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**THE FUNDAMENTAL RIGHTS OF CHILDREN DEPRIVED
OF LIBERTY IN DETENTION CENTRES IN MALAYSIA
DURING THE COVID-19 PANDEMIC:
A QUALITATIVE STUDY**

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ABSTRACT

The spread of the Covid-19 virus that initially surfaced in China in late 2019 eventually emerged as a global pandemic which adversely affected the worldwide population, including Malaysia. Consequently, the Malaysian government implemented many social and public health measures to help control the spread of Covid-19 in the country. The Covid-19 pandemic affected every level of society in Malaysia, including children who are susceptible to being emotionally, psychologically, and mentally affected due to lockdown measures, school closures, and loss of employment suffered by family members.

There is a gap in existing research concerning the impact of Covid-19 on children deprived of liberty in detention centres in Malaysia. Hence, this study aims to identify whether the legal framework in Malaysia adequately protects the rights of children deprived of liberty in detention centres, in line with the international legal framework. A qualitative research design was adopted to explore the issues surrounding the impact of Covid-19 on children in detention centres. Library-based research and semi-structured interviews were carried out with officers from detention centres and the Department of Social Welfare. This research demonstrates that sound policies and guidelines and the availability of fully trained staff are essential in meeting the emotional, physical, and mental needs of children in detention centres. This research is significant for policymakers to strengthen the current legal framework in order to afford better protection for children in detention centres, in line with the Ministry of Women, Family and Community Development Policy (2021–2025) as well as the international legal framework.

Keywords: Children deprived of liberty, Covid-19, detention centres, juvenile justice system, Malaysia.

INTRODUCTION

The novel coronavirus (hereinafter referred to as “Covid-19”) that surfaced in China in late 2019 emerged as a global pandemic which adversely affected the worldwide population in many ways (Muralidar et al., 2020). It spread globally at an alarming rate, affecting every layer of society. The World Health Organization (WHO) reported that as of 2 December 2021, there were 262,866,050 confirmed cases of Covid-19 globally with 5,224,519 reported deaths. However, as the pandemic grew, vaccinations were administered to 7,885,790,810 people worldwide (WHO, 2021). Like so many other countries, Malaysia has also been severely affected by the spread of Covid-19. Confirmed cases of Covid-19 in Malaysia were first detected on 25 January 2020 and the government of Malaysia responded swiftly by introducing many social and public health measures, including the imposition of the Movement Control Order (MCO), which was replaced by the Conditional Movement Control Order (CMCO) and later by the Recovery Movement Control Order (RMCO) (Ministry of Health, 2020; Prime Minister’s media statement, 10 March 2020;

Director-General of Health, 16 March 2020). Subsequently, the government of Malaysia introduced the National Recovery Plan as a critical roadmap and tool to control the spread of Covid-19 and to help the country transition to a progressive opening stage. This was intended to support Malaysians who have been adversely impacted by the pandemic in every way, including children (National Recovery Plan, 2020).

Given the adverse effects caused by the Covid-19 pandemic upon every member of society, including children, the United Nations Secretary-General called for governments worldwide to provide urgent protection to children and safeguard their well-being (Choufany, 2020). It has been reported that specific sectors of society are more susceptible to contracting Covid-19 than others. It has been recognised that children deprived of liberty in detention centres are more vulnerable to contracting and spreading the disease compared to others since they are at a higher risk of being psychologically, physically, and mentally affected when detained in institutions (The Alliance for Child Protection in Humanitarian Action [The Alliance] and United Nations Children’s Fund [UNICEF], 2020). Deprivation of liberty is defined as any form of detention, imprisonment, or placement of a person in a public or private custodial setting from which this person is not permitted to leave at will, by order of any judicial, administrative, or other public authority (United Nations Rules for the Protection of Juveniles Deprived of Their Liberty [The Beijing Rules], 1990, Article 11 (b); Committee on the CRC General Comment No. 24 (2019) on Children’s Rights in the Child Justice System, para 8).

The effects of Covid-19 are particularly severe on children currently serving sentences in the institutions since they are generally in poor health (with pre-existing or co-occurring health problems) and often come from the most disadvantaged and discriminated family backgrounds. It has been reported that worldwide, there are approximately 410,000 children detained in remand centres and prisons yearly, and this figure excludes an estimated 1 million children detained yearly in police custody. Additionally, an estimated 160,000 to 250,000 children are detained in remand centres and prisons daily across the globe (United Nations General Assembly A/74/136: Global Study on Children Deprived of Liberty, 2019 (hereinafter referred to as “the Global Study on Children Deprived of Liberty, 2019”, para 40).

In Malaysia, children deprived of liberty continue to be detained in institutions during enforcement of the MCO and CMCO. Due to the crimes that they had committed, there are approximately 571 children in the institutions who are serving their sentences at approved schools across Malaysia (Department of Social Welfare, Malaysia, 13 January 2021), while 424 children are serving their sentences at the Henry Gurney Schools (Prison Department of Malaysia, 5 May 2021). The Court for Children (CFC) in Malaysia is vested with the powers to send children to institutions such as the approved schools or the Henry Gurney schools if the court is satisfied that offences have been proved, following the crimes committed by the children. An order to convey children to approved schools is usually made when offences committed by children are less serious in nature. Conversely, children are usually conveyed to the Henry Gurney schools when the gravity of the offences committed are more serious.

Local newspapers in Malaysia have reported that during the MCO, more children are at higher risk of being victims of physical punishment and psychological aggression at home. This is due to parents and family members spending more time at home while experiencing stress because of the effects of lockdown measures, such as loss of employment and school closures. Lockdown measures have also contributed to children suffering from severe anxiety and mental illness (Chalil, 2020). It has also been reported that due to the children's limited social interaction with others, they may not be able to mingle as much as they would like, and this may have affected their emotional, cognitive, and behavioural patterns (Basir, 2020). Therefore, ensuring a child's well-being is of utmost importance, and any person caring for a child must be aware that subjecting a child to any form of physical, emotional, or sexual abuse would have legal consequences. Section 31 of the Child Act 2001 (Act) imposes an obligation upon any person caring for a child to ensure that the child is not abused, neglected, abandoned, exposed to any form of physical or emotional injury, or subjected to sexual abuse. Following the amendment to the 2001 Act, which came into force in 2017, any person found guilty of subjecting a child to any form of physical, emotional, or sexual abuse will be punished with a fine not exceeding fifty-thousand ringgit (RM50,000), or imprisonment for a term not exceeding twenty (20) years, or both.

Research on a specific group of children (such as children in alternative care, children from indigenous families, children affected by migration,

and children with disabilities) found that these children were more susceptible to the adverse effects of Covid-19 and the imposition of MCO in Malaysia (Child Frontiers & Malaysian Association of Social Workers for UNICEF Malaysia, 2020). However, there seems to be a gap in the research concerning the impact of Covid-19 on children deprived of liberty in institutions when the MCO was enforced in Malaysia. These are children who have been detained in institutions across Malaysia to serve their sentences pursuant to a court order since they had committed crimes and violated the law. Hence, the aims of this study are as follows: (a) to examine the adequacy of the legal framework in Malaysia governing children deprived of liberty during the Covid-19 pandemic; (b) to analyse the international legal framework governing children deprived of liberty in ensuring that their needs are met during the Covid-19 pandemic, and (c) to propose improvements to the legal framework and practices governing children deprived of liberty in institutions across Malaysia.

Conceptual Framework Governing Children Deprived of Liberty

Children deprived of liberty seldom enjoy a good state of health compared to other children in society. They are more likely to have experienced psychosocial, physical, and mental health issues even before being placed in institutions. The negative consequences of being deprived of liberty begin when children are subjected to prolonged pre-trial detention and continue to be detained in the institutions pursuant to a court order. (Ahmad et al., 2016). Unfortunately, the state of health of these children may worsen once they are placed in the institutions, due to poor nutrition and lack of access to social and educational services, as well as quality healthcare. Children's issues in the institutions are further compounded when they are removed from their familiar home environment, which result in limited communication with their family members. Lack of regular contact with family members will further worsen the health and well-being of children in the institutions. Additionally, these children may experience fear and feel stigmatised due to Covid-19, particularly since detention facilities can be regarded as a potential source of infection, amplification, and spread of the said virus.

Drawing from past outbreaks of infectious diseases, these children are subject to new risks that warrant a prompt response from the government to prevent and control the spread of Covid-19. Specific

sectors of society are more susceptible to contracting Covid-19 than others. It is recognised that children deprived of liberty are more vulnerable than others since they are at higher risk of being psychologically, physically, and mentally affected when detained in the institutions (The Alliance and UNICEF, 2020). It has been highlighted that while everyone can contract Covid-19, children detained in institutions and locked facilities are at greater risk of contracting and spreading Covid-19. For instance, it has been reported that Ohio's Marion Correctional Institute in the United States has one of the highest rates of Covid-19 infection in the world, with more than 80 percent of the 2,000 inmates detained there having contracted Covid-19. Meanwhile, nearly half of the juvenile population detained at a juvenile detention centre in the same state tested positive for Covid-19. This can be attributed to proximity and poor medical conditions. Additionally, most children deprived of liberty do not have access to adequate water, sanitation, and medical services, and in some countries, the institutions are overcrowded (The Alliance and UNICEF, 2020; Human Rights Watch, 2020).

The Convention on the Rights of the Child (1989) (hereinafter known as "the CRC") recognised the fact that children can be deprived of liberty due to having committed a crime. However, they must be treated differently compared to adult offenders at all stages of the criminal proceedings. CRC is the first human rights treaty to acknowledge that children are endowed with legal rights. These rights must be safeguarded and always protected including for children who have come into conflict with the law and having had to participate in the criminal justice system. Following Malaysia's accession to the CRC in February 1995, Malaysia is obliged to uphold the legal rights afforded to children in line with the provisions in the CRC. In the case of *Heng Choon Lee & Anor v Weng Choon Ho* [2019] 8 CLJ 355, the court affirmed that the provisions in the CRC are legally binding on Malaysia. However, although it is a state party to the CRC, Malaysia is exempted from meeting some of its obligations under the CRC given that the government has expressed reservations to Article 2 (principle of non-discrimination), Article 7 (the right to be registered immediately after birth and right to a name and nationality), Article 14 (right to freedom of thought, conscience, and religion), Article 28(1)(a) (right to compulsory and free primary education) and Article 37 of the CRC (right to be protected from torture, cruel, inhuman or degrading treatment, including children who are deprived of liberty).

These provisions only apply to the extent that they do not conflict with the Malaysian constitution, national laws, and policies. However, in the case of *Heng Choon Lee & Anor v Weng Choon Ho* [2019] 8 CLJ 355, in determining the applicability of Article 7 of the CRC which Malaysia has expressed reservations, the court highlighted that despite the reservations made, Malaysia cannot continue to have laws and policies that run counter to the intent, purpose and object of the CRC. Following the reservations made by Malaysia, particularly in relation to Article 28 (1) (a) of the CRC, a positive step has been taken to amend the Education Act 1996 where primary education in Malaysia has now been made compulsory, and in this regard the government has pledged to provide monetary aid and assistance to those eligible.

Article 37(b) of the CRC highlights that the arrest, detention, or imprisonment of a child must be governed by law and shall only be used as a measure of last resort. A measure of last resort indicates that children in conflict with the law should not be incarcerated unless there is no other appropriate way to deal with them. Therefore, incarcerating children must be restricted in both *quantity* (last resort) and *time* (minimum necessary period). However, if the child must be incarcerated, the placement behind bars must be for the shortest possible time, with special institutional arrangements that meet the needs of the child (Beijing Rules, para 19.1, Global Study on Children Deprived of Liberty, 2019, para 19). Additionally, Article 40(3) of the CRC encourages state parties to adopt measures without resorting to judicial proceedings, such as diversion. Diversion is where children in conflict with the law will be diverted from the formal justice system to undertake specific programs and activities. In contrast to the adverse effects experienced by children who are incarcerated, diversion helps to minimise the impact of stigmatisation, prevent these children from having criminal records and it can also help to safeguard the well-being of the children (Committee on the CRC General Comment No. 24 (2019) on Children’s Rights in the Child Justice System, para 15).

The legal protection afforded by the CRC to all children is applicable in all settings, including in emergencies, such as the time of the Covid-19 pandemic. Hence, as a state party to the CRC, Malaysia is obligated to protect the legal rights of children in the institutions. These children must be afforded human rights protection and are provided with meaningful programs that can help them to protect their health and develop a sense of responsibility, self-respect, and the

necessary skills to facilitate their eventual reintegration into society (Beijing Rules, para 12). Furthermore, the importance of generally protecting children's rights, specifically in criminal proceedings, is also enshrined in the ASEAN legal framework (ASEAN Regional Plan of Action on Elimination of Violence Against Children, 2017; ASEAN 2025: Forging Ahead Together, 2015).

Everyone has the right to personal liberty, where one can enjoy the freedom of bodily movement, and this right is also extended to children. Indeed, the right to individual liberty is one of the oldest and most significant human rights vested in everyone (Global Study on Children Deprived of Liberty 2019, para 17). However, the protection afforded to children in the institutions during the Covid-19 pandemic may be meaningless if the staff are not equipped to handle the children. For instance, the staff may not be equipped with protective gear when they come in contact with children in the institutions. Consequently, the spread of Covid-19 may not only place children in the institutions at risk, but the staff, their family members, and the community may also face similar chances of contracting the said virus.

Similarly, the staff working in the institutions may be susceptible to experiencing fear and stigmatisation when the spread of Covid-19 is detected in the institutions (The Alliance and UNICEF, 2020). Additionally, if the staff become ill, this may result in the children receiving inadequate care and supervision at the institutions. In some cases, the children may even face a higher possibility of violence, abuse, and neglect (The Alliance and UNICEF, 2020; UNICEF, 2020(a)). The importance of establishing a child-centred criminal justice system that protects children from being victims of violence in all settings has also been emphasised in the ASEAN legal framework (Declaration on the Commitments for Children in ASEAN, 2001).

In responding to the challenges of the Covid-19 pandemic highlighted in the preceding paragraphs and its adverse effects on children deprived of liberty, the Alliance and UNICEF (2020) have made the following recommendations to afford better protection for children deprived of liberty. Firstly, governments are advised to consider the immediate release of certain categories of children deprived of liberty to return safely to their families and communities, such as those with pre-existing physical and mental health conditions, those sentenced for non-violent, minor, or petty offences, and those due for

release or nearing the end of their sentences. However, in undertaking these measures, governments are reminded to provide the necessary assistance and support to the relevant families and communities through the case management process to ensure children's safe return to their families (The Alliance and UNICEF, 2020). UNICEF also urged governments to place these children in alternative places such as extended families or other family or community-based care (UNICEF, 2020a). In connection to this, the State of Sao Paulo in Brazil had taken the step to release children deprived of liberty, who committed non-violent crimes with follow-up actions by staff (Human Rights Watch, 2020). Similarly, the virtual court in Bangladesh had released children deprived of liberty while awaiting trial, with support from UNICEF (UNICEF, 2020c). Likewise, the South Sudan government had released children in detention centres to reduce overcrowded prisons and combat the spread of Covid-19 (UNICEF, 2020d).

Secondly, as part of the recommendations, The Alliance and UNICEF (2020) also urged governments to undertake appropriate steps to prevent new admissions of children to detention centres and institutions. This can be done by implementing an immediate moratorium on arrests, rounding up children in the street, overnight holds, and other new admissions of children to detention facilities. Based on a recent survey of juvenile justice agencies across 30 states in the United States, the juvenile population has been reduced to 24 percent as of March 2020 due to the reduction in the number of new admissions and early releases. It has also been reported that in Maryland, USA, local courts have issued orders to find alternative places to detain children, and detention orders must be made once in two weeks (Human Rights Watch, 2020). Thirdly, as part of the recommendations, to ensure that the well-being and health of children in the institutions are safeguarded at all times, the Alliance and UNICEF (2020) urged governments to take the following measures: (a) not to subject children in the institutions to solitary confinement for any reason, including health-related isolation or as punishment; (b) to provide the children with access to adequate health, nutrition, education, legal services, including providing services that address issues of violence (including gender violence); (c) to provide tailored, gender-sensitive mental health services that are age-appropriate and meet the needs of the children; (d) to implement steps to ensure that the children can maintain regular communication with their family members and their friends through phone, digital technology/resources

or in-person visitations; and (e) to provide an adequate number of staff that can provide the children with appropriate supervision and care, in the event a number of staff become ill or contract Covid-19. Fourthly, authorities are also urged to ensure that children deprived of liberty are protected from being victims of violence, abuse, neglect, and exploitation (The Alliance and UNICEF, 2020).

International civil society organisations and child-focused agencies have also called for governments worldwide to afford special safeguards to vulnerable children who are susceptible to contracting Covid-19, and to provide a timely response in regard to strengthening their child protection system. Among the categories of vulnerable children that need these special safeguards are refugees, internally displaced, migrant, stateless children and children deprived of liberty, including those placed in migrant detention centres and quarantine centres (The Alliance and UNICEF, 2020; Human Rights Watch, 2020; The Alliance for Child Protection in Humanitarian Action et al., 2020). UNICEF (2020b) has also supported the calls made by the United Nations Secretary-General for governments worldwide to provide adequate education, food, health, and safety measures for all children. UNICEF has urged governments to address the existing digital divide, while also reminding them to take preventive measures to combat all forms of violence inflicted on children, including domestic violence, abuse, sexual exploitation of children online and offline, and cyberbullying. The call made by UNICEF has been affirmed by 170 countries across the globe, including Malaysia, to ensure that the well-being of children is safeguarded. In this regard, Malaysia must take affirmative measures to ensure that all children deprived of liberty are afforded adequate protection. In line with the calls made by UNICEF and the international community, this article highlights the issues faced by children deprived of liberty, and identifies the steps that Malaysia can undertake to lessen the impact of Covid-19 on children in the institutions across the country.

Legal Framework Governing Children Deprived of Liberty

In Malaysia, under Section 2 of the 2001 Act, a child is defined as a person below eighteen (18) years old. However, for a child to be criminally responsible, the child must have attained the age of criminal responsibility, set at ten (10) years old (Section 82 of the Penal Code). This definition is in line with Article 1 of the CRC 1989.

Since Malaysia acceded to the CRC in 1995, the government has been obligated to carry out provisions that protect the legal rights of children in Malaysia (Hamid, 2019). The CRC is the most ratified human rights instrument and it is also the first treaty that recognises the legal rights of children. The four fundamental pillars of human rights enshrined in the CRC are the principle of non-discrimination (Article 2 of the CRC), the best interests of the child (Article 3 of the CRC), the right to survival and development (Article 6 of the CRC), and the right to participation (Article 12 of the CRC). Similarly, these principles are also found in the Federal Constitution of Malaysia, particularly in Articles 5 to 13, which confers fundamental rights such as the right to life and liberty, abolition of slavery and forced labour, protection against retrospective criminal laws and repeated trials, equality before the law, freedom of movement and protection against banishment, freedom of speech, freedom of assembly and association, freedom of religion, rights in respect of education, and right to property. However, although these fundamental liberties are enshrined in the Federal Constitution, they are not absolute. Rather, they are extensively regulated by Parliament on grounds of public order, national security, and morality (Faruqi, 2020).

The fundamental liberties mentioned also known as human rights, are guaranteed in the Federal Constitution of Malaysia (Abdul Ghafur, 2019). Furthermore, the Court of Appeal in the case of *Jabatan Pendaftaran Negara & Ors v Seorang Kanak-Kanak & Ors*; *Majlis Agama Islam Negeri Johor (Intervener)* [2020] 4 CLJ 431 highlighted that the principle of the paramountcy of the child's welfare, reflected in Article 3 of the CRC, is in complete conformity with Articles 5 and 8 of the Federal Constitution.

Children deprived of liberty in Malaysia are protected under the domestic legal framework such as the 2001 Act, the Prisons Act 1995 (Act 537) (hereinafter referred to as "the 1995 Act"), and the Prisons Regulations 2000 (hereinafter referred to as "the Prisons Regulations").

The CFC in Malaysia is vested with powers under Section 91(1) (f) of the 2001 Act to convey a child to an approved school or the Henry Gurney School if the court is satisfied that an offence has been proved, following the crime committed by the child. Section 66 of the 2001 Act provides that the powers shall be vested in the CFC to

convey a child to the approved school run by the Department of Social Welfare if the child is above ten (10) years old. Under Section 67(1) of the 2001 Act, the CFC can convey a child to any of the approved schools after taking into consideration the following factors: (a) the child committed an offence other than a grave crime; (b) the probation report reveals that the child needs institutional rehabilitation; and (c) even though the child did not commit any serious offence, the detention of the child in the approved school would be most beneficial to his reformation.

Section 67(2) of the 2001 Act stipulates that a child can only be detained in an approved school for not more than three (3) years from the date the order is made. Upon completing the court's ruling, Section 70 of the 2001 Act provides that upon completing the period of detention, the child shall be placed under the supervision of a probation officer or any other person appointed by the Child Welfare Committee for a period of one (1) year. Meanwhile, Section 74 of the 2001 Act vested powers in the CFC to subject children above fourteen (14) years of age to detention at the Henry Gurney School. Pursuant to Section 75 of the 2001 Act, the CFC has the discretion to convey a child to this institution after taking into consideration the following factors: (a) the child is guilty of committing an offence punishable with imprisonment; (b) the probation report revealed that it is not appropriate to detain the child in an approved school; (c) the child committed a crime of a serious nature; and (d) the child demonstrates habits and tendencies that are criminal and detaining the child would facilitate in the reformation of his character and repression of crime.

In the case of *PP v KM (A Child) & Anor* [2010] 9 CLJ 605, 614, the High Court recognised that while being placed in an approved school is more appropriate for an unruly child who have committed crimes of a serious nature; the Henry Gurney School is better suited for “hardened child offenders whose criminal records would speak impressively but in a negative way”. This judgement seems to be in line with the wordings in Section 75(1)(c)(ii) which stated that conveying a child to the Henry Gurney School is suitable if it “appears most conducive to his reformation and the repression of crime”. Under Section 75(2)(a) (i) and (ii) of the 2001 Act, the CFC can only make an order to detain a child at the Henry Gurney School for a period not exceeding three (3) years from the date the order is made. This order remains valid until the child attains the age of twenty-one (21) years and no renewal order

can be made at the completion of three (3) years of serving the court's order at the Henry Gurney School.

Further, Section 96(1) of the 2001 Act specifically provides that a child below fourteen (14) years old shall not be sent to prison for any offence committed or due to default of payment, fine, compensation, or cost. Alternatively, the court can exercise other options by subjecting the child to probation or a fine. Further, a child who is above fourteen (14) years of age shall not be serving sentence in prison if he can be subjected to probation, fine and can be sent to a place of detention, or an approved school or a Henry Gurney School (Section 96(2) of the 2001 Act). However, if a child is detained in prison, the child must be segregated from adult offenders (Section 96(3) of the 2001 Act). While the Department of Social Welfare manages the detainment of children in approved schools, those detained at the Henry Gurney School or prison or the integrity school under the Malaysian Prisons Department are governed by the 1995 Act and the Prisons Regulations 2000 (Awal et al., 2021).

The 1995 Act governs the administration of prisoners serving sentences in prison, including young prisoners, namely those prisoners below twenty-one (21) years of age. Section 49(1) of the 1995 Act requires a young prisoner to be segregated from adult prisoners while serving a sentence in prison. Regulation 6 of the Prisons Regulations provides similar emphasis and highlights the importance of separating young prisoners from adult prisoners. While the 1995 Act governs the administration of prisoners, Regulation 7 of the Prisons Regulations governs the treatment of sick prisoners who are serving sentences behind bars. Moreover, Regulation 18 of the Prisons Regulations provides that, when necessary, the medical officer may at any time arrange for a prisoner to undertake any medical test with the approval of the officer-in charge. Meanwhile, Part IV of the Child (Approved School) Regulations 2017 provides that children in approved schools shall be given access to education, healthcare, medical examination, and treatment, when necessary, as well as opportunities to participate in daily activities organised in the approved schools. In this regard, CFC is granted the powers to place a child either in an approved school or the Henry Gurney School, depending on the nature of the offence(s) that the child has committed.

Apart from the mentioned domestic legal framework, the rights of children deprived of liberty are also protected in the international

legal framework, particularly under Articles 37 and 40 of the CRC (Kilkelly, 2008). Considering their age, children deprived of liberty are vested with certain rights to ensure that they are treated with respect and dignity, in line with Article 37(b) of the CRC. Particularly, children in the institutions must be separated from adult offenders, including when detained in police cells. The Committee on the Rights of the Child General Comment No. 24 (2019) on Children’s Rights in the Child Justice System (hereinafter referred to as the “Committee on the Rights of the Child General Comment No.24 (2019)”) provides explicitly that children deprived of liberty should not be serving their sentences in prison with adult offenders since their health and basic safety may be compromised. In addition, it may affect their reintegration into society (Committee on the Rights of the Child General Comment No.24 (2019), para 92).

It is crucial to ensure that when children are deprived of liberty and placed in institutions, their specific needs, status, and special requirements are considered, depending on their age, personality, gender, and type of offence (Beijing Rules, para 28). The treatment afforded to these children must protect their human rights in accordance with their age and promote their reintegration into society, in line with Article 40(1) of the CRC. Children deprived of liberty are entitled to the following rights when they are placed in the institutions: (a) physical environment and accommodation that meet their needs; (b) education that meets their needs and abilities and can prepare them for their reintegration process; (c) suitable time to enjoy recreational and physical activities; (d) exercise and freedom to practice their religion; (e) adequate medical care, services and treatment for any physical illness, mental illness, substance abuse, or any other medical condition; (f) right of their families to be informed of the children’s state of health; and (g) maintain regular contact with family members, friends, and the community that would help them prepare for their return to society (Beijing Rule, para 31-62). Hence, it is essential for governments to ensure that these rights are accessible to children in institutions, in line with Article 3 of the CRC which provides that the children’s best interests must always be upheld.

Article 24 of the CRC highlighted the importance of providing all children with the right to enjoy the highest standard of health, access to facilities for treating illness, and the rehabilitation of health. Hence, children deprived of liberty have the right to be examined by a physician or a health practitioner when they first enter the

institution. Subsequently, they are also entitled to receive adequate and continuous physical and mental healthcare when they are being detained in the institutions (Committee on the Rights of the Child General Comment No. 24 (2019), para 95(d)). Hence, all state parties to the CRC, including Malaysia, must ensure that all children deprived of liberty have access to quality healthcare services. In view of this, having access to quality healthcare services is crucial since research findings have demonstrated that circumstances surrounding detention are directly harmful to the mental and physical state of health of children deprived of liberty (Global Study on Children Deprived of Liberty, 2019, para 26; Beijing Rules, para 49-50; The Alliance and UNICEF, 2020).

In view of Malaysia's accession to the CRC in 1989, the Malaysian courts have recognised that the Preamble of the 2001 Act reflects the spirit of the CRC 1989 in ensuring that a child must be afforded special protection and safeguards without regard to distinction of any kind. Additionally, the courts have also highlighted the need to protect a child (among others) within the home and family environment, as highlighted in cases such as *Azman v Public Prosecutor* [2021] MLJU 1406 and *Suharman bin Mohamad Noor @ Ismail v Public Prosecutor and Another Appeal* [2020] MLJU 2258. However, the doctrine of transformation requires that for a treaty like the CRC to be operative in Malaysia, there needs to be legislation passed by Parliament to incorporate it into the national laws. An appellate court affirmed this legal position in the case of *CAS v MPPL & ANOR* [2019] 2 CLJ, which provides that unless and until international treaties and conventions are incorporated into the domestic laws, they will not be directly applicable.

Conversely, other Commonwealth countries like Australia and New Zealand have adopted a more liberal approach to embracing international laws. For instance, in the case of *Minister of State for Immigration and Ethnic Affairs v Teoh* [1995] 128 ALR 353 at 365, the High Court in Australia adopted a more flexible approach in embracing international law. In the said case, the High Court ruled that ratification of a convention by a state party constitutes an adequate foundation for a "legitimate expectation" that the administrative decision-makers will not act contrary to the provisions of the unincorporated but ratified convention. Further, in the case of *Hosking & Hosking v Runting and Pacific Magazines NZ Ltd* [2004] NZCA, 34, the Court of Appeal in New Zealand recognised that the

doctrine of transformation is too rigid and acknowledged the need for New Zealand to develop the common law in conformity with international treaties which New Zealand is a state party.

In Malaysia, in the absence of any enabling statute passed by the Parliament, an international treaty will not be perceived as law (Abdul Ghafur, 2019). However, as a member of an international community, this does not prevent Malaysia from embracing and accepting customary international laws, if it is not contrary to the laws and policies of Malaysia (Abdul Ghafur, 2019). The Malaysian court affirmed this view in the case of *CAS v MPPL & ANOR* [2019] 2 CLJ. In the said case, the court highlighted that when the domestic laws are ambiguous, the courts are vested with the duty to interpret the local statutes in conformity and not in conflict with international laws. The court made specific reference to the case of *Minister of State for Immigration and Ethnic Affairs v Teoh* [1995] 128 ALR 353 mentioned earlier. In view of the developments that have taken place in common law countries such as Australia and New Zealand, Malaysia's accession to the CRC signals a serious commitment to protecting children in Malaysia, including children deprived of liberty, and to ensure that they can still have access to their legal rights as enshrined in the CRC while serving their sentences in institutions across the country.

In addition to the CRC, the juvenile justice system is also governed by the Universal Declaration of Human Rights (UDHR) 1948, International Convention on Civil and Political Rights (1966) (ICCPR), UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), UN Standard Rules for the Protection of Juveniles Deprived of their Liberty (1990), and the UN Standard Minimum Rules for the Treatment of Prisoners (1995) (Awal et al., 2021). Meanwhile, the UDHR has been regarded as only embodying statements of principles and is not legally binding. The Malaysian courts have adopted this rigid legal approach in cases such as *Merdeka University Bhd v Government of Malaysia* [1981] 2 MLJ 356, *Mohamad Ezam bin Mohd Noor v Ketua Polis Negara* [2002] 4 CLJ 309, and *SIS Forum (Malaysia) v Dato' Seri Syed Hamid Albar (Menteri Dalam Negeri)* [2010] 2 MLJ 377. Conversely, in relation to human rights treaty, the Malaysian appellate court, in the case of *Jabatan Pendaftaran Negara & Ors v Seorang Kanak-Kanak & Ors; Majlis Agama Islam Negeri Johor (Intervener)* [2020] 4 CLJ 431 seemed to be more willing to embrace the provisions in the CRC and

to recognise that the fundamental principles contained therein are in line with the provisions enshrined in the Federal Constitution.

The discussion in the preceding paragraphs have highlighted both the domestic and international frameworks that provide protection of children deprived of liberty, and the extent of Malaysia's obligations under CRC in affording legal protection of children, in particular children who have come into conflict with the law. However, despite the legal framework that seeks to protect children deprived of liberty, it is reported that some children in the institutions do experience the following forms of hardship: (a) poor condition of detention facilities; (b) denied access to information; (c) poor healthcare facilities; (d) lack of access to education; (e) lack of leisure activities; (f) difficulty in contacting family members; and (g) challenges in receiving adequate support in the reintegration process (Global Study on Children Deprived of Liberty, 2019, para 24). Regarding this, governments worldwide, including Malaysia, must ensure that, as far as practicable, children deprived of liberty can exercise their rights during the Covid-19 pandemic in line with the requirements of the CRC and the international guidelines. Unfortunately, it has been reported that many governments around the world are not adequately addressing the issues faced by children in the institutions during the pandemic, and they are often treated as an afterthought. It is also questionable whether children in the institutions can be protected from contracting Covid-19, considering the proximity, and underlying medical conditions they already have. The challenges faced by children deprived of liberty are exacerbated when prisons are overcrowded, and there is lack of access to clean water, sanitation, and essential medical services (Human Rights Watch, 2020). In responding to the challenges faced by children deprived of liberty during the Covid-19 pandemic, the government of Malaysia must make a concerted effort to ensure that these children have access to the facilities in the institutions and that their needs are met, in line with the international legal framework.

METHODOLOGY

This paper adopted a qualitative research design to explore the issues surrounding the challenges faced by children deprived of liberty in

detention centres during the Covid-19 pandemic (Creswell, 2007; Creswell, 2009). For the first phase of the study, content analysis was undertaken by conducting a literature review to locate and identify relevant literature surrounding the legal and conceptual framework governing children deprived of liberty in institutions. A literature review was also conducted to examine the challenges faced by children deprived of liberty during the Covid-19 pandemic while serving sentences in institutions (O Leary, 2010). The sources of the literature review were derived from various secondary reports such as textbooks, journal articles, government reports, newspaper articles, and resources from online databases. In the second phase of the study, namely before the data collection process began, questions in the interview protocol were scrutinised by a panel of experts to ascertain the validity of the interview protocol, and to ensure that the interview questions would help to generate in-depth answers to the research questions. In addition, to ensure the reliability of the interview protocol, verbatim responses of the respondents who participated in the semi-structured interviews were documented and analysed (Creswell, 2007; Creswell, 2009).

In the third phase of the research involving the data collection process, a group of ten (10) respondents were selected through purposive sampling based on their occupational roles and their experience in dealing with children deprived of liberty. There were five (5) respondents from the following approved schools located throughout Malaysia: (a) Kota Kinabalu; (b) Kuching; (c) Sungai Besi; (d) Sungai Lereh; and (e) Telok Air Tawar. Additionally, another five (5) respondents from the following social welfare departments were chosen to participate in the research: (a) Melaka Social Welfare Department; (b) Port Dickson Social Welfare Department; (c) Putrajaya Social Welfare Department; (d) Johor Social Welfare Department; and (e) Selangor Social Welfare Department. In the fourth phase of the data analysis, the primary data obtained from the ten (10) respondents who participated in the semi-structured interviews were combined with the content analysis derived from the literature review. The grounded theory approach was adopted to analyse the qualitative data through thematic and content analysis, whereby interview transcripts obtained from the semi-structured interviews were examined inductively. This process entailed the creation of codes, categories, and relevant themes that represented the respondents' opinions on issues concerning children deprived of liberty in the institutions and were supported by views of scholars from the literature review conducted earlier (O Leary, 2010).

RESULTS

The findings from the study showed that there are critical challenges that need to be addressed by the detention centres in Malaysia in dealing with children deprived of liberty during the Covid-19 pandemic. The discussion below also highlights the critical areas and challenges faced by children deprived of liberty who are serving the court's order in the institutions during the Covid-19 pandemic.

Daily Activities in the Institutions are Limited

The findings of this research have revealed that children deprived of liberty often suffer from higher stress levels while serving their sentences in the institutions, since they can no longer participate in activities organised by external agencies. Consequently, the daily routine of children deprived of liberty are limited to programs available in the institutions, without exposure to external activities within the community. Studies have shown that outdoor activities and community-based programs are necessary to foster good behaviour and prevent future crimes being committed by offenders (Iudici & Maiocchi, 2014; Langat et al., 2020). Studies have also shown that engagement with non-parental adults can build greater resilience among youths, it can serve as an essential element to help children face adversities in their future life (Ahrens et al., 2011). To overcome their feeling of stress and isolation, one of the respondents in the study highlighted that the management of the institutions have undertaken steps to ensure that daily activities such as sports or internal competitions continue to be held, as well as incorporating variety to existing activities to keep children in the institutions occupied. However, a respondent also stressed the importance of implementing relevant standard operating procedures to safeguard the children and staff in the institutions against Covid-19.

In responding to the spread of Covid-19, the Inter-Agency Standing Committee (IASC) issued the Guidelines on Addressing Mental Health and Psychosocial Aspects of Covid-19 (2020) (hereinafter referred to as “the IASC Guidelines 2020”) that outline interventions that can be undertaken with every group in society (including children) in order to provide mental health and psychosocial support when dealing with stress and anxiety in facing the Covid-19 outbreak. The IASC Guidelines 2020 stated that it is common for anyone to suffer from

feelings of helplessness, boredom, and depression resulting from being isolated, and children deprived of liberty are not an exception. Hence, the IASC Guidelines 2020 highlighted that it is crucial for institutions to maintain regular routines and schedules as much as possible and to create new and engaging activities that can promote a suitable environment for learning, playing, and relaxing in the institutions, in line with the prescribed safety measures for Covid-19. The institutions can also take additional steps such as increasing the number of psychology officers that can provide more counselling sessions to children who feel depressed, bored, and anxious due to the limited activities in the institutions. Furthermore, other staff in the institutions can also be trained with communications skills to engage with children deprived of liberty so as to ensure that they feel included.

Lack of Integration and Engagement with the Community

One of the respondents noted that some of the children despite being deprived of liberty were quite active and participated in many activities. For instance, some of them were in performing groups such as marching bands or traditional dance groups, and they used to enjoy the invitations they received from the community to perform for the public. Such opportunities given to these children enabled them to develop a sense of belonging in the community. The invitation to perform in events organised by the public also provided exposure to these children as they could take part in activities conducted beyond the walls of the institutions. However, since the imposition of the MCO, children deprived of liberty can no longer participate in events involving the community, making them feel even more isolated from the outside world.

Consequently, due to the lack of interaction with the community, one of the respondents questioned the children's ability and readiness to successfully return to society once they are released from the institutions. Studies have shown that offenders released from the institutions face many challenges and must deal with many aspects of emotional uncertainty. They struggle with feelings of animosity and are forced to confront a multitude of personal, social, and legal barriers upon re-entry into the community (Iudici & Maiocchi, 2014; Langat et al., 2020). As a result, many offenders are unable to cope with these challenges once they are released from the institutions. Research has

also shown that offenders are at an increased risk of death by suicide, from drug overdose, cardiovascular disease, or accidental death in the first two (2) weeks on returning to the community (Binswanger et al., 2007).

The IASC Guidelines 2020 acknowledged that it is commonplace for individuals to feel socially excluded during the Covid-19 outbreak due to having to comply with quarantine measures. However, children deprived of liberty may feel the heightened impact of being socially excluded more strongly since they are serving the court's order in the institutions. In this environment, the IASC Guidelines 2020 encouraged the development of a sensitive and caring environment for children deprived of liberty in the institutions. Staff in the institutions can play a significant role in providing encouragement and support to the children, in order to minimise the adverse effects of these children feeling excluded from society during the Covid-19 pandemic.

Prolonged Separation from Family Members

The research findings also revealed that following the imposition of MCO across Malaysia, many children deprived of liberty were emotionally affected because they were not able to meet their family members for almost a year. The children could not meet their parents through in-person visitation, since travel restrictions prohibited physical meetings with their family members. It has been reported that visitation from family members is imperative to children in institutions since it helps them to maintain contact with the outside world and promotes their reintegration into society. Additionally, meeting their family members in person helps to strengthen and maintain social bonds, mitigate mental distress, and reduce cases of recidivism among the children once they are released from the institutions. The importance of familial relationships in shaping an individual's well-being has also been documented in previous research (Cochran & Mears, 2013; De Claire & Dixon, 2017; Merz et al., 2009). In this regard, one of the respondents stated that institutions allowed children deprived of liberty to contact and to stay connected with their family members during the pandemic to ensure that they feel supported and to help prevent the children from missing their families too much.

According to one respondent, communication between children in the institutions and their families usually take place using phone facilities

provided by the institutions. The research findings revealed that before the spread of Covid-19 and the imposition of the MCO, children had monthly physical meetings with their family members and relatives. However, due to the MCO and travel restrictions, children in the institutions can no longer have physical meetings with their family members and relatives, causing some to feel emotionally depressed and anxious. Studies have suggested that solitary confinement and social isolation, even for a short period of time, are associated with psychological consequences such as anger, depression, anxiety, paranoia, and psychosis (Cochran & Mears, 2013; De Claire & Dixon, 2017; Shalev & Edgar, 2015).

The IASC Guidelines 2020 highlighted the importance of providing children in the institutions with an outlet where they can freely express their emotions and share their feelings with the institutions' officers since they cannot meet their families in person. In this regard, the institutions also need to provide communication tools such as phone and video calls to enable the children to maintain regular contact with their family members. Institutions must also provide family members with regular updates about the health and well-being of the children in the institutions, via phone or computer. Consequently, the government needs to allocate a higher budget to purchase more communication tools and strengthen the institutions' internet connections. Additionally, the government can encourage corporations to undertake corporate social responsibility (CSR) programs that focus on purchasing computers, laptops, and handphones to diversify and increase communication platforms used in all institutions in the country.

Institutions are Under-Equipped to Embrace Online Learning

The study's findings also revealed that some institutions are not prepared to conduct online programs with external agencies due to the lack of facilities and infrastructure to facilitate online learning. One of the respondents highlighted that to ensure the continuous involvement of external agencies, the agencies will usually sponsor appropriate equipment needed to conduct online activities (such as motivation talks and religious programs) for children in the institutions. In this respect, research has shown that technology and budgetary aspects need to be addressed together with improving the learning and teaching process are crucial in ensuring that children in the institutions will be able to benefit from online learning (Coker,

2021). In addition, one of the respondents noted that children in the institutions are also ill-equipped to attend online classes organised by the day schools. Hence, to ensure that learning occurs amidst the Covid-19 pandemic, learning activities in the institutions still focus on face-to-face interaction and putting pen to paper. Beyond the walls of the institutions, the Covid-19 pandemic has compelled schools to shut down, with online teaching and learning taking precedence worldwide, including Malaysia. Besides, even children attending day schools face challenges in online learning. For example, the following studies undertaken in the USA had highlighted the challenges faced by children in undertaking online learning: (a) students were unengaged in the learning process (Fullan, 2013); (b) strong evidence revealed that students did not log in to classes and the ones who did, engaged in little learning (Graham, 2020); and (c) national surveys and research found that remote learning has been a poor replacement for in-person learning (Hobbs & Hawkins, 2020; Wexler, 2019).

Studies indicated that although students adapted to remote learning in Malaysia, especially at the tertiary level, the available ICT infrastructure was insufficient (Chung et al., 2020). However, studies on the effectiveness of remote learning among incarcerated children or children deprived of liberty are lacking (Cuban & Jandrić, 2015; García & Butrymowicz, 2020), and no known research has been found that directly deal with children incarcerated in juvenile detention centres. Hence, examining how children deprived of liberty respond to remote learning is crucial. Understanding how juvenile delinquents participate in learning in post-COVID schools can also help policymakers improve outcomes for all children in their learning process (Coker, 2021). Like the recommendations mentioned, the government needs to set aside appropriate allocation to purchase equipment that can facilitate online learning and strengthen internet connection in the institutions, particularly those that do not offer formal education to children. There is a dire need to intensify the involvement of public and private corporations that can help fund the cost of equipment for online learning, such as computers, laptops, handphones, and other devices as part of their CSR to facilitate online learning in institutions across the country. Further, psychology officers and staff in the institutions play a crucial role in identifying children who need assistance with online learning. They help to ensure that personalised guidance is available so that these children will not be left behind.

Lack of Career Preparation before Leaving the Institutions

As highlighted by one of the respondents, before the outbreak of the Covid-19 pandemic, children deprived of liberty had the opportunity to attend in-person career sessions conducted by external agencies to prepare them for employment during their reintegration process. However, due to the pandemic, physical visitation was impossible and therefore institutions were no longer able to conduct in-person career sessions with experienced and knowledgeable speakers from external agencies. A respondent also pointed out that due to the MCO, activities involving external agencies were limited and in fact was only conducted once for children in the institutions, through an online platform. In view of this, since career training cannot be conducted in institutions and opportunities for online training are limited, children deprived of liberty lack the opportunity to gain valuable insight about career pathways from experts. In addition, once the children are released from the institutions, they have to compete with millions of other unemployed young persons who have already lost their jobs and millions more who may be seeking new employment opportunities (Bureau of Labor Statistics, 2020). Another respondent highlighted that despite some limitations, the institutions have managed to conduct career sessions and motivational talks for the children via Zoom with local agencies, to help navigate their future direction before they are released from the institutions. However, not all institutions can provide online learning programs for the children. Hence, to overcome the lack of in-person career sessions, it is essential to utilise modern digital platforms to ensure that children in the institutions are equipped with the necessary knowledge and skills before they are released (Autin et al., 2020). The institutions in Malaysia can also take proactive measures to strengthen interagency cooperation with external agencies such as educational agencies, employment agencies, and non-governmental organisations that can help facilitate the institutions in preparing children for reintegration into society, especially six (6) months before they are released from the institutions.

Lack of Personal Development among the Staff

The spread of Covid-19 has changed the working landscape for many people and made working from home a necessary feature in society. Undoubtedly, there are many challenges to working from home, such as difficulty in establishing boundaries between working and fulfilling

family duties at home. Staff in the institutions face similar challenges when dealing with children deprived of liberty and responding to their needs. For example, one respondent claimed that due to limited activities carried out in the institutions, dealing with children around the clock was draining and placed staff at risk of burnout. Additionally, there is limited access to staff training or self-development courses organised by external agencies to help staff in handling the children (UNICEF Guidelines to Strengthen the Social Service Workforce for Child Protection, 2019; Lonne et al., 2019). However, one respondent shared that to overcome the limited opportunities for self-development, she took the initiative of signing up for online courses. The online courses gave her valuable insights on children's cognitive development and has helped her to better handle the children in the institutions. However, due to work commitments, not all staff get the opportunity to join online courses.

Following the outbreak of the Covid-19 pandemic, millions of people across the globe face different challenges when working from home. Various distractions, technological concerns, and the task of caring for their children remain among the biggest challenges for parents working from home, since the boundary between workspace and the home environment has become increasingly blurry (Baudot & Kelly, 2020; Ozimek, 2020). Online teachers also face challenges since most organisations lack formal written plans for school administrators and employees to replicate the face-to-face learning process in schools when conducting online teaching. Consequently, these challenges have impacted the self-development of staff and hampered their teaching quality (Sliz, 2020). In view of this, the institutions in Malaysia need to provide more motivational courses for its staff including psychology officers to prevent them from burnout. Besides, more staff training courses could be provided to enhance their knowledge and skills in handling children in the institutions who may be suffering from emotional distress, depression, or anxiety, as a result of long periods of isolation from their family members and society.

In this regard, based on the issues faced by children deprived of liberty as highlighted in the paragraphs mentioned, the IASC Guidelines 2020 stress the importance of developing a Mental Health and Psychosocial Support (MHPSS) strategy for unique and vulnerable groups such as children and frontliners, including non-health workers in quarantined sites. It is crucial to help address the fear, stigma, negative coping strategies, and other needs of vulnerable groups such as children in the

institutions through assessments. This strategy is best implemented through a close collaboration between detention centres, agencies, and communities in order to provide comprehensive and timely response to the Covid-19 pandemic in Malaysia.

Although the domestic legal framework enshrined in the 2001 Act, 1995 Act, the Prisons Regulations and the Child (Approved School) Regulations 2017 are in place to govern children deprived of liberty in the institutions, it is submitted that the implementation of the laws and practices in responding to the Covid-19 pandemic may not be adequate in meeting the needs of children deprived of liberty in the institutions. Hence, in line with the MHPSS strategy, the government must develop a specific set of policies and standard operating procedures that can strengthen current practices and meet the needs of the children in the institutions, who are at greater risk of being isolated than other categories of vulnerable groups. In this regard, it is instrumental for the government to ensure that children deprived of liberty have access to education and other key facilities when they are being detained in the institutions. Children deprived of liberty need to be fully supported, and proper assessments must be made to ensure that they are physically, emotionally, mentally, and spiritually cared for in institutions across the country.

CONCLUSION

The discussion in this article highlighted the legal rights of children deprived of liberty when serving the courts' order in institutions. It also examined the challenges faced by these children during the Covid-19 pandemic. To prevent the adverse impact of Covid-19 on children deprived of liberty, institutions must be prepared to ensure that all legal rights of these children are fulfilled during their detention. Specific policies and guidelines must be developed to meet the emotional, physical, psychological, and mental health needs of these children in institutions across the country during the pandemic. At the same time, the government is urged to uphold the principle that placing children in institutions should be a measure of last resort, in order to prevent them from being at risk of contracting Covid-19. As such, placing children who have committed non-violent crimes in alternative places such as family-based or community-based care is a viable measure that must be considered. As highlighted in the preceding paragraphs, the government is also urged to consider the immediate release of specific

categories of children who conflict with the law, to enable them to return safely to their families and communities. A few countries have already adopted this measure to overcome the spread of Covid-19 in the institutions. These alternative measures can help to better protect the well-being of children deprived of liberty, especially during the Covid-19 pandemic. Although the vaccination rate in Malaysia is relatively high and society is generally anxious to return to a new normal, the future remains uncertain especially with the emergence of new Covid-19 variants in the country. Regardless of what the future holds, specific policies and guidelines must enable timely responses in meeting the needs of children deprived of liberty in the institutions, in line with the international legal framework.

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REFERENCES

- Ahmad, N., Hamid, A. G., & Wok, S. (2016). The pre-trial detention of child offenders: Some evidence from Malaysia. *The Social Sciences*, 11(30), 7210–7214. <https://doi.org/10.3923/sscience.2016.7210.7214>
- Ahrens, K. R., Dubois, D. L., Garrison, M., Spencer, R., Richardson, L. P., & Lozano, P. (2011). Qualitative exploration of relationships with important non-parental adults in the lives of youth in foster care. *Children and Youth Services Review*, 33(6), 1012–1023.
- Autin, K. L., Blustein, D. L., Ali, S. R., & Garriott, P. O. (2020). Career development impacts of COVID-19: Practice and policy recommendations. *Journal of Career Development*, 47(5), 487–494.
- Awal, N. A. M., Al-Adib Samuri, Md Sham, F., & Zainol, I. (2021). Children's rights in detention centres pursuant to international instruments and the Malaysian legal framework. *UUM Journal of Legal Studies*, 12(2), 283–305.
- ASEAN. (2001). *Declaration on the Commitments for Children in ASEAN*. https://bice.org/app/uploads/2014/10/declaration_on_the_commitments_for_children_in_asean.pdf

- ASEAN. (2015). *ASEAN 2025: Forging Ahead Together*. <http://aseantuc.org/wp-content/uploads/2015/11/ASEAN-2025-Forging-Ahead-Together-for-webCD-FINAL.pdf>
- ASEAN. (2017). *ASEAN Regional Plan of Action on Elimination of Violence Against Children*. <https://asean.org/wp-content/uploads/2018/01/49.-December-2017-ASEAN-RPA-on-EVAC-2nd-Reprint.pdf>
- Basir, E. K. (2020, November). Impact of COVID-19 pandemic on children. *BERNAMA.com* <https://www.bernama.com/en/features/news.php?id=1903310>
- Baudot, L., & Kelly, K. (2020). A survey of perceptions of remote work and work productivity in the United States during the COVID-19 shutdown. *SRRN Electronic Journal*, <https://doi.org/10.2139/SSRN.3646406>
- Binswanger, I., Stern, M., Deyo, R., Heagerty, P., Cheadle, A., Elmore, J., & Koepsell, T. (2007). Release from prison: A high risk of death for former inmates. *The New England Journal of Medicine*, *356*(2), 157–165. <https://doi.org/10.1056/nejmsa064115>
- Bureau of Labor Statistics. (June, 2020). The employment situation. https://www.bls.gov/news.release/archives/empisit_07022020.pdf
- Choufany, F. (2020, April). UN Chief calls for greater protection for children caught up in COVID-19 crisis. *UN News*. <https://News.Un.Org/En/Story/2020/04/1061892>
- Committee on the CRC General Comment No. 24. (2019) on Children's Rights in the Child Justice System. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f24&Lang=en
- Child Act 2001. (Act 611).
- Child Frontiers & Malaysian Association of Social Workers for UNICEF Malaysia. (2020). Understanding the impact of COVID-19 on vulnerable children & families in Malaysia: Social service workers share their experience, perspectives and recommendations for the future. <https://www.unicef.org/malaysia/media/1916/file/Impact%20of%20COVID-19%20on%20Vulnerable%20Children%20&%20Families%20in%20Malaysia.pdf>
- Chung, E., Subramaniam, G., & Dass, L. C. (2020). Online learning readiness among university students in Malaysia amidst COVID-19. *Asian Journal of University Education*, *16*(2), 46–58.

- Cochran, J. C., & Mears, D. P. (2013). Social isolation and inmate behavior: A conceptual framework for theorising prison visitation and guiding and assessing research. *Journal of Criminal Justice*, 41(4), 252–261.
- Coker, D. C. (2021). Education, policy, and juvenile delinquents: A mixed-methods investigation during COVID-19. *Journal of Education and Learning*, 10(1). <https://doi.org/10.5539/jel.v10n1p22>
- Cuban, L., & Jandric, P. (2015). The dubious promise of educational technologies: Historical patterns and future challenges. *E-Learning and Digital Media*, 12, 425–439. <https://doi.org/10.1177/2042753015579978>
- De Claire, K., & Dixon, L. (2017). The effects of prison visits from family members on prisoners' well-being, prison rule-breaking, and recidivism: A review of research since 1991. *Trauma, Violence, & Abuse*, 18(2), 185–199.
- Faruqi, S. S. (2020). *Our constitution*. Sweet & Maxwell.
- Fullan, M. (2013). Commentary: The new pedagogy: Students and teachers as learning partners. *Learning Landscapes*, 6(2), 23–29. <https://doi.org/10.36510/learnland.v6i2.601>
- García, M. T., & Butrymowicz, S. (2020). Online programs used for coronavirus-era school promise results. The claims are misleading. *USA Today*. <https://www.usatoday.com/>
- Graham, K. (2020). Who's showing up for school during the pandemic? In Philly, it's just over half of students. *Inquirer*. <https://www.inquirer.com/>
- Hamid, A. G. (2019). *Public international law: A practical approach*. (4th ed.) Sweet & Maxwell.
- Hobbs, T. D., & Hawkins, L. (2020). The results are in for remote learning: It didn't work. *Wall Street Journal*. <https://www.wsj.com/>
- Human Rights Watch. (2020). World: Detained children left out of Covid-19 response (2020). <https://alliancecpha.org/en/child-protection-news/world-detained-children-left-out-covid-19-response>
- Iudici, A., & Maiocchi, A. (2014). Community justice and juvenile offender: The management of an individual case with criminal slope with community involvement. *Mediterranean Journal of Social Sciences*, 5(20), 2015.
- Kilkelly, U. (2008). Youth justice and children's rights: Measuring compliance with international standards. *Youth Justice*, 8(3), 187–192.

- Langat, K., Melly, J., & Nyawira, M. (2020). Impact of COVID-19 on incarcerated offenders and community reintegration challenges in Kenya prisons. *American Research Journal of Humanities Social Science*, 3(6), 55–62.
- Lonne, B., Scott, D., Higgins, D., & Herrenkohl, T. I. (Eds.). (2019). *Visioning a public health model for protecting children from child maltreatment: Contemporary issues in research and policy*. Springer.
- Merz, E. -M., Consedine N. S., Schulze, H. -J., & Schuengel, C. (2009). Well-being of adult children and ageing parents: Associations with intergenerational support and relationship quality. *Ageing & Society*, 29, 783–802. <https://doi.org/10.1017/s0144686x09008514>
- Chalil, M. (2020, October 2020). NGOs in Malaysia reveal the impact of Covid-19 on children's mental health. *Malaymail.com*. <https://www.malaymail.com/news/life/2020/10/01/ngos-in-malaysia-reveal-the-impact-of-covid-19-on-childrens-mental-health/1908361>
- Ministry of Health Malaysia. (2020, January). Director General of Health, Malaysia Media Statement.
- Ministry of Health. (2022). *Vaccination in Malaysia*. <https://covidnow.moh.gov.my/vaccinations/>
- Muralidar, S., Ambi, S. A., Sekaran, S., & Krishnan, U. M. (2020). The emergence of COVID-19 as a global pandemic: Understanding the epidemiology, immune response and potential therapeutic targets of SARS-CoV-2. *Biochimie*, 179, 85–100.
- National Recovery Plan Malaysia's Roadmap to Safely Exit the COVID-19 Pandemic. (2021). <https://pelanpemulihannegara.gov.my/laporan/PPN-en/index.html>
- Ozimek, A. (2020). The future of remote work. <https://doi.org/10.2139/ssrn.3638597>
- The Alliance for Child Protection in Humanitarian Action and UNICEF. (2020). Technical Note: COVID-19 and Children Deprived of their Liberty. https://alliancecpha.org/en/system/tdf/library/attachments/covid-19_and_children_deprived_of_their_liberty_v1_lowres_0.pdf?file=1&type=node&id=37576
- The Alliance for Child Protection in Humanitarian Action et al. (2020). *Open letter from international civil society organisations and child-focused agencies: Covid-19 and the impact of pandemic response plans threaten immediate and long-term risks to public health and child protection*. <https://maestral.org/wp-content/uploads/2020/06/Open-Letter-on-COVID-19-and-Child-Protection-Risks-final-for-endorsement-with-logos-6.4.20.pdf>

- United Nations General Assembly A/74/136. (2019). *Global study on children deprived of liberty: Note by the Secretary-General*. <https://undocs.org/A/74/136>
- United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (A/RES/45/113) (1990) (Beijing Rules). <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/565/02/IMG/NR056502.pdf?OpenElement>
- UNICEF. (2020a). *Children in detention are at heightened risk of contracting Covid-19 and should be released*. <https://www.unicef.org/press-releases/children-detention-are-heightened-risk-contracting-covid-19-and-should-be-released>
- UNICEF. (2020b). *Protect our Children: Response to the UN Secretary-General's call on countries to prioritise children's education, food, health and safety amid the Covid-19 pandemic*. <https://www.unicef.org/sdgs/protect-our-children-during-covid-19>
- UNICEF. (2020c). *UNICEF welcomes the release of children from the detention: Virtual courts expedite the release of the children awaiting trial amid COVID-19 pandemic*. <https://www.unicef.org/bangladesh/en/press-releases/unicef-welcomes-release-children-detention>
- UNICEF. (2020d). *UNICEF Welcomes the release of 85 children from detention in South Sudan*. <https://www.unicef.org/press-releases/unicef-welcomes-release-85-children-detention-south-sudan>
- UNICEF East Asia, the Pacific Regional Office and the Global Social Service Workforce Alliance. (2019). *The Social Service Workforce in the East Asia and Pacific Region: Multi-Country Review*. <https://www.unicef.org/eap/media/4561/file/workforce.pdf>
- Sliž, P. (2020). Remote work during the COVID-19 epidemic in Poland – Results of an empirical study. *E-mentor*, 3(85), 50–65. <https://doi.org/10.15219/em85.1474>
- Wexler, N. (2019). How classroom technology is holding students back. MIT Technology Review. <https://www.technologyreview.com/>
- World Health Organization. (2021). *WHO Coronavirus Dashboard (Covid-19)*. <https://covid19.who.int/>