

The Relevancy of Court Proceedings for Children Beyond Control in Malaysia

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Abstract

The Child Act 2001 places a significant role to the Court for Children in managing cases of children beyond parental control, granting the court broad jurisdiction to define “beyond control” behaviours and decide suitable orders. However, previous studies show a tendency for the court to order placement in welfare institutions rather than exploring alternatives, which raises concerns about punitive approaches, stigmatisation and disruption of family ties. This raises questions about the court's capability to rehabilitate children's misbehaviour. Additionally, the rising practice of restorative justice, the abolition of similar laws in some countries, and the absence of juvenile courts present further challenges to the relevance of Malaysia's Court for Children. Therefore, this study aims to analyse the need for the Court for Children in settling beyond control behaviour by examining the possible challenges faced by the court. Employing qualitative methodology including a comprehensive legislative review and interviews with stakeholders, the findings suggest that while judicial intervention is essential, the government should also consider restorative measures and the potential for legislative abolishment. This research contributes to the ongoing discourse on juvenile justice in Malaysia, offering strategic recommendations to enhance judicial effectiveness and child welfare outcomes.

Keywords: Juvenile Justice, Children Beyond Control, Restorative Justice, Court, Child Welfare

Introduction

The management of children beyond parental control in Malaysia presents significant challenges within the context of the Child Act 2001, which grants the Court for Children considerable authority to define “beyond control” behaviours and determine appropriate interventions. Previous research has illustrated a concerning trend where the court often opts for placement in welfare institutions, potentially leading to punitive measures, stigma, and family disruption (Child frontiers, 2013; Magee, 2024). Such approaches have raised critical questions about the court's efficacy in rehabilitating affected youth and maintaining family integrity. The rise of restorative justice practices, the abolishment of similar laws in various jurisdictions, and the lack of dedicated children's courts further complicate the relevance of Malaysia's Court for Children in addressing these issues (Champion, 2007).

While existing literature has provided insights into alternative frameworks and methodologies for managing juvenile delinquency, significant limitations remain. Many studies primarily focus on punitive outcomes rather than exploring rehabilitative and restorative alternatives, resulting in a narrow understanding of effective solutions for children at risk (Wood, W. R. et al., 2022). This study aims to fill this gap by analysing the necessity of the Court for Children in managing beyond control behaviours and identifying the challenges it faces in fulfilling its rehabilitative role. Employing qualitative methodologies, including comprehensive legislative reviews and stakeholder interviews, this research seeks to contribute to the discourse on juvenile justice in Malaysia. By examining the interplay between judicial intervention and restorative measures, the findings will offer strategic recommendations aimed at enhancing judicial effectiveness and improving child welfare outcomes.

The significance of this research lies in its potential to inform policy reforms and foster a more effective system that prioritises rehabilitation over punishment, benefiting both the children involved and society as a whole. This study not only addresses the existing gaps in the literature but also contributes to the evolving conversation around juvenile justice reform, emphasizing the importance of integrated approaches that consider the best interests of children and families.

Meaning of Children Beyond Control

A child is a young human being who is typically under the age of 18. The term "out of control" signifies a state that can no longer be managed. Literally, it refers to beyond the possibility of control being exercised, (Oxford English Dictionary, 2024), or the situation that cannot be dealt with successfully (Cambridge Dictionary, 2024). Synonyms for "uncontrollable" include terms like "stubborn," "wild," "incorrigible," and "unruly," which characterize behaviours that are unmanageable, aggressive, disobedient and anti-social. (Merriam-Webster, 2024). Generally, these definitions illustrate the complexities of behaviour deemed beyond parental control, highlighting traits such as stubbornness, aggression, and a propensity for rule-breaking.

In the context of this research, the term "children beyond control" refers to the children who are beyond the control of their parents or guardians. They repeatedly disobey their parents' orders which may disturb or cause harm to themselves or others. The US Legal Dictionary elaborates that these children "repeatedly failed to follow the reasonable directives of his/her parents, legal guardian, or person exercising custodial control or supervision... which behaviour results in danger to the child or others" (US Legal, 2024). Common examples of the behaviour include smoking, coming home late, school truancy, running away from home, involving in immoral behaviour, partying, violating curfew laws and consumption of alcohol. The behaviour is legislated by some countries as "status offence" which implies that such behaviour is illegal because of the status of the child; it is an offence if committed by a child, but not an offence if committed by adults (US Legal, 2024; Kim, 2009).

Malaysia Scenario and the Governing Law

Malaysia witnesses a high number of incidents involving running away from home, smoking and truancy, often reported in the daily newspapers. Running away from home has been a trend nowadays. Utusan Malaysia (2022) for example, highlighted a concerning trend of

missing children and teenagers in Malaysia with 80% of the 2,066 reported cases not attributed to kidnapping but due to voluntary departures in search of "fun and freedom." Children aged 13 to 15 represent the largest group of missing individuals, with 1,119 cases reported, followed by 793 cases for those aged 16 to 18, 109 for ages seven to 12, and 105 for those under six. According to the police, many of these youths went missing due to friends (422 cases) and a desire for freedom (413 cases), with 364 running away with lovers.

Meanwhile, findings from the National Health & Morbidity Survey (NHMS) for the year 2022 showed the overall prevalence of truancy among school-going adolescents (13-17 years old) in Malaysia was 25.6%. The report highlights that truancy among adolescents is influenced by several factors: male adolescents are more likely to skip school due to cultural expectations linked to masculinity, while older adolescents often experience increased truancy as parental supervision diminishes. Additionally, those from single-parent households tend to be truant more frequently due to weaker father relationships and less effective monitoring compared to peers in two-parent families. Substance use also correlates with higher truancy rates, as these adolescents typically have more unsupervised time. Lastly, victims of bullying may avoid school to escape further victimization (Alias, N., 2023). The above findings clearly show that the lack or decrease of parental supervision on their children may lead to various social problem including running away from home and truancy. The trends emphasize the need for greater awareness and preventive measures to address the underlying issues prompting such decisions among young people.

Malaysia indeed recognises the important role played by the children for the nation's survival, development and prosperity and thus they need special safeguards, care and assistance to enable them to contribute positively towards the attainment of the ideals of a civil Malaysian society. Children issues are governed by the Child Act 2001 with amendment from time to time to cater new needs and challenges in protecting the best interests of the children.

Children beyond control in particular are governed by sections 46 and 47 of the Act and are placed under the jurisdiction of a special court called "the Court For Children", presided over by a Magistrate who is assisted by two lay advisers. Section 46(1) of the Act provides that the parent or guardian of a child may apply to the Court For Children to detain the child in an institution on the ground that he or she is unable to exercise proper supervision and control over the child and the child is falling in bad association. The Magistrate, after making investigation and upon receiving the probation report, may make an order against the child either by placing the child in the care of a fit and proper person, placing the child in a centre, detaining the child in a probation hostel or placing the child under the supervision of a probation officer or any other person appointed by the court (section 46(5)). In choosing the order, the Magistrate has to bear in mind that family-based care placement is desirable for the best interest of the child. The period of each order is as determined by the Magistrate. During the preparation of the probation report, the Magistrate may order the child to be temporarily detained in an institution if necessary for not more than one month (section 46(4)). Besides that, the Magistrate also has the jurisdiction to impose certain conditions to the parent or guardian like visiting the child in the institution, attending interactive workshops or counselling sessions, and consulting the child's teacher every month (section 46(7)). If the parent or guardian fails to comply with the conditions, he or she will have to pay a fine not exceeding RM5,000 (section 46(8)). Meanwhile, section 47 of the Act provides the supervision

conduct by the probation officer to visit, advise and befriend the child.

The above legal provisions indicate the wide jurisdiction of the Court For Children in handling children beyond control cases. Firstly, the Magistrate determines whether the unruly child alleged by the parent falls under “beyond control category”. The Child Act 2001 does not provide any definition nor adequate characteristics for the children beyond control (Dusuki, 2006; Jamaluddin, 2002). The 2016 amendment to the Act only adds that the child must fall into bad association without further elaboration. Social Welfare Department website only states that beyond control behaviour is a behaviour which may lead to criminal or moral danger without further explanation (JKM, 2023). Previous research called them delinquent children (Akram, 2007; Rashid, 2009) while others termed them as status offenders (Child Frontiers, 2013; Dusuki, 2006). Interview with respondents found that the children commit both non-criminal and criminal offence, but the crimes committed are confined to minor offences like petty theft and light drug addict. Thus, the Magistrate carries a great burden to determine the beyond control behaviour.

Secondly, the Magistrate decides the type of order. In finding the suitable order, he is advised to consider the family-based placement. However, section 46 of the Act does not make the family-based concept a compulsory implementation. It only spells out that the court “taking into consideration that it is desirable to place a child in a family-based care”. Moreover, no diversionary measure is legislated to deter the children from being placed in the welfare institution. There are of course alternative orders spelled out by section 46 for example to place the children in the care of a fit person or under the supervision of probation officer but according to the respondents, detention order is the most common order. Moreover, the placement in the care of a fit person order could not be carried out due to the difficulty in finding persons who are willing to take care of naughty and undisciplined child.

Child Frontiers (2013) had long criticised the role of the Court For Children in handling social or family problems including beyond control behaviour and suggested Malaysia to make a holistic reformation to the juvenile justice system to abolish detention in institutions and apply diversion programmes.

The Inability of Court to Solve Child Matters

Decisions by a court normally cannot escape from bias and misuse of its discretionary power since family disorder occurs daily. It is a tough case for the court to decide because the judicial system lacks capability to solve inter-family conflicts and their handling by the court will cause a waste of its time and resources which is supposed to be used to deal with other types of cases like neglect, abuse or crime (Institute of Judicial Administration and American Bar Association, n.d). The court lacks specialisation in addressing family issues related to beyond-control behaviour, which, compared to other cases, tends to be more time-consuming and involves deeper emotional dynamics. These cases often require an understanding of intimate relationships and the emotional strengths of the parties involved. This lack of specialised focus can hinder the court's effectiveness in resolving such complex family matters efficiently (National Centre for State Courts, 2024). Interview with respondents revealed that the situation in Malaysian juvenile system is not much different whereby the Magistrates are appointed from graduates with little knowledge on family or child issues and gets involved only in a few trainings or short courses.

Issues between parents and children often cannot be resolved solely through statutes or legal principles, as they inherently involve complex family dynamics. Courts typically make decisions based on the moral and social values perceived by the judge, reflecting their own perspectives or approved lifestyles. This approach can lead to outcomes that may not align with the best interests of the family unit as a whole (National Council of Juvenile and Family Court Judges, 2024). Judges should not be empowered to determine what constitutes the best interests of a child or how a family should operate, as they often lack the training in child development necessary for making such critical decisions. Furthermore, the absence of public oversight in judicial decision-making processes can raise concerns about accountability and the appropriateness of their judgments. This underscores the need for a more collaborative approach that involves child development experts and family specialists, ensuring that decisions are informed by a comprehensive understanding of children's needs and family dynamics. School attendance, for instance, is primarily the responsibility of the school authorities, not the courts. Therefore, court intervention can undermine the school's role and disrupt the development of programs designed to support student attendance and engagement. This shift in responsibility may hinder educational institutions from implementing effective strategies tailored to address attendance issues and support student welfare, which should remain within the purview of educators and school administrators. Furthermore, the potential for misuse of power by the court can arise from inadequate formal procedures guiding case management. Judges may find themselves influenced by the recommendations of probation officers regarding the placement of children in specific institutions for designated periods. Additionally, pressure from frustrated parents can further sway judicial decisions, compromising the integrity of the court's role in ensuring fair and objective outcomes (National Council of Juvenile and Family Court Judges, 2024). This situation is admitted by the respondents whereby the Magistrates of the Court For Children tend to rely too much on the probation report and they do not have enough time to investigate themselves deeply into the problem.

Historically, the *parens patriae* doctrine (which shifts the responsibility from parents to the court) was intended to be invoked only when parents were absent or unable to manage their children's behaviour. However, over time, its application has broadened to include cases where parental failure is less apparent, leading to a more expansive interpretation of what constitutes parental neglect and the needs of children requiring supervision. This shift has resulted in a narrower definition of acceptable behaviour for both children and parents which increases the number of children entering the court. As a consequence, the threshold for what is deemed appropriate parental oversight has significantly lowered, raising concerns about the overreach of state intervention in family matters (Clark, 1999). Similarly, in the context of children beyond control, the lack of a clear and precise definition for acceptable behaviour can lead to a wide range of non-criminal actions being categorised as such. This ambiguity allows behaviours that may deviate from cultural or societal norms to be labelled as "beyond control," causing these cases being brought before the Court For Children.

The Emerging Practice of Restorative Justice

Institutional detention orders issued by the Court for Children must be considered in the context of the significant paradigm shift in the juvenile justice system, which is increasingly moving away from a retributive approach and embracing restorative justice principles. This shift emphasizes rehabilitation, accountability, and the healing of relationships, suggesting

that detention should be viewed as a last resort. Research indicates that restorative justice practices can lead to more positive outcomes for youth, promoting their reintegration into society and reducing recidivism (Office of Juvenile Justice and Delinquency Prevention, n.d). Restorative justice aims to restore justice by providing solutions through several ways such as diversion programmes (to divert cases from court proceedings to community-based rehabilitation), mediation, alternative dispute resolution, discussion and community programmes (SRS on Violence Against Children, 2013). Restorative justice seeks to repair the damage inflicted on victims, offenders, and the community by addressing the root causes of crime rather than viewing offenses solely as breaches of the law (Chan, 2013). This approach involves the community in problem-solving, making it particularly suitable for cases involving children, whether related to criminal behaviour, beyond control issues, or care and protection. Given that children possess significant potential for change, emphasising restorative justice can reduce reliance on the children's court and minimise the need for detention orders, which are only issued by the court as a last resort. By prioritizing restorative practices, the focus shifts towards healing and reintegration, ultimately fostering better outcomes for families and communities especially the children.

The restorative justice concept in the juvenile justice system is supported internationally by instruments such as the Convention on the Rights of the Child and the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines). The Convention emphasizes that state parties should implement alternative measures for managing troubled children without resorting to court proceedings (Convention on the Rights of the Child, 2024). When cases are brought to court, various approaches can be employed, including maintenance and supervision orders, counselling, monitoring, care by foster families, academic programs, vocational training, and institutional placement. Similarly, the Riyadh Guidelines encourage governments to develop programs aimed at preventing delinquency by engaging children in lawful and constructive activities that foster positive behaviour and community involvement (Child Rights Information Network, n.d.).

In terms of the international application of restorative justice, Singapore has formally integrated it into its juvenile justice system since 1997, while the Philippines has utilized this approach in all matters related to juvenile offenders since 2006 (Wing-Cheong Chan, 2013; UNICEF, n.d.). Several other Asian countries, including Thailand, Hong Kong, China, and Malaysia, are currently examining the implementation of restorative justice, while others like South Africa and Laos have been practicing it for some time (Roy and Wong, 2004). The United States has adopted the concept through the deinstitutionalisation of status offenders' policy, which diverts status offenders away from juvenile courts. In New Zealand, restorative justice is mandated through the Family Group Conference process, which must occur before cases involving troubled youth can be brought to court (Champion, 2007; New Zealand Legislation Parliamentary Counsel Office, n.d.). In England and Wales, the Children Act 1989 introduced significant reforms by prioritizing family involvement in the rehabilitation of troubled children over court intervention. This legislation incorporates the principle of "non-intervention in family life unless really necessary," which restricts government intervention in family matters unless absolutely required (Tunstall, 1995).

France has introduced the concept of a "neighbourhood prosecutor" as a diversionary procedure to handle minor offenses frequently committed by both adults and children

through conditional release. Meanwhile, Belgium employs community-based penalties, victim-offender mediation, and community service for its young offenders (Junger-Tas, 2006). In Poland, restorative justice has become a popular alternative to formal proceedings in family courts for troubled children, particularly since the introduction of the Juvenile Act 1982 (Champion, 2007). Additionally, Sweden has also adopted diversion methods since the 20th century to keep children away from adult court proceedings, as juvenile courts were not established. This approach encourages community-based rehabilitation efforts (Nalasamy and Abu Bakar Ah, 2013).

These examples illustrate a broader trend in various countries toward utilizing restorative practices and diversion programs to address juvenile offenses, emphasizing rehabilitation over punitive measures.

The Abolishment of the Children Beyond Control Laws

The relevancy of the Court For Children must also be seen in the light of current movement towards abolishment of children beyond control laws. Several Asian countries like India, Philippines, Singapore and Indonesia have abolished the related legal provisions to avoid detention and injustice to the children, and support the restorative justice.

Through the Juvenile Justice (Care and Protection of Children) Act 2015, status offenses have been abolished in India. This new legislation was enacted to consolidate and amend laws concerning children who violate the law and those in need of care and protection, prioritizing their best interests (Woman and Child Development Department, 2024). Prior to the enactment of this Act, India had two categories of status offenses: those committed by children and those by adults (Asha Mukundan, 2013). However, unlike in Western countries, status offenses by children were not treated as criminal offenses; instead, they were managed as cases requiring care and protection under the Juvenile Justice (Care and Protection of Children) Act 2000.

Similar to India, uncontrolled children in the Philippines were once classified as status offenders. The Philippines, which labelled such behaviour as "parental disobedience," abolished status offenses through the Juvenile Justice and Welfare Act of 2006, shifting to a protective framework for these children (Arellano Law Foundation, n.d.; UNICEF Philippines, n.d.). This Act states that status offenses are no longer considered offenses and will not incur punishment when committed by minors. Furthermore, amendments made to the Act in 2013 require local government ordinances related to status offenses, such as defying parental orders, violating curfews, truancy, smoking, and drinking, to focus on child protection. Instead of being labelled as law violators, children who engage in status offenses are recorded as at-risk youth and are placed under parental care (Official Gazette of the Republic of the Philippines, n.d.). The amendments also mandate that local laws provide various intervention programs, including counselling, group activities for children, and parenting education seminars for parents.

Singapore has eliminated the term "children beyond parental control" through the Children and Young Persons (Amendment) Act 2019, which took effect on 1 July 2020 (Singapore Statutes Online, 2024). This amendment replaced the Beyond Parental Control Order previously issued by the Youth Court with a new Family Guidance Order, emphasizing the

importance of family involvement in guiding and supporting children and youth with behavioural issues (Ministry of Social and Family Development, 2024). This change reflects a shift in focus from solely addressing the behaviour of children and youth to actively involving their families in the rehabilitation process. Consequently, Singapore is no longer concentrating solely on the behavioural rehabilitation of children and youth, but also encouraging family members to participate in their recovery journey.

Indonesia has also abolished status offenses, enacting legislation based on restorative justice principles that provide various rehabilitation alternatives, such as warnings, non-institutional rehabilitation, supervision, and vocational training (Special Representative of the Secretary-General on Violence Against Children, 2013). Before the abolition of status offenses, acts such as truancy, begging, drug abuse, and petty theft could lead to the detention of children (UNICEF, 2010). In these cases, parents or law enforcement could petition the court to send children to detention for violating local customs (not criminal laws), where judges had significant discretion in interpreting those customs. However, with the enactment of the Juvenile Justice System Law No. 11/2012, which came into effect in July 2014, status offenses were eliminated. The law promotes restorative justice practices for minor offenses, mandates community-based diversion, and considers institutional detention as a last resort (UNICEF, 2010; Davies & Robson, 2016). This initiative aligns with international legal recommendations, particularly the United Nations Convention on the Rights of the Child, aimed at improving the juvenile justice system in Indonesia.

Rehabilitation without Juvenile Court

The juvenile justice systems in Scandinavian countries such as Sweden, Denmark, Norway, and Finland demonstrate that rehabilitation and crime reduction among youth can be achieved without the need for specialised children's courts. These countries do not follow the footsteps of other Western countries like the United States of America and Canada in establishing a specific juvenile justice system. Instead, they have adopted pragmatic strategies, offering various solutions for children who violate Scandinavian cultural norms and moral expectations rather than subjecting them to formal judicial processes (Caputo and Vallee, n.d.). By focusing on diversion measures, these countries aim to protect children from the criminal justice system, minimising reliance on institutionalisation or incarceration (Champion, 2007; Junger-Tas, 2006).

The countries do not have laws addressing status offenses or uncontrollable behaviour. Non-criminal behaviours like truancy and running away from home do not trigger government intervention, meaning there are no specialised bodies to address these issues. The legislation in these countries primarily focuses on children who commit crimes and those who are victims of neglect and abuse. For instance, the courts in France can intervene and revoke parental authority in cases involving abuse, frequent alcohol consumption, drug use, and physical neglect by parents, as these actions pose risks to the child's safety, health, and moral development (Council of Europe Family Policy Database, 2009).

The welfare system operates at the local level, involving voluntary participation from both children and their parents. Available social assistance includes family therapy, placements with foster families or institutions (with parental consent), and confinement in closed institutions for observation purposes only with not more than 2 months (Caputo and Vallee,

n.d.). For children aged 15 to 17, they are typically not brought before adult courts but are instead required to pay fines or have charges dismissed under specific conditions, such as fines or drug therapy. If they are prosecuted in adult court, common orders include signing a juvenile contract, completing specific assignments, being placed under supervision, and imposing fines, which are the most frequently applied penalties. Alternative sentences, such as community service or mediation, are rarely utilised (Junger-Tas, 2006). These countries believe that all troubled children require care, protection, and support, regardless of whether they are neglected, in need, or have committed crimes. Due to the absence of juvenile courts, the responsibility for handling offenses committed by children is shared between social services and the adult judicial system, based on the child's age (the age of criminal liability in Scandinavian countries is 15) (European Commission, n.d.).

Children under the age of 15 are rehabilitated through social services, while those aged 15 to 17 receive rehabilitation through a shared approach between social services and the judicial system. Meanwhile, individuals aged 18 to 20 are managed solely by the judiciary (Champion, 2007). The Social Welfare Committee, comprised of local citizens with expertise in social welfare, determines appropriate actions to meet the needs of these children. Rehabilitation is conducted voluntarily, although mandatory care orders can be issued. A comprehensive approach is prioritised, involving participation and support from various community stakeholders such as schools, social services, police, and churches (Caputo and Vallee, n.d.). The underlying principle is to reunite families and provide community-based services for children.

The absence of juvenile courts means there is no court intervention. However, court is not the only solution to addressing children's behavioural issues. Instead, the role of the court can be effectively replaced by social services that are more efficient and child friendly.

Scotland also does not have juvenile court. Scotland's children's justice system, known as the children hearing system, operates without juvenile court and does not involve adult courts like the Scandinavian model. This unique European service integrates the juvenile justice system into its social work services (Aldgate and Hill, 1995). All troubled children whether they have committed crimes, victims of abuse, or deemed uncontrollable are treated as children in need of protection and fall under the civil jurisdiction of a tribunal. This approach recognises that these children share a fundamental similarity, that is they have not received normal care or education from their parents, regardless of the reasons for this lack (Akhtar, 2015). The children hearing system (which is based on Kilbrandon Report 1964) rejects a court-based and punitive approach for all children, except for those involved in serious offenses (Children's Hearings Scotland, 2024). Instead, it functions as a forum for providing guidance, reviewing children's welfare, and considering all matters related to children. Local authorities, as service providers for children and parents, play a crucial role in safeguarding children's welfare within their communities (Cleland and Tisdall, 2005). They support children's upbringing by offering appropriate services tailored to their needs.

Conclusion

The findings of this study emphasise the essential role of the Court for Children in managing cases of children beyond parental control in Malaysia. While the court is granted broad jurisdiction to define and address behaviors deemed "beyond control," the tendency to

mandate placement in welfare institutions raises significant concerns about punitive measures, stigmatisation, and the disruption of family ties. Such outcomes challenge the court's effectiveness in rehabilitating affected children and achieving positive long-term results. Instead of focusing solely on punitive interventions, it is essential to incorporate restorative justice principles that prioritise rehabilitation and family involvement. This approach aligns with the global movement toward more humane and constructive responses to juvenile behavior, as reflected in the United Nations Sustainable Development Goals (SDGs), particularly SDG 16, which emphasises the need for justice systems that are fair, accountable, and inclusive.

Moreover, the relevance of the Court for Children must be re-assessed in light of evolving practices in other countries, which have embraced restorative measures and family-centered approaches to address juvenile delinquency. By analysing international laws and practices, Malaysia can enhance its judicial effectiveness and improve child welfare outcomes. This alignment with SDG 16 and the commitment to foster family unity can ultimately contribute to building a more just and supportive environment for children. The recommendations derived from this research aim to promote a more integrated and compassionate system for handling cases of children beyond parental control, thus ensuring that their rights and well-being are upheld while minimising negative societal impacts.

This study highlights the need to re-examine Malaysia's response to children beyond parental control, particularly the Court for Children's continued reliance on institutional orders. Findings reveal gaps in rehabilitative support and emphasise the value of restorative and family-centred approaches. By questioning the court's relevance and exploring options for reform, this research contributes to ongoing juvenile justice improvements and promotes more effective, child-focused outcomes.

References

- Akram, M. (2007). A Study on Some Recent Developments in the Rising Rate of Delinquent Behaviour in Malaysia. *Malayan Law Journal*, 7, xxxvii.
- Akhtar, Z. (2015). Young Offenders, Secure Colleges and Reforming Criminals. *Journal of Criminal Law*, 79(3), 211. <https://www.lexisnexis.com/my/academic/Default.asp>
- Aldgate, J. & Hill, M. (1995). Child Welfare in the United Kingdom. *Children and Youth Services Review*, 17(5–6), 575–597. <http://www.sciencedirect.com/search?qs=child%20welfare%20in%20the%20united%20kingdom&pub=Children%20and%20Youth%20Services%20Review&volume=17&show=25&sortBy=relevance&publicationTitles=271857>
- Alias, N., Wan-Fei, K., Nasaruddin, N.H., Tan, L., Muhammad, E.N., Awaluddin, S.M., Riyadzi, M.R., Lourdes, T.G.R, Saminathan, T.A., Kuay, L.K. (2023). Prevalence of truancy among school-going adolescents in Malaysia. *Kementerian Kesihatan Malaysia*. <https://iku.moh.gov.my/images/poster2023/43.pdf>.
- American Bar Association. (n.d.). <https://www.ncjrs.gov/pdffiles1/ojdp/83576.pdf>
- Aruno, C., Ibrahim, J. & Aravinthan, R. (2022, December 7). Running away from home for 'fun and freedom'. *Utusan Malaysia*. <https://www.thestar.com.my/news/nation/2022/12/07/running-away-from-home-for-fun-and-freedom>.
- Asha Mukundan A P. (2013). Status Offences. *Journal of School Social Work*, X(6), 3–7. https://issuu.com/jssw/docs/jssw_vol_x_06_nov_2013

- Caputo, T. & Vallee, M. (n.d.). A Comparative Analysis of Youth Justice Approaches. Ministry of Children and Youth Service, Ontario. http://www.children.gov.on.ca/htdocs/English/topics/youthandthelaw/roots/volume4/comparative_analysis.aspx
- Champion, D. J. (2007). *The Juvenile Justice System: Delinquency, Processing, and the Law*. 5th Ed. New Jersey: Pearson Education Inc.
- Chan, W. (2013). Family Conferencing for Juvenile Offenders: A Singaporean Case Study in Restorative Justice. *Asian Journal of Criminology*, 8(1), 1-23. <https://ezproxy.um.edu.my:2859/content/pdf/10.1007%2Fs11417-011-9122-y.pdf>
- Child Beyond the Control of Parents Law and Legal Definition. (2024). US Legal. <https://definitions.uslegal.com/c/child-beyond-the-control-of-parents/>
- Child Frontiers. (2013). *The Malaysian Juvenile Justice System: A Study of Mechanisms for Handling Children in Conflict with the Law*. Kuala Lumpur: Ministry of Women, Family and Community Development and UNICEF Malaysia.
- Child Rights Information Network (CRIN). (n.d.). United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) Adopted and Proclaimed by General Assembly Resolution 45/112 of 14 December 1990. <https://www.crin.org/en/docs/resources/publications/hrbap/IHRCRC/UnitedNationsGuidelinesforthePreventionofJuvenileDelinquency.pdf>
- Children in Indonesia: Juvenile Justice. (2010). UNICEF. http://www.unicef.org/indonesia/UNICEF_Indonesia_Juvenile_Justice_Fact_Sheet_-_June_2010.pdf
- Children's Hearings Scotland attends 15th Kilbrandon Lecture 29 November 2017. (2024). Children's Hearings Scotland. <https://www.chscotland.gov.uk/what-we-do/latest-news/children-s-hearings-scotland-attends-15th-kilbrandon-lecture/>
- Children, Young Persons, and Their Families Act 1989, Public Act 1989 No 24 (as at December 2014). (n.d.). New Zealand Legislation Parliamentary Counsel Office. <http://www.legislation.govt.nz/act/public/1989/0024/latest/DLM150051.html>
- Clark, N.L.. (1999). *Parens Patriae and a Modest Proposal for the Twenty-First Century: Legal Philosophy and a New Look at Children's Welfare*. *Michigan Journal of Gender & Law*, 6, 381.
- Cleland, A. & Tisdall, K. (2005). The Challenge of Antisocial Behaviour: New Relationships between the State, Children and Parents. *International Journal of Law, Policy and the Family*, 19(3), 395-420. <http://lawfam.oxfordjournals.org/cgi/content/abstract/19/3/395>
- Convention on the Rights of the Child. (2024). United Nations Human Rights Office of the High Commissioner (OHCHR). <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- Davies, S. G., & Robson, J. (2016). Juvenile (in)justice: Children in conflict with the law in Indonesia. *Asia Pacific Journal on Human Rights and the Law*, 17(1), 119-147. <https://doi.org/10.1163/15718158-01701009>
- Dusuki, F. N. (2006). Implementation of Article 12 in Juvenile Justice System in Malaysia. www.crin.org/docs/GDD_2006_UNICEF_Malaysia2.doc
- European Commission. (n.d.). https://commission.europa.eu/index_en
- Guidelines in the Conduct of Diversion for Children in Conflict with the Law. (n.d.). UNICEF. <https://www.unicef.org/tdad/philippineswguidelinesdiversion08.pdf>
- Jamaluddin, S. Z. (2002). Akta Kanak-Kanak 2001: Implikasinya Terhadap Ibu Bapa, Agensi Kerajaan, Badan Kehakiman dan Media, In Jamaluddin, S.Z., Talib, N. & Yusoff, J.Z.M.

- (eds), *Siri Undang-undang Mimi Kamariah: Akta Kanak-Kanak 2001*. Penerbit Universiti Malaya: 41–68.
- Jabatan Kebajikan Masyarakat Malaysia. (2023). *Soalan Lazim: Kemasukan Kanak-Kanak Tidak Terkawal Ke Institusi JKMM*. <https://www.jkm.gov.my>
- Junger-Tas, J. (2006). Trends in International Justice: What Conclusions Can Be Drawn?, In *International Handbook of Juvenile Justice*, Josine Junger-Tas and Scott H. Decker (Eds). Dordrecht: Springer, 505-532.
- Juvenile and Family Courts. (2024). National Centre for State Courts. [https://www.ncsc.org/Juvenile Justice and Welfare Act of 2006 \(Republic Act No. 9344\). \(n.d.\). The Lawphil Project, Arellano Law Foundation. \[http://www.lawphil.net/statutes/repacts/ra2006/ra_9344_2006.html\]\(http://www.lawphil.net/statutes/repacts/ra2006/ra_9344_2006.html\)](https://www.ncsc.org/Juvenile%20Justice%20and%20Welfare%20Act%20of%202006%20(R%20Republic%20Act%20No.%209344).%20(n.d.).%20The%20Lawphil%20Project,%20Arellano%20Law%20Foundation.%20http://www.lawphil.net/statutes/repacts/ra2006/ra_9344_2006.html)
- Kim, J. J. (2009). Left behind: The paternalistic treatment of status offenders within the juvenile justice system. *Wash. UL Rev.*, 87, 843.
- Magee, G. (2024). Addressing the loophole for juvenile status offenses. *Eximia*, 13, 367-370. <https://doi.org/10.47577/eximia.v13i1.463>
- Ministry of Social and Family Development. (2024). <https://www.msf.gov.sg/>
- Nalasamy, P. R., & Abu Bakar Ah, S. H. (2013). *Hak Kanak-Kanak dalam Jagaan Institusi Awam*. Kuala Lumpur: Penerbit Universiti Malaya.
- National Council of Juvenile and Family Court Judges. (2024). <https://www.ncjfcj.org/child-welfare-and-juvenile-law/>
- Office of Juvenile Justice and Delinquency Prevention (OJJDP). (n.d.). [https://ojjdp.ojp.gov/Out of Control. \(2024\). Cambridge Dictionary. <https://dictionary.cambridge.org/dictionary/english/circumstances-beyond-control?q=beyond+control>](https://ojjdp.ojp.gov/Out%20of%20Control.%20(2024).%20Cambridge%20Dictionary.%20https://dictionary.cambridge.org/dictionary/english/circumstances-beyond-control?q=beyond+control)
- Out of Control. (2024). Oxford English Dictionary. <https://www.oed.com/search/dictionary/?scope=Entries&q=out+of+control>
- Philippines Enacts New Law on Juvenile Justice System. (n.d.) UNICEF Philippines. <http://www.unicef.org/philippines/archives/news/060405.html>
- Policies for Dealing with Family Stress and Difficulty: Removing Parental Authority. (2009). Council of Europe Family Policy Database. http://www.coe.int/t/dg3/familypolicy/Source/5_2_ii%20Removing%20parental%20authority.pdf.
- Promoting Restorative Justice for Children. (2013). SRSRG on Violence Against Children. www.srsg.violenceagainstchildren.org/sites/default/files/publications_final/srsgvac_restorative_justice_for_children_report.pdf
- Rashid, M. Z. (2009). *Juvenile Justice in Malaysia: Role of the Department of Social Welfare. SUHAKAM*. [www.suhakam.org.my/c/document_library/get_file?p_1_id=22118 & folderId=64628&name=DLFE-5601.pdf](http://www.suhakam.org.my/c/document_library/get_file?p_1_id=22118&folderId=64628&name=DLFE-5601.pdf)
- Republic Act No. 10630. (n.d.). Official Gazette of the Republic of the Philippines. <http://www.officialgazette.gov.ph/2013/10/03/republic-act-no-10630/>
- Roy, N., & Wong, M. (2004). *Juvenile Justice: Modern Concepts of Working with Children in Conflict with the Law*. Child Rights Information Network (CRIN). <https://www.crin.org/en/library/publications/juvenile-justice-modern-concepts-working-children-conflict-law>
- Singapore Statutes Online. (2024). <https://sso.agc.gov.sg/>
- Tunstill, J. (1995). The Concept of Children in Need: The Answer or the Problem for Family Support?. *Children and Youth Services Review*, 17 (5-6), 651–664. <http://www.sciencedirect.com/search?qs=the+concept+of+children+in+need&authors>

=&pub=Children+and+Youth+Services+Review&volume=17&issue=&page=&origin=home&zone=qSearch

Uncontrollable. (2024). Merriam-Webster. <https://www.merriam-webster.com/thesaurus/uncontrollable>

Woman and Child Development Department. (2024). The Juvenile Justice (Care and Protection of Children) Act 2015 (No. 2 of 2016). <https://wcdhry.gov.in/document/juvenile-justice-care-protection-of-children-act-2015-no-2-of-2016-size-227-kb-format-pdf-language-hindi-english/>

Wood, W. R., Suzuki, M., & Hayes, H. (2022). Restorative justice in youth and adult criminal justice. Oxford Research Encyclopedia of Criminology and Criminal Justice. <https://doi.org/10.1093/acrefore/9780190264079.013.658>