



Protecting Children's Lives: Unveiling Parental Responsibilities under Malaysian Law

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Abstract. This paper delves into the critical issue of parental responsibilities towards children in Malaysia, particularly in light of tragic deaths resulting from parental negligence. Despite media coverage and public awareness campaigns, incidents involving the carelessness of adults continue to occur, necessitating a closer examination of the obligation parents hold towards their children. By analyzing relevant laws and regulations, this paper sheds light on the legal framework surrounding parental responsibilities and provides recommendations to mitigate negligence and promote child safety. It emphasizes the need for parents to exercise caution, care, and vigilance, highlighting the potential consequences of breaching these obligations. Additionally, practical suggestions are offered to help parents prevent negligence, including creating a safe environment, maintaining constant vigilance, improving communication, and seeking community and government support. Through a collective effort and a thorough understanding of their responsibilities, parents can play a crucial role in safeguarding their children's welfare and reducing tragic incidents caused by negligence.

Keywords: Parental, negligence, children, safety, responsibilities.

1 Introduction

Media and reports describing the unexpected and tragic deaths of young children have flooded news channels. Tragedies caused by parental neglect have sparked public debates, media stories, and impassioned messages emphasising the need of responsible parenting and avoiding any neglect that may endanger children. Citing from **The Sun Daily**, where it pinpointed the alarming rise of abuse and neglect of children!¹ Another example would be the latest news regarding a child aged 4, died in a local hospital after apparent mistreatment at the hands of his mother and stepfather.²

As guardians of their children, parents have an enormous obligation. The responsibility stems from the fact that parents are entrusted with their children's well-being, protection, and nurturing. Children rely on their parents for direction, safety, and support. Hence, it is critical

¹ Farah Natasya, 'Alarming Developments in Child Abuse' (The Sun Daily, 10th January 2023) <<https://www.thesundaily.my/home/alarming-developments-in-child-abuse-BC10470573>> accessed 2 June 2023.

² Bernama, 'Mum, stepdad arrested over death of four-year-old boy' (New Straits Times, 29th April 2023) <<https://www.nst.com.my/news/crime-courts/2023/04/904113/mum-stepdad-arrested-over-death-four-year-old-boy>> accessed 2 June 2023.

that parents complete their responsibilities conscientiously. A child's formative years play an essential role in moulding their physical, emotional, and cognitive development. During this crucial period, parents function as the major role models, instructors, and guardians. Parents' actions and decisions have a significant influence on their children's future well-being and success. As a result, understanding and adhering to parental responsibilities is of paramount importance. Negligent behaviour or inability to exercise appropriate care can result in serious and lasting injuries or even death. Next, emotional neglect, a lack of proper supervision, or exposure to dangerous situations can leave children with long-term psychological scars.

To handle the issue thoroughly, it is critical to investigate parents' legal duties to their children under Malaysian law. The following research questions arise:

1. What are the specific legal obligations that parents must fulfil according to Malaysian law?
2. How can parents adopt preventive measures to ensure they fulfil their responsibilities and avoid any negligence that may jeopardize their children's safety and well-being?

2 Literature Review

It is crucial that we understand what parental responsibility in Malaysia is to determine the scope of responsibilities that parents have. Unfortunately, Malaysian laws do not expressly state or define what exactly amounts to parental responsibility in a single codified statute, interpretations can be seen scattered around different Malaysian authorities. In this article, we will be looking at primary and secondary sources from both foreign and local jurisdictions to look into the interpretation and scope of parental responsibility. It should also be noted that **Section 3 of the Civil Law Act 1956**³ allowed English authorities to be adopted in Malaysia.

Parental responsibility is noticed to have developed in three stages⁴. Firstly, punitive measures were aimed at the child, to ensure that the child acts "acceptably". Second, the burden shifted to the parents due to the Freudian concept of the "plasticity" of a young child, thus legal measures and corrective efforts were put on the parents. This can be also seen in **Burton's 2015 textbook**⁵, where he stated that the concept of parental responsibility negates the growing importance of children's rights. Taking this into account with the issue of delinquency, the children's action now falls mostly on parents. This then widens the interpretation of parental responsibility, such responsibility not only includes the care given to the child but also the

³ Civil Law Act 1956, S 3.

⁴ Allen, Frederick H, *Psychotherapy with Children* (W. W. Norton, 1942).

⁵ Burton F, *Family law* (Routledge 2015).

burden of carrying the liabilities and consequences of the actions of the child. This issue was argued in court for three times, on whether it was constitutional for parents to take liability for the crimes of their children, all three had failed.⁶ Moving on to the third stage of development, **Ellenmarie Shong** notices that the status quo, pushes the pendulum back to the middle, putting an emphasis on both the child, and the parent.

Esther Erlings referred to several authorities⁷ and submitted that parental responsibility requires the giving of priority to children's welfare, and even highlighted that it is parent's responsibility to ensure this happens. Erlings further explains that it would mean that the welfare of a child, would be determined by the parents themselves, which of course leads to the question of this research, what exactly would be the welfare of a child, which would fall under the responsibility of parents?

The parents' responsibilities can be categorised into four main aspects: maintenance and financial support, education and development, physical and emotional well-being, as well as protection from abuse and neglect.

2.1 Duty to Maintenance and Financial Support

First and foremost, the maintenance and financial support given by parents to their children is a must. The biological mother and father have equal guardianship rights over their offspring under **Section 5 of the Guardianship of Infant Act 1961 (GIA)**⁸. This applies regardless of whether the parents are married. The term "guardianship" refers to having custody of a child and being liable for his or her maintenance, health, and education. Additionally, the guardian manages and controls the child's property.

Besides, **Section 92 of the Law Reform (Marriage and Divorce) Act 1976 (LRA)**⁹ stated that either of the parents has the duty to child maintenance. Unless an agreement or court order says otherwise, it is the responsibility of a parent to take care of or help take care of his or her children, whether they are in his or her custody or someone else's. This can be done by giving them a place to live, clothes, food, and an education that is reasonable for his or her means and position in life, or by paying for these things. According to the **Child Act 2001**, a child is a person who has not attained the age of 18 years old. Thus, for a child, the parents have to provide financial support mainly on tuition, daily expenses, housing as well as recreation. It is

⁶ Shong E, 'The Legal Responsibility of Parents for Their Children's Delinquency' (1972) 6 Family Law Quarterly 145.

⁷ Erlings E, 'Is Anything Left of Children's Rights?' (2016) 24 The International Journal of Children's Rights 624.

⁸ Guardianship of Infant Act 1961, S 5.

⁹ Law Reform (Marriage and Divorce) Act 1976, S 92.

hard for a family with a lower income to spend their money on their children especially after the Covid-19 Pandemic, as the employment rate significantly decreases by percentage. Parents will resort to any means necessary to ensure the survival of their children if they are financially unable to do so. The mental health of parents, caregiving styles, and family dynamics may all undergo shifts in response to this additional stress, putting children at risk of neglect and abuse¹⁰.

In addition, **Section 3(1) of the Married Women and Children (Maintenance) Act of 1950 (Revised 1981)**¹¹ states that if a parent fails or refuses to provide financial support for his legal child, the court may order him to pay a specified amount each month. When parents lack sufficient funds to provide for their children, they do whatever is necessary to survive¹². Nonetheless, this additional burden may contribute to changes in parental mental health, caregiving behaviours, or family dynamics that place children at risk for neglect or abuse.

After looking at the laws we have in Malaysia regarding the maintenance of children, we shall compare the laws with other countries. In Singapore, they have Maintenance Law namely the **Women's Charter**¹³ while in Malaysia we do not have a specific law to govern the relevant situation. In Malaysia, we mainly refer to the GIA, LRA as well as the Child Act 2001. This means that laymen in Malaysia hard to find a specific law governing the maintenance law by referring only to one statute.

Fortunately, in Malaysia, we have the programme named **Bantuan Kanak-Kanak (BKK)** which aims to enable underprivileged and needy children to remain living with their families, where they can continue to receive love, care, and attention. This BKK Programme will provide a minimum of RM150 and a maximum of RM1000 to the children or their family monthly according to their situation¹⁴.

2.2 Duty to Education and Development

On the other hand, education and development is one of the parents' responsibilities. It is crucial for parents to make sure their children have quality education. Education is the most powerful instrument for transforming the world and enlightening oneself. This is due to the

¹⁰ Pruitt R, 'No Money, More Problems: The Correlation between Poverty and Child Abuse' (Voices for Children of Broward County, 2015) accessed 31 May 2023.

¹¹ Married Women and Children (Maintenance) Act of 1950 (Revised 1981), S 3(1).

¹² Jal Zabdi Mohd Yusoff & Sridevi Thambapillay, "Leaving Children Without Reasonable Care and Supervision: Between Law and Reality in Malaysia".

¹³ Sridevi Thambapillay and Jal Zabdi Mohd Yusoff, "Maintenance Laws and Illegitimate Children in Malaysia".

¹⁴ Department of Social Welfare, 'Skim Bantuan Kebajikan' (Jabatan Kebajikan Masyarakat, 2023) accessed 31 May 2023.

fact that a quality education equips one with the ability to correctly interpret and apply information in the real world. By receiving a quality education, children will understand what they should and should not do. This is crucial as they will know how to prevent themselves from doing anything which is harmful or life-threatening.

The family provides an oasis of security for children, and that implies that parents have a lot of influence over how their kids mature and whom they become as people. According to studies, a mother's or a woman's influence as a teacher is more influential in molding a child's identity than either parent's marital or occupational status or the family's socioeconomic background¹⁵. Mothers are the most important people in a child's life because they are the ones who bring them into the world and guide them through childhood and into adulthood, where they can thrive on their own.

Besides that, a father plays a pivotal role in establishing the norms and routines that form the bedrock of a harmonious and fulfilling home life for everyone in the family. Many new fathers desire to provide a superior upbringing for their children than they themselves received. His role in the family is especially important because it gives everyone, particularly the children, a sense of security, which benefits the family as a whole. The children are the primary beneficiaries of these secure conditions.

In Malaysia, we have **Section 29A of Education Act 1996**¹⁶ which provided that through a 2002 amendment to the Education Act 1996, primary education became obligatory beginning with the 2003 school year. Under the new regulations, every parent who is a Malaysian citizen and lives in Malaysia must enroll their child in a primary school if the child is six years old on January 1 of the current school year and stays in a primary school until the end of compulsory education. If the Minister thinks it would be good for the students or the public, he can remove any student or group of students from having to go to school. He can do this without any conditions or with conditions that he thinks are right. If a parent breaks the rules about required education, they will be guilty of a crime that can lead to a fine or jail time.

In simple terms, there are many more avenues for success when parents are actively engaged in their child's education. According to the **Centre for Child Well-Being**, parental involvement in their child's education improves the child's behavior, sense of self-worth, and school achievement across the board¹⁷. Children are more likely to reach their potential as students and adults if they are surrounded by caring adults. Involving parents in their children's

¹⁵ Ardita Ceka, "The Role of Parents in the Education of Children".

¹⁶ Education Act 1996, S 29A.

¹⁷ Gina Madrigal Sapungan, "Parental Involvement in Child's Education: Importance, Barriers and Benefits".

education is the same as saying the school is taking the initiative to foster growth and change in its pupils. Teachers and school administrators have a better chance of implementing high-quality reform in education if more parents are involved in their children's schools.

Hence, based on the discussion above we can clearly see that education plays a vital role in children's development. With that being said, it is the duty of parents to ensure their children obtain quality education to decrease the possibility of any child abuse and negligence.

2.3 Duty to Protect and Promote a Child's Physical and Emotional Well-being

Further looking into the **Child Act 2001**, it can be seen that in the former, the Act confers the role and responsibility of parents to be responsible for children's development, care and support. The Act also further emphasizes on parents providing an environment of happiness and love, with the objective to raise children to become and grow into a person who can "participate in and contribute positively towards the attainment of the ideals of a civil Malaysian society."¹⁸

The purpose that the authors have used the words "protect" and "promote", is to show the importance of both a defensive action, and a positive action in contributing to the wellbeing of the child. Merely a positive action is not sufficient, if there is no defense mechanism to stop external influences that affect the child. Both duties to care for physical and emotional well-being can be seen in **Section 31(4) of the Child Act 2001**¹⁹, where neglect is deemed to have occurred if the parent liable to maintain the child had caused the child physical or emotional injury. **Section 31(5)**²⁰ further states that it is an offence for one to go against this section, even if the likelihood of injury was intercepted by another, or that the child had died. Again, the writer would like to emphasize that the statute did not expressly say this fall under parental responsibility of parent. Another interesting thing to note that, in this statute, it is silence on the passive parent that had failed to stop the other from inflicting harm, however the omission of breaching duty of care may fall under Negligence. An alternative view analyzed by **Bryan A. Liang and Wendy L. Macfarlane**, is that the passive parent should be as liable as the parent who causes the child's death, and have cited the case of **People v Hernandez**²¹, where the wife, who had done nothing to stop the husband from causing the death of their child, is also charged with Murder like the husband.²²

¹⁸ Child Act 2001, Preamble.

¹⁹ Child Act 2001, S 31(4).

²⁰ Child Act 2001, S 31(5).

²¹ *People v. Rogelio Hernandez and Gabriela Hernandez*, No. CR40152, Nov.17, 1997.

²² Bryan A. Liang & Wendy L. Macfarlane, 'Murder by Omission: Child Abuse and the Passive Parent' (1999) 36 Harv J on Legis 397.

Looking at physical wellbeing, a rather common question post the Covid-19 Pandemic is the issue of vaccination. This matter falls in the law of tort of negligence, and it was argued that failure to vaccinate the child may amount to an omission or breach of duty of care. Courts in this area had been cautious and hesitant in imposing a duty as it may lead to floodgates²³, but Courts do recognize the possible risks and implications of failure of vaccination of a child to the public (Public Health and Security), as if that very child had caught the disease, a cluster would occur. In the UK Court of Appeal case of **Re H (A Child)**²⁴, it was concluded that immunization is the medical best interest of a child. Thus, it can be seen that “best interest” would include vaccination, which would fall under parental responsibility to ensure the child is vaccinated.

Emotional wellbeing, other than **Section 31(4) of Child Act**, it also was affirmed in **Re B (A Child)**²⁵, where the Supreme Court had interpreted “harm” in **Section 31(9) & Section 31(10) of the Children Act 1989**²⁶ to not only include ill treatment of child and the impairment of child's health or development, it also includes emotional development. This case further explains that “harm”, is measured depending on facts and reasonable parental care based on the circumstances, instead of personal traits of parent, as the court recognizes that each parent has different and diverse standards of parenting. Connecting this to the question itself, it shows that in relation performing this duty, as long as the parent behaves reasonably sufficient for the child, their idiosyncrasies may not be too relevant, in which renders parental responsibility, still a rather subjective matter.

2.4 Duty to Maintain a Safe and Nurturing Environment

Though this duty and the previous one may look similar, the main distinguishing factor is that the former focuses directly on the parent's behavior on the child, whereas this focuses on the environmental factor that the parent produces that may affect the child. As seen in the acknowledgement of **Child Act 2001**, the objective is to nurture the child into a contributing member of society, this would then require the environment that the child is raised in to be safe and healthy for the child. In an article by **James A. Kenny and James V. Kenny**²⁷, it was discussed that juvenile delinquency roots from the parent. This can be due to failure in fulfilling parental duties, which may be caused by “ignorance, laziness or personalities deficiencies.”

²³ Puteri Nemie Jahn Kassim, ‘Parental Negligence and “Treatment” Rights for Children in Malaysia’.

²⁴ *Re H (Parental responsibility)* [1998] 1 FLR 855.

²⁵ *Re B (A Child)* [2016] UKSC 4.

²⁶ *Children Act 1989*, S 31(9) and S 31(10).

²⁷ Kenny JA and Kenny JV, ‘Shall We Punish the Parents?’ (1961) 47 *American Bar Association Journal* 804.

National Center for Injury Prevention and Control (CDC), too emphasized on the importance of creating a safe, stable and nurturing environment for children to ensure children reach their full potential. The Article also further states on possible methods to achieve this such as better communication methods, media utilization and the control of living conditions.²⁸

A rather crucial point to note is that even if parents had tried to control such environment, to what extent would their responsibility fall under? On February 3rd, 2023, High Court had dismissed a claim of a student who with disabilities whom was bullied in school, and had held that schools “no statutory duty of care to maintain a safe environment and provide quality education”²⁹. In that case, would it be the parent’s responsibility for choosing this school, or would it be parent’s responsibility for not withdrawing from this institution? The judge further added that the mother could have just moved him to another school, thus not only putting the onus of the burden to prove the bullying on the victim, but also increasing the scope of parental responsibility, seemingly outside of the parents itself.

3 Finding and Analysis

It is important to restate that the purpose of this project is to examine and explore the obligations parents have towards their children, specifically by analysing the applicable laws in Malaysia and it aims to understand the effectiveness of the law in ensuring child safety, welfare, and proper upbringing. The primary focus on the Finding and Analysis section will be on the data analysis derived from a survey questionnaire conducted through Google Form. The topic of the survey is “Parents' Responsibilities and Preventing Negligence Towards Children: A Survey.”

Based on the responses received through the Google Form, we have created a comprehensive table that presents the demographic breakdown. This table encompasses various factors such as age, gender, and marital status. Below is an overview of the respondents’ demographic distribution:

Demographic Variables	Number of Respondents	Percentage of Sample (%)
Age (Years Old)		
Below 18	6	4.7
18-25	69	54.3
26-35	20	15.7
36-45	6	4.7
46+	26	20.5

²⁸ National Centre for Injury Prevention and Control, ‘Essentials for Childhood Creating Safe, Stable, Nurturing Relationships and Environments for All Children’.

²⁹ ‘Will Moe Take Responsibility for Our Children’s Safety?’ – Child Advocates’ (The Vibes, 7 February 2023) accessed 1 June 2023.

Gender		
Male	45	35.4
Female	79	62.2
Others	3	2.4
Marital Status		
Married	41	32.3
Not Married	86	67.7

a) *Table 1: Demographic Distribution of the Respondents of the Survey Questionnaire*

Based on the data presented in the table, it is evident that the majority of respondents are individuals who are not married (67.7%). This finding aligns with one of the survey questions, "Are you currently a parent?" which was answered 'No' by 94 out of 127 respondents (74%). Therefore, it can be said that the perspective of the survey is highly based on the perspective of the children.

However, there are additional demographic variables that can be said to significantly influence individuals' perspectives on parental responsibilities which are educational backgrounds, employment status, and personal income. Below is an overview of the demographic distribution among the respondents:

Demographic Variables	Number of Respondents	Percentage of Sample (%)
Educational Background		
Primary School	3	2.4
High School or Equivalent (STPM, Foundation, Diploma, etc.)	31	24.4
Bachelor's Degree	77	60.6
Master's Degree or Higher	16	12.6
Employment Status		
Employed full-time	46	36.2
Employed part-time	4	3.1
Self-employed	6	4.7
Unemployed	6	4.7
Student	63	49.6
Others	2	1.6
Personal Income		
Below RM1,000	60	47.2

RM 1,001 - RM 4,000	41	32.3
RM 4,001 - RM 7,000	10	7.9
RM 7,001 - RM 15,000	7	5.5
Above RM 15,001	9	7.1

b) Table 2: Additional Demographic Distribution of the Respondents

The demographic breakdowns, particularly the educational background and personal income indicators, hold significant importance as they often correlate strongly with the manner in which parents fulfil their obligations to their children. As previously mentioned, one of the responsibilities of the parents is the duty to protect and promote the child's physical and emotional well-being. This duty is highly related to the parents' educational background. This can be found from the finding that is derived from a study involving over three million individuals from the same generation whereby the finding suggests that, on average, children raised in households where both parents have university degrees enjoy a nearly six percentile rank advantage in terms of their adult health compared to children from households where parents have only completed primary education.³⁰ From the survey we collected, majority of the parents have at least a Bachelor's degree and all answered that they are confident in fulfilling their obligations as a parent. This shows that, the parents that have the university degrees are confident that they manage to fulfil their duty as a parent.

However, most of these university-educated parents share a concern of them spending less time with their children due to their work. Not only that 83.5% of the respondents agree that the potential reasons why parents may neglect their responsibilities towards their children is due to the lack of time because of work or other commitments. This is actually in line with the finding that the primary obstacle faced by parents is striking a balance between their work and family responsibilities.³¹ Also, financial situation plays a big role when it comes to parents fulfilling their responsibilities. 76.4% of the respondents agree that financial constraint is the reason why some parents did not manage to fulfil their responsibilities very well. Most of the

³⁰ Emilia Simeonova, Mikael Lindahl, Mårten Palme and Evelina Björkegren, 'Why educated parents have healthier children: Environmental versus genetic factors' (*Centre for Economic Policy Research*, 11 Mar 2021) <<https://cepr.org/voxeu/columns/why-educated-parents-have-healthier-children-environmental-versus-genetic-factors#:~:text=Children%20from%20households%20with%20parents,individuals%20in%20the%20children's%20generation>> accessed 1 June 2023.

³¹ Khor Pei Gee and Zhooriyati Sehu Mohamad, "The Challenges Experienced by Adolescent and Parents In Dual-Income Family: A Qualitative Study" (2020) 5 (1) MJSSH <https://www.researchgate.net/publication/345136309_THE_CHALLENGES_EXPERIENCED_BY_ADOLESCENT_AND_PARENTS_IN_DUAL-INCOME_FAMILY_A_QUALITATIVE_STUDY> accessed 1 June 2023.

parents answered that their challenges during their parenthood are financial. One of the respondents even mentioned that the overseas tuition fees of the children are the challenges in their parenthood.

Moving on, in our survey, we asked an important question which is "Are you familiar with the relevant laws in Malaysia that specifically outline parents' responsibilities towards their children?" Out of 125 respondents, 86 answered that they are not familiar with these laws, while two respondents left the question blank. It is notable also to mention that most of the parents answered that they are not familiar with these laws. This finding alone successfully addresses the aim of our project, which is to assess the effectiveness of the law in ensuring child safety, welfare, and proper upbringing. Unfortunately, it reveals that Malaysian law falls short in ensuring child safety, welfare, and proper upbringing, as it fails to adequately educate the public about parents' responsibilities towards their children.

There is also a question that was asked to the children, if they are aware of any governments or non-government organisations (NGO) or helplines that help children who suffered from parent's negligence or abuse. The proportion of the children who answered "Yes" and "No" to this question was better than the previous question as 55.3% of the children answered "No" while 44.7% answered "Yes." This shows that most of the children are aware of their rights as children.

The majority of the respondents give suggestions to strengthen child protection systems such as child helplines for parents to avoid any negligence or failure in fulfilling their responsibilities. Other suggestions that are supported by most of the respondents are government or any relevant organisations implement a comprehensive parental education programme, authority enforce the law strictly for those who neglect the parental responsibility and encourage responsible media portrayal of the importance of parental responsibility.

Overall, through these literature review and survey, it shows that parents have the obligations towards their children, not only in a sense of socially but also legally and the effectiveness of the law in ensuring child safety, welfare, and proper upbringing through the parental responsibilities in Malaysia can be said to be ineffective due to the low awareness of the public on the matter.

4 Discussion

4.1 Implication of findings and the contribution to the existing body of knowledge

Collecting 127 responses from the perspective of parents and children, 83.5% of survey participants stated that the lack of time is the most potential reasons that parents may neglect their responsibilities. In today's fast-paced world, demanding work schedules, long hours, and multiple commitments can make it difficult for parents to dedicate sufficient time and attention to their children. Moreover, approximately 97 respondents believe that financial constraints are the potential reason why parents neglect their children. The extended work schedule can result in limited quality time with their children. Parents may find themselves exhausted or preoccupied with work-related concerns, leaving less time and energy for meaningful interactions with their children. This results in negligence of parental responsibility towards their children. Furthermore, 96 out of 127 respondents expressed their opinion that lack of the awareness or the knowledge about their responsibility. Parenting is a learned skill, and some parents may not have had the opportunity to develop effective parenting techniques. Without proper knowledge and skills, parents may struggle to understand and respond to their children's needs, resulting in unintentional neglect.

To minimize the unintentional neglect, parents should actively engage in their children's lives. They should stay involved in their education by attending parent-teacher meetings, school events, and staying informed about their academic progress. By establishing open lines of communication with teachers, parents can gain insights into their child's strengths, areas for improvement, and collaborate on strategies to support their learning journey. Regularly discussing school-related matters with children demonstrates the value placed on education and encourages their academic success.

From the aspect of extra-curricular, parents should encourage their children to participate in clubs, societies or even competitions to make them a well-rounded individual. Attending their performances, matches, or competitions not only shows encouragement but also strengthens the parent-child bond. By engaging in their activities, parents demonstrate a genuine interest in their child's passions and children experience a sense of being loved and nurtured. They receive affection, attention, and support from their parents or caregivers, creating a nurturing environment where their needs are consistently fulfilled. It is crucial for children to never experience neglect or a lack of attention, ensuring their emotional, physical, and social needs are met with compassion and dedication.

Lastly, it is important for parents to establish connection with other parents and cultivate a supportive network. This network serves as a valuable source of emotional support, allowing parents to share their experiences, exchange parenting advice, and offer encouragement to one another. This supportive network becomes a platform where parents can freely discuss their concerns, seek guidance, and gain insights from the collective wisdom and experiences of others. Ultimately, connecting with other parents not only strengthens individual parenting journeys but also creates a supportive and inclusive environment that benefits the well-being of both parents and children.

Additionally, lack of the awareness or the knowledge about their responsibility can be curbed by actively participate comprehensive parental education programs or seminars that have been provided by either government or private bodies. This is because the parental education programs are designed to provide parents with the knowledge, skills and tools necessary to effectively fulfil their role as caregivers and raise their children in a healthy and supportive environment.

Some parental education programs cater to specific challenges, such as raising children with disabilities, managing behavioral difficulties, or navigating the complexities of divorce or separation. These programs equip parents with tailored information and valuable resources to adeptly handle these circumstances. Through these programs, parents learn to refrain from resorting to severe punishments or abusive actions, such as taunting, physical harm, isolation, or neglect.

Take Positive Parenting³² as an example, it is Malaysia's Expert Educational Programme for Parents on Maternal, Child & Family Care, initiated by Malaysian Paediatric Association (MPA) in 2000. It collaborates with a various of organisations such as Malaysian Psychiatric Association, Malaysian Mental Health Association (MMHA), Association of Registered Child-care Providers Malaysia (PPBM) and others. Their objective is to connect the most skilled healthcare experts with Malaysian parents, aiming to equip parents with reliable, precise, and applicable parenting knowledge. With access to this comprehensive knowledge and hands-on experience, parents can confidently navigate the challenges of parenting.

"Parenting for Success!"³³ is one of the events that held by Positive Parenting that aims to help parents to unlock children's potential. The event features Mr. Alexius Cheang, a renowned Behavioral Psychologist from the International Medical University (IMU), who shares

³² 'About Us' (Positive Parenting, 2018) accessed 29 May 2023.

³³ Positive Parenting, 'PARENTING FOR SUCCESS! Join Our Expert Talk This 22nd September 2018!' (Positive Parenting, 21 February 2019) accessed 31 May 2023.

his extensive knowledge and experiences. Attendance to this informative seminar is priced at RM25 per couple, providing an affordable opportunity for parents to benefit from expert insights and have their pressing parenting queries addressed.

In short, by actively engaging in parental education programs and seminars, parents can acquire valuable perspectives, skills, and assistance to effectively fulfil their responsibilities. Through these initiatives, children will no longer endure the consequences of parental neglect. Ultimately, the overarching goal of these programs is to empower parents in establishing a nurturing and positive environment for the betterment of the children.

According to our survey, 73% of the respondents are not familiar with the relevant laws in Malaysia that specifically outline parents' responsibilities towards their children. It is an undeniable fact that legal documents and statutes can be complex and difficult for layman to understand. Legal language and terminology used in laws can be intimidating and challenging for individuals without a legal background to interpret. The lack of simplified versions or easily accessible explanations of these laws may contribute to the limited awareness among the general population. Limited resources and outreach efforts can hinder the widespread distribution of information.

When parents find themselves uncertain about their legal responsibilities or require guidance in matters concerning their children, it is advisable to seek assistance from professionals or relevant authorities who specialize in family law and child welfare. The parents or caretakers are encouraged to seek professional advice from family lawyers. Family lawyers specialize in legal matters related to family and children. They can provide valuable guidance and advice on various legal aspects, including parental rights, custody issues, child support, visitation rights, and any legal obligations parents must fulfil. Consulting with a family lawyer can help parents understand their legal responsibilities and rights, navigate complex legal processes, and make informed decisions that are in the best interests of their children.

Furthermore, the **Department of Social Welfare** or similar government agencies are responsible for protecting the welfare and rights of children. They can provide guidance on legal responsibilities, child protection laws, and resources available to parents. These agencies may offer counselling services, information on child support, access to community programs, and interventions in cases of child abuse or neglect. As for the **Child Protective Services**, the parents can seek guidance, report concerns, and collaborate with professionals to ensure the safety of their children. Therefore, parents can decrease the occurrence of parental negligence by implementing proactive measures and foster a culture of responsible parenting such as seeking advice from professionals.

With reference to the **Department of Social Welfare**, the number of reported cases of child abuse as a result of parental or guardian neglect increased from 576 cases in 2020³⁴ to 688 cases in 2021³⁵. From the statistics we can observe that, over the years, there has been a rise in which parents or guardians failed to fulfil their responsibilities towards the children under their care. It is also important to note that the reported cases represent only those that came to the attention of the Department of Social Welfare. The actual prevalence of child abuse might be higher since some cases may go unreported due to various reasons, such as fear, lack of awareness or difficulty in detection. If this problem continues to be prevalent in Malaysia, many negative things might occur. Therefore, it is crucial for us to ponder what we can do to reduce the instances of child abuse brought on by parents' or guardians' neglect.

The aspect that we will be looking into is the legislations governing the child protection in Malaysia. Following Malaysia's ratification of the **United Nations Convention on the Rights of the Child (UNCRC)** on 17 February 1995³⁶, Malaysia has a responsibility to safeguard children's rights. The **Child Act 2001** is the main legislation that governs the issue of child abuse and neglect. Other relevant legislation includes the **Domestic Violence Act 1994**, **Penal Code**, **Evidence of Child Witness Act 2007** and so forth.

According to **KidsRights Index 2020**, Iceland is the nation that best protects and upholds children's rights³⁷. Iceland is also one of the countries that has ratified the UNCRC in an effort to uphold the rights of children. In **Article 76 of the Constitution of Iceland**, it provides that the law must ensure that children receive the protection and care they require. This demonstrates that the rights of children are protected not only by ordinary laws but also by the highest law of Iceland. As compared to Malaysia, there is nowhere in **Federal Constitution (FC)** stating that the law must guarantee children's protection and care. The absence of a clear constitutional provision may weaken accountability mechanisms related to child protection. It is worth noting that the absence of explicit mention in the supreme law does not necessarily mean

³⁴ Department of Social Welfare, *Statistics Report 2020* (Alamedia Sdn. Bhd. 2020) <https://www.jkm.gov.my/jkm/uploads/files/Bahagian%20Pengurusan/Laporan%20Statistik%20JKM%202020_.pdf> accessed 31 May 2023.

³⁵ Department of Social Welfare, *Statistics Report 2021* (OMR Press Sdn. Bhd. 2021) <[https://www.jkm.gov.my/jkm/uploads/files/BAHAGIAN%20KAWALAN%20STANDARD/Laporan%20Statistik%20JKM%202021%20\(2\).pdf](https://www.jkm.gov.my/jkm/uploads/files/BAHAGIAN%20KAWALAN%20STANDARD/Laporan%20Statistik%20JKM%202021%20(2).pdf)> accessed 31 May 2023.

³⁶ United Nations, 'Convention on the Rights of the Child' (*United Nations Treaty Collection*) <https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-11&chapter=4&clang=_en> accessed 31 May 2023.

³⁷ 'Kidsrights Index 2020: 'Children's Rights Globally Under Pressure Due To Corona Crisis'' *Kids Rights* (26 May 2020) <<https://www.kidsrights.org/news/childrens-rights-globally-under-pressure-due-to-corona-crisis/>> accessed 31 May 2023.

that children will be completely neglected or unprotected. Other laws, international conventions and societal values can still provide a basis for ensuring children's well-being. However, a clear constitutional provision can strengthen the legal framework, promote consistency and highlight the significance of safeguarding children's rights.

The **Child Protection Act, No. 80/2002**, provides comprehensive coverage of child protection. This Act seeks to ensure that necessary help can be reached out to children whose health and development are in danger or who are living in unsuitable situations. Referring to **Articles 16 and 17 of the Child Protection Act**, a child protection committee must be notified by anybody who has cause to suspect that a child is living in unsuitable circumstances for his upbringing or is subject to abuse that could gravely jeopardize his health and development. The police of Iceland also have the duty to notify the child protection committee if they suspected a crime has been committed against a child. **Article 98 of the Child Protection Act** outlines the penalties for violations against children which includes negligence cases.

Similar provisions were also provided under the Malaysian Child Act 2001. **Section 27(1) of Child Act 2001** stipulates that it is the duty of a medical officer or a medical practitioner to report to a Social Welfare Officer, if he or she has reasonable grounds to suspect that a child has been physically or emotionally injured due to ill-treated, neglected or other factors. Sanction for failure to perform such duty is provided under **Section 27(2) of Child Act 2001**. Similar duties and penalties are also applied to family members, the care provider of child or any other person³⁸. Moreover, **Section 31(a) of Child Act 2001** specified that any person caring for a child who abuses, neglects, abandons or exposes the child, or permits such acts, or behaves negligently in a way that might cause him physical or emotional harm, is liable to a maximum fine of RM 50,000, maximum 20 years of imprisonment or both.

Nevertheless, the coverage of the people who are subject to the obligation to report to relevant units under **Child Protection Act, No. 80/2002** is more specific than that of **Child Act 2001**. **Article 17 of Child Protection Act** specifically stated that all the teaching and administrative staff, clergy, medical personnel and anyone else offering social services or therapy to keep a close eye on the conditions of children and to report to the child protection committee if they suspected anything. Since teachers are usually the second-closest adult to a child after their parents, they can also assist a child in escaping parental abuse and neglect. Teachers spend significant time with their students and can observe changes in behavior, appearance or overall

³⁸ Child Act 2001, S 27, S 28 and S 29.

well-being. They may notice signs of abuse or neglect, such as unexplained injuries, poor hygiene, malnutrition, frequent absences or emotional distress. Unfortunately, there is no law in Malaysia requiring teachers to report cases of child abuse and neglect to the appropriate unit in which the child involved is their students. It is essential to recognize the significance of enacting laws that mandate reporting of child abuse and neglect. The Malaysian legal framework should provide a clear foundation for the protection of children and help ensure that all educators fulfil their duty to safeguard the well-being of their students.

The aforementioned are merely few minor areas where Malaysian law might be strengthened. As a matter of fact, Malaysia's laws for protecting the children are effective but the problem lies in the lack of strict implementation. When laws and regulations are not strictly implemented, individuals who abuse or neglect children may escape legal consequences and the children who were the victims of such crimes were unable to receive aid in a timely manner. It will also become difficult to adopt preventive measures, such as public awareness campaigns, educational programmes or training for professionals to recognize and respond to child abuse and neglect. This can be seen in our survey where 63.6% of the respondents (parent) are unaware of the initiatives or programmes hosted by the Malaysian government or NGO to help parents carry out their duties towards their children. Only 44.7% of our respondents (child) knew that there were government, non-profit, or helplines available to assist kids who had been abused or neglected by their parents.

Apart from the legal perspective, communication and cooperation are also vital aspects that could help to reduce the case of child abuse due to parents' neglect. Effective communication and cooperation between parents are crucial, particularly in situations where separation or divorce occurs. By maintaining open lines of communication, parents can work together to make decisions in the best interests of their children. Regular discussions about important matters such as healthcare, education and overall well-being can prevent situations where neglect or conflicting responsibilities may arise.

4.2 Limitations or challenges encountered during the research process

Time constraint is a significant challenge encountered during our research process. Our group have employed survey as our research methodology to gain insights into parents' responsibilities towards their children and prevention of negligence towards children. Conducting surveys involves identifying the target population and distributing it to potential participants. However, the limited time available restricted our ability to reach a diverse and representative sample of parents. Due to time restrictions, we were also unable to receive a significant number

of responses, which had an impact on the generalizability of our findings and reduced the statistical power to draw conclusive conclusions.

Setting up the questionnaire is one of the difficulties we face while doing this research paper. We conduct the questionnaire using google form. Firstly, designing the question itself can be a challenge. It is essential to formulate clear and concise questions that are easily understandable by respondents. We step in the shoes of both parents and children to ensure the questions are not ambiguous. We also learn to set up various question types, such as multiple-choice, dropdown, checkbox, short answer, and others. Not only that, we also need to implement the conditional logic. For instance, if an individual specify himself as a child, then google form will allow him to skip certain questions that related to parents. Despite it was challenging, these skills transferable to future educational and professional endeavours.

When conducting the questionnaire, we encounter a lower response rate from parents compared to children. We conclude that for a few reasons. Firstly, parents often have busy schedules with work, household responsibilities, and other commitments. Finding the time to complete a survey may be challenging for them. On the other hand, children may have more flexible schedules, allowing them to respond to surveys more promptly. Secondly, technological barriers might be one of the reasons that cause the lower response rate from parents. If the survey is primarily conducted online, parents who are less familiar with technology may face challenges in accessing and completing the survey. Fourthly, parents may have privacy concerns. They might be more cautious about participating, while children might be less concerned or have a higher level of trust in the survey process. However, we have mentioned the wordings in our survey that “Please note that this survey is completely anonymous. Your responses will be kept confidential, and no identifying information will be linked to your answers” in our survey.

Another challenge that our group encountered during the research process is the access to relevant and reliable data. Data availability can be limited or inconsistent, especially when it comes to sensitive topics like child abuse and neglect. Official statistics may not capture the full extent of the issue due to underreporting, lack of standardized reporting mechanisms or variations in definitions across different jurisdictions, leading to biased or incomplete data. The data that is available might reflect only the reported cases, which can introduce selection bias and limit the understanding of the true prevalence or nature of child abuse and neglect.

By acknowledging the potential challenges and implementing strategies to increase parent response rates, we can strive to achieve a more balanced representation of both children’s and parents’ perspectives, leading to more comprehensive and accurate data collection.

5.0 Conclusion

Our findings show that, while Malaysia's current legal framework recognises the importance of parental responsibility, there are loopholes and inadequacies that limit its efficacy. It is important to note that parental responsibility has not been expressly stated or defined in a single codified statute, which means that the interpretations are scattered around in different Malaysian authorities. For instance, the Federal Constitution mentions nothing about ensuring the protection and care of children. Despite the absence of specific reference in the supreme law, children are still under the protection as we have other governing laws such as the **Child Act 2001**.

Our social-legal project showed how parents have difficulty in fulfilling their duties. According to our Google Form Survey, educational backgrounds and income affect the ways parents fulfil their parental duties. This study emphasises the need for legal reforms in Malaysia to promote parental responsibility since the laws are not strictly enforced. These may include increasing enforcement mechanisms, providing parent education and awareness, and creating comprehensive parenting guidelines. Parents can also be given advice on prioritising children's physical, emotional, and psychological needs, family communication, etc. All in all, the government, the private sectors, parents and children should always work hand in hand for the betterment and development towards a just and impeccable nation.

References**Primary Sources****Statutes and Statutory Instruments**

Child Act 2001

Child Protection Act, No. 80/2002

Civil Law Act 1956

Constitution of Iceland

Domestic Violence Act 1994

Education Act 1996

Evidence of Child Witness Act 2007

Guardianship of Infant Act 1961

Law Reform (Marriage and Divorce) Act 1976

Married Women and Children (Maintenance) Act of 1950 (Revised 1981)

Penal Code

United Nations Convention on the Rights of the Child

UK Cases

People v. Rogelio Hernandez and Gabriela Hernandez, No. CR40152, Nov.17, 1997

Re H (Parental responsibility) [1998] 1 FLR 855.

Secondary Sources

Articles

Bryan A. Liang & Wendy L. Macfarlane, 'Murder by Omission: Child Abuse and the Passive Parent' (1999) 36 Harv J on Legis 397.

Erlings E, 'Is Anything Left of Children's Rights?' (2016) 24 The International Journal of Children's Rights 624.

Jal Zabdi Mohd Yusoff & Sridevi Thambapillay, "Leaving Children Without Reasonable Care and Supervision: Between Law and Reality in Malaysia".

Kenny JA and Kenny JV, 'Shall We Punish the Parents?' (1961) 47 American Bar Association Journal 804.

National Centre for Injury Prevention and Control, 'Essentials for Childhood Creating Safe, Stable, Nurturing Relationships and Environments for All Children'

Shong E, 'The Legal Responsibility of Parents for Their Children's Delinquency' (1972) 6 Family Law Quarterly 145.

Sridevi Thambapillay and Jal Zabdi Mohd Yusoff, "Maintenance Laws and Illegitimate Children in Malaysia".

Books

Burton F, *Family law* (Routledge 2015).

Allen, Frederick H, *Psychotherapy with Children* (W. W. Norton, 1942).

Online Journals

Emilia Simeonova, Mikael Lindahl, Mårten Palme and Evelina Björkegren, 'Why educated parents have healthier children: Environmental versus genetic factors' (Centre for Economic Policy Research, 11 Mar 2021) <<https://cepr.org/voxeu/columns/why-educated-parents-have-healthier-children-environmental-versus-genetic-factors#:~:text=Children%20from%20households%20with%20parents,individuals%20in%20the%20children's%20generation>> accessed 1 June 2023.

Khor Pei Gee and Zhooriyati Sehu Mohamad, "The Challenges Experienced by Adolescent and Parents in Dual-Income Family: A Qualitative Study" (2020) 5 (1) MJSSH <https://www.researchgate.net/publication/345136309_THE_CHALLENGES_EXPERIENCED_BY_ADOLLESCENT_AND_PARENTS_IN_DUAL-INCOME_FAMILY_A_QUALITATIVE_STUDY> accessed 1 June 2023.

Pruitt R, 'No Money, More Problems: The Correlation between Poverty and Child Abuse' (Voices for Children of Broward County, 2015) accessed 31 May 2023.

Robert W. Oldendick, 'Survey Research Ethics' (2012) *Handbook of Survey Methodology for the Social Science* 23–35 <https://link.springer.com/chapter/10.1007/978-1-4614-3876-2_3#citeas> accessed 1 June 2023.

Websites and Blogs

'About Us' (Positive Parenting, 2018) accessed 29 May 2023.

Department of Social Welfare, 'Skim Bantuan Kebajikan' (Jabatan Kebajikan Masyarakat, 2023) accessed 31 May 2023.

Bernama, 'Mum, stepdad arrested over death of four-year-old boy' (New Straits Times, 29th April 2023) <<https://www.nst.com.my/news/crime-courts/2023/04/904113/mum-stepdad-arrested-over-death-four-year-old-boy>> accessed 2 June 2023.

Department of Social Welfare, *Statistics Report 2020* (Alamedia Sdn. Bhd. 2020)

<https://www.jkm.gov.my/jkm/uploads/files/Bahagian%20Pengurusan/Laporan%20Statistik%20JKM%202020_.pdf> accessed 31 May 2023.

Department of Social Welfare, *Statistics Report 2021* (OMR Press Sdn. Bhd. 2021)

<[https://www.jkm.gov.my/jkm/uploads/files/BAHAGIAN%20KAWALAN%20STANDARD/Laporan%20Statistik%20JKM%202021%20\(2\).pdf](https://www.jkm.gov.my/jkm/uploads/files/BAHAGIAN%20KAWALAN%20STANDARD/Laporan%20Statistik%20JKM%202021%20(2).pdf)> accessed 31 May 2023.

Natasya, F, 'Alarming Developments in Child Abuse' (The Sun Daily, 10th January 2023) <<https://www.thesundaily.my/home/alarming-developments-in-child-abuse-BC10470573>> accessed 2 June 2023.

'Kidsrights Index 2020: 'Children's Rights Globally Under Pressure Due To Corona Crisis'' *Kids Rights* (26 May 2020)

<<https://www.kidsrights.org/news/childrens-rights-globally-under-pressure-due-to-corona-crisis/>> accessed 31 May 2023.

Positive Parenting, ‘PARENTING FOR SUCCESS! Join Our Expert Talk This 22nd September 2018!’ (Positive Parenting, 21 February 2019) accessed 31 May 2023.

United Nations, ‘Convention on the Rights of the Child’ (*United Nations Treaty Collection*)

<https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&clang=_en> accessed 31 May 2023.

‘Will Moe Take Responsibility for Our Children’s Safety? – Child Advocates’ (*The Vibes*, 7 February 2023) accessed 1 June 2023.

Lectures

Puteri Nemie Jahn Kassim, ‘Parental Negligence and “Treatment” Rights for Children in Malaysia

- 1.

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