

**ENHANCING CHILD CARE CENTRES IN MALAYSIA
THROUGH LEGAL ANALYSIS**

MASHITAH BINTI ABDUL MUTALIB

UNIVERSITI SAINS ISLAM MALAYSIA

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MASHITAH BINTI ABDUL MUTALIB

Thesis submitted in fulfilment for the degree of
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AUTHOR DECLARATION

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

I hereby declare that the work in this thesis is my own except for quotations and summaries which have been duly acknowledged.

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ABSTRAK

Penjagaan dan Pendidikan Awal Kanak-Kanak (PPAK) adalah penting untuk membentuk individu yang seimbang. Pada masa ini, peningkatan bilangan ibu-ibu yang keluar bekerja menyebabkan bertambahnya keperluan terhadap perkhidmatan penjagaan kanak-kanak untuk menjaga anak-anak mereka. Oleh itu, perkhidmatan penjagaan kanak-kanak yang berkualiti adalah penting bagi memastikan kanak-kanak diberikan penjagaan yang baik bukan sahaja dari segi kesihatan dan keselamatan tetapi juga untuk pembangunan perkembangan mereka. Dengan itu, perkhidmatan penjagaan kanak-kanak tidak sepatutnya dianggap sebagai penjagaan semata-mata, sebaliknya ia merupakan peringkat terawal dalam pendidikan mereka. Kualiti penjagaan kanak-kanak yang rendah merupakan isu signifikan yang perlu diberikan perhatian, sebagaimana yang ditunjukkan dalam penyelidikan dan ulasan oleh pakar PPAK di Malaysia. Sehubungan itu, dalam usaha untuk meningkatkan kualiti perkhidmatan penjagaan kanak-kanak di Malaysia, rangka kerja perundangan perlu diteliti supaya usaha penambahbaikan dapat diteruskan. Undang-undang dan peraturan memberikan kesan yang besar dalam memastikan perkhidmatan penjagaan kanak-kanak yang berkualiti tinggi dapat disediakan. Tesis ini mengkaji secara kritis undang-undang dan peraturan untuk pusat penjagaan kanak-kanak di Malaysia bagi mempertimbangkan sama ada undang-undang dan peraturan-peraturan tersebut sudah memadai atau masih berada di bawah paras penjagaan yang boleh diterima dan oleh itu, memerlukan penambahbaikan. Penyelidikan ini dijalankan menggunakan kaedah penyelidikan doktrin dalam bentuk pengumpulan data berdasarkan perpustakaan. Dalam usaha untuk menambah baik undang-undang dan peraturan untuk pusat penjagaan kanak-kanak di Malaysia, tesis ini menyelidik Akta Taman Asuhan Kanak-kanak 1984 dan Peraturan-Peraturan Taman Asuhan Kanak-kanak 2012 untuk mempertimbangkan usaha-usaha perundangan yang diperlukan bagi meningkatkan kualiti pusat penjagaan kanak-kanak di Malaysia. Selain itu, penyelidikan ini mengkaji amalan-amalan yang dilaksanakan di negara-negara maju lain untuk dijadikan contoh supaya Malaysia dapat mengambil teladan daripada pembaharuan undang-undang dan peraturan pusat penjagaan kanak-kanak di negara-negara tersebut. Penyelidikan ini mendapati adalah penting untuk menambah baik unsur-unsur asas dalam undang-undang dan peraturan penjagaan kanak-kanak yang terdiri daripada ciri-ciri pengenalan statut, enam ciri keperluan undang-undang yang merupakan ciri-ciri kualiti struktur yang telah dibuktikan melalui penyelidikan, dan kecekapan pihak berkuasa dalam menguatkuasakan undang-undang dan peraturan. Enam ciri keperluan undang-undang yang memerlukan analisis dengan lebih lanjut ialah nisbah orang dewasa kepada kanak-kanak, saiz kumpulan, pendidikan dan latihan untuk kakitangan, persekitaran fizikal, kesihatan dan keselamatan, serta program pendidikan. Kajian ini menyarankan terdapat keperluan untuk mengkaji semula undang-undang dan peraturan penjagaan kanak-kanak di Malaysia. Oleh itu, penambahbaikan undang-undang dalam persekitaran penjagaan kanak-kanak di Malaysia disarankan dalam kajian ini dalam usaha untuk memastikan kanak-kanak mendapat penjagaan dan pendidikan yang lebih baik. Penambahbaikan ini adalah penting kerana penjagaan dan pendidikan awal kanak-kanak yang berkualiti tinggi akan melindungi kesihatan dan keselamatan kanak-kanak di samping membantu dalam membangunkan perkembangan mereka.

ABSTRACT

Early Childhood Care and Education (ECCE) is crucial in developing a well-balanced individual. The rising number of mothers going to work nowadays results in the rising need for child care services to take care of their children. Therefore, quality child care service is essential in ensuring that the children are well taken care of in terms of not only their health and safety but also their developmental growth. Thus, child care services should not be considered as mere custody but rather the earliest stage of education of a child. The issue of low child care quality is significant to be highlighted on, as indicated by the research and commentaries made by the ECCE experts in Malaysia. Therefore, in the effort to improve the quality of child care services in Malaysia, the legislative framework needs to be scrutinised for further enhancement. Laws and regulations provide high impact in ensuring high quality child care services. This thesis critically examines the Malaysian laws and regulations on child care centres to consider whether the laws and regulations are adequate or below the level of acceptable care and need further improvement. This research is done by the method of doctrinal research in the form of library-based data collection. In improving the laws and regulations of child care centres in Malaysia, this thesis analyses the Child Care Centre Act 1984 and Child Care Centre Regulations 2012 to consider the legislative efforts needed in improving the quality of child care centres in Malaysia. Besides that, this research examines the practices adopted by other developed countries for Malaysia to learn lessons from their legislative reform of laws and regulations on child care centres. This research finds that enhancement of the essential elements of child care laws and regulations that involve the introductory features of statutes, the six features of legal requirements which are the proven researched structural quality features, and efficiency of the authority in enforcing the laws and regulations are important. The six features of legal requirements are adult to child ratio, group size, education and training of staff, physical environment, health and safety, and educational programme. It is proposed that laws and regulations on Malaysian child care need to be reviewed. Thus, enhancements of the legislations of Malaysian child care settings are proposed in this study in the effort to ensure that children are provided with better care and education. Amended and additional provision of the statutes of child care laws and regulations are suggested in this study in creating an effective legal framework of child care for Malaysia. The enhancements are pivotal as high quality early childhood care and education shall safeguard the health and safety of the children as well as assisting in the developmental growth of the children.

ملخص البحث

الرعاية والتعليم في مرحلة الطفولة المبكرة أمر بالغ الأهمية لتنمية إنسان متوازن. أدى ارتفاع عدد الأمهات العاملات هذه الأيام إلى ازدياد الحاجة لخدمات رعاية الأطفال. ولذلك فإن خدمات رعاية الأطفال الجيدة أمر أساسي لضمان رعاية الأطفال بشكل جيد، ليس فقط من ناحية الصحة والسلامة، ولكن أيضاً من ناحية النمو التطوري. وبالتالي فإنه لا ينبغي اعتبار خدمات رعاية الأطفال مجرد عملية وصاية، بل اعتبارها كأقرب مرحلة أولية لتعليم الطفل. بينت البحوث والتعليقات المقدمة من خبراء الرعاية والتربية في مرحلة الطفولة المبكرة في ماليزيا أهمية مسألة انخفاض جودة رعاية الأطفال ويجب تسليط الضوء عليه. بالإضافة إلى ذلك فإنه يجب فحص الإطار التشريعي لمزيد من التحسين ضمن الجهود المبذولة لتحسين جودة خدمات رعاية الأطفال في ماليزيا، حيث تؤثر القوانين واللوائح بشكل كبير في ضمان الجودة العالية لخدمات رعاية الأطفال. تبحث هذه الأطروحة بشكل نقدي في القوانين واللوائح الماليزية في مراكز رعاية الأطفال للنظر فيما إذا كانت القوانين واللوائح كافية أو أقل من المستوى المقبول للرعاية وتحتاج إلى مزيد من التحسين. تم القيام بهذا البحث بطريقة البحث العقائدي بجمع البيانات القائمة على المكتبات. من أجل تحسين قوانين وأنظمة مراكز رعاية الأطفال في ماليزيا، تبحث هذه الأطروحة في قانون مراكز رعاية الأطفال لعام 1984 ولوائح مراكز رعاية الأطفال لعام 2012 للنظر في الجهود التشريعية اللازمة لتحسين جودة مراكز رعاية الأطفال في ماليزيا. درست هذه الدراسة أيضاً الممارسات التي اعتمدها البلدان المتقدمة الأخرى لتعيينها كمثال لماليزيا لتعلم الدروس المستفادة من إصلاحاتها التشريعية للقوانين واللوائح المتعلقة بمراكز رعاية الأطفال. وجدت هذه الدراسة أهمية تعزيز العناصر الأساسية لقوانين ولوائح رعاية الأطفال المتضمنة للسمات التمهيدية للقوانين، والسمات الستة للمتطلبات القانونية وهي سمات الجودة الهيكلية المثبتة، وكفاءة السلطة في تطبيق القوانين واللوائح. السمات الستة للمتطلبات القانونية المتطلبية للمزيد من التحليل هي: نسبة البالغين إلى الأطفال، وحجم المجموعة، وتعليم وتدريب الموظفين، والبيئة الملموسة، والصحة والسلامة، والبرامج التعليمية. من الموصى مراجعة القوانين واللوائح الخاصة برعاية الأطفال في ماليزيا، وبالتالي اقترحت الدراسة إدخال تحسينات على تشريعات مؤسسات رعاية الأطفال في ماليزيا ضمن الجهود المبذولة لضمان توفير أفضل رعاية وتعليم للأطفال. تعتبر هذه التحسينات جوهرية لأن الرعاية والتعليم في مرحلة الطفولة المبكرة العالية الجودة ستحافظ على صحة وسلامة الأطفال، بالإضافة إلى مساعدتها في النمو التطوري للأطفال.

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Australia Education and Care Services National Law Act 2010

Australia Education and Care Services National Regulations 2012

B) MALAYSIA

Child Act 2001

Child Care Centre Act 1984

Child Care Centre Regulations 2012

Education Act 1996 (Act 550)

Local Government Act 1976

Malaysian Penal Code as at June 2015 (Act 574)

National Land Code

Occupational Safety and Health Act 1994

Town and Country Planning Act 1976

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ABBREVIATION

CA	Child Act 2001
ACECQA	The Australian Children's Education and Care Quality Authority
APA	Academy of Pediatrics
ARCPM	Association of Registered Child Care Providers Malaysia
CCCA	Child Care Centre Act 1984
CCCR	Child Care Centre Regulations 2012
ECCD	Early Childhood Care and Development
ECCE	Early Childhood Care and Education
ECD	Early Childhood Development
ECDA	The Early Childhood Development Agency
ECED	Early Childhood Education and Development
ECSNLA	Education and Care Services National Law Act 2010
ECDCA	Early Childhood Development Centres Act 2017
ERIC	Educational Research Information Clearinghouse
IKWAM	Institut Kemajuan Wanita Malaysia
ILO	International Labour Organization
KAAC	Kursus Asuhan Kanak-Kanak
MWFC	Ministry of Women, Family and Community Development
NARA	National Association for Regulatory Administration
NGO	Non-Governmental Organisations
NICHD	National Institute of Child Health and Human Development
NOSS	National Occupational Skill Standard
NPQS	National Child Care Quality Standards
OECD	Organisation for Economic Co-operation and Development
OSH	Occupational Safety and Health
QIAS	Quality Improvement Accreditation System
SECCYD	Study of Early Child Care and Youth Development
SWD	Social Welfare Department
TASKA	Taman Asuhan Kanak-Kanak
TOT	Training of Trainers
UNCRC	The United Nations Convention on the Rights of the Child
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	The United Nations Children's Fund
USA	United States of America