

## CHAPTER ONE

### INTRODUCTION AND BACKGROUND OF THE STUDY

#### 1.1 Background of the Study

*'Well nurtured and cared for in their earliest years, children are more likely to survive, to grow in a healthy way, to have less disease and to develop thinking, language, emotional and social skills'* (Olsen, 2011). This was quoted from the speech made by Hans Olsen, the representative of The United Nations Children's Fund (UNICEF) Malaysia during the National Conference on Early Childhood Care and Education 2011. It illustrates the importance of the early years as they are a period with countless opportunities; but yet, at this period of time children are still vulnerable to negative issues.

Under Section 2 of the Child Act 2001 (CA), a person who is less than 18 years old is defined as a child. According to Malaysian demographic statistics for the first quarter of 2019, from a total Malaysian population of 32.66 million people, 7.6 million are children aged from zero to 14 years old (Department of Statistics Malaysia, 2019a). It is expected that Malaysia will continue to be a young nation by 2020, with 29.9 per cent of the Malaysian population predicted to be children aged below 18 years (Economic Planning Unit, 2015: 26).

As far as the rights of children are concerned, in 1995, Malaysia ratified The United Nations Convention on the Rights of the Child (UNCRC), with some reservations. Malaysia also became a state party to the International Labour

Organization (ILO) Minimum Age Convention 138, and ILO Convention 182 on the Worst Forms of Child Labour (Ministry of Women Family and Community Development & UNICEF, 2013).

The convention upholds the right of the child to have protection from harm, abuse and exploitation and the right to develop to the fullest. This must be the guiding principle in setting child care provisions for children. The aim should be to acknowledge and uphold the right of children to have decent development opportunities as well as protection from harm. In drafting the legislative framework for child care therefore, the following principles need to be observed. They are, namely: non-discrimination; best interests of the child; participation of the child; survival and development of the child; accountability of the child; and indivisibility of the rights of the child (UNICEF, 2010).

The ratification of UNCRC in 1995 is one of the concrete proofs that the government is ready to protect children through domestic laws and at the same time adhere to international conventions. Since 1995, efforts have been made by the Malaysian government to enhance and improve the existing legislation regarding children (Kahar & Mohd Zin, 2011). However, the remaining question is how effective the legislations are in protecting children, especially those who are placed in child care centres.

Malaysia puts concerted efforts into providing better protection for children as can be seen in the Eleventh Malaysia Plan 2016-2020 (Economic Planning Unit, 2015). Chapter Three of the Eleventh Malaysia Plan highlights the theme 'enhancing inclusiveness towards an equitable society'. Efforts are made to ensure that every Malaysian from all walks of life regardless of race, socio-economic circumstances and

location has the opportunity to develop and also enjoy the development of the country. Under this chapter, the relevant focus area with regard to children is focus area B which is ‘empowering communities for a productive and prosperous society’. Under focus area B, emphasis is given to tackling the needs of communities including children. Under this focus area; strategy B3 highlights the need to expand accessibility for mothers to receive quality early childcare and education (ECCE) through quality child care services. This will assist in creating a conducive working atmosphere for mothers which eventually may accelerate the role of women in the labour force. Besides that, another strategy under this focus area is strategy B4 which stresses the need to improve protection for children from abuse, abandonment and neglect. In an effort to improve child protection, more childcare and child protection units will be established. The Child Act 2001 will also be reviewed to strengthen the safeguards provided for children. Furthermore, it is worth noting that emphasis is placed upon child care providers to receive proper training in collaboration with non-governmental organizations and universities.

Apart from Chapter Three, Chapter Five of the Eleventh Malaysia Plan also touches on the development of children under the theme ‘accelerating human capital development for an advanced nation’. The relevant focus area regarding children in this chapter is focus area D ‘improving the quality of education for better student outcomes and institutional excellence’. The relevant strategy worth noting is strategy D1 ‘enhancing access and quality to improve student outcomes’. One of the ways of achieving this is by improving the quality of ECCE. This strategy stresses improving the quality of child care services in the country through improvements in the quality of teachers and care providers in terms of, namely: their training and education; discovering ways to tackle the issue of affordability and accessibility of child care

centres; strengthening monitoring and enforcement methods; and nurturing gifted children so as to develop their potential through the PERMATA programme (Economic Planning Unit, 2015). Thus, these highlights illustrate that Malaysia is moving towards upgrading the ECCE sector; nevertheless, it is proposed that without legal force, the suggestions would not be fruitful or materialized successfully.

### **1.1.1 Policies on Malaysian Early Childhood Education**

Numerous initiatives were initiated by Malaysian Government in improving the child care settings in Malaysia. Formulating policies concerning the importance of early years for children create concrete foundation for better developmental of children in future (Salleh, Habidin, Masnan, & Mamat, 2016). This may be the reason to claim that Malaysia is providing more attention towards early child care now than in the past (Boon, 2010).

National Early Childhood Education Policy and Framework has been passed by the Malaysian Cabinet on 24 October 2008. In implementing this policy, co-operation between various stakeholders such as Ministry of Education, MWFC, SWD, National Child Development Research Centre, Ministry of Health, and PERMATA division in the Prime Minister's Department are needed (Bahagian Pendidikan Awal Kanak-Kanak PERMATA, 2013). It is worth to note that, the PERMATA curriculum has been accepted to be the guideline for National Early Childhood Care and Development specifically for children under 4 years old (PERMATA, 2015).

In brief, this policy is a comprehensive policy to ensure holistic development of the children from birth until four years old. It is to set a concrete base in developing

children's potential according to the Malaysian values. It is also to supplement the existing National Education Policy.

Through this policy, it is hoped that, more comprehensive guidelines will be drafted in ensuring that activities implemented for the children may stimulate their potential in various aspects. An all-rounder child with good physical, cognitive, social, and emotion development is hoped to be produced from the implementation of this policy (ASUHAN, 2016).

Besides that, Malaysia also has National Child Care Quality Standards. PERMATA Q is currently used as the instrument in assuring quality in child care centres in Malaysia. This quality assurance is done in all PERMATA child care centres and community based child care centres. Nevertheless it is still not comprehensive enough because currently there is no requirement imposed upon private child care centres to comply with PERMATA Q (ASUHAN, 2016). The areas concerned are nutrition, health, safety, furniture, toys and equipment, implementation of curriculum, management of child care centres and worker's development.

By implementing accreditation using PERMATA Q as an instrument, the quality of child care centres can be measured as having good quality in terms of staff qualifications and safety requirements, to name a few. Interestingly, in Australia, 97 per cent of long day care (LDC) service centres are accredited using Quality Improvement and Accreditation System (QIAS). One of the encouraging factors for the centres to obtain accreditation is subsidy. Parents are only eligible for fee subsidies and tax reductions when they send their children to accredited centres (Fenech & Sumsion, 2007). Therefore, LDC centres are keen to work hard to obtain accreditation

so that parents will favour to choose their centres in order to get tax reductions or subsidies.

Workplace-based child care centres are not yet a normal phenomenon in Malaysia. One of the techniques in persuading more corporate sectors to have workplace-based child care centres is by introducing incentives. This is one of the issues tackled by the Ramping up the Early Childhood and Education Industry Taskforce led by Datin Paduka Chew Mei Fun (The Star, 2016b). In 2013, there were 27 workplace-based child care centres in the private sector and 82 in the public sector. It is asserted that currently, not much improvement can be seen. This taskforce was thus setup to address this issue.

Chew also stated that private companies which take the initiative to set up workplace-based child care centres in their companies will be eligible for tax incentives. However, tax incentives alone sometimes cannot persuade the companies to open their own child care centres due to concerns about other barriers such as the cost, safety and security reasons (The Borneo Post, 2015).

On the part of Malaysian minimum wage order, there were mixed responses on the announcement made regarding the minimum wage order which was implemented in July 2016. According to the President of the Association of Registered Childcare Providers Malaysia, P.H. Wong, nearly all child care centres which accommodate low and middle-income parents were likely to close their centres or had already shut down due to the high operational costs in paying the child care providers' salaries. Wong added that, the order was made for the fees to be increased to RM450 from the average RM250 and RM350 per child. The operators, in finding ways to survive, resorted to employing child care providers on contract basis, part-timers or adjusting

the work hours to ensure that they were not included in the minimum wage order (Chin, 2016).

Nevertheless, the Ministry of Women, Family and Community Development is in the process to request for exemption from the Minimum Wage Order 2016, specifically for child care centres. The paper will present data to show that the industry cannot cater to such minimum wage requirements. The calculations on the cost and expenditure incurred will also be included in the paper (Chan, 2016). It is asserted that in facing the increasing operational cost, some child care centres tend to compromise on the numbers and quality of the staff, to the extent of hiring foreign workers. This is to ensure that they will offer a lesser price to the parents and eventually be the preferable choice for the parents to send their children to (Hamdan, 2011).

There is a necessity to upgrade the job of child minding, so that it can be seen as a profession that oversees proper growth and development of children and not merely as a solution for child custody when parents are out for work. The government should also play its role in positioning early childhood care and education as prime concerns in building a better human capital. The issue of minimum wage order would not affect the ECCE sector if the profession of child care providers is upheld to be a recognized profession that not just looks after children, but also educates and cares for the children's safety and developmental needs.

### **1.1.2 What Defines Quality in Child Care Settings**

In determining what shall constitute quality in child care, persistent examination is required as it is a complex concept (Whiteford, 2015). There are

various views and paradigms in defining the concept of quality child care (Hujala, Fonsén, & Elo, 2012).

OECD summarised quality evaluation in seven aspects of quality namely – orientation quality, structural quality, educational concept and practice, interaction or process quality, operational quality, child outcome quality or performance standards, and standards pertaining to parent/community outreach and involvement (Moloney, 2011). Features of quality include four main points namely, quality on staff to child ratios, group size, wages of the staff, and child care settings' management practices (Barbour, Barbour, & Scully, 2008).

Furthermore, it is asserted that the quality of child care depends on locality. Therefore, standards of quality of child care may differ from one country to another as there are no internationally recognized standardized criteria for child care quality. In order to examine the quality of child care in a country, a research on the country itself is needed, so as to produce the overview of quality of the country concerned (Whiteford, 2015). This is what current research focuses on. The quality of child care in Malaysia is scrutinised in order to propose improvements in future.

From the standpoint of professionals, quality is founded on the knowledge of professionals, studies and theory in early education. Good practices of child care can be developed from information taken from theory and research, which eventually will produce the basis for high quality child care (Hujala et al., 2012).

On the other hand, the inclusionary viewpoint highlights that quality should include objectives of child care, the opinions of the experts, cultural setting, and subjectivity of quality. Therefore, stakeholders' opinions and experiences would always carry weight in this approach, especially the viewpoints of the children

themselves (Hujala et al., 2012). Furthermore, it was suggested that the quality of child care should not be confined just to definitions of ‘child care outcomes’, a practice which is prevalent among professionals and researchers (Ceglowski & Bacigalupa, 2002). Katz’s model described the four perspectives on child care quality that should be taken into account. These were, perspectives of parents, children, child care staff and professionals and researchers on child care quality. It was suggested that besides analysing the perspectives of professionals and researchers, more studies should be conducted to analyse the perspectives of the concerned stakeholders, i.e., parents, children and child care staff, to broaden the understanding on child care quality. It is asserted that a broader understanding on child care quality shall enhance how policies are drafted (Ceglowski & Bacigalupa, 2002).

Nonetheless, this research will not indulge in describing the perspectives of the other stakeholders. With regards to policies and regulations, more emphasis should be given to the research done by professionals and researchers, as policies and regulations should be communicated in a general and simple form. Ceglowski and Bacigalupa (2002) give an example of a Somali family which preferred child care providers who could serve *halal* meals and could speak Somali. This was an example to show that laws and regulations should not highlight the details up to such an extent. For the case explained in the example above, the regulations should be made more general, such as preference of healthy and nutritious meal<sup>1</sup> and good communication and interaction between care takers and children as well as families.

Quality child care may also be assessed through the examination of processes and structural aspects of quality (Sílvia Barros et al., 2016; Connors & Morris, 2015;

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<sup>1</sup> Healthy meals here may include halal meal for Muslims.

Moloney, 2011; Slot, Leseman, Verhagen, & Mulder, 2015). It is even asserted that these classifications of quality are prevalent amongst researchers who work on quality child care (Sílvia Barros et al., 2016). Therefore, this research too in defining and measuring quality, categorizes quality into process and structural aspects. It was asserted that at the time of research, when concurrent assessments were done between process aspects and structural aspects, process aspects were a more predictive measure compared to structural aspects towards child development (Sílvia Barros et al., 2016; Broekhuizen, 2015; Connors & Morris, 2015; Vermeer, van IJzendoorn, Cárcamo, & Harrison, 2016). Structural quality features on the other hand, provided indirect impact to the children's development. Therefore, structural quality is necessary though insufficient in ensuring high quality child care at centres (Burchinal, 2017).

Process elements refer to daily experiences which the children go through in child care centres. These include interactions, relationships between child care providers and children, interactions of children with their peers, programmes and activities conducted in child care centres and materials used in the child care centres (Sílvia Barros et al., 2016).

### **1.1.3 Quality as a Condition for Positive Outcomes in Children in Child Care Centres**

In ensuring that children grow up in a conducive environment, studies on the quality of child care centres are vital to the practitioners and policy makers (Hanafi, 2015). The United States of America (USA) has pioneered research on the quality of early childhood education and care since the 1970s (Hujala et al., 2012). Vast numbers of literature studies indicate that quality child care has a significant and positive impact towards high cognitive and social skills of a child (Slot et al., 2015). On top of

that, it is claimed that it is fairly conclusive that early childhood education and care is vital in children's development in terms of their cognitive skills, social emotional development, health outcomes, as well as positive academic and behavioural outcomes (Connors & Morris, 2015). Therefore, it is well-established that the experiences of children during their childhood are central for their well growth in the future (Broekhuizen, 2015).

Taking the USA as an example, the National Institute of Child Health and Human Development (NICHD) conducted Study of Early Child Care and Youth Development (SECCYD) in four phases from 1991 until 2007. Results indicated that lower quality child care may result in lower academic and cognitive quality. In addition, the National Child Care Staffing Study conducted in the United States in 1988 revealed that children who experienced low quality care would face social difficulties in kindergarten and preschool. A similar result can be seen in the Cost Quality and Child Outcomes Study conducted in 1999 with regard to the influence of child care towards social development of a child (Whiteford, 2015). However, it is asserted that the socio-emotional effect of high quality child care does not show a constant effect. It was shown to either not provide any impact or only a small effect or, in the worst scenario, producing negative outcomes to the quantity of child care (Broekhuizen, 2015; Connors & Morris, 2015).

Therefore, it can be seen that there are literature studies that suggest that quality child care is not a decisive factor in children's development (Vandell & Wolfe, 2000). These negative outcomes may be due to the nature of child care itself which can differ according to an individual's background (Broekhuizen, 2015). However, it is argued that the methods used in these researches were less reliable; for example,

observing the quality of child care in a specified time frame and using reports from mothers on the training of child minders (Vandell & Wolfe, 2000).

Therefore, it has been recognized from the studies that early childhood and education, besides protecting the safety of the children, also brings benefits to the children in terms of their cognitive and social skills. This ensures a beneficial outcome for their developmental growth. Nevertheless, the condition for producing a positive impact in early childhood education and care is the quality of the services for children. A high quantity of child care services will not ensure positive outcomes for children if the services are not conditioned by quality (OECD, 2012b).

Furthermore, the benefit of early childhood education and care is not limited to the children in terms of their learning and growth. Quality settings of child care also contribute to high participation rates of women in the labour force (OECD, 2017). One of the hurdles hindering women either entering or returning to work is their concern for the well-being of their children. Having quality services in hand would be very helpful in convincing parents that their children are in safe hands.

Nevertheless, despite recognition by experts on the importance of quality child care, it is not easy to determine how to build child care settings which are of high quality and at the same time provide more accessibility and affordability. Therefore, focus should be concentrated on structural features of quality which are amenable to be regulated and legislated (Bowne, Magnuson, Schindler, Duncan, & Yoshikawa, 2017).

Furthermore, it is claimed that quality may be measured by analysing how well the regulations are observed (Vandell & Wolfe, 2000). These structural features can be found in most licensing requirements aiming to protect children and provide an

educative and safe environment for them. However, there is no conclusive result as to the impact of these structural features towards children's learning especially through empirical research (Bowne et al., 2017). Therefore, there is a need to ascertain which structural features provide high impact to children and are worthy of being legislated as the requirements to be fulfilled by the providers. Legislating features which will not bring significant impact and, what's more, may discourage registration and adherence, as well as not being cost-effective will hamper efforts to enhance the child care industry as a whole. This means that, in raising child care settings to a higher standard, there are certain trade-offs that might be risked. For example, there may be more reluctance by operators to open up more child care centres available for children or they may prefer to stay underground without being regulated. A careful examination is needed to identify the most effective method in enhancing child care settings through legislative efforts.

#### **1.1.4 Promoting Quality Through Regulations: Is It Feasible?**

Regulations may be formed by referring to the studies conducted which examined the quality of child care (Ceglowski & Bacigalupa, 2002). The metaphor of plants depending on water for healthy growth was used in describing the relationship between child care regulations and child care quality as stated by Gormley Jr (1999) *'Inadequacies shall cause problems, but excessive volume may also cause destruction'*.

Although most of the discussions on quality revolve around events in the classroom such as the warm relationship between child care providers, other aspects beyond the classroom also equally important in influencing quality of child care. Among these is the formation of a regulatory framework that can set adequate

standards of quality for child care centres (Phillips, Mekos, Scarr, McCartney, & Abbott-Shim, 2000). It was also asserted that quality and community confidence may be promoted through regulations (Victorian Government Department of Human Services, 2007). Regulations are an instrument to ensure basic safety, reduce unwanted incidents, and limit harmful threats to the children. They are a tool which provide protection for the children as well as enhance the children's development (Gormley Jr, 1999).

Studies indicated that stricter regulations may result in a higher quality of care, especially in terms of adult to child ratio and training of child care providers. More stringent regulations may also positively impact the activities conducted, communication between adults and children, and staff wages (Phillips et al., 2000). In the USA for instance, states with stricter regulations were recorded to have higher quality of child care, compared to those with milder regulations (Cryer, Tietze, Burchinal, Leal, & Palacios, 1999).

An illustration highlighting the relationship between regulations and quality was shown, where it was evident that higher quality child care settings could be set up when ratios were well regulated. The US National Child Care Staffing Study suggested that child care centres would have better quality when the regulations on ratios, group size and trainings in the Federal Interagency Day Care Requirements were well observed (Munton et al., 2002).

Nevertheless, having stricter laws and regulations may cause unintended consequences. Discussions on administering stricter regulations on structural aspects of child care such as adult to child ratio are intense in countries where the child market is dominated by the private sector as higher ratio resulted in higher costs to child care

operators (Burchinal, Magnuson, Powell, & Hong, 2015; Munton et al., 2002). This scenario affects the operation of child care centres as they would be unable to provide more affordable services to the parents. With the increase in fee structures, the issue of affordability would come into the picture. Therefore, while reviewing the regulatory standards, it is necessary to focus on features that impact the safety and development of children the most. The legislations must also be a tool which encourage stricter adherence to the laws and regulations by the child care operators. Efforts to raise the minimum standards must not hinder more centres from registering; rather the strengthened legislations should provide better incentives to them by facilitating the process and administration of their services. Regulations furthermore, should not just be augmented through enforcement (Victorian Government Department of Human Services, 2007). Regulations can also participate in encouraging best practices and in imparting advice which promotes constant progress of the quality of the centres.

## **1.2 Statement of Problem**

The need for child care by out-of-home methods has increased in recent times, as the number of families where both the parents are working parents, has escalated. The increasing percentage of women becoming involved in the labour force boosting the demand for child care centres (Sulaiman, Othman, Perumal, & Hussin, 2013). In the first quarter of 2019, the female labour force participation rate shows high percentage of 55.7 per cent, increased 0.1 per cent compared to the previous quarter (Department of Statistics Malaysia, 2019b). It is interesting to note that the escalation of child care services is happening around the world, not just in Malaysia (Omar, Abu, Sapuan, & Aziz, 2010). Moreover, in the Eleventh Malaysia Plan, the government

aims to increase women's participation in the labour force to 59 per cent by 2020 (Economic Planning Unit, 2015). Therefore, it is predicted that there will be a higher demand for child care services in the future to accommodate women's participation in the workforce.

There is a requirement under the law specifically under Part II of CCCA 1984 for child care centres to register with the Ministry of Women, Family and Community Development (MWFCD). In 2016, according to the statistics from the Social Welfare Department (SWD), there are 4431 registered child care centres and 17 915 registered caregivers in Malaysia catering for 84 724 children (Department of Social Welfare, 2016). Until January 2019, it was reported that there are 4466 registered child care centres in Malaysia (Parliament, 2019). Nevertheless, these statistics do not reflect the exact number of registered childcare centres since it includes four to six year old children who attend pre-schools instead of TASKA.

Furthermore, according to P. H. Wong, the president of Association of Registered Child Care Providers Malaysia (ARCPM), the current number of registered child care centres is not enough to accommodate almost 3.4 million children below four years of age (Yuen, 2014). She also expresses her concern that the present number is far behind the target set under the Government Transformation Programme which is 13 200 child care centres by the year 2020. Datuk Seri Wan Azizah Wan Ismail, the Deputy Prime Minister made a remark that according to Department of Statistic Malaysia, it is estimated that in 2018 there would be approximately 2.3 million children aged from zero to four years of age (BERNAMA, 2018b). If 50 percent from this total number of children need to be placed in child care centres, Malaysia would need 38 333 child care centres in 2018. Nevertheless, according to the

statistics from SWD on the numbers of registered child care centres, only 4302 child care centres were registered with SWD. She also highlighted that, as of June 2018, of these registered child care centres, unfortunately 80 per cent or 13 700 child care providers still do not possess minimum qualifications for attending the PERMATA Child Care Course.

Moreover, the situation discussed above is mainly focused on the registered child care centres. What about child care centres which are operating illegally without any licence and proper monitoring? An investigation needs to be conducted to determine the reasons for their reluctance to register their centres. Some may want to escape from liabilities and procedures burdened upon them in order to complete the registration process (Chiam, 2008). The reasons may also be due to non-adherence to the legal requirements and the unsystematic monitoring system by the government (Pheng, 2007).

According to the interview made with the Senior Assistant Director of SWD (ECCE Department), Puan Hartini Abd. Halim, the reasons of the low percentage of registration amongst child care provider are amongst others on the difference management of local council in administrating the licence application. Administrative issues make the registration process to be meticulous and thus discourage more applicants to register their centres. Besides that, Puan Hartini also commented on the issue of home-based child care centres which look after less than four children which are not required to register under the Act. She commented that, the registration according to the Act cannot be made as the centres in the first place do not comply with the local council's requirement. Therefore, a review on the Act is needed to tackle this issue as according to her, SWD can only manage these centres by being

responsive to the complaints made when there is any abuse or unwanted incidents happened in these home-based child care centres.

It would be unfair to indicate that unlicensed settings do not give attention to children's health and wellbeing (Lapp Payne, 2011). However, according to researched and studied quality indicators, the quality guaranteed by unlicensed settings cannot be at par to those settings which are systematically monitored.

Any non-compliance activities conducted by licensed centres are usually recorded and are available for access to the parents. As such, this is an advantage for the parents, as they can access these records and review, and decide on the best options for their children. On the contrary, news on any violations that occur at unlicensed centres, only come to light temporarily through media. In Malaysia, these are mainly found in newspaper reports. For such centres, there isn't any system of records or collections of neglect or abuse cases, which can be readily accessed, specially via online methods. From a study of researchers from Department of Paediatrics, Kuala Lumpur Hospital, it is contended that no data is available on fatality or injuries from supervisory neglect. Supervisory deaths include death of children in child care centres (Cheah & Yuen, 2016). Furthermore, statistics on children's death which are caused by lack of risk awareness or neglect such as drowning in toilet are also not available.

It cannot be shown with certainty that the occurrence of unwanted accidents has been reduced by licensed child care. However, it is a fact that through adequate licensing, measures and actions which help in preventing such incidents, can be implemented. Such measures have been proven to upgrade the safety measures as well as to enhance the quality of care the children receive (Lapp Payne, 2011).

The issue of illegal child care centres operating without any monitoring or enforcement by the authorities raises concerns as this jeopardizes the safety of children. Apart from the issue of children's safety, there is no guarantee that these centres will provide quality education and care with the aim of promoting a better environment for developmental growth (Lapp Payne, 2011). Robust laws and regulations are pivotal, not just to ensure that children are well protected in terms of their health and safety, but also in ensuring quality child growth of millions of children.

The cases of maltreatment and negligence in child care centres happening around the country are alarming. Although there are already existing laws and regulations governing this issue, the incidence of repeated cases occurring year after year illustrate to us that the legislation on child care settings in Malaysia need enhancement efforts. The worries of parents on the safety of their children while in child care centres should be tackled diligently as the safety of the children shall always be the priority.

There was widespread shock in Malaysia when news of the death of a three-month-old baby girl at a child care centre in September 2014 went viral on social media (Cheng, 2014). The baby was found unconscious and was reported to be surrounded by ants at the time the parents picked her up from the child care centre (Sinar Harian, 2014). It is reported that the child care centre only hired four caregivers for 39 children, where there should have been nine caregivers. In response to this case, the child care centre was ordered to be closed temporarily (The Star, 2014).

This was not the first incident in Malaysia involving the death of infants in child care centres. There have been numerous similar incidents including what

happened to a six-month-old baby girl, Nur Sofea Insyirah Mohd Sharil, who was admitted to the hospital for suffering various injuries caused by her babysitter (New Straits Times, 2014). Another example can be seen in November 2014 where the owner of a child care centre was charged in the Magistrate's Court for abusing a one-year-old child in the centre (New Straits Times, 2014). Meanwhile, in September 2015, a video of a child being repeatedly slapped, as well as hit in the face and arm went viral on social media. This incident was said to have been shared by an ex-employee of the centre. The case was, however, settled without intervention by the police since the parents and the child care provider settled the matter on their own (The Sun Daily, 2015). In a recent case which occurred in 2018, two child care providers were brought to the court charging under Section 31 (1) (a) of the Child Act 2001 (BERNAMA, 2018d). In this incident, a boy aged three years old was physically abused by the child care provider. The child care provider, Rozana, slapped him on the face until he fell off his chair. Rozana also slapped a five year old boy twice. Another child care provider, Nor Sulastri Suratmi, abused a three year old girl. The girl was harshly pulled up and placed on the neck of another child. Sulastri was also reported to have pinched the girl and bitten the arm of a three year old boy. Both child care providers faced punishment of up to 20 years of imprisonment and fines of up to RM50 000 each if found guilty. Another incident which shocked the whole country was the case involving a five month old baby named Adam Rayqal Mohd Sufi Naeif (Kumar, 2018). The child care provider was charged with abuse of the boy causing head injuries. The case attracted the interest of the public as the body of the boy was found disposed of in a freezer in an attempt by the abuser to conceal the baby's death. This case was an eye-opener for the authorities to improve legislation on child care.

According to the CCCA 1984, this child care provider was not required to register with SWD since she was looking after less than four children.

Another similar ordeal involving a nine-month old infant was reported in November 2018 (Kumar, 2018). The baby was suspected of having been physically and sexually abused as there were injuries in the infant's genitals, anus and head. The post-mortem reported that there was blunt force trauma to the head of the baby. The babysitter and her husband were accordingly arrested by the police and, sadly, it was discovered that the husband tested positive for methamphetamines. Although reactive legal action may be taken not just under Child Act 2001 for abusing the child, but also Section 302 of Penal Code as their action has caused death, preventive action in the first place should be scrutinised diligently so as to prevent more irresponsible and unqualified babysitters from taking care of children.

The statistics from SWD in 2012 showed that, until July 2012, seven cases involving the death of infants in child care centres had been reported (BERNAMA, 2012). The former Minister of MWFCD, Datuk Seri Rohani Abdul Karim, stated that according to the statistics from SWD, there were 146 cases reported commencing from early 2017 until June 2017 (BERNAMA, 2017b). It was added that, from 2015 until June 2017, there were a total of 581 reported cases of child abuse involving child care providers. In addition, the Deputy Minister of MWFCD, Hannah Yeoh made a remark that from January to May 2018, 199 abuse cases were reported (BERNAMA, 2018a). It is worrying to see increasing cases of malpractice in child care centres especially when the deaths of infants are involved. These are only some examples of the child abuse cases reported. It is believed that there are more cases happening in the country which go unreported due to various reasons (Ministry of Women Family and

Community Development & UNICEF, 2013). Therefore, it should be brought to the attention of the authorities when an empirical research indicates that parents are not confident regarding safety of children in child care centres (Kahar & Mohd Zin, 2011).

As far as legal remedy is concerned, those registered child care centres may be required to close their centres temporarily if there were any danger or risk of danger to anyone in the centre as enshrined under Section 16 of CCCA 1984. It is claimed by ARCPM that the increasing statistics of child abuse cases can be attributed to the non-registration of child care centres which tend to employ unskilled workers (New Straits Times, 2014).

Therefore, as far as unregistered child care centres are concerned, the question of which authority has the right to monitor child care centres closely could be raised. Although Section 6 (2) of CCCA 1984 highlights that operating a child care centre without licence or registration is an offence, it is not mentioned in the Act that SWD has the power to blacklist the operators from opening another centre in the future. This is worrisome as no effective action can be taken for their negligent conduct, nor can any repetition of negligent actions of these irresponsible illegal child care centres be deterred.

Thus, it must be asked, is there a need for the laws and regulations on child care settings in Malaysia to be improved? Datuk Dr. Chiam Heng Keng, who is currently the Founding President for Early Childhood Care & Education Malaysia, illustrated the position of Malaysian child care settings which need to be reviewed and upgraded. She mentioned that, as child care settings in Malaysia are perceived as a custodian matter rather than an education medium, the efforts to strive for higher

quality of child care settings are not intense (Chiam, 2008). That is why there is a need to raise awareness on the part of child care providers to increase their professionalism and on the part of the government to raise the bar for the minimum standards of quality child care.

On the part of professionalism of child care providers, from the interviews done on child care providers, they have limited knowledge on education element of child minding. They perceive child care as merely custody by having to take care of the children and fulfil their basic needs with regards to provide proper feeding, sleeping and resting. In addition, on the questions of abuse cases happening in child care centres, they do not know that they may be taken serious legal action under Child Act 2001. Thus, this shows that the quality of care and education by child care providers is very limited and need further enhancement.

However, different situation can be seen when the interview is done with the child care operator. She has ample knowledge on the terms and conditions stipulated under the laws and regulations that need to be followed. The education element is also given high attention when she stressed that caring for the children nowadays does not merely involve routine activities such as brushing teeth, drinking milk and so on, but every child need to be equipped with proper knowledge and lesson according to their age and ability.

Thus, the knowledge and awareness of the child care operators are not well delivered to the child care providers who spend most of the time with the children. Therefore, child care providers' quality in caring for the children need to be upgraded.

It was stated in the Ninth Malaysia Plan 2006-2010 that the Child Care Centre Act 1984 would be reviewed in order to enhance quality services. Nevertheless, the

amendments made in 2007 were more on administrative matters including: adding the categories of child care; increasing issuance period of the licence; and requiring the licence to be displayed in a conspicuous place. However, it is not denied that there were some improvements with regard to reducing the ratio of adult to child and the requirement for registration for home-based child care. However, a thorough review should be made touching on various aspects of legal requirements and safety provisions of child care settings.

The enhancement of laws and regulations on child care centres by improving the legislative framework is crucial so as to guarantee better protection for children as well as quality care and education to ensure their development (Gormley Jr, 1999). Therefore, there is a need to review the legislations in order to evaluate other aspects of regulated quality features that can be improved and enhanced in ensuring better protection, care and education for children. Laws and regulations on child care are important in order to support quality. This can be done by setting the floor on legal requirements such as health and safety provisions, qualifications of child care providers, approvals and certificates and so on that must be adhered to by those involved directly with the children in child care centres. Strong legislations may ensure that children are provided with better care, protection and education. Therefore, laws and regulations should focus on the aspects that provide high impact towards the quality of child care centres in ensuring a better developmental outcome for children and better protection for the children from hazards and harmful incidents.

The issues of unregistered child care centres and resultant maltreatment cases involving children in child care centres need to be resolved. Further, the quality of child care settings in Malaysia needs to be improved. The enhancement of legislative

frameworks should assist child care operators to be able to adhere to the legal requirements and encourage more compliance with the laws and regulations governing child care centres. Furthermore, the improved version of laws and regulations on child care centres should also ensure better protection as well as enhanced standards of education for children's growth and development.

Furthermore, other issues are also highlighted by a recent report examining child care settings in Malaysia (UNITAR International University, 2017). Amongst the issues highlighted is that of premises which are not required to be registered. These are primarily centres which are not run for profit-making although they are caring for children under four years old. There are also issues of governance as kindergartens for children aged five and six years old are governed under the Education Act 1996 and not the Child Care Centre Act 1984. In addition, there is also an issue with workplace-based child care centres which are given exemption from any inspection highlighted in the final report of UNITAR International University. This may lead to the centres not fulfilling the minimum requirements stipulated as a uniformed process cannot be performed. Besides that, the child care centres handled by other agencies are also exempted from inspection by SWD and any legal action under CCCA 1984. It is proposed in the report for the exemption clause to be given just for registration but not on inspection so as to ensure that the operators always comply with at least the minimum standards. In the report, it is important to note that the recommendation made for the terms and conditions imposed by the registration provisions should also be clarified so that the stakeholders including the operators, managers, supervisors, and child care providers are clear about their roles and responsibilities. The technical agencies too need to know in depth about the terms and conditions so as to ensure a better inspection process.

Thus, improving the quality of Malaysian child care settings depends largely on better legislative framework. Laws and regulations are in place in order to underpin quality and encourage compliance. It is high time for the laws and regulations on child care to be reviewed to suit the current demands. Therefore, this research is undertaken not just to deal with present problems in child care centres and the inadequacies of the existing laws, but also aims to enhance the quality of service provided by child care centres in order to prevent more problems in the future. It is envisaged that the quality of child care settings in Malaysia shall ensure that children are better protected and an educational environment is created to nurture them from the age of infancy.

### **1.3 Objective**

The demand for quality child care centres to accommodate maternal employment is rising day by day. This is reflected through the increasing percentage of women working in various employment sectors nowadays. Therefore, it is necessary for child care centres to have quality care and custody as well as quality education. This will enable developmental growth in the children, even from the age of infancy. The importance of child care especially for children aged from zero until four is sometimes mistakenly assumed to be simply a matter of custody. All stakeholders especially parents need to be aware that, apart from the issue of protection of health and safety of their children, developmental growth in terms of their education starts when they are infants. Thus, there is a need to develop quality child care settings for children that can offer a well-protected environment as well as quality education and care. In ensuring that quality care and education are offered in child care settings, the roots and foundation of the industry, namely laws and

regulations, need to be scrutinised and reviewed so as to suit the current needs and demands.

Hence, the main objective of this study is to examine the legislative efforts needed in improving child care laws and regulations in Malaysia. The impact of laws and regulations towards quality child care is explored in order to illustrate the strong impact of laws and regulations towards child care settings.

This study aims to explore the Malaysian laws and regulations on child care in details especially the vital elements that underpin the laws and regulations of Malaysia. The evaluation is made in determining whether the existing Malaysian child care laws and regulations have weaknesses which need to be strengthened and whether Malaysian laws and regulations pertaining to child care laws are adequate to offer quality protection, care and education for children. Hence, this study identifies room for improvement for Malaysia in terms of the existing child care laws and regulations in the country. The laws governing child care settings in Malaysia especially CCA 1984 and CCCR 2012 are scrutinised. Further, the position of other countries in relation to their child care laws and regulations is explored. This will enable Malaysia to learn from the best practices of developed countries when legislating their child own care laws and regulations.

After identifying the weaknesses of Malaysian laws and regulations that need to be improved, this study aims to describe the improvement efforts that may be taken by Malaysia in enhancing existing laws and regulations. The discussion further seeks to ascertain the essential elements that form a robust legislative framework of child care settings. The study aims to explore how Malaysia may improve and reform the underlying philosophy and purpose of the statute that builds the foundation of the

legislation. Besides that, the elements of legal requirements that build the regulatory standards and functions of the related agency in setting up better enforcement strategies are also examined in order to identify improvements that may be undertaken by Malaysia in having a legislative framework that is conducive to be implemented.

Next, this study aims to analyse further the essential elements of child care laws and regulations with regard to legal requirements. This study evaluates the existing Malaysian laws and regulations on the legal requirements that should be strengthened in the legislation of child care centres in Malaysia. The legal requirements that should be focused upon to be enhanced are examined by tracing the structural quality features that provide a high impact towards quality child care settings. The analysis regarding how these legal requirements are practised in international settings and how to improve the Malaysian provisions on these legal requirements are analysed one by one. This involved examining six legal requirements which are, namely: adult to child ratio; group size; education and trainings; physical environment; health and safety; and educational programmes.

From the analysis made covering the main essential elements of child care laws and regulations, this study finally aims to develop a reformed and reviewed Malaysian legislative framework on child care centres in order to establish a better quality of care, education and protection for the children. This legislative framework consists of the improved version of essential elements of child care laws and regulations that need to be inserted and enhanced in the Malaysian child care settings touching on the aspect of clearer introductory features of the statute, effective legal requirements and robust enforcement. This legislative framework is crucial to be

developed in establishing quality child care not just on the part of care but also in terms of education of the children in ensuring their beneficial developmental growth.

#### 1.4 Research Question

This study addressed the following research questions. The main question of this study is to answer the main objective of the study on how the quality of child care in Malaysia may be improved through legislative efforts.

This study answers the question regarding whether Malaysian laws and regulations are adequate or below the basic level of acceptable care and whether there is a need for further improvements. Therefore, questions regarding the manner in which research and evaluations by stakeholders illustrate the Malaysian position on child care settings are discussed.

Next, the question of how loopholes in laws and regulations of Malaysian child care settings may be improved by analysing the practices carried out in developed countries is addressed. The question regarding the essential elements of child care laws and regulations that should be focused in improving laws and regulations on child care centres are addressed first. These research questions will involve three important essential elements including clearer statutes, effective legal requirements and robust enforcement respectively. The following research questions are answered ;

- (i) Whether the aim and purpose of the laws and regulations need to be enhanced to include the elements of care and education?

- (ii) Is there a need to raise the bar for the standard of the legal requirements of the laws and regulations namely: ratio; group size; education and training of child care providers; physical environment; health and safety; and education programme?
- (iii) How can the function of a licensing agency be mobilized to develop strong enforcement of the laws and regulations?

Finally, this study will attempt to answer the question of what are the recommended solutions and a proposal for Malaysia to develop a reformed and reviewed legislative framework on child care centres. This will ultimately seek to establish a better quality of care, education and protection for children in child care centres.

### **1.5 Significance of the Research**

It appears that the report from the Department of Health and Human Services USA recommends that the statutes which govern the licensing of child care centres should be reviewed periodically (National Center on Child Care Quality Improvement, 2014). This is to ensure that the provisions are still relevant and updated according to the recent studies, practices and legal opinions. Refinement needs to be made in terms of regulatory standards such as those on health and safety, licensing agency responsibilities, child care providers' qualification, background checking and so on to establish whether there are any loopholes which need to be remedied or ambiguities that need to be clarified.

Reform is often made by revising the quality standards and strengthening laws and regulations. In a report made by the Organisation for Economic Co-operation and

Development (OECD) examining reforms made by the Korean government on child care settings, the law on child care in Korea was amended in 2005 in order to improve the quality of child care (OECD, 2012b). Amongst the amended provisions was a requirement that the maximum number of children that can be placed in a child care centre is 300 children. Meanwhile, it was stipulated that the premises should be located far from any dangerous facilities at least 50 metres. The Korean government also increased the regulated space for children from 3.64 to 4.29 square metres and in the classroom to 2.64. The adult to child ratio was also reduced. This is an example of international efforts in improving the quality of childcare through legislative efforts.

Chiam (2008) in her research on child care centres in Malaysia asserted that it is timely for an updated research on child care centres to be undertaken. This would enable policies to be drafted, provisions legislated, and training provided to child care providers and caregivers to suit the current time and demand. She added that previous research was carried out more than 20 years ago. The research touches on overview of the service, assessment of the standard of care, and recommends some policies in enhancing the quality of child care centres. The significant result from the research was the birth of CCCA 1984.

Presently, it has been almost 35 years since the birth of CCCA 1984. Therefore, it is reasonable for an evaluation to be made to the provisions of the Act itself. The Act which was passed with the main focus being to set minimal standards and requirements (Chiam, 2008) should be upgraded to ensure better care, protection, and education for children placed in child care centres. A recent report made by UNITAR to the Social Welfare Department also highlights the need for the Act and regulations on child care centres in Malaysia to be evaluated so as to suit current

demands (UNITAR International University, 2017). The report highlighted several issues that need further improvement including terms and conditions or legal requirements imposed for registration purposes.

Besides that, it is undeniable that Malaysia has progressively developed various policies and plans for the protection of children. Nevertheless, a holistic child protection legal mechanism is still not in place. It is claimed that this may be due to the birth of 'instant policy' which is invented reactively in response to a society's needs and demands (Kahar & Mohd Zin, 2011).

Furthermore, the amendment made to the Child Care Centre Act 1984 in 2007 was more concerned with administrative issues (Chiam, 2008). The amendment did not touch greatly on the aspects of structural features or regulatory standards that need to be enhanced and improved except on the aspect of ratio. Therefore, an evaluation should be made on the existing provisions of the important features of quality child care that is amenable to be translated into legal requirements. Accordingly, the researcher feels that it is high time for a research study to be conducted on the current laws and regulations governing child care centres. The loopholes in the existing legislations should be remedied with necessary modifications. Developing a better legislative framework on child care centres in order to enhance the quality of care and education delivered to the children shall be the solution in providing high quality child care services in Malaysia.

## **1.6 Scope of the Research**

Specifically, the research focuses on infants and toddlers from the age of zero until four years old. This research involves the laws and regulations on child care centres in

Malaysia specifically Child Care Centre Act 1984 and Child Care Centre Regulations 2012 (CCCR 2012). Besides that, this research also examines laws and regulations and practices from other developed countries such as Australia, Singapore, the United States of America and the United Kingdom. In addition, the research will be limited to a discussion of child care in the context of child care centres which include:

- a. Government-owned child care centres
- b. Workplace-based child care centres
- c. Institution-based child care centres
- d. Home-based child care centres

However, this research will not include child care centres in the plantation sector in the discussion as these centres are monitored by the Department of Labour<sup>2</sup>. This research will mainly focus on the child care centres which are under the supervision of the Department of Social Welfare.

## 1.7 Literature Review

United Nations Educational, Scientific and Cultural Organization (UNESCO) adopted the concept of ECCE holistically to include not just care but also education, health, nutrition and protection (UNESCO, 2010). This concept is suitable as, presently, it is now recognized that the care for children is not merely a baby-sitting profession, but is a necessity in complementing economic development for more stable communities (Lydia, Palanisamy, & Dhamotharan, 2014).

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<sup>2</sup> This type of child care centre is governed under Standard Act Minimum Housing and Workers Facilitation 1990.

ECCE encompasses children from the age of zero until eight years old (UNESCO, 2010; United Nations Children's Fund (UNICEF), 2006). In defining ECCE, United Nations Children's Fund (UNICEF) defines it as a *'range of processes and mechanisms that sustain and support development during the early years of life'* (UNICEF, 2006). It is interesting to note that there is diversity on the terminology of ECCE in resembling the early education for children from infancy until eight years old. Apart from ECCE, other terms are known as: early childhood care and development (ECCD); early childhood development (ECD); early childhood education, care and development (ECECD); and early childhood education and development (ECED) (UNICEF, 2006). For instance, ECEC is used by Organisation for Economic Co-operation and Development (OECD) while UNICEF often terms it as ECCD. Meanwhile, the terminology used by The World Bank is ECD (Haddad, 2002). As far as this thesis is concerned, the terminology of early childhood by using ECCE as used by the ECCE Council of Malaysia is adopted.

With regard to the programs or services of ECCE, services offered for part-day, or for a full-day are encompassed, and often can be found either in the public or private sectors. Therefore, some of the services are funded by the government and some are run privately. The services which are under the terms of ECEC include child care centres, family day care, pre-kindergarten, kindergarten, nurseries, and play groups. This thesis covers ECEC from the age of zero until four years old as defined in CCCA 1984 which encompasses child care centres and not kindergarten for children from five to eight years of age. A child care centre is defined legally in CCCA 1984 in Section 2 as premises which provide care for children from zero to four years old for more than one household, for payment.

Studies in Malaysia regarding child care centres are scarce, especially studies focusing on the child care laws and regulations. There are studies made on issues related to child care centres but the studies are mostly limited in terms of the numbers of child care centres involved. Some of the studies meanwhile only focused on specific geographical areas covering one or two area of places with limited data.

There was a study which focused on identifying the determinants of quality child care centres ranging from, namely: the relationship of workers in child care centres with the children and their colleagues; daily experiences and learning of the children; care and safety; nutrition and wellbeing; as well as management of the child care centres (Hanafi, 2015). This study was carried out through a case study of a selected child care centre using a questionnaire from the Quality Improvement Accreditation System (QIAS) model and interviews. The overall findings from the study revealed that the child care centre has high quality practices. However, the researcher suggested that improvements be made by the management of the child care centre in the quality area of programming and evaluation which was averagely-rated (Hanafi, 2015). This study, although it illustrates positive performance of a child care centre in Malaysia, may not represent the child care system in Malaysia as a whole as only one child care centre has been studied in this research. The issue of registration and illegal child care centres not having good quality services is not addressed in this study.

There has also been a study conducted evaluating how working parents anticipate the quality of child care service. This study focused on eight child care centres in Bandar Tun Abdul Razak, Jengka (Ab. Halim, Hasan, Syed Marzuki, & Jais, 2014). This study has also assessed the level of satisfaction of parents with the

services provided by the selected child care centres. The result from the study illustrated that the services provided were up to the expectation of the parents and they were well-satisfied with the services. Although positive findings can be seen in the study, this may not portray the whole situation of child care services in Malaysia. The study was performed in a specific area involving only eight child care centres which may not be representative of the whole country. In addition, it was presumed that parents in Malaysia are not well informed on quality aspects of child care which will impact upon their children's development. This may be due to lack of awareness or limited choices available as well as accessibility of child care centres in their localities.

Another study also touched on service quality by examining the associations between service quality and perceived value, satisfaction and behavioural intention in a child care centre in Malaysia (Omar et al., 2010). The findings of the study revealed that service quality may positively affect perceived value. The study also found that service quality and perceived value may influence parents' satisfaction levels. This means that when the service quality and value are highly perceived by parents, they will be more satisfied with the child care centre and will tend to be loyal to the service for an extended period of time. This study also has similar limitations as it only studied a certain number of child care centres in a limited geographical area of Malaysia.

There was a research study involving a wider number of geographical areas in Malaysia but the research focuses more on the wages of child care providers. Sulaiman, Othman, Perumal, & Hussin (2013) touched on the influence of wages towards the commitment of the child care providers. This study aims to identify the

effects of internal market orientation (IMO) on employee organisational commitment (EOC). IMO is important in order to produce highly committed employees as well as qualified employees who will be loyal to the employer and ultimately increase the employee organisational commitment towards their employer. The results from the study reveal that the response to intelligence (RTI) was significant in all features of EOC. This means that employees would be more committed towards employers who are responsive to their needs on the issues of: benefits; reward systems; performance reviews; flexibility of working hours; and others. Therefore, the results reveal that when employees are satisfied with the benefits offered by child care providers, they will in return perform well in their job by giving full commitment towards their work. It is worth noting that this study managed to cover a large geographical area of Malaysia when it involved employees from child care centres in 12 states in Peninsular Malaysia namely Kedah, Perlis, Penang, Perak, Selangor, Kuala Lumpur, Negeri Sembilan, Johor, Malacca, Kelantan, Terengganu and Pahang. However, this study mainly focused on the commitment of child care providers and is not an overall assessment of child care services in Malaysia.

Although there are limitations in these studies, they provided a general overview on child care centres in Malaysia. However, comprehensive examination especially on features affecting quality child care was not covered in these studies. Previous studies have not touched on laws and regulations of child care centres in building a good foundation of quality child care in Malaysia. Therefore, this thesis examines the essential foundation of quality child care, namely, the laws and regulations of child care in Malaysia.

In addition, there are also studies done specifically on the importance of child care providers in ensuring quality child care for the children. In a study exploring the factors influencing child care providers to choose the career as child care providers, it was indicated that their commitment depended on the 'relationships and communications, reciprocal concern, tolerance and good experiences' (Azizan, Roslan, Konaen, Ahmad, & Yanti, 2016). Besides that, the reasons why they choose child care providers as career were due to 'interest, aspiration, knowledge and skills'. It was concluded in the study that in enhancing the quality child care, there is a need to improve the commitment amongst the child care providers. Through having high commitment from child care providers, they will be more persistent in their career as child care providers and thus loyal to the industry. This is important as the career of child care provider should be regarded as an educator educating the children since the age of infancy.

In relation to the above-mentioned study, a study was reported in 2018 examining the status of the private child care providers in Malaysia and their readiness to undergo further training (Foong, Veloo, Dhamotharan, & Loh, 2018). The result illustrated that large proportion of child care providers in Malaysia are 'young, under qualified, inexperienced and underpaid'. Nevertheless, the awareness on the need to upgrade their skills and knowledge was high and they are ready to further their education if given opportunity. Thus, this study made an urge for the efforts to be done in upgrading the professionalism of child care providers in Malaysia. There is a need to upgrade the trainings for child care providers to upgrade their skills by having series of courses in supplement to the PERMATA child care course which are compulsory for all child care providers to attend. For instance, from a research studying the impacts of having first aid training and certification on knowledge,

attitude and confidence of child care providers, it was concluded that this type of training boost the knowledge and confidence of child care providers especially in handling emergencies incidents (Azmani et al., 2019). Therefore, it is suggested for child care providers to be equipped with more training in ensuring they are skillful in handling the children.

Research on overall evaluation of child care centres in Malaysia is extremely scarce. Nevertheless, a research study conducted by Datuk Dr. Heng Keng Chiam, who is the Founding President of the ECCE Council, shed some light in paving the way for more research to be done pertaining to ECCE issues (Chiam, 2008). She is known as a leading authority on ECCE in Malaysia and leads many initiatives in enhancing and upholding the ECCE sector. In her research, “Child Care in Malaysia: Then and Now” which was published in 2008, she touched on several issues regarding child care settings in Malaysia.

Chiam highlighted that the result of a survey conducted by UNICEF and Ministry of Social Welfare in 1982 concerning an overview of the services and standards of care of child care centres in Malaysia reported that child care services in Malaysia did not even reach the level of satisfactory. Consequently, CCCA 1984 was passed to set minimal standards and regulations for child care services (Chiam, 2008).

This Act mainly highlights the registration, control and inspection of child care centres<sup>3</sup>. It also regulates child care centres which take care of children under the age of four years for a fee<sup>4</sup>. Amongst the programme strategies to ensure that child care

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<sup>3</sup> Preamble of Child Care Centre Act 1984 describes the statute as ‘An Act to provide for the registration, control and inspection of child care centres and for purposes connected therewith’.

<sup>4</sup> Section 2 of Child Care Act 1984 defines child care centre as ‘any premises at which four or more children under the age of four years from more than one household are received to be looked after for reward’.

centres are run as demanded by the Act are, namely: training programmes for child care providers; programme formulation for children; monitoring and evaluation of the programme; and an awareness campaign (ASEAN, 2007). Meanwhile, Child Care Centre Regulations 2012 (CCCR 2012) have been enforced starting from 1 January 2013 covering matters relating to registration, staff qualifications, parental duties, premises requirements, safety issues, food and nutrition, health, and non-compliance provisions respectively.

Discussing briefly the provisions in CCCA 1984 and CCCR 2012 pertaining to registration, child care centres are required to register with SWD. When a centre is registered, SWD may monitor the centre to ensure that it abides by the provisions in the legislation. Through registration, it is believed that the quality of child care providers would be maintained (Ministry of Education, 2008).

Amongst the issues highlighted by Chiam was the registration of child care centres. It has been claimed that one of the obvious gaps in monitoring child care centres lies in ensuring registration on the part of the private centres although legal action can be taken against child care centres which do not comply with CCCA 1984 and CCCR 2012. Cancellation of registration, instruction for temporary closure of the child care centre, sealing of the premise or even prosecution may also be imposed on the offenders (Department of Social Welfare, 2013).

It appears that there has been a positive development after the launch of the campaign "Jom Daftar Taska dan Pusat Jagaan" in June 2011. In 2010, there were only 483 registered child care centres; however, as from June 2011 to May 2012, the numbers increased 124 per cent to 1086 (Parliament, 2012). On top of that, a positive

development may also be seen when the SWD reported that registered child care centres in 2014 totalled 3760 (Department of Social Welfare, 2016).

Nevertheless, the numbers of illegal or unregistered child care centres are still high. In 2014, there were 1685 illegal child care centres identified across Malaysia. The former Minister of Women, Family and Community and Development, Datuk Seri Rohani Abdul Karim stated that failure to adhere to the ministry requirements was one of the reasons why child care operators were reluctant to register their centres (BERNAMA, 2016a).

The statistics from SWD show that, until November 2016, there were 4272 registered child centres. These statistics showed an increase in the numbers of registered child care centres from just 3479 in 2014. It was reported that from 2014 to June 2016, there were 938 child care centres which had not registered with SWD. The Minister commented that one of the reasons for providers operating child care centres illegally is the difficulty in adhering to the standard operation procedure (SOP) especially in terms of safety features.

The issue of non-registration is crucial. However, another important issue arose in 2014 when it was discovered that 90 percent of the 3123 registered child care centres had failed to adhere to the guidelines laid down by SWD. It was found that almost two thirds of the 220 registered child care centres in Malaysia failed to successfully comply with the safety aspects. There were also questions raised over qualifications of the child care providers and fees respectively. An amnesty programme was therefore conducted in 2013-2014 in an attempt to ensure that child care centres were aware of the regulations and abiding by the law. Thus, it can be seen that the quality of child care centres still requires further examination.

Meanwhile, on the part of examination and inspection, Chiam traces the movements of a taskforce set up in 2006 to examine three major issues with regards to early childhood care and development. One of the issues was to develop a Quality Improvement Accreditation System by which to rate child care centres (Chiam, 2008). This system is a mechanism of quality control using the standardised instrument. Inspection may be done by the SWD officer four times annually. In addition, a star rating system was also suggested to be included in the plan involving registered child care centres (Ministry of Education, 2008).

Nevertheless, Chiam criticised that thorough inspection involving all child care centres may have problems due to limited numbers of inspection officers. Moreover, as the system includes self-assessment by the child care centres apart from the inspection from SWD officers, not all child care centres are prepared to do this. On top of that, this system may not be successful in improving overall qualities of child care centres since unregistered childcare centres obviously will not participate in this accreditation.

Therefore, the problems highlighted by Chiam illustrate that there is an urgent need to review the legislation so as to find a solution on how to cater for this problem. The reluctance of child care providers to register their child care centres may jeopardise the children's safety as there are no safeguards to ensure that the centres are safe for the children. Furthermore, the child care providers in illegal child care centres are not professionally trained and this may lead to cases of abuse and negligence involving children in such centres.

Chiam meanwhile comments on legal requirements concerning registration of child care centres; one of the vital issues addressed in CCCR 2012 is that of the adult

to child ratio. The ratio for children from birth until one-year-old is one child care provider per three children. For children aged one year and above the ratio is one caregiver per five children; while for children aged three years until four years, the ratio is one caregiver to look after ten children. Besides that, it is also included in the regulations that child care centres must prepare and display a balanced diet menu schedule as well as a schedule of daily activities appropriate to the respective ages of the children. These regulations shed a new light towards better care and protection for the children in child care centres

The other legal requirement highlighted by Chiam focused on training for child care providers. It is a requirement for child care providers and child minders to join a ten day basic child care course run by agencies approved by MWFCDC (Ministry of Education, 2008). There has been criticism of the module for the training of child care providers since it appears that there is no major modification of the training module either for child care providers or for trainers of trainers (TOT). Furthermore, the same trainers were hired to provide the training while no experts have been given a chance to revise the training course material (Chiam, 2008).

However, Chiam added that there has been a positive move made by MWFCDC in ensuring the quality of child care providers. A committee of experts including child care providers, academicians and experts in early childhood care and education have developed a certificate in child care course in conformity with National Occupational Skill Standard (NOSS). This is in collaboration with the Department of Skill Development in the Ministry of Human Resources. Their end products were four levels of Standard Practice and Standard Content for child care providers according to their respective levels. As of June 2012, there were 40 certified service providers'

agencies to train those who are interested in becoming child care providers. These certified agencies can be reached through an 'easy to care' portal offering the Basic Child Care Course to the child care providers (Parliament, 2012).

However, starting from 2013, the Basic Child Care Course is no longer available. Instead, there is a requirement for all child care providers to attend the PERMATA Child Care Course. The origin of the PERMATA Negara project was the outcome of initiatives taken by Datin Paduka Seri Rosmah Mansor in conducting collaborations with a group of professionals in searching for solutions to cure social problems amongst youth today (Mansor, 2011). This meeting of minds has highlighted the importance of early development of a child in order to develop into a wholesome individual.

The content of the PERMATA Child Care Course is based upon the PERMATA curriculum which has been developed referring to the 'Sure Start' curriculum used in Pen Green Centre, Colby, England. The content was then enhanced to suit the local culture and the spirit of the National Education Philosophy (Mansor, 2011). This curriculum has also taken into consideration the curriculum of the Basic Child Care Course implemented by SWD and the Certificate in Basic Early Education for Children in Care Centres from KEMAS (Bahagian Pendidikan Awal Kanak-Kanak PERMATA, 2013).

In addition to the PERMATA curriculum, other matters are included in the course such as: legislation and advocacy of early childhood and education and care; as well as child care services practice and child development of PERMATA (The Institute of Childhood Education Studies & Community Education, 2016). The PERMATA child care course may be a solution for training child care providers to

become more professional in dealing with children; however, the effectiveness of the training still needs to be scrutinised. The more alarming problem is the reluctance of child care operators to send their child care providers to training courses due to various reasons including the cost of the courses. This may be one of the requirements which make child care operators unwilling to register with SWD.

Furthermore, it is worth noting that Chiam also explores the issue of amendment of CCCA 1984 which was conducted in 2006. The increasing number of maltreatment cases in child care centres is one of the pushing factors for the amendment to be made. Nevertheless, it has been claimed that the amendments did not bring significant advantages in terms of quality and standards of child care protection as they were more focused on administrative performance. The amendments *inter alia* highlight the additional categories of child care centres (Mohd & Kadir, 2012). Besides that, the amendments also touch on increasing duration for the issuance of a licence, and the requirement to display the licence in a conspicuous place in the premises. Nevertheless, Chiam praised the positive action of lowering the adult to child ratio from 1:5 to 1:3 for children aged below one year. The requirement of home-based child care centres to register is also worthy of being mentioned as one of the efforts made to enhance the quality of child care in Malaysia.

Thus, there are crucial issues which have been highlighted by the prominent authority of ECCE in Malaysia, Datuk Heng Keng Chiam. These especially relate to the issue of registration and legal requirements involved in ensuring children receive quality child care services together with adequate protection and care as well as satisfactory education for their developmental growth.

Another important and more recent research on child care centres is the final report by UNITAR International University carried out by Associate Professor Dr. Zaida Mustafa together with seven other researchers (UNITAR International University, 2017). This final report was prepared for SWD in 2017. This study aims to, specifically: examine the quality of child care services in Malaysia; evaluate the overall development of children in child care centres; examine the factors that predict the quality of child care centres; evaluate the level of adherence towards the child care laws and regulations; evaluate the necessity to have a particular agency in managing child care centres; and finally, evaluate the need to improve the laws and regulations pertaining to child care centres. This study involves 458 child care centres comprising a mixed method of qualitative and quantitative methods. Questionnaires were distributed to 376 operators involving 534 child care providers and 1127 parents while interviews were conducted with 20 child care operators, 20 child care providers and 20 parents respectively.

According to the interviews conducted, when asked about the scenario of the administration system of child care centres in Malaysia, most of the operators would highlight the issues of increasing numbers of illegal child care centres operating without licences. In addition, they also touched on the various forms of administration systems practised, especially in each of the respective states in Malaysia. Furthermore, it was found that, overall, the operators understood the need to have regulations and support the requirement to register the centres. Most of the participants interviewed mentioned that the main reason for regulations and registration is the safety of children. Besides that, they also highlighted that regulations would assist in the quality enhancement and standardization of the process. Parents moreover would have more faith and confidence in the centres and this would indirectly provide a good impact

upon their services. They also added that keeping records and registration are important for reference purposes for both parents and authorities. Furthermore, the direct benefit for the operators from registration was that registration would make their business deals easier, especially in the process of loan applications for business capital.

From the scripts of the interview, it can be deduced that the operators gave great attention to ensure that parents and child care providers know and understand the regulations concerning child care centres. This was to avoid any crisis or misunderstandings in the future and to protect the service from legal action. Amongst the media used was distribution of hand books at the time of registration and continuous reminders via the 'whatsapp' application or through social media platforms like 'Facebook'.

The study made by UNITAR for SWD in 2017 suggested some improvements for child care centre services in Malaysia. It was suggested that the provisions of the Act should be strengthened and amended pertaining to laws and regulations. The laws and regulations need a review in terms of the definition of child care centres and, in particular, the exemption clauses exempting certain institutions from: registration; inspection powers of child care centres; terms and conditions of registrations; in addition to other issues that are relevant to be amended. This thesis therefore focuses on the main elements of legislative framework on child including the terms and conditions of registration of child care centres which are the crucial legal requirements in building a better legislative framework for quality child care settings in Malaysia.

Therefore, it is proposed that more studies need to be carried out in examining the quality of child care services in Malaysia especially with regard to the commonly

agreed quality indicators such as ratio, group size, staffing arrangements, health and safety and so on. Previous studies on Malaysian child care settings have not touched on the legislative efforts that need to be carried out in order to set a strong foundation for quality child care settings in Malaysia. A comprehensive study is needed to determine the position of Malaysia's child care laws and regulations in order to identify which part of the legal requirements need to be given more focus and treated promptly.

In building better child care settings in Malaysia, there is a need to improve the quality of child care centres through a process of regulatory reform. One of the ways suggested for this is through altering the regulatory standards (Gormley Jr, 1999). These regulatory standards are formed from the structural quality features. The causal link is that structural quality is necessary to produce process quality which eventually will produce better children's outcomes (Burchinal, 2017). Child development is influenced directly by process quality and indirectly by structural quality. A good form of structural quality features shall produce better process quality, for instance, a warm and interactive relationship and environment for the children. This eventually will produce high quality settings which aim not just to protect the children but also to ensure that they have opportunities for better child development.

It was suggested by Chiam at the ASEAN Seminar Workshop on Early Child Care and Development in Manila in 2012, and in a recent study made by UNITAR International University for Social Welfare Department (2017) that there is a need for Malaysia to have a National Quality Framework to improve the quality of early childhood education in Malaysia. One of the main limbs in national quality frameworks practised in various developed countries, for example Australia, is the

National Legislative Framework. In Malaysia, efforts are being made on the part of building national quality standards. However, the legislative part needs further improvement as the Act which was enacted in 1984 may be rendered more up-to-date and relevant with the present development in early childhood and education settings.

This study therefore aims to highlight the elements that are vital to be reviewed and included in laws and regulations in Malaysia concerning early childhood and education. As far as quality standards are concerned, Malaysia has developed National Quality Standards and introduced PERMATA-Q which was built by a group of experts referring to models from various developed countries such as Australia, Singapore and USA. Nevertheless, for legislative framework, this study stands as an effort to evaluate, review and improve the current laws and regulations to be strengthened in order to set more recent and relevant regulatory standards and also to encourage the child care players to go beyond the minimum standard so as to achieve high quality child care in Malaysia.

Another important study is a research done examining the laws governing negligence cases in child care centres in Malaysia (Erlen Joni E.K., Salleh S., Ahmad Mustafa M.S., Abdullah A., Mahat I.R., 2016). This study identifies relevant provisions of child care laws and regulations in Malaysia that need to be improved referring to the statute of Singapore. Singapore is chosen as the country of reference as it was asserted that Singapore has high quality child care centres especially in terms of the training and education of child care providers, legal framework and enforcement. Although this study only focused on several provisions and only Singapore as country of reference, this proceeding paper is crucial to scaffold this

thesis as it urged for the need to review the laws and regulations on child care centres in Malaysia.

Reviewing previous studies on child care centres in Malaysia, most of the studies touch on certain specific aspects of quality features such as the importance of commitment of child care provider, health and safety or physical environment. Most of the studies do not identify what are the most crucial elements that need to be improved in enhancing the quality of child care settings in Malaysia. There are no comprehensive set of elements for child care industry to focus on in order to upgrade the quality of services offered especially to the children. In addition, the previous research do not analyse the need to improve the foundation of the child care industry which is the legal framework. The final report prepared by UNITAR for SWD in 2017 (UNITAR International University, 2017) did highlight that there is a need to improve the laws and regulations on child care, however there is any specific recommendations made referring to the statutory provisions. Meanwhile, the research made examining the negligence cases happened in child care centres (Erlen Joni E.K., Salleh S., Ahmad Mustafa M.S., Abdullah A., Mahat I.R., 2016) shed a light in the effort to review the laws and regulations on child care centres in Malaysia. However, the research only referred to single country which is Singapore and do not identify the crucial quality features that need to be focused on in improving the legal framework. Thus, this thesis is intended to firstly identify the essential elements that need to be focused on in improving the quality of child care settings. These essential elements are then should be accordingly translated into laws and regulations by enhancing the existing statutes which are CCCA 1984 and CCCR 2012. In addition, in the analysis, this study made reference to the best practices made by several countries namely Australia Singapore, and United Kingdom.

## 1.8 Methodology

This research is a qualitative study of the doctrinal approach. In engaging the doctrinal approach, research was done in examining and interpreting the statutory legislations mainly the Child Care Centres Act 1984 and Child Care Centres Regulations 2012.

The literature review was performed through library-based data collection analysing the relevant textual documents. This research makes reference to various sources especially on legislations pertaining to child care and ECCE. Besides that, the government policies, country reports, as well as reports from non-governmental organizations (NGOs) have also been examined. In addition, conference papers, academic journals, text books and case reports are also referred to. This research involved desk study which collected sources from libraries and also online databases including websites from, namely: government departments; as well as NGOs' and relevant international bodies concerning the rights of children such as UNICEF, OECD, and UNESCO. In addition, interviews with the officer of SWD, operator of child care centres and child care providers were conducted in collecting latest data and information on child care centres in Malaysia. An interview with Senior Assistant Director of SWD (ECCE Department), Puan Hartini Abd. Halim has been conducted in obtaining information on current efforts of SWD in upgrading the quality of child care centres. Besides that, interviews also have been conducted with the operator of child care centre and two child care providers of centre to get an overview on their understanding of the laws and regulations on child care centres.

A literature search was carried out by conducting an initial scan of Malaysian and international research literature available in Child Care and Early Childhood Education Research Connections, Educational Research Information Clearinghouse (ERIC) and SWD resources. Online journal articles were accessed through the Universiti Sains Islam Malaysia (USIM) Library System. This literature research analysed the research by identifying the vital elements that need to be enhanced in improving the quality of child care settings in Malaysia through legislative efforts. These elements include introductory features of the statute, regulatory standards or requirements that should be legislated in child care legislations including: ratio; group size; qualifications and trainings; physical environment; health and safety as well as education programmes, and enforcement matters.

The keywords used are, amongst others, 'TASKA', child care centres, early childhood and care, early education and care, high quality child care, day care, laws on child care, child care legislative framework, child care regulations, regulations and quality, licensing statute, minimum requirements of child care and indicators of quality child care respectively.

This research identifies comparable legislative framework consisting of laws and regulations as practised by other developed countries in an attempt to assist in building a Malaysian model of legislative framework on child care. The methods employed by the developed countries are used as a model for the foundation in building a better legislative framework for the Malaysian child care landscape. It is suggested that cross-country comparison on respective regulatory systems may assist a country in deciding and determining the core dimension of quality child care (Vermeer et al., 2016). This kind of method was also suggested by UNICEF in their

report on 'Child Protection System in Malaysia', as one the ways to review and reform the Malaysian system of child protection. It proposed a shift away from the traditional reactive approach to a system which is more 'family-based, non-adversarial, and prevention-oriented' (Ministry of Women Family and Community Development & UNICEF, 2013). Furthermore, in setting legislative framework, using international examples from other countries was also the method used by Australia. The proof from the research showed the significant effect of ECCE towards beneficial growth of the children thereby assisting the country to adopt reformed laws and regulations (OECD, 2005).

This study analyses the similarities and differences of laws and regulations between Malaysia and other developed countries namely Australia and Singapore. The examination then leads to the determination whether there are lessons that could be learned by Malaysia. These countries are being taken as a model as these countries has recently reviewed their legislative framework on child care with the introduction of new legislations which are Australian Education and Care Services National Law Act 2010 and Singapore Early Childhood Development Centres Act 2017. Besides that, in the recent research conducted by UNITAR for the Social Welfare Department, these countries were studied in the report as the benchmarked model of quality child care settings. Moreover, Chiam in presenting policies and frameworks on ECCE highlighted the framework of Australia to be modelled as an example for Malaysia (Chiam, 2012).

In brief, during the process of comparison, the positions of child care both in Malaysia and international practices of other countries namely Australia and Singapore are described. This was carried out by first looking at the legislations and

practices conducted in the respective countries according to the regulatory standards underlined by international literature and research performed by scholars and experts. Critical analysis was made evaluating the applicability and relevance of the approach practised internationally to be transplanted into the Malaysian context. This phase also analyses the lessons that could be learned by Malaysia from child care models from developed countries. These lessons are predicted to strengthen the legal position of child care laws and regulations in Malaysia particularly through the development of a legislative framework for high quality child care centres in Malaysia.

Therefore, basically, this research firstly uses previous research or literature to identify the essential elements that have a significant impact upon children's care and education. These requirements are deduced from the research and opinions made by scholars and experts in this field. This research then broadens the perspectives by looking into international comparisons of childcare legislative framework. The lessons that may be learned by Malaysia from these practices are identified and reflect on Malaysia's current position of laws and regulations pertaining to child care.

## **1.9 Outline of Chapters**

Chapter One introduces this research in describing the background study of child care including the overview of child care settings in Malaysia. This chapter also explores the discussion on definition of quality in childcare settings. The discussion on what constitutes quality child care is explored in this chapter using the explanation on the theory of process and structural aspects of quality in defining quality child care. Furthermore, the importance of quality child care on the positive outcomes of the children is highlighted in ensuring good developmental growth of the children since in

the period of infancy. The discussion further stresses the importance of having not merely ordinary child care for custody purposes only, but also providing protection of health and safety. In addition, it is most important to have beneficial education and care to enable the children's developmental growth. This high quality child care may not materialize without having a good legislative framework that governs the child care settings. Thus, the discussion on the relationship of laws and regulations to quality is examined in this chapter for purposes of ascertaining the impact of regulations upon quality child care. This chapter also highlights the objective, research questions, problem statement, significance and scope of the research. The literature review is also explored in this chapter together with the methodology used in this research.

Chapter Two discusses the historical background of the Malaysian ECCE and Malaysian laws on child care are considered in Chapter Three. This research traces the early efforts of enacting laws in governing child care in Malaysia since the formation of the Child Care Centre Act 1984. These were then further extended through the introduction of Child Care Regulations 2012. The issue of amendments to the Act is also included in the discussion in this chapter although these only touch on administrative issues. This chapter explores the Malaysian laws on child care centres focusing on the provisions of CCCA 1984 and covering the sections on registration, role of authority, offences and penalties as well as child protection provisions. An evaluation of Malaysian laws and regulations on child care is presented in this chapter. Other legal requirements based on Section 8 of CCCA 1984 are explored and cover issues of, namely: numbers of children; the fitness and propriety of the operators and employees; adequate numbers of staff in the centres; physical environment of the centres and schedule; as well as planning of activities determined by the centres and

safety of the premises. A summary of the evaluation of these requirements was made in order to evaluate whether the requirements in CCCA 1984 are adequate or need further enhancement. The next part of this chapter traces the position of child care in other jurisdictions when presenting the respective country's experiences on child care. The chosen countries include the United States of America, the United Kingdom, Sweden, Australia and Singapore. This part of the chapter is important in describing the issue of workability of international comparisons in the area of child care.

In Chapter Three, the essential elements of child care laws and regulations are identified in this chapter. An examination is conducted on the vital elements of the Malaysian child care statute i.e. CCCA 1984 and CCCR 2012 that need to be improved. The three essential elements which were discussed are clearer statutes, effective legal requirements and robust enforcement respectively. The efforts towards achieving clearer statutes by having better purpose, definition and exemption clauses are touched upon in this chapter. Furthermore, discussion was made in relation to raising the bar of standard of the legal requirements which are the structural quality features of child care settings. The legal requirements or the regulatory standards which are important and predicted good quality child care are therefore identified in this chapter based on the studies performed by scholars. These identified regulatory standards should be inserted and strengthened in the legislative framework of child care settings. Three of the structural quality features that should be amenable in the form of regulatory standards or legal requirements are adult to child ratio, group size, and child care provider's training and education respectively. These three features are known as the 'iron triangle'. The other three features are physical environment, health and safety, and educational programme. Chapter Three also explores the need to

enhance the function of licensing agency concerned especially in regard to intensifying the enforcement of the laws and regulations by the agency.

In Chapter Four, this research analyses the first three features of structural quality features that need to be amenable to be translated into regulatory standards or legal requirements. These three features are known by the term of 'iron triangle' by scholars as the elements are associated with each other. From the research and studies done internationally, the inconsistent results on the importance of these three features to be inserted as regulatory standards in child care laws and regulations are presented in this chapter. The chapter traces the issues especially on the feature of ratio so as to determine the ideal number of ratio. The question on whether complying with the adult to child ratio means adequate supervision is also examined in this chapter. As far as ratio is concerned, having a low ratio does not necessarily or directly impact upon high quality child care. Therefore, this chapter considers the arguments on this issue so as to determine the proper ratio that will encourage adherence to the legislations as well as providing good protection and care for the children. The legal requirement of group size is also analysed and proposed to be included in the Malaysian legislation on child care since CCCA 1984 and CCCR 2012 are silent on this legal requirement. The education and training of staff is also discussed in depth in this chapter as to highlight the importance of having staff who have adequate trainings and qualification in ensuring professionalism of the child care providers.

This chapter examines further the practices of other developed countries regarding the manner in which the features of adult to child ratio, group size and staff's education and training are dealt with in their jurisdictions. Discussions encouraging Malaysia to learn from the practices of these countries are made in this

chapter. It is suggested that it would indeed be beneficial for Malaysia to take good note of how to enhance Malaysian laws with regard to adult to child ratio, group size and education and training of child care centre staff respectively.

Chapter Five continues the analysis on the other three features of structural quality that need to be formulated as regulatory standards in child care laws. The three features are physical environments, health and safety procedures, together with educational programmes. The first part of the chapter adopted an analysis on how physical environments of child care centres should be regulated. This chapter also explores other legislations besides CCCA 1984 and CCCR 2012 which are related and relevant to the analysis of the physical environment of child care centres. The practices by other developed countries are then considered in this discussion to evaluate and trace the provisions that need to be further improved by Malaysian laws and regulations on child care. The second part of the chapter configures the analysis on the next structural features, health and safety which are important to be regulated especially in providing better protection for children. Health and safety features are given considerable weightage in the child care laws and regulations of most developed countries, especially the United States of America. The evaluation and examination of the practices of other jurisdictions are presented in this chapter as an example for Malaysia to set higher standards of health and safety measures in protecting the children in child care centres. Next, the structural quality feature of the educational programme is analysed. This feature is different from the other classic elements as the concept of adding educational programmes as a regulatory standard is still new in the industry especially in regard to children aged zero to four years old. Nevertheless, Malaysia should take note of and analyse the practices from other developed countries such as Australia and Singapore in highlighting this feature in their legislative

framework. A recommendation is made in this chapter for Malaysia to adopt an educational programme in the country's laws and regulations.

In the final Chapter, this research proposes an enhanced version of the legislative framework in the aim of building high quality child care in Malaysia. This research suggests that improvements be made in terms of the essential elements of child care laws including clearer statutes, effective legal requirements and robust enforcement respectively. This research offers the view that the introductory features of the statute need for further review especially regarding the aim, purpose and definition of child care. It is proposed too that although the legal requirement on adult to child ratio in Malaysia is satisfactory, legal requirements on group size and educational programmes need to be inserted in the legislations in order to uphold the aim of the ECCE. This is not just for mere custody but also for educational purposes ensuring beneficial developmental growth of the children. Meanwhile, there is room for improvement of other relevant legal requirements such as physical environments and health and safety in several parts of the laws and regulations. The most vital element needing further scrutiny concerns education and training of the staff. This pertains especially to the professional development training of the staff as this element is proven to give considerable weightage in ensuring high quality child care. This is particularly so in the case of infants and toddlers.

This chapter also highlights the issue of the need for laws and regulations to not focus merely on child care centres but to provide an integrated legislative framework for early education in Malaysia generally. This should cover children before school age involving children aged from zero until six years old. This would promote continuity especially in terms of their education when ECCE is considered

together with addressing the issues of child care centres as well as kindergartens. The governance issue of integrating the child care centre sector and kindergartens under the auspices of the Ministry of Education is proposed. Furthermore, the issue of a special agency to manage child care centres is proposed so as not to burden the Social Welfare Department and to resolve issues of enforcement and implementation. A good legislative framework will not be fruitful if the issue of enforcement such as shortage of manpower is not diligently addressed. This chapter therefore concludes the study by presenting the recommendations proposed for beneficial improvement of child care laws and regulations in Malaysia.

### **1.10 Concluding Remarks**

Children are valuable assets of a country. As the demand for child care services is increasing nowadays, quality of the service should be scrutinised diligently. As mentioned by Toh Puan Dr. Aishah Ong who is the founder and director of the Institut Kemajuan Wanita Malaysia (IKWAM), child care centres are as essential to today's living as refrigeration or any of the household appliances in one's home. Issues of non-existence of quality and poor performance bring difficulties to society, especially for working parents. The increasing maltreatment of children which is happening across the country should be the "push factor" for better laws and regulations to be implemented as soon as possible. The worries of the parents when placing their children in the hands of child care minders should be taken into account. Besides that, it has been reported that women are quitting their jobs as they cannot afford to send their children to child care centres (Salih, Lee, & Abdul Khalid, 2014). This will eventually affect the working sector, especially if more women are

employed in high demand industries. Queries were put to the Parliament over four sessions on the question of abuse cases amongst children, as well as the quality of child care services and so on (Parliament, 2012, 2014, 2015, 2018). Most of the questions were answered by presenting the existing laws, regulations and policies with no current development or enhancement planned to create a better legislative framework.

The existing laws and regulations are significant for examination in providing high quality child care settings which eventually may assist the whole structure of quality framework in providing better care and protection to children. This is especially so for those placed in child care centres.

The other quality indicators which may be regulated in the form of laws and regulations should be subject to further examination. This is in order to weigh up whether there is room for improvement when the laws have not been reviewed for quite some time. It is envisaged that comprehensive structural qualities in the form of enforceable laws and regulations would produce an outcome of better process quality which may result in better care and protection for children as well as more beneficial growth of children's development. These indicators as recommended by scholars, studies and practices modelled from developed countries should be given further examination to be employed in the Malaysian landscape.

Moreover, in Malaysia, the issue of registration for instance needs a legislative move so as to examine whether there are ways to encourage more registrations and compliance with the requirements. Issues of enforcement and compliance are also aspects that need to be further reviewed and enhanced. Poor enforcement will lead to regulatory standards being undermined, which could then result in threats to the

children (Gormley Jr, 1999). As highlighted by Rozita Kamil (the President of Negeri Sembilan Association of Child Care), as far as child care centres are concerned, the question now is on the issue of implementation<sup>5</sup>. The insufficiency of monitoring and enforcement may have contributed to the low quality and increase in abusive cases towards infants and toddlers in child care centres.

Therefore, the researcher believes that an enhancement of the laws and regulations is needed to be the basis for developing better legislative framework or a regulatory regime of child care centres in Malaysia. This is to ensure that children, especially those in vulnerable age groups, are given better care and protection. The primary aim should always be the best interest of the children. Children will gain benefits from a legislative framework that provides them protection in terms of their health and safety. At the same time, it would deliver services that nurture beneficial developmental outcome in terms of children's cognitive and social growth (Gormley Jr, 1999).

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<sup>5</sup> Preliminary interview conducted with Rozita Kamil, President of Negeri Sembilan Association of Child care. Personal Communication (5 January 2015).