

Sustainable Development through Foster Care: Protecting Abandoned Children in Malaysia

NADHILAH A.KADIR
ATHIRAH MOHD ANUAR

ABSTRACT

Abandoned children in Malaysia often endure significant challenges, facing distressing situations, and tragically, some are even discovered in dire circumstances. Research indicates that institutional care can adversely impact their development, highlighting family-based care, particularly foster care, as a more favorable option. Despite the recognition of family-based care in the amendments to the Child Act 2001 in 2016, challenges arise due to the absence of specific legislation and limited provisions on foster care in the Child Act 2001. This paper employs a qualitative approach, based on library research, to delve into foster care as a preferable alternative care for abandoned children from a legal standpoint. The study, in alignment with Goal 3 of the Sustainable Development Goals (SDGs) explores the crucial role of foster care in promoting the health and wellbeing of abandoned children. The research findings aim to contribute to the enhancement of child's best interests and the fortification of the child protection system in Malaysia. By addressing challenges and filling gaps in the foster care system, the paper strives to foster an inclusive society that prioritizes the overall wellbeing of its children.

Keywords: abandoned children, foster care, family-based care, Child Act 2001, SDGs

INTRODUCTION

Child abandonment is a distressing form of child neglect and is considered a criminal offense under the law. It typically occurs when parents or caregivers willingly or negligently abandon their child, leaving them without proper care and support. In Malaysia, child abandonment often stems from unwanted pregnancies, particularly among teenagers who find themselves facing the challenges and stigma associated with pregnancy outside of wedlock. Teenagers who become pregnant outside of marriage may experience a range of emotional, social, and economic pressures that lead them to abandon their babies. Factors such as denial, societal judgment, and family disapproval, lack of support systems and reproductive health knowledge, as well as fear of the consequences can contribute to their desperate decision to abandon their newborns (Supramani, 2021).

The consequences of child abandonment can be severe, particularly for the abandoned infants which also known as baby dumping. One of the most immediate risks is inadequate medical care, as these infants may not receive the necessary

medical attention and support during their early critical stages of life. Without proper medical care, they become vulnerable to various health complications and a higher risk of mortality. This can be seen from a significant number of these infants who are tragically abandoned in extremely distressing ways, such as being discarded in rubbish bins or toilets, with some even being flushed down drains or burned beyond recognition. Shockingly, around 70% of these babies are discovered lifeless and as approximately 30% of them are fortunate enough to be rescued and given a chance at life. As of 2021, the issue of baby dumping continues to be a prevalent problem in Southeast Asian society, with Malaysia having the highest percentage of cases in which an average of 100 babies are abandoned each year in Malaysia (OrphanCare, 2021).

According to statistics from the Royal Malaysia Police (PDRM), at least 10 babies were dumped within a month between 2018 and 2021. Over this period, 443 cases of baby dumping were reported, with 149 babies found alive and 294 babies found deceased. Among these cases, 141 involved foetuses, while 302 involved babies who were dumped immediately after birth. In

2018, there were 128 cases of babies being dumped nationwide followed by 125 cases in 2019, 104 cases in 2020, and 86 cases in 2021. Although there has been a slight decrease in the number of cases in recent years, it is not considered significant. The difference between 2018 and 2019 was only three cases, and the slight decline in 2020 and 2021 can be attributed to the movement control order (MCO) implemented since March 2020 due to COVID 19 (Sinar Daily, 2022).

In addition, child abandonment also deprives these infants of the essential care, love, and nurturing that are crucial for their healthy development. The lack of a stable and supportive family environment can lead to emotional and psychological challenges for these children, which may have long-lasting effects on their well-being and future prospects (Jantz, 2023). This alarming trend highlights the urgent need for effective interventions and support systems to prevent such tragic occurrences and protect the well-being of these vulnerable infants.

In Malaysia, child abandonment is considered a serious offense and is addressed under different provisions of the law. Under Section 31 of the Child Act 2001, individuals who ill-treat, neglect, abandon, or expose a child in a manner likely to cause physical or emotional injury can be charged. The maximum penalties for such offenses include a fine of up to RM50,000 or imprisonment for up to 20 years, or both, depending on the circumstances. Additionally, the Penal Code's Section 317 specifically addresses the act of abandoning a child, with potential penalties of imprisonment for up to seven years, a fine, or both (Mohd and Alkali, 2015). These legal provisions aim to protect the well-being and rights of children, ensuring that those who commit acts of child abandonment face appropriate consequences for their actions.

The issue of abandoned children is a pressing concern in Malaysia, reflecting a complex social challenge that affects the

well-being and future of these vulnerable individuals. The consequences of child abandonment are far-reaching, affecting not only the abandoned children but also the society as a whole. Understanding the situation of abandoned children in Malaysia taking into account the Sustainable Development Goals (SDGs) requires a comprehensive examination regarding existing support structures, and the legal framework in place to safeguard their rights and well-being. It is essential to explore the efforts made by governmental and non-governmental organizations, as well as community initiatives, to provide a nurturing environment and alternative care options for these children. Thus, this paper aims to shed light on the situation of abandoned children in Malaysia by analysing the current support systems available through foster care, and the legal challenges faced in addressing this issue. By gaining a deeper understanding of the circumstances surrounding abandoned children, stakeholders can work towards implementing effective strategies and policies to ensure their protection, rehabilitation, and reintegration into society taking into account the SDGs.

LITERATURE REVIEWS

Foster care becomes necessary when the natural parents are nonexistence, or the family has significant problems of a social, emotional, economic or physical nature (Stahl, 1990). Basically, the primary purpose of foster care in many countries is to provide substitute care for children who have been abandoned, abused and neglected so that they would have similar opportunities to other ordinary children (Colton and Williams, 2005). Substitute care is intended to substitute for parental care, either partially or fully and it is still considered the main child welfare service (Hunt, 1982). Due to the fact that the natural parents are unable to provide physical, educational and emotional care towards the child, the foster parents are recruited to do

so (Stahl, 1990). Although these works provide a good description of the concept of foster care, there are no details regarding the legal framework for foster care.

The international UN Guidelines for the Alternative Care of Children 2009 provides a guide on the implementation of the UNCRC for children in alternative care. The guidelines aim to describe the relationship between parental care and the child's family environment, objectives for alternative care and the criteria for decisions of alternative care placements. In addition, a detailed guidance on implementing the UN Guidelines is provided in *Moving Forward: Implementing the Guidelines for the Alternative Care of Children* (CELCIS, 2012). The preamble of the UNCRC recognizes the child's right to grow up in a family setting where he or she can live in happiness, love and understanding atmospheres. Besides that, "the best interests of the child shall be a primary consideration" in all actions pertaining to children under the UNCRC. The UNCRC obliges state parties to provide for a child deprived of his or her family environment, either temporarily or permanently with special protection and assistance. Furthermore, states must ensure that alternative care is available for such child through the national laws. The UNCRC also provides a wide range of alternative care options including foster placement, *kafalah* of Islamic law, adoption and institutional care. Besides that, The United Nations Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, With Special Reference to Foster Placement and Adoption Nationally and Internationally 1986 embraces provisions for child protection and placement, especially in foster care and adoption either nationally or internationally. It follows that, it is imperative for states including Malaysia to take steps in strengthening child protection system for children in need of care and

protection through family-based care such as adoption and foster care.

Mohd (2008) and A.Kadir (2011) point out that adoption and foster care as child protection measures for abandoned children in Malaysia. Chan (2008) also provides a discussion on the concept of foster care and adoption through comparative analysis. These studies provide good insights to the concept and practice of foster care in Malaysia. Furthermore, A.Kadir (2011) and Mohd and A.Kadir (2014) examine the concept of foster care and its practice in Malaysia from legal perspective based on the limited legal provisions in the Child Act 2001. Similarly, the authors highlight the procedure of foster care based on the Social Welfare Department's practice. A.Kadir and Mohd (2021) further investigate the role of private sector in providing foster care service for children without parental care in Malaysia. Although private sector including non-governmental organisations actively participate in providing institutional care for children, there are restrictions for them to provide family foster care service. This is because; at present, only the Social Welfare Department has the sole authority to provide foster care. OrphanCare is allowed to arrange foster care subject to the Social Welfare Department's approval. Since there is no specific law on foster care in Malaysia, the procedures for fostering a child are based on the practice of the SWD. Nevertheless, these works did not provide discussion on foster care and SDGs.

METHODOLOGY

This research adopts qualitative research method which is based primarily on library research. Content analysis will help to identify improvement needed in the legislation and policies regarding foster care in Malaysia in line with the SDGs.

CHILD PROTECTION THROUGH FAMILY-BASED CARE

The implementation of family-based care in Malaysia was from 2017 after the amendment of the Child Act 2001 in 2016 came into force in which the biological and foster parents are given priority to acquire the custody of children in need of care, protection and rehabilitation through the process of deinstitutionalization of children (Chan, 2015). Some efforts have been made by the authorities to ensure that these children are not placed in institutions not only through the deinstitutionalization process but also back to community service. This is because compared to institutional care, family-based care offers vulnerable children with a family setting where they can thrive well especially with regard to their physical, intellectual and mental development. Previous studies have shown that children living in institutions often suffer from infectious disease, malnutrition, emotional neglect and abuse eventually causing serious health problems and delays in the child's physical growth (Shapiro, 2008; Zeanah and Humphreys, 2020). In general, family-based care usually includes kinship care, adoption, foster care and small group homes. However, for children in need of care and protection especially those without families, adoption and foster care may provide permanent family setting where they can live like other ordinary children with their own home and substitute parents (Shapiro, 2008).

The significance of family-based care is reflected in the 12th Malaysian Plan 2021-2025, which prioritizes the well-being of specific target groups, including children, as part of efforts to address poverty and build an inclusive society. It also establishes Strategy F1, which focuses on advancing children's well-being through strengthened governance for their development and protection. This includes enhancing governance and implementation mechanisms, formulating a national child development index, and improving policies

related to the biological and psychological growth of children. Therefore, in line with the 12th Malaysian Plan, the implementation of family-based care in child protection is crucial to ensure the well-being and development of children without families. Moreover, family-based care and alternative care provision align with several Sustainable Development Goals particularly Goal 3: Good Health and Well-being. This is because family-based care safeguards the child's right to live in a nurturing family environment, supports their overall development, and protects them from physical and mental harm through effective legal and policy interventions.

FOSTER CARE AS AN ALTERNATIVE CARE OPTION FOR ABANDONED CHILDREN

Foster care refers to the provision of custodial care for children outside of their biological family home when their parents are unable, unwilling, or prohibited from caring for them (Curran, 2004). The term "foster" indicates a temporary situation in which a child lives with and receives care from individuals who are not their biological parents (Merriam-Webster's Advanced Learner's English Dictionary, 2008). It involves placing the child in the care of foster parents who provide a nurturing and supportive environment until the child can be reunited with their biological family or a permanent care arrangement is made. Foster care, in essence, provides a temporary arrangement with the expectation that children will eventually be reunited with their parents, placed for adoption, or transition to independent adulthood (Downs, Moore and McFadden, 2009). For instance, in the case of an abandoned child, foster care offers a protective service by providing temporary shelter until the child's natural parents are located or a court order is issued (Mohd, 2008).

The principle relating to foster care can also be analysed based on the practice of the court in the common law. In *J v C* [1969] 1 All ER 788, the main concern was the right of custody over a child who has been given away by the natural parents to foster parents through a private arrangement. The natural parents, however, later claimed the child's custody, care and control to be given to them. The court, recognizing private foster care, allowed the foster child to remain in the care of foster parents based on the child's welfare as a paramount consideration. In *W L-6 v Essex County Council & Anor* [1998] 3 All ER 111, the court, while dealing with the issue of whether local authority owes duty of care to foster parents and their own children, referred to several pieces of legislation such as the Children Act United Kingdom, the Foster Placement (Children) Regulations 1991, the Arrangements for Placement of Children (General) Regulations 1991 and the Children Act Guidance volume 3, which governs foster care in the UK. The court emphasized the express duty of the local authorities to accommodate the child. Such accommodation includes a placement with a foster carer. Before the local authority can place a child in foster care, there are several matters to be taken into account such as the child's welfare as well as whether foster care is suitable for the child. Thus, a local authority can place a child in the care of foster parents based on the child's welfare. Although these cases do not directly provide the definition of foster care, they reveal that under common law a child can be placed in foster care either by private arrangement between natural parents and foster parents or by the local authority. In these circumstances, the issue may arise whether the child can remain with foster parents when the natural parents would like to claim him back. Besides, it is the statutory duty of local authority to provide children in need of care and protection with accommodation. The local authority can discharge this duty by placing the children in foster care after taking into account the

welfare of the children. Thus, the case seems to suggest that foster care refers to the placement of a child in the care and custody of an individual other than the natural parents due to certain reasons, either temporarily or permanently. The individual is known as a foster parent who is directly appointed by the natural parents themselves through a private fostering arrangement or by the local authority.

Children in foster care have the opportunity to experience typical aspects of family life, engage in community activities, attend school, and form relationships with peers, similar to their counterparts (Colton and Williams, 2005). However, in certain circumstances where reunification is not possible or parents cannot be located, the temporary arrangement may turn into a long-term or permanent foster care if the foster parents do not adopt the child legally. In foster care, there is no legal transfer of parental rights and responsibilities compared to adoption, where a child becomes the legal child of the adoptive parents and the rights of the birth parents are permanently terminated (The New Encyclopaedia Britannica, 1989). It is also important to note that in foster care, the legal guardianship of the child remains with the state agency, and foster parents do not become the child's legal guardians (The Gale Encyclopaedia of Childhood and Adolescence, 1998).

INTERNATIONAL LEGAL FRAMEWORK FOR FOSTER CARE

The preamble of the UNCRC significantly recognizes the child's right to grow up in a family setting where he or she can live in happiness, love and understanding atmospheres. Besides that, the UNCRC provides that the best interests of the child shall be a primary consideration in all actions pertaining to children. Article 20 of the UNCRC obliges state parties to provide for a child deprived of his or her family environment, either temporarily or permanently with special protection and

assistance. Furthermore, states must ensure that alternative care is available for such child through the national laws. The UNCRC also provides a wide range of alternative care options including foster placement, *kafalah* of Islamic law, adoption and if necessary an institutional care (UNCRC, Art. 20(3)). The same provision also includes the word ‘if necessary’ when referring to an institutional care which implies that it should be considered as a last resort and children should be placed in institutions based on their best interests (Grosz 2006). The state parties are not obliged to provide these four types of alternative care but must ensure that a suitable care is available for children in need of care and protection. These four types of alternative care are mentioned in the provision as a guidance to state parties in providing alternative care to children deprived of family environment.

In deciding what kind of care is appropriate for such child on a long-term basis, there are three preferable matters which are family-based solutions, permanent solutions and national solutions (Inter-Parliamentary Union and UNICEF n.d.). This basically refers to domestic adoption, foster care and *kafalah* since they provide family-based care. The CRC has also mentioned that state parties “undertake to ensure the child such protection and care as is necessary for his or her well-being” (UNCRC, Art. 3(2)). According to Grosz, M. (2006), the word ‘assistance’ in the above provision suggests that the state parties provide, not only alternative placement to the children, but also services that deal with the needs of the children who have lost their families such as health and educational services. It follows that through foster care, these services can be provided by the foster parents.

As the CRC does not provide for any standards regarding foster care, UN General Assembly in 1986 adopted a Declaration on Social and Legal Principles relating to the Protection and Welfare of Children with special reference to Foster

Placement and Adoption Nationally and Internationally. The Declaration provides, among others, that a law shall regulate foster placement of children and in ensuring the welfare of the child, supervision should be conducted by a competent authority or agency.

The United Nations has crafted comprehensive guidelines, outlined in the “Guidelines for the Alternative Care of Children,” to steer nations in providing alternative care, including foster care, for children facing challenges in living with their biological families. Although these guidelines don’t impose specific legal obligations, they serve as a blueprint for countries to shape their policies and practices related to foster care and other alternative care methods. Notably, the guidelines prioritize the best interests of the child in all decisions, underscoring the significance of a family environment for a child’s development. Specifically addressing foster care, they stress the importance of meticulous matching of foster parents with children and the establishment of a cadre of accredited foster carers. Ensuring these carers have robust support systems is deemed essential, aiming to equip them to provide nurturing environments. In essence, these guidelines strive to guarantee that children placed in foster care receive the necessary care and support to flourish in secure and affectionate family settings (United Nations, 2010).

LEGAL FRAMEWORK FOR FOSTER CARE IN MALAYSIA

The Child Act 2001 serves as the primary legislation governing children in need of care and protection in Malaysia. Under section 30(1)(c)(i) of the Child Act 2001, foster care is formally arranged by the Social Welfare Department, which places abandoned children in the care of suitable foster parents through a court order. Under the Child Act 2001, foster care is arranged by the Social Welfare Department through

a court order. Abandoned children are placed with suitable foster parents for a maximum of two years or until they turn eighteen. The Social Welfare Department conducts a search and trace process to locate the child's parents or guardians, and if no one claims the child within thirty days, they recommend foster care placement. The court makes the final decision based on the best interests of the child. Foster parents must undergo certification by the Director General of the Social Welfare Department to ensure their suitability for foster care (A. Kadir, 2011). For an abandoned child, if the two-year period expires and measures to trace the biological parents have been unsuccessful, the court may make an order under subsection (4) of the same provision to release the child for adoption, either by the foster parent or another person. Then the adoption process under the Adoption Act 1952 (for non-Muslims only) and the Registration of Adoptions Act 1952 will be applicable. To apply as a foster parent in Malaysia, individuals can submit their application to the SWD in person or through an online system. The prospective foster parents must observe the requirements and procedures prescribed by the SWD including the interview sessions, trainings and documentation. Besides that, the foster parents will be paid with fostering allowances by the SWD of RM 250 per month for a child or RM500 for two children (JKM, 2003).

At the federal level in Malaysia, a panel convenes monthly meetings to facilitate the matching process between a foster child and prospective foster parents. The selection criteria specified in the application are taken into consideration during this process. Since there is no specific legislation governing foster care in Malaysia, the SWD arranges foster placements based on the guidelines outlined in the Main Quality Administration 9 (Pengurusan Kualiti (PK) Utama 9) and the draft Guidelines of Foster Child's Placement. Qualified foster parents receive an approval letter from the General Director

of the SWD to officially become foster parents. Once abandoned children are matched with suitable foster parents, they will be placed in temporary foster care for a minimum period of two years. During this time, the SWD closely monitors the well-being and care provided to the foster child by conducting regular observations and assessments to ensure that the child is not neglected and is receiving proper care from the foster parents (A.Kadir, 2011).

The SWD also works closely with an NGO like OrphanCare in placing an abandoned child in foster care. OrphanCare has established Baby Hatch in its premises to reduce the number of babies abandoned in unsafe places. A baby hatch is a designated safe place where birth mothers or parents can leave their babies or newborns, knowing that they will be cared for and kept safe. It provides a confidential and anonymous option for those who are unable or unwilling to raise the child themselves. The purpose of a baby hatch is to prevent child abandonment and ensure that these vulnerable infants are given proper care and protection. Individuals can leave the baby safely in Baby Hatch to allow the baby to be fostered and subsequently adopted by a loving family (OrphanCare, 2021).

OrphanCare has a dedicated team of lawyers who are responsible for handling the required documentation for placing abandoned children in foster families. They ensure that all necessary legal processes and procedures are followed in accordance with the criteria set by the SWD for prospective foster parents. The team works diligently to facilitate the placement of abandoned children into suitable foster families, ensuring that the best interests of the children are met and that all legal requirements are fulfilled. In cases where the identity of an abandoned baby is unknown, a police report is filed, and the baby is taken to the hospital for a medical check-up. After a few days, once the baby is deemed healthy, the foster care placement with view of adoption will begin.

The National Registration Department issues the birth certificate, and once all the required documents are signed, the baby can be placed with foster parents with the letter of appointment from the SWD. The adoption can be finalised under the Adoption Act 1952 or the Registration of Adoptions Act 1952 after a two-year period of fostering has lapsed. In addition, the adoptive parents may need to go through a legal process to secure citizenship for the child (A.Kadir, 2011).

Thus, in the absence of specific legislation, the Child Act 2001 provides the legal framework for the establishment of foster care in Malaysia administered by the SWD supporting by OrphanCare, ensuring the protection and well-being of abandoned children by placing them in the care of suitable foster parents.

FOSTER CARE AND SUSTAINABLE DEVELOPMENT GOALS

Abandoned children are directly related to SDG 3, which focuses on ensuring good health and well-being for all. Target 3.2 specifically aims to end preventable deaths of newborns and children under 5 years of age. Infections like pneumonia, diarrhoea, and malaria, as well as complications from pre-term birth, birth asphyxia, trauma, and congenital anomalies, remain the leading causes of death among children under the age of five worldwide. Access to essential life-saving interventions, such as skilled delivery during childbirth, postnatal care, breastfeeding, adequate nutrition, vaccinations, and treatment for common childhood illnesses, plays a crucial role in saving many young lives. Malnourished children, especially those with severe acute malnutrition, face a higher risk of death from common childhood illnesses such as diarrhoea, pneumonia, and malaria. Nutrition-related factors contribute to approximately 45% of deaths in children under 5 years of age (WHO, 2022).

Malaysia has successfully reached the target for under-five mortality rate since 1984. According to the Department of Statistics Malaysia (DOSM), Malaysia witnessed a slight increase in the mortality rate of children under-five in 2021. The rate rose to 7.4 per 1,000 live births, compared to 7.3 per 1,000 live births in the previous year. The leading medically certified cause of under-five deaths was conditions originating in the perinatal period including complications from pregnancy, labour and delivery, respiratory and cardiovascular disorders, foetal growth disorders, and birth trauma. In 2021, Malaysia recorded a neonatal mortality rate of 4.1 per 1,000 live births, indicating a slight increase from the previous year's rate of 3.9 per 1,000 live births. This rate specifically refers to the number of deaths among infants aged less than 28 days (CodeBlue, 2022).

In the context of target 3.2 of SDG 3, the prevalence of baby dumping cases in Malaysia seems to be directly linked to the mortality rates of newborns and children under the age of five. The act of abandoning children, particularly those in their early years, exposes them to heightened health risks and jeopardizes their overall well-being. The rise in malnutrition, destruction of habitats, and heightened susceptibility of children to climate-related diseases directly infringes upon their fundamental rights to health, adequate living standards, and the right to life, survival, and development as mentioned in the UNCRC, articles 24, 26 and 27, respectively (CRIN, 2016). Furthermore, it appears that abandoned infants often lack access to crucial medical interventions such as skilled delivery at birth, postnatal care, and vaccinations, which are essential for their optimal health and development. The lack of consistent and appropriate care in institutional settings further compounds their health challenges, including malnutrition, infectious diseases, and potential developmental delays (Yaacob, Ahmad and Wan Kamalluarifin, 2020; Zeanah and Humphreys, 2020; Riddle, 2017; Dozier et. al., 2012; van

IJzendoorn, M.H. 2011; Shapiro, 2008; The Encyclopedia of Child Abuse, 1989). In this regard, the primary concern documented in institutional care settings for abandoned children is the lack of proper personal hygiene behaviours. This is often accompanied by inadequate water and sanitation infrastructure and overcrowding. As a result, these children are more vulnerable to various infections caused by protozoa, helminths, viruses, and diarrheal illnesses. These health outcomes have been frequently observed among children living in institutionalized settings (Moffa et al., 2019). Thus, addressing the health and well-being of abandoned children is crucial in ensuring that no child dies from preventable causes.

As an alternative to institutional care, implementing effective foster care and alternative care systems for abandoned children plays a vital role in promoting their health and well-being. Children placed in foster care generally experience significantly better developmental outcomes compared to those who remain in institutions. Research consistently demonstrates that across various domains of development, including social, emotional, cognitive, and behavioural aspects, children in foster care tend to fare more favourably (Dozier et. al. 2012). Significantly, family-based care is preferable alternative to institutional care as it provides a nurturing family environment that promotes healthy development through personalized attention and stable relationships (Newton, 2017). Therefore, the majority of developmental outcomes are significantly more positive for children in foster care compared to those in institutions.

During the early years of development, attention and executive function, self-regulation (behavioural and emotional), language, and memory function are particularly responsive as crucial skills and neurodevelopmental structures are still forming. In this regard, implementing programs and interventions that focus on

reducing environmental stressors in out-of-home care, addressing developmental delays, and enhancing executive functioning and attention capacities can have a significant and positive impact on the outcomes of foster children (Healey and Fisher, 2011). Therefore, by targeting these areas, interventions have the potential to effectively support and improve the well-being and developmental trajectories of children in foster care.

In line with the SDG 3, it seems that by placing abandoned children in nurturing foster families, they gain access to regular healthcare, nutritious meals, and a safe environment conducive to their overall development. Foster parents also play a critical role in ensuring that these children receive proper medical attention, vaccinations, and preventive care, reducing the risk of preventable deaths. It is also imperative to address the environmental factors and ensuring sustainable and inclusive development to safeguarding the rights and well-being of children, promoting their healthy growth, and securing their future in line with other SDGs.

CONCLUSION

Abandoned children are often at a higher risk of experiencing adverse health outcomes and mortality due to the lack of immediate care and support. By providing a stable and nurturing environment, foster care helps address the underlying factors that contribute to preventable deaths in this vulnerable population. In this regard, foster parents along with support from the SWD play a crucial role in ensuring that the children's health needs are met. Thus, improvement in the legal aspect is necessary to ensure the effective implementation of foster care under family-based care in Malaysia. The current provisions on foster care in Malaysia, as outlined in the Child Act 2001 are limited. The court has the power to place an abandoned child in foster care, but there are

no comprehensive guidelines or procedures provided for fostering, including the approval of foster parents and the review and observation of the child's well-being. Furthermore, other pieces of legislation in Malaysia do not specifically address foster care, which means that the practice of foster care is primarily administered based on the guidelines and practices of the SWD.

The current system of foster care in Malaysia faces challenges, such as delays and lengthy placement process. The process of matching children with suitable foster parents and completing the necessary assessments and approvals can be time-consuming. Delays in the placement process can disrupt stability for children and make it challenging to find appropriate foster care arrangements in a timely manner. Additionally, the lack of proper legislation on foster care raises concerns about inconsistencies in the selection and assessment of foster parents, as well as monitoring provided to foster families. The absence of clear legal provisions may also create ambiguity regarding the rights and responsibilities of foster parents, birth parents, and the child. This can lead to challenges in establishing appropriate boundaries and expectations within the foster care arrangement. Furthermore, without a clear legal framework, it may be more challenging to allocate funding, training programs, and other resources to support the needs of foster parents and ensure the well-being of children in their care in line with the SDG 3.

RECOMMENDATIONS

Based on the challenges and limitations of the current foster care system in Malaysia, the following recommendations can be made:

- a. **Develop comprehensive legislation:** There is a need for specific legislation or regulations that address the various aspects of foster care, including the approval process

for foster parents, guidelines for placement, review and observation of children, and legal rights and responsibilities. This legislation should provide clear and detailed procedures to ensure the proper administration of foster care.

- b. **Strengthen support and training for foster parents:** Foster parents play a crucial role in providing care and support to children in need. It is essential to provide them with adequate support, training, and resources to ensure they have the necessary skills and knowledge to meet the unique needs of foster children. This can include training programs, support networks, and access to counselling services.
- c. **Enhance collaboration and coordination:** Foster care involves multiple stakeholders, including government agencies, non-governmental organizations, and community partners. Strengthening collaboration and coordination among these stakeholders can help streamline the foster care process, improve communication, and ensure a holistic approach to the well-being of foster children.
- d. **Establish monitoring and evaluation mechanisms:** Regular monitoring and evaluation of the foster care system can help identify areas for improvement, ensure compliance with standards and guidelines, and assess the outcomes for children in foster care. This can be done through the establishment of monitoring mechanisms, data collection systems, and periodic evaluations to measure the effectiveness and impact of foster care.
- e. **Increase public awareness and support:** Raising public awareness about foster care can help reduce stigma, encourage more individuals to consider becoming foster parents,

and garner support for the overall well-being of children in foster care. Public campaigns, information sessions, and community engagement initiatives can contribute to creating a more supportive environment for foster care in society.

By implementing these recommendations, Malaysia can strengthen its foster care system and provide better protection and support for abandoned children in line with the SDGs particularly Goal 3.

ACKNOWLEDGMENT

This research is funded by the Geran Galakan Penyelidik Muda (GGPM), Universiti Kebangsaan Malaysia (GGPM-2022-059) and has been presented at the 29th International Sustainable Development Research Society Conference (ISDRS) 2023.

REFERENCES

- Adoption. 1989. *The New Encyclopaedia Britannica*. 15th Edition, Vol. 19. Chicago: Encyclopaedia Britannica.
- Foster care. 1998. *The Gale Encyclopedia of Childhood and Adolescence*. Detroit: Gale Research.
- Foster 2008. *Merriam-Webster's Advanced Learner's English Dictionary*. Massachusetts, U.S.A: Merriam's Webster, Incorporated Springfield.
- Institutional abuse and neglect. 1989. *The Encyclopedia of Child Abuse*. New York: Facts on File.
- Baby dumping still rampant. 2022. *Sinar Daily*. Retrieved from <https://www.sinardaily.my/article/171553/malaysia/national/baby-dumping-still-rampant> [17 Februari 2022].
- A.Kadir, N. 2011. *Foster care: Concept and provisions of the law in Malaysia*. (Unpublished Master thesis, International Islamic University Malaysia).
- A.Kadir, N. & Mohd, A. 2021. The role of the private sector in providing foster care service for children without parental care in Malaysia. In Shah Haneef S. S. et al. (ed.), *Family fiqh in Malaysia: An analysis of the selected issues* (pp. 351-368). Kuala Lumpur: Contemporary Fiqh Research Unit, IIUM & Islamic Book Trust.
- Centre for Excellence for Looked After Children in Scotland (CELCIS). 2012. *Moving forward: implementing the 'guidelines for the alternative care of children*. Retrieved July 12, 2023 from <https://www.relaf.org/materials/Moving-forward-implementing-the-guidelines-ENG.pdf>
- Chan, A. 2015. Ministry aims for family-based option for displaced kids from 2017. *The Star Online*. Retrieved from <http://www.thestar.com.my/news/nation/2015/12/11/better-child-care-soon-ministry-aims-for-family-based-option-for-displaced-kids-from-2017/> [11 July 2023].
- Chan, Cheong Chong. 2008. Jagaan pelihara (foster care) dan pengangkatan (adoption): Satu perbandingan.' In *Pembangunan kanak-kanak teori, isu dan cabaran*. (pp. 93-104). Shah Alam: Arah Pendidikan.
- Colton, M., and Williams, M. 2005. Global trends in foster care. In Frost, N. (ed.).

- Child welfare: Major themes in health and social welfare vol. iii.* (pp.147-158). London: Routledge,
- CRIN. 2016. *Submission for OHCHR's report on climate change and the enjoyment of child rights. Submitted by the Child Rights International Network - CRIN (www.crin.org).* Retrieved from <https://archive.crin.org/sites/default/files/crin-submission-climate-change.pdf> [12 July 2023].
- Curran, L. 2004. Foster care. In *Encyclopedia of Children and Childhood: In History and Society Vol. 2.* (pp. 363 – 365). New York: Macmillan Reference USA.
- CodeBlue. 2022. *Malaysia's under-five child mortality rose in 2021.* Retrieved from <https://codeblue.galencentre.org/2022/12/01/malysias-under-five-child-mortality-rose-in-2021/> [3 July 2023].
- Downs, S.W., Moore, E. and McFadden, J. 2009. *Child Welfare and Family Services Policies and Practice*, Eighth Edition. Boston: Pearson.
- Dozier, M., Zeanah, C.H., Wallin, A.R. and Shaffer, C. 2012. Institutional care for young children: Review of literature and policy implications. *Social issues and policy review*, 6 (1), 1-25. <https://doi.org/10.1111/j.1751-2409.2011.01033.x>
- Grosz, M. 2006. Provisions for alternative care for children deprived of their family environment. In Todres, J., Wojcik, M.E and Revaz, C.R (eds.), *The U.N Convention on the Rights of the Child. an analysis of treaty provisions and implications of U.S ratification.* (pp. 207-219). Ardsley, NY: Transnational Publishers, Inc.
- Healey CV, Fisher PA. 2011. Children in foster care and the development of favorable outcomes. *Children and Youth Service Review*, 33(10), 1822-1830. doi: 10.1016/j.childyouth.2011.05.007.
- Hunt, R.M. 1982. Child welfare. In *The Encyclopedia Americana* (International Edition), Vol. 6. (pp. 463 – 464). Danbury, Conn: Grolier Incorporated.
- Inter-Parliamentary Union and UNICEF. 2004. *Child Protection A Handbook for Parliamentarians.* Retrieved from <https://www.refworld.org/docid/4a54bc000.html> [15 July 2023].
- Jabatan Kebajikan Masyarakat. 2023. *Portal rasmi Jabatan Kebajikan Masyarakat. Skim bantuan kebajikan: Bantuan anak pelihara.* Retrieved from <https://www.jkm.gov.my/jkm/index.php?r=portal/left&id=VkUyUm1GV0VSWEwzcG1ra2lX TE4rdz09> [31 May 2023].
- Jantz, G. 2023. *The effects of childhood abandonment in adulthood.* Retrieved from <https://www.aplaceofhope.com/the-effects-of-childhood-abandonment-in-adulthood/> [31 May 2023].
- Moffa, M., Cronk, R., Fejfar, D., Dancausse, S., Padilla, L. A. and Bartram, J. 2019. A systematic scoping review of hygiene behaviors and environmental health conditions in institutional care settings for orphaned and abandoned children. *Science of The Total Environment*, 658, 1161-1174.
- Mohd, A. 2008. *Protection and adoption of abandoned children in Malaysia: A comparative overview with Islamic*

- law. Selangor: International Law Book Services.
- Mohd, A. & A.Kadir, N. 2014. Children foster care and practice: What Malaysia can learn from foster care (iḥtiḍān) in Jordan. *IUM Law Journal*, 22(2), 295-308. doi: 10.31436/iiumlj.v22i2.138
- Mohd, A. & Alkali, A. U. 2015. Crime of baby dumping: A review of Islamic, Malaysian and Nigerian laws. *Pertanika Journal of Social Sciences & Humanities*, 23 (S), 67 – 82.
- Newton GW. 2017. Thoughts on public policy to increase family-based care and decrease institutional care. *Child Abuse & Neglect* 70, 399-401. DOI: 10.1016/j.chiabu.2017.05.011.
- OrphanCare. 2021. *Baby hatches to reduce baby-dumping cases in Malaysia*. Retrieved from <https://orphancare.org.my/baby-hatches-to-reduce-baby-dumping-cases-in-malaysia/> [15 July 2023].
- Riddle, S.C. 2017. Charles A. Nelson, Nathan A. Fox, and Charles H. Zeanah: Romania's abandoned children: deprivation, brain development, and the struggle for recovery. *Adolescent Research Review*, 2, 151–160. <https://doi.org/10.1007/s40894-016-0032-1>
- Shapiro, L. M. (2008). Inferring a right to permanent family care from the United Nations Convention on the Rights of the Child, the Hague Convention on Intercountry Adoption, and selected scientific literature inferring a right to permanent family care. *Washington and Lee Journal of Civil Rights and Social Justice*, 15 (1), 191-225.
- Stahl, P. M. (1990). *Children on consignment: A handbook for parenting foster children and their special needs*. New York: Lexington Books.
- Supramani, S. 2021. Instead of dumping their newborns, mums in distress can place their babies in OrphanCare's baby hatches. *The Sun Daily*. Retrieved from <https://www.thesundaily.my/home/instead-of-dumping-their-newborns-mums-in-distress-can-place-their-babies-in-orphancare-s-baby-hatches-HA8442191> [15 July 2023].
- United Nations. 2010. 64/142. *Guidelines for the Alternative Care of Children*. blob:<https://resourcecentre.savethechildren.net/1e2920ac-fde7-4f6f-bfa8-df3473cdc408>
- van IJzendoorn, M.H., Palacios, J., Sonuga-Barke, E.J.S., Gunnar, M.R., Vorria, P., McCall, R.B., Le Mare, L., Bakermans-Kranenburg, M.J., Dobrova-Krol, N.A. and Juffer, F. (2011). Children in institutional care: Delayed development and resilience. *Monographs of the Society for Research in Child Development* 76, 8-30. <https://doi.org/10.1111/j.1540-5834.2011.00626.x>
- World Health Organization (WHO). 2022. *Child mortality (under 5 years)*. Retrieved from <https://www.who.int/news-room/fact-sheets/detail/levels-and-trends-in-child-under-5-mortality-in-2020> [3 July 2023].
- Yaacob, N. S., Ahmad, N. N. and Wan Kamalluarifin, W. F. S. 2020. Developing the comprehensive social well-being index for orphans in Malaysian orphanages. In *European Proceedings of Social and*

Behavioural Sciences (EpSBS).
DOI:10.15405/epsbs.2020.12.05.42

Zeanah, C.H. and Humphreys, K. L., 2020.
Global prevalence of institutional
care for children: a call for change.
*THE LANCET: Child & Adolescent
Health*, 4(5), 343-344,
[https://doi.org/10.1016/S2352-
4642\(20\)30055-9](https://doi.org/10.1016/S2352-4642(20)30055-9)

Nadhilah A.Kadir
Faculty of Law
Universiti Kebangsaan Malaysia
43600 Bangi, Selangor
Email: nadhilah@ukm.edu.my

Athirah Mohd Anuar
Faculty of Law
Universiti Kebangsaan Malaysia
43600 Bangi, Selangor
Email: athirah.anuar@ukm.edu.my