



Should we continue to ignore the Child Act and child rights in Malaysia? — Amar-Singh HSS

Published on **24 September 2018**

SEPTEMBER 24 — Recent events and statements made by leaders in government seem to suggest that we are ignoring the Child Act and other legislation (like the Sexual Offences Against Children Act 2017). The Child Act and other such laws were designed to protect children. Currently they appear not useful as the tool they were designed for, i.e. to protect children.

We seem to be unable to protect our children from child marriages, sexual predators, errant parents who fail them, religious persons who abuse and victimise them, exploitation/discrimination, and when the system fails them.

The truth is that the laws are generally fine and can be used but that the authorities choose not to use them. Some recent examples from my own work and that of others all over the country:

A nine-year-old girl from a tahfiz school is made to beg for donations alone at a petrol station (common occurrence). When we call the Welfare Officers they appear powerless to intervene. On the occasions when they have taken the child into custody, the parents can say that they allow the school to use their child to beg and the provisions in the Child Act to protect the child are ignored.

A two-year-old boy has a serious respiratory infection (bad pneumonia) and requires intensive care to save his life. The father refuses admission and wants to see a bomoh. When we call the Welfare Department some officers are responsive and use the Child Act. But often others allow the parents to have their way, even though the Child Act empowers us and mandates that we act to save the child.

A parent brings a young child to see us who alleges that there is abuse both physical and sexual occurring in a children's home. On examination there is evidence of abuse. We formally notify both the police and welfare about the problems. Visits are made but no action taken. None of the other children are brought forwards to be interviewed or examined by a medical professional.

It is common for people to suggest that these are isolated incidents. But I can continue with many, many more examples, as the problem is common-place all over the country. From abused children not receiving protection to unregistered children homes/schools to overt child marriage. Child rights in Malaysia seems to not exist in the system unless one of us fights for each child that we see.

The Child Act is a powerful piece of legislation, so why does it fail? There are a number of major reasons.

Firstly the primary custodians of children, designated by law as temporary or full protectors, the welfare, medical and police officers, often fail to use the Child Act to protect children. Some of these officers do not know the Child Act well; others believe that parents have more rights than children even when the law states otherwise.

There is also a preference from the police and courts to use other legislation, especially the Penal Code, rather than the Child Act; even though the Child Act has specifically been written to support children.

The Child Act allows for punishment of parents or persons who fail children in need of protection, but this has not been used when these persons fail their responsibilities. Perhaps the time has come for us to use the Child Act to take some protectors (welfare, health and police officers) to court and charge them for failing to protect children?

The second more pressing issue is the current confusion as to which laws are supreme in our country - civil or religious? We cannot continue having a split or dichotomous legal system when dealing with children.

It is ludicrous that a child is allowed to be married or that religious schools can operate without registration or a proper curriculum or fire safety or oversight. Child safety, protection and rights are not a religious issue but an obligatory need, as children are vulnerable and require society to safeguard their interests.

It is good that some members of society and government representatives have spoken up strongly on child protection but this is not sufficient; there can be no room for error or failure with children.

We cannot allow the basic rights of children to be trampled or ignored so that adults can do with them as they please. Any government that fails its children is a failed government.

It is vital that the government ensure that the Child Act encompasses all actions that deal with children and be the primary legislation in dealing with children in all circumstances.

Twenty-three years after we as a nation have ratified the Convention on the Rights of the Child (CRC), we have still failed to uphold completely its commitment to the protection and welfare of our children.

It is long overdue that we enforce the Child Act fully to support and protect all children in Malaysia.

“In all actions concerning children... the best interests of the child shall be a primary consideration.”
Article 3, Convention on the Rights of the Child

** Datuk Dr Amar-Singh HSS is a senior consultant paediatrician.*