum for trainers and childcare providers (Suriani *et al.*, 1987).

Rashid and Yusof (2023) conducted a comprehensive review of studies from various countries, concluding that inadequate childcare environments failing to meet children's needs and provide stimulating, age-appropriate experiences can lead to developmental delays, behavioural issues, and reduced school readiness. The authors emphasize the critical importance of high-quality early childhood education in fostering optimal development across cognitive, social, and emotional domains. In extreme circumstances, a genetically normal child who has experienced abuse and neglect may experience mental disability or develop severe emotional disorders. Unfortunately, most Malaysian parents, educators, policymakers, and childcare providers remain unaware of these findings from neuroscience (Shankoff, 2010). It is believed that during the first five years of life, the quality of childcare contributes to healthy brain development (Yaty Sulaiman, 2022). Therefore, it became essential to elevate the standards of early childhood education, prompting government-operated childcare centres (TASKA) to improve their services to remain competitive in the childcare industry (Ng & Kel Lie, 2018). That being said, research has indicated that in order to improve the childcare system, the current legal framework governing childcare Centres needs to be revised in light of the growing number of households where both parents work as well as the complaints regarding malpractice in these centres become a concerning subject matter.

METHODOLOGY

Primary data for this paper is collected through questionnaires with a combination of closed and open-ended approved by the UiTMLaw Research Ethics Committee on 15 May 2024 under the Reference Number: FBERC/5/2024 (UG/002). The questions were asked throughout the flexible survey sessions, which allowed for more thorough and well-organized data gathering. The respondents for this research study include officers from the Ministry of Women, Family, and Community Development (MWFCDD), Childcare Centre operators and supervisors, officers from the Community Development and Welfare Department (JKM), representatives from non-governmental organizations (NGOs) such as the Malaysian Council for Child Welfare and the Malaysian Child Resource Institute SUKA Society, Lawyers, and Parents. These candidates were chosen for the survey sessions as they are the main stakeholders in the childcare Centres' institution.

This paper also makes use of secondary data. Books, journals, and newspapers are among the main and secondary sources used to gather it. Additionally, this research project has critically assessed the literature related to the regulations governing childcare Centres in Malaysia. The primary sources used in this study include the Childcare Centre Act 1984 (Act 308) and the Childcare Centre Regulations 2012. Secondary sources utilized in this paper encompass journal articles, websites, conference papers, recommendations, non-governmental organization sites and online resource databases such as Google Scholar.

FINDINGS AND DISCUSSION

Findings

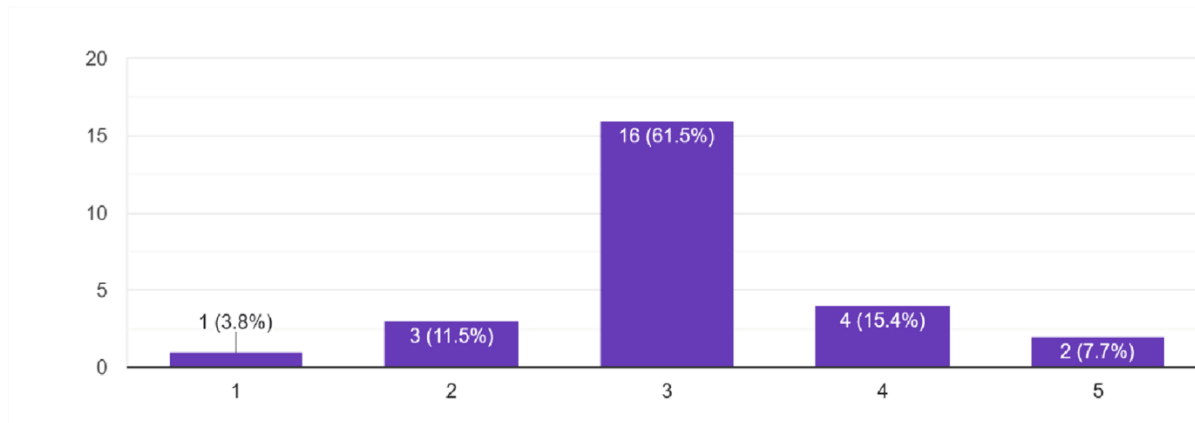


Figure 1. Respondents' confidence in the current legal framework's ability to safeguard child welfare in childcare Centres.

This Figure displays the results from a question assessing stakeholders' confidence in the current legal framework for safeguarding child welfare in childcare centres. The scores range from 1 (the lowest) to 5 (the highest). The findings reveal that most respondents have a moderate confidence level, with 61.5% scoring 3. The second highest percentage is 15.4% for a score of 4, followed by 11.5% for a score of 2, 7.7% for a score of 5 and 3.8% for a score of 1.

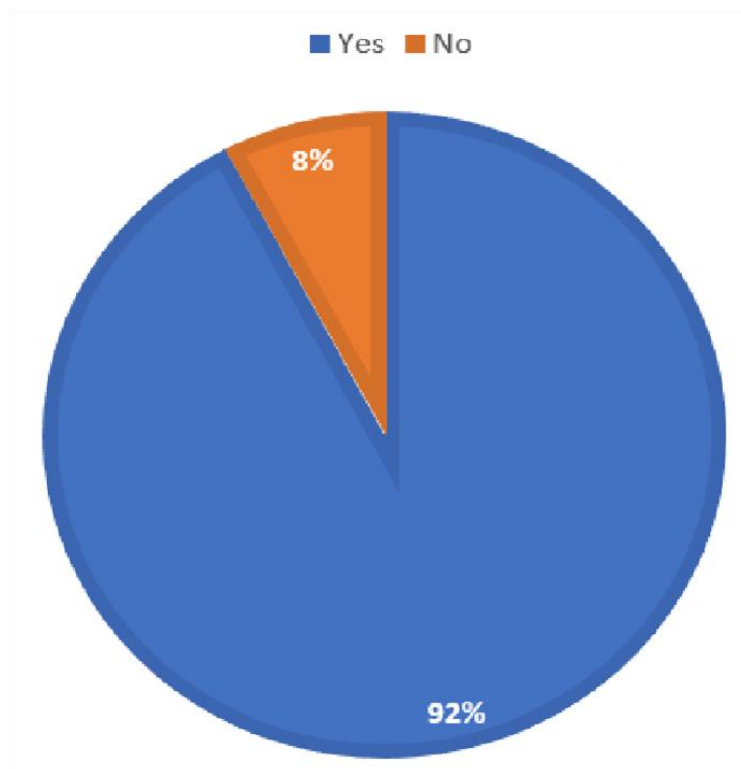


Figure 2. Respondents acknowledge and recognize the various shortcomings and gaps present in the current legal framework.

According to the survey, 92% of the respondents believe there are deficiencies and gaps in the current legal framework governing childcare centres in Malaysia. Meanwhile, the remaining 8% of respondents think that the existing laws are sufficient to regulate childcare centres in Malaysia.

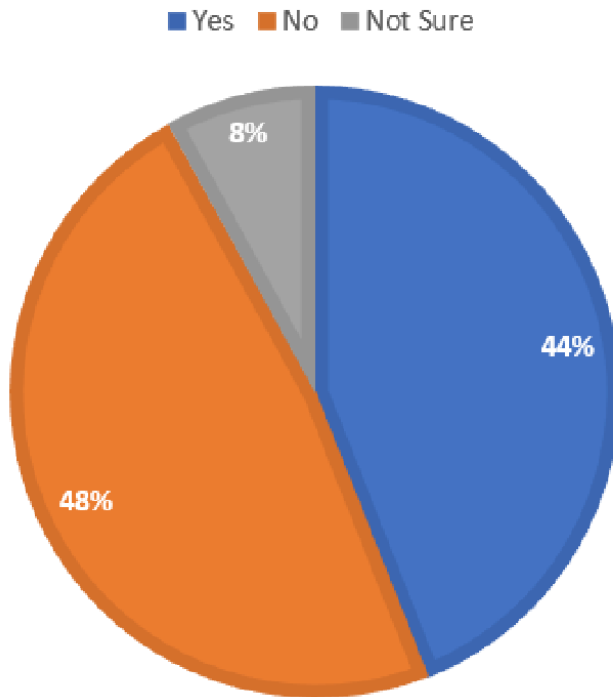


Figure 3. The current laws sufficiently address the issues of safety, hygiene, and quality of care in childcare centres.

A significant portion of the respondents (48%) disagreed that the current law sufficiently addresses the issues of safety, hygiene, and quality of care in childcare centres, while 44% believed it did. Additionally, 8% of the respondents were uncertain about whether the existing law adequately covered these aspects.

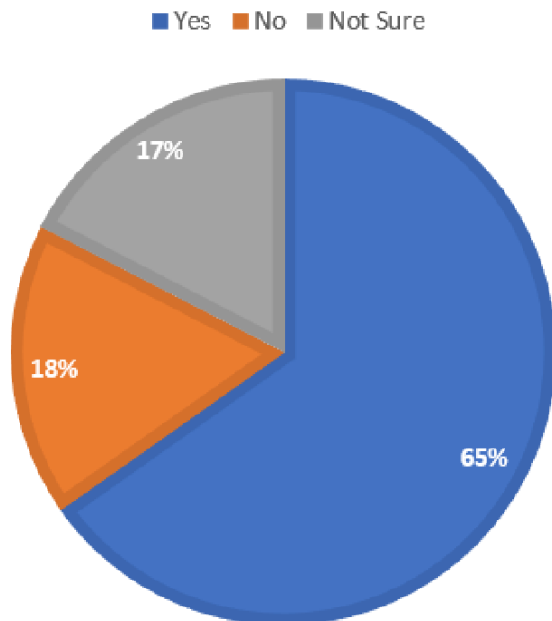


Figure 4. Respondents believe that the current laws governing childcare in Malaysia are unclear and inconvenient.

According to the data, 65% of respondents believe that the Childcare Centre Act 1984 is inconvenient and unclear, while 18% disagree. Additionally, 17% of respondents did not express a definitive opinion on the matter.

Discussion

Based on the result shown in Figure 1, the stakeholders of the childcare centres, including parents, officers from the Social and Welfare Department, childcare centre operators, lawyers, and NGOs, have a moderate level of confidence in the current legal framework used to monitor childcare Centres to ensure the protection of child welfare. This has been supported by the literature contended that most of the parents are always having issues in choosing the best childcare centre for their kids (Mashitah *et al.*, 2018). Some of them even choose not to send their kids to the childcare centre but to their close relatives because they become unconvinced of the current childcare centres policy in entertaining the needs of their child (Rohaiza, 2014). The second set of data indicates that most stakeholders believe there are shortfalls in the existing regulations for childcare centres in Malaysia. This aligns with literature suggesting that the current legal framework for these Centres only establishes minimum standards. This circumstance can deter the development of a uniform policy within the childcare centre's management, since it may be developed based solely on personal interests and abilities. This situation has put childcare centres in Malaysia far from satisfactory. As contended by Jamilah *et al.* (2023), the child welfare legal framework in Malaysia has to be revised thoroughly to address the issue of negligence and maltreatment that particularly comes from the unregistered and uninspected childcare centres.

The following Figure shows that the majority of respondents disagreed that the current law sufficiently addresses the issues of safety, hygiene, and quality of care in childcare centres, although a significant number did agree. To get the respondents' thoughts on the current laws governing childcare institutions, this was among the open-ended questions posed to them. Even though quite a number of the respondents believed that the current law is adequate, they also acknowledged that there is still much space for improvement. The respondents recognized that some childcare centres remain unregistered and unmonitored and that the laws are not being enforced rigorously enough. One respondent even stated that the regulations are pointless due to the lack of enforcement in these centres. Additionally, they highlighted it is so crucial for childcare centres to follow the rules that the government has put in place. This provides more evidence to support the claim that not all childcare centres in Malaysia implement and abide by the rules or legislation. In addition, a few participants voiced their worries about the lack of oversight from relevant authorities. Hence, there are suggestions from the respondent that the relevant agency conducted necessary inspections throughout all childcare centres in Malaysia without notice. Put another way, not all childcare centre in Malaysia apparently is subject to routine supervision and inspections. This is therefore consistent with their worries about the ongoing incidents involving childcare centres. Hence, several participants have expressed their mistrust of these rules. All the respondents' feedback illustrates that the current law may only be effective if there is sufficient control and inspection from the relevant authorities to ensure those centres are operated according to the rule. However, as far as the current situation is concerned, inspecting the unregistered childcare centres are quite burdensome as they are not within the governmental data that the relevant authority can always track them down (Nor Azah *et al.*, 2021)

The fourth Figure which outlines the subsequent open-ended question, indicates that most respondents agreed that the current legal framework for childcare centres in Malaysia is inadequate, with procedures for registering these centres being inconvenient and unclear. The respondents pointed to matters like low public knowledge of the childcare centre's laws, especially among operators and parents. The respondents expressed concern over the increasing number of unregistered childcare centres, attributing it to the costly, complex, and time-consuming licensing process involving multiple departments. This situation makes parents apprehensive about their children's safety when enrolling them. Some parents reported that when they registered their child to the childcare centres, they were not provided any paperwork outlining the rules of the childcare or a clear briefing. Participants also brought up the lack of oversight, enforcement and application of the law, which created problems in the childcare system. However, some of the respondents chose not to share their opinion further on this matter because they believed that the Childcare Centre Act 1984, which governs childcare centres in Malaysia, is a simple and easy-to-understand statute, with the only difficult aspect being its implementation. This question further obtained a few suggestions from the respondents as an improvement step for our childcare centres' centres.

At first, there was a strong recommendation for rigorous adherence and monitoring. Fundamentally, it comprises three important types of monitoring and inspections that are seen vitally important for a childcare centre. It consists of ongoing observation, routine inspections and a ministry-conducted arbitrary inspection. Regular and comprehensive inspections by the authorities are necessary to guarantee that the childcare Centre complies with the law. Additionally, some of the respondents concurred that random inspections by the ministry are just as significant because they may subject the childcare Centres to continue giving the best care possible for their clients whether or not they are subject to inspections or monitoring. It's also intriguing to note that respondents have expressed opinions regarding the welfare of the employees or crew. This is due to the fact that childcare providers are highly regarded for their ability to handle children in a supportive and healthful manner when their own welfare is properly looked after. The respondents expressed a need for highly qualified staff members at the childcare centre. They unanimously agree that childcare providers must have the necessary training qualifications in childcare, safety and education. This is crucial to ensure that employees possess the licenses and training required to deliver high-quality care to the children. In line with this, it is recommended that childcare centres maintain a provider-to-child ratio of only 1:3 and the number of children in their care should align with or be determined by the relevant managing organization. Additionally, there is a no centre perspective suggesting that staff members undergo psychiatric assessments to ensure their mental health is sound and that they can manage children at the childcare Centre both physically and mentally in a professional manner. The opinions also cover matters pertaining to law such as the penalties must be increased for whoever violated the current laws and rules.

CONCLUSION

In summary, this research provides recommendations for improving the current legal framework governing childcare Centres from the perspective of Malaysian stakeholders. In addition to ensuring the welfare of children in the early childhood system, putting the above-mentioned recommendations into practice will be crucial to transform Malaysia childcare Centres into safer places and to minimise the mischief incidents that come from the unregistered centres, particularly to ensure economic prosperity and fairness for both current and future generations.

ETHICAL APPROVAL

Data for this research is collected through questionnaires with a combination of closed and open-ended questions approved by the UiTM Law Research Ethics Committee on 15 May 2024 under the Reference Number: FBERC/5/2024 (UG/002).

CONFLICT OF INTEREST

The authors have declared that there are no conflicts of interest related to this article.

DATA AVAILABILITY

The research data is not publicly available to protect participants' privacy and confidentiality, ensuring honest responses. Sharing sensitive insights on childcare centres could lead to reputational or legal risks. Access may be granted on a case-by-case basis, with considerations for ethical standards and maintaining trust during the data collection process.

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