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CHILDREN BEYOND PARENTAL CONTROL IN MALAYSIA: ADVANCING A RESTORATIVE JUSTICE APPROACH THROUGH LESSONS FROM SINGAPORE

Shariffah Nuridah Aishah Syed Nong Mohamad*, Nazli Ismail@Nawang and Aminuddin Mustafa

Faculty of Law and International Relations, Universiti Sultan Zainal Abidin, Gong Badak Campus, Terengganu, Malaysia

*Corresponding author: aishah@unisza.edu.my

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ABSTRACT

Children deemed "beyond control" are those exhibiting rebellious and dangerous behaviours that do not breach criminal laws, which are known as status offences. This issue poses a challenge for the Malaysian legal framework, which struggles with the ambiguous definition and management of such children under the Child Act 2001. The Act allows institutionalisation as a main rehabilitative measure, which has been criticised for its potential adverse effects and limited efficacy in addressing underlying behavioural issues. Thus, this research evaluates Malaysia's legal approach to managing children beyond control and explores potential improvements by examining Singapore's law, which emphasises community-based interventions. The study employs doctrinal legal research methodology, assessing legislative documents, rehabilitative strategies, and programme outcomes in both countries. The findings demonstrate that Singapore's abolition of the Beyond Control Order and its emphasis on early intervention, family engagement and targeted community-based support provide a more effective alternative to institutionalisation. This study is significant for Malaysian policymakers as it offers a concrete comparative model for reforming the existing legal and rehabilitative framework under the Child Act 2001. By highlighting the limitations of institutional responses and the benefits of community-based programmes, the research provides evidence-based guidance for policy reform aimed at strengthening prevention, reducing stigma and promoting reintegration. The study thus informs policymakers on how Malaysia can recalibrate its child protection system to better safeguard the welfare of children beyond parental control while aligning national law with international child rights standards and contemporary rehabilitative practices.

Keywords: children beyond control, Child Act 2001, rehabilitation, Malaysia, intervention

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INTRODUCTION

Children beyond control are youths who are uncontrollable, unmanageable, wild, unruly, disobedient, non-compliant or undisciplined (Oxford Dictionaries 2022; Annie E. Casey Foundation 2019). Despite engaging in behaviours that demonstrate rebellion and put their future in danger, they do not violate any criminal laws (Gough 1971, 189). This misbehaviour is also known as a status offence in some countries, such as the United States of America, Bangladesh, and Nigeria (Shariffah Nuridah Aishah and Jal Zabdi 2015, 69–71). The act constitutes an offence if it is committed by children, but not an offence if it is done by adults (Child Rights International Network 2009). In simple terms, beyond control refers to a non-criminal act which is illegal for children, but legal for adults. Status offences can be found in different forms, such as running away, truancy, smoking, alcohol consumption, curfew violations, begging, gang association and disobedience (Child Rights International Network 2009; Justia 2023).

Malaysia recognises that children are not only integral to society but also essential for its survival, development, and prosperity. Due to their physical, mental, and emotional immaturity, children require special safeguards, care, and assistance to enable their contribution to the ideals of a civil Malaysian society. This need for special care is particularly relevant for children classified as "beyond parental control". Despite these recognitions, the Malaysian legal framework struggles with effectively managing children deemed beyond parental control. The Malaysian Child Act 2001 (the CA 2001) allows parents to apply for a court order to detain their beyond-control children in welfare institutions. This measure is intended to offer care, protection, and rehabilitation. However, the law raises several significant concerns (Federal Legislation 2025). Firstly, the definition of children beyond control remains ambiguous. This lack of clarity creates inconsistencies in applying the law and makes it difficult to determine which children fall under this category. Without a clear and precise definition, there is a risk of subjective interpretation and potential misuse of the law, leading to unjust outcomes for children and their families (Farah Nini 2006; Siti Zaharah 2002, 49). Secondly, the reliance on institutionalisation as the primary method of rehabilitation is increasingly questioned. Institutional settings can have adverse effects on children, including stigmatisation, social isolation, disruption of connection to family, and the potential for abuse (Annie E. Casey Foundation 2019; Child Frontiers 2013). Moreover, such settings often fail to address the underlying issues contributing to the child's behaviour, thereby limiting the effectiveness of rehabilitation efforts (Justia 2023). The emphasis on detention overlooks the potential benefits of alternative, community-based interventions that focus on reintegration and support within the child's natural environment.

In contrast, Singapore offers a different approach to managing children beyond control by incorporating a blend of legal measures and community-based programmes that aim to rehabilitate rather than merely detain. The government's seriousness is evident in the recent amendment to the Children and Young Persons Act (CYPA), which abolishes the Beyond Control Order (Singapore Statutes Online 2024a). By examining Singapore's legal framework and rehabilitative strategies, this research seeks to identify potential improvements for Malaysia's system. The global trend towards intervention and community-based programmes highlights the importance of such alternatives in addressing juvenile delinquency (Justia 2023). These programmes emphasise early intervention, family involvement, and support services that address the specific needs of each child. By diverting children from formal court proceedings and institutional settings, the community-based programmes can provide more holistic and effective rehabilitation.

LITERATURE REVIEW

Legal scholarship on children beyond parental control remains limited in both Malaysia and Singapore. Existing research in Malaysia has predominantly focused on social science perspectives, with comparatively little emphasis on legal analysis. Although the CA 2001 has been the subject of extensive legal discourse since its enforcement in 2002, discussions have largely centred on children who are abused and neglected, and children who commit crimes, while issues relating to children beyond parental control remain underexplored. A similar gap is evident in the Singaporean context, where studies addressing beyond parental control behaviour tend to focus on social, psychological, and psychiatric dimensions, such as parenting styles, child misbehaviour, and depression, rather than examining the issue from a legal perspective. Due to the limited availability of prior studies, this literature review adopts a thematic approach to examine the literature by theme (Creswell 2012, 45).

Legal Framework

Discussions on the Malaysian CA 2001 largely focus on criminal aspects involving children (Anita 2012, 34–40; Hassan 2008, 323–340; Sidhu 2003, x1ix). The compilation in Siri Undang-Undang Mimi Kamariah (Siti Zaharah 2002, 20–45) similarly does not contain any specific analysis of children beyond parental control, although one article notes the absence of a statutory definition. Nuraisyah Chua (2006, 37) likewise highlights the lack of clarity in determining when parents are "unable to exercise proper control over the child". Studies on child welfare institutions address children beyond parental control more directly, emphasising shortcomings in the rehabilitation process and the protection of their interests. Abdul Hadi Zakaria (1996, 94) questions the

appropriateness of warning orders and fines available for juvenile offenders but not for children beyond parental control, and highlights the stigma arising from court orders. Bee (2001) similarly observes that institutional rehabilitation does not distinguish between children who commit crimes and those categorised as beyond parental control.

Comparative scholarship provides further insight. Ong (2011, 70), in examining state intervention in parenting in Singapore, discusses the need to balance child protection with parental autonomy under the CYPA and cautions against excessive intervention in borderline cases. Desai (2009, 320), comparing juvenile justice in Goa and Singapore, highlights Singapore's restorative and community-based measures under the CYPA, which align with UNCRC principles, whereas Goa relies more heavily on institutionalisation. Both contexts emphasise minimising judicial intervention to reduce stigmatisation and support reintegration.

Youth Misbehaviour

Social studies on children in Malaysia have predominantly focused on problematic children, encompassing concepts of "adolescence", sociological and psychological theories, factors contributing to social problems and proposed solutions. These studies often employ general terms such as youth social problems, juvenile delinquency, delinquent behaviour, deviant behaviour, and student misconduct (Hazlinda, Mohamed Fadzil and Jamsiah 2011, 22; Nor Sheereen, Muhammad Syafiq and Rozumah 2014, 58). Many examples of children's misbehaviour studied such as truancy, running away from home, loitering, immoral behaviour, smoking, involvement with gangs, and illegal racing, appeared to be manifestations of beyond-control behaviour.

Parenting

Recent scholarship in Singapore links parenting practices to children's behavioural outcomes. Lim and Ong (2024, 292), in a study of 83 Singaporean youth athletes, examine the relationship between perceived parenting styles and sporting achievement. Using the Parental Authority Questionnaire, the study finds no significant association between parenting style and sporting success, suggesting that multiple factors beyond parenting shape youth outcomes and that cultural context also plays a role. Similarly, Cheung and Lim (2022) in a systematic review, highlight how culture shapes the impact of authoritarian parenting in Singapore. Although often characterised as strict control, authoritarian parenting may, within this cultural setting, promote self-regulation and reduce beyond-control behaviours due to the strong emphasis on respect for authority. Cheung (2021) further links beyond parental control issues to parenting practices, particularly maternal sensitivity and warmth.

While Singaporean parenting commonly prioritises academic achievement and authority, the study finds that warmth and sensitivity positively influence children's social development and engagement.

Luo et al. (2013, 277) observe that beyond control behaviour is also associated with educational pressures and parental expectations. High academic demands and parental control contribute to stress and maladaptive coping strategies, which may exacerbate behavioural difficulties. The literature therefore suggests that balanced parental involvement and reduced coercive control can mitigate such outcomes. Balhetchet (2006) in examining the Beyond Parental Control Order in Singapore, finds that it operates as an early intervention mechanism for non-criminal behaviours such as truancy and defiance. However, families who rely on the order often face internal conflict and limited social support, indicating that judicial intervention alone is insufficient. The study advocates stronger community-based and preventive measures to enhance family resilience and reduce reliance on court processes.

Mental Health

Mental health scholarship in Singapore also connects children beyond parental control with broader psychosocial factors. Goh et al. (2025, 9) link adolescent depression with behaviours beyond parental control, noting that academic stress and parental expectations contribute to truancy, substance abuse, and disengagement. The study highlights the importance of rehabilitation under the CYPA and calls for improved mental health literacy and community-based support involving schools, parents, and healthcare providers. Ang et al. (2020, 590), in examining antisocial behaviour among school-based and at-risk adolescents, identify varying levels of rule-breaking and aggression. At-risk adolescents demonstrate more severe behavioural patterns, often associated with parent–child conflict and peer influence. The study highlights the need for early preventive and intervention strategies that address both behavioural and relational factors. Pathy et al. (2014, 246) situate children beyond parental control within Singapore's broader child protection framework, supported by legislation such as the CYPA and the Women's Charter. The Ministry of Social and Family Development adopts a multi-agency approach involving healthcare and educational institutions to safeguard child welfare. Preventive initiatives and coordinated services, including Child Protection Services, reflect an integrated strategy that prioritises protection and rehabilitation over purely punitive responses.

METHODOLOGY

This research employs a doctrinal legal research approach, primarily utilising library research to achieve its objectives. The doctrinal approach is suitable because it is a dominant research approach in law that explores legal concepts and principles derived from sources such as cases, statutes, and rules (Bhaghamma 2023, 90–93). It relies only on legal materials and is used to reach conclusions about a legal system without relying on empirical methods (Majeed, Hilal and Khan 2023, 561). The methodology is designed to comprehensively analyse and compare the legal frameworks and rehabilitative strategies for children beyond parental control in Malaysia and Singapore. The first step involves an extensive literature review encompassing a wide range of sources, including statutes, legal commentaries, books, academic journals, reports, newspaper articles, conference proceedings, and other periodicals. It aims to provide a deep understanding of the existing legal provisions and practices related to children beyond parental control in both Malaysia and Singapore, as well as to identify global trends in juvenile justice and rehabilitation. In addition, the statutory analysis involves a detailed examination of the provisions of the Malaysian CA 2001, focusing on definitions, procedures, and court orders. The analysis also extends to Singaporean law, namely the CYPA to understand how Singapore defines and addresses children beyond parental control. By comparing the statutory provisions of Malaysia and Singapore, the research aims to identify key differences and similarities, particularly in definitions, legal procedures, and rehabilitative approaches. The research also involves a thorough review of secondary sources. The research analyses reports from government agencies, non-governmental organisations, and international bodies to understand the practical implications and outcomes of different legal and rehabilitative strategies. Conference proceedings are also reviewed to capture recent developments and expert opinions in the field of juvenile justice. The final step synthesises data from the literature review, statutory analysis, and evaluation of global trends. This synthesis aims to form a comprehensive understanding of the issues and potential solutions. Based on this integrated analysis, the research develops evidence-based recommendations for improving Malaysian legal provisions related to children beyond parental control. The recommendations include suggesting community-based interventions as alternatives to institutionalisation. Using this comprehensive qualitative methodology, the research aims to provide a well-rounded analysis of current legal frameworks and practices. It identifies gaps and areas for improvement and proposes practical solutions based on successful models from other jurisdictions. This approach ensures that the recommendations are grounded in both theoretical insights and practical evidence, enhancing their relevance and potential impact on policy and practice in Malaysia.

FINDINGS

Legal Provisions Governing Children Beyond Control in Malaysia

The Department of Social Welfare (DSW) under the Ministry of Women, Family and Community Development administers children's welfare in Malaysia. Matters relating to children beyond parental control are governed by the CA 2001, specifically under sections 46 and 47, and fall within the jurisdiction of the Court for Children, presided over by a Magistrate. In 2016, Parliament introduced significant amendments to the CA 2001 that affected the children beyond parental control provisions. These amendments principally addressed two key aspects: the meaning of beyond parental control behaviour and the types of court orders available (Federal Legislation 2025).

Section 46(1) permits a parent or guardian to apply to the Court for Children for an order to detain a child in a probation hostel or centre on the grounds that the parent or guardian is unable to exercise proper control over the child and that the child is exposed to harmful social influences. Upon receiving an application, the Court is required to ensure that the parent or guardian understands the consequences of the application and consents to proceed with the court proceedings (section 46(2)). The Court will then direct a probation officer from the DSW to prepare and submit a probation report for the Court's consideration in determining whether an order should be made against the child (section 46(3)). Pending the submission of the probation report, the child may be temporarily detained in a probation hostel or centre for a period not exceeding one month (section 46(4)). After considering the probation report, the Court may, having regard to the desirability of family-based care, make an order placing the child in the care of a fit and proper person, committing the child to a centre, detaining the child in a probation hostel, or placing the child under the supervision of a probation officer, for such period as the Court deems appropriate (section 46(5)). In addition, the Court may impose specific conditions on the parent or guardian, including regular visits to the child during detention, attendance at interactive workshops or counselling sessions, and monthly consultations with the child's teacher (section 46(7)). Failure to comply with these conditions renders the parent or guardian liable to a fine not exceeding RM5,000 (section 46(8)). Section 47, on the other hand, regulates the supervision process by the probation officer, requiring the officer to visit, advise, and befriend the child.

Related Legal Provisions in Singapore

Family-related matters in Singapore fall under the purview of the Ministry of Social and Family Development. Although Singapore previously adopted a legal framework similar to that of Malaysia, it has since abolished its provisions

relating to children beyond parental control through the enactment of the Children and Young Persons (Amendment) Act 2019, which came into force on 1 July 2020 (Singapore Statutes Online 2024a). The former Beyond Parental Control Order was replaced with the Family Guidance Order, now codified under sections 59, 60, and 61 of the Children and Young Persons Act (CYPA) (Singapore Statutes Online 2024b).

Section 59(1) of the CYPA provides that a parent may apply to the Youth Court for a Family Guidance Order in respect of a child aged between 7 and 14 years, or a young person aged between 14 and 16 years (hereinafter collectively referred to as "the child"), where the parent is unable to provide appropriate guidance and the child requires guidance from another person. As part of the application process, both the parent and the child are required to attend and complete a prescribed family programme, and the parent must understand and consent to the making of the court order. According to the Ministry of Social and Family Development (2024), such an order is granted only where the child exhibits serious misbehaviour prompting the parent to seek assistance from the Court. Furthermore, an application for a Family Guidance Order must be supported by a recommendation from an approved welfare officer, as required under section 59(2). Where the Youth Court requires additional information concerning the family background, general conduct, home environment, school record, medical history, or developmental status of the child or young person, the Court may make a temporary order placing the child or young person in the care of a fit and proper person or a specified place pending the receipt of such information (section 59(7)). Upon receipt of the application and satisfaction of all statutory requirements, the Court may then order that the child be (i) placed under the supervision of a welfare officer, (ii) committed to the care of a fit and proper person, or (iii) placed in a place of safety, for a period not exceeding three years in respect of each order (section 59(4)).

In addition, the Youth Court may issue additional orders requiring the parent and/or the child to (i) attend counselling, mediation, psychotherapy, or other prescribed programmes aimed at resolving relational difficulties and assisting the parent in managing the child, or (ii) participate in a family conference (section 60(4)). Section 60(7) elaborates that a family conference serves as a structured forum to determine appropriate measures for resolving (i) relationship issues between the child or young person and the parent, or (ii) matters relating to the care, protection, and supervision of the child. The Youth Court may also require the parent to undertake a bond to exercise due care and supervision over the child, thereby ensuring compliance with the order issued (section 60(5)). Failure by the parent to comply with the order renders the parent liable to a fine not exceeding $2,000 (section 60(6)). Where a child

or young person fails to comply with any requirement of the order, the Court is empowered to make a fresh order against the child or young person under the same provision (section 61).

Prior to the abolition of the children beyond parental control category under the CYPA, behaviours such as disobedience towards parental instructions, aggression towards parents, truancy, returning home late, smoking, involvement in immoral conduct, and attempted suicide could result in a child being brought before the Youth Court and subsequently placed in welfare institutions (Ng 2012). Following the enactment of the amended legislation, however, court proceedings and institutional detention are now regarded as measures of last resort.

DISCUSSIONS

An analysis of section 46 of the CA 2001 reveals that critical issues relating to both the definition and rehabilitation of children beyond parental control remain inadequately addressed, notwithstanding the 2016 amendment. Prior studies have consistently observed that neither the CA 2001 nor its predecessor legislation defines beyond parental control behaviour or provides examples (Farah Nini 2006; Nayagam 2012). The DSW, in its official website, merely indicates that such behaviour may expose a child to criminal or moral danger (Department of Social Welfare 2024). The 2016 amendment introduced only a limited modification by adding the phrase "and the child is falling into bad association", without further clarification of its meaning or scope. As a result, the Court for Children bears the responsibility of interpreting beyond parental control behaviour based on the general framework of the CA 2001, past occurrences, and recommendations contained in probation officers' reports. The absence of a clear statutory definition permits wide interpretative discretion, which may result in inconsistent application and potential misuse of the law. As a consequence, children may be subjected to detention for a broad spectrum of conduct, ranging from minor disobedience of parental instructions to more serious behaviours such as drug and alcohol use. Such ambiguity eventually risks unequal treatment of children and may adversely affect family relationships. Empirical studies by Farah Nini (2006) and Child Frontiers (2013) further show that, in Malaysia, parental control behaviour encompasses both criminal and non-criminal conduct. Common forms of misbehaviour include defiance of parental authority, disrespect towards parents, truancy, running away from home, returning home late, drug abuse, sexual misconduct, and illegal motorcycle racing. Annual statistics on children beyond parental control issued by the DSW between 2017 and 2023, as set out in Table 1, indicate a total of 1,534 cases over the 7-year period following the 2016 amendment.

Table 1: Statistics of children beyond control in Malaysia

Year	Children beyond control		Total
	Male	Female	
2017	95	163	258
2018	103	174	277
2019	94	174	268
2020	60	129	189
2021	29	78	107
2022	45	130	175
2023	76	184	260
Total	502	1,032	1,534

Source: Department of Social Welfare (2025)

Based on the above statistics, several key trends can be identified. Out of 1,534 children recorded as beyond parental control, 502 (33%) are males and 1,032 (67%) are females. This reflects a consistently higher proportion of female children who constitute approximately two-thirds of the total cases, indicating that girls are more frequently classified as children beyond parental control than boys. A sharp decline is observed in 2020 and 2021 with total cases dropping from 268 in 2019 to 189 in 2020, and further to 107 in 2021. This significant reduction reflects external factors such as movement restrictions, school closures, and reduced court and welfare interventions during the COVID-19 pandemic. These trends highlight the need for community-based interventions and policy frameworks that are resilient to systemic disruptions to more effectively address the underlying causes of beyond parental control behaviour.

Another critical issue to highlight is the rehabilitation aspect. The opening sentence of section 46 of the CA 2001, which provides that "an application in writing may be made to the Court for Children to detain a child in a probation hostel or centre" creates a negative initial impression. This wording indicates that institutional placement or detention is prioritised as the primary rehabilitative measure, initiated by the parent or guardian themselves and sanctioned by the Court. The 2016 amendment has improved this by requiring the Court to consider family-based care before making an order. However, the wording does not indicate compulsory action, and the Court is therefore once again left with discretion. On the other hand, the 2016 amendment is significant because it abolished two types of institutional placements for children beyond control, namely the approved school (known as Sekolah Tunas Bakti) and the place of refuge (known as Taman Seri Puteri), to prevent their association with children who have committed crimes. Nonetheless, placement in the probation

hostel (*asrama akhlak*) remains. In determining the order, the Court may choose any one of the four types of orders listed in section 46(5) of the CA 2001 without priority-based considerations, and this opens the door to placing children in welfare institutions. On top of that, no intervention or diversionary programme is clearly legislated either before the case enters court proceedings nor after such proceedings. Family involvement is not strongly emphasised as a means of resolving the relationship problem between children beyond control and their parents, except in the additional order given to the parent (which the Court is not required to make) to visit the child at the institution and attend counselling and interactive workshop sessions.

Institutional placement for children has been criticised for its negative consequences. According to the Child Frontiers (2013) findings, institutional treatment is not an appropriate rehabilitative approach for children beyond control, as such cases are primarily rooted in family-related problems. Institutional placement may exacerbate rebellious behaviour and further strain family relationships, thereby hampering the reintegration process. International standards further reinforce the unsuitability of institutional placement by recognising that deprivation of liberty may occur in any form of institution, whether designed for offenders, behaviour correction, educational purposes, or protective care (Nayagam 2012). Nonetheless, detention in welfare institutions remains a preferred option for the Court, as shown in Table 2 and Table 3.

Table 2: Types of Court orders (2022-2023)

Types of orders after 2016 amendment	**2022**	**2023**	**Total**
Section 46(5)(a): Placed in the care of a fit and proper person	0	0	0
Section 46(5)(b): Placed in a centre	0	0	0
Section 46(5)(c): Detained in the probation hostel	21 (19 females, 2 males)	21 (17 females, 4 males)	42
Section 46(5)(d): Supervision by a probation officer	2 (females)	5 (females)	7

Source: Department of Social Welfare (2025)

Table 2 presents the statistical data on the types of orders granted by the Court for Children for the years 2022 and 2023. The data before 2022 are excluded because they reflect different types of orders applicable before the 2016 amendment to the CA. Orders for placing children beyond control in the care of a fit and proper person, as well as placement in a centre, were first recorded in the DSW's Annual Statistical Report in 2022, despite these orders having been introduced earlier under the 2016 amendment. Nevertheless, both orders have

not been implemented to date. The statistics above show that 21 children were sent to probation hostels in 2022 and 2023, with the majority being girls. The Court also issued orders placing children under the supervision of a probation officer, but these involved only a small number of children (two cases in 2022 and five cases in 2023, all of whom were girls).

Table 3: Types of Court orders (2019–2021)

Types of orders before 2016 amendment	2019	2020	2021	Total
Section 46(1)(aa): Detained in approved school, place of refuge or probation hostel	39	68	79	186
Section 46(1)(bb): Supervision by a probation officer	26	30	15	71

Source: Department of Social Welfare (2025)

Meanwhile, Table 3 provides the only available data on the types of Court orders prior to the 2016 amendment of the CA 2001 for the years 2019, 2020 and 2021. Annual statistics before 2019 show no record of court orders and therefore could not be analysed. The statistical data do not separate the three types of welfare institutions in their records because the earlier CA 2001 grouped them under one legal provision, namely section 46(1)(aa). Analysis of the statistics indicates a clear reliance on institutional detention in managing children beyond control. Between 2019 and 2021, a significantly higher number of children were detained in the approved schools, places of refuge, or probation hostels (186 cases) compared to those placed under probation supervision (71 cases). The steady increase in detention orders suggests that custodial measures remain the preferred response, while non-custodial and community-based alternatives are comparatively underutilised. This pattern raises concerns about the appropriateness of institutionalisation for non-criminal behaviour and its potential impact on children's welfare and family relationships.

Singapore's abolition of its children beyond control provisions in 2020 reflects its serious commitment to international standards on the best interests of children. Its replacement of the Beyond Parental Control Order with the Family Guidance Order clearly shows the importance of the family's role in guiding children with serious behavioural problems, without focusing on beyond-control behaviour alone (Ministry of Social and Family Development 2024). This amendment significantly shifts the rehabilitation focus from the child's behaviour to the family's role. Singapore not only focuses on improving the child's misconduct but also aims to bring family members into the rehabilitation process, since wrongdoing often starts at home and the child remains attached to it. In fact, other countries such as the Philippines, Indonesia, India, and

several states in the United States of America have already abolished beyond-control behaviour laws (Shariffah Nuridah Aishah and Jal Zabdi 2015, 69–72; Shariffah Nuridah Aishah 2020, 205–210).

In addition, Singapore's legal provisions also position institutional detention as a last resort. Both temporary and permanent orders prioritise family-based care by returning the child to his/her family or placing the child in the care of a fit person. Section 2 of the CYPA explains that "fit person" is a foster parent whom the Court, Director-General or a protector thinks is competent to provide care, protection and supervision to the child. Singapore is among the first countries to formally adopt a restorative justice model in its juvenile justice system, embedding it as the Youth Court's philosophy since 1997. The state implements multi-diversionary rehabilitative measures that encourage participation by family members and volunteers (Kim 2014). For example, the six-month Beacon Work programme organised by the Singapore Children's Society to stabilise behavioural problems and the Round Box, a drop-in centre carrying out art activities to prevent the children and young person from getting involved in the court proceeding, clearly supports that application to the court is the last resort in child rehabilitation process (Ministry of Social and Family Development 2022; Kim 2014). Moreover, the CYPA's requirement to attend a family programme before court proceedings, and the additional order for a family conference, reflect the government's seriousness in implementing diversion. The Sixth Periodic Report of States Parties to the United Nations Convention on the Rights of the Child (Committee on the Rights of the Child 2024) shows that the compulsory family programme prior to the court application has proven effective in addressing family needs, as reflected in the significant reduction in applications for Family Guidance Orders. The three-year average of the cases filed in the period of 2017 to 2019 (before the family programme was implemented) has dropped from 95 to 18 in the period of 2021 to 2023 (after the family programme was implemented). When determining an application for a Family Guidance Order, the Court considers the family's progress in the family programme as well as the specific circumstances of the case. Based on this assessment, the Court then will decide whether to place the child under the supervision of an appointed person while allowing the child to remain at home, or to commit the child to the care of a fit and proper person, or a place of safety (Singapore Courts 2024). The framework seeks to prevent frivolous applications or withdrawals by requiring each application to be supported by a recommendation from an approved welfare officer, and by permitting withdrawals only with the Court's consent.

The approach taken by Singapore aligns with international standards enshrined in the United Nations Convention on the Rights of the Child (CRC), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Standard Minimum Rules for the

Administration of Juvenile Justice (the Beijing Rules). The CRC always calls for the best interest of a child as a priority in all actions taken by all parties (Article 3). It also sets out the responsibility of the government in protecting and supporting families (Article 5 and 18), as well as giving children the right not to be separated from their parents (Article 9) (UNICEF n.d.) In addition, the CYPA provisions also fulfil Article 10 of the Riyadh Guidelines, which emphasises the importance of preventive legislation to support children's integration within family and society. Furthermore, the CYPA also complies with Article 5 of the Guidelines by developing community-based services to divert children from court proceedings through its pre-court family diversionary programme. In addition, the abolishment of the beyond control provisions in the CYPA strongly supports Article 56 of the Guidelines, which recommends abolishing status offence law (including beyond control behaviour) to prevent children from being stigmatised or criminalised (UN Human Rights Office of the High Commissioner 2024). Singapore's CYPA provisions are also consistent with the Beijing Rules, which prioritise preventive measures, promote diversionary programmes, and support child-friendly procedures. Article 11 of the Beijing Rules emphasises the importance of preventing children from becoming involved in court proceedings, recognising judicial intervention as a measure of last resort. Articles 18 and 19 further advocate the use of community-based programmes, supervision, counselling, foster or adoptive care, and other non-custodial measures, while stipulating that institutional placement should be imposed only as a last resort and for the shortest appropriate duration (Save the Children n.d.).

Suggestions

Based on the foregoing discussion, Malaysia may draw on Singapore's CYPA to reform its legal provisions on children beyond parental control under the CA 2001. At present, Malaysia's approach does not fully align with international standards governing the protection of the best interests of such children. Notably, the continued existence of provisions relating to children beyond parental control under the CA 2001 is inconsistent with international norms that call for the abolition of such measures to avoid the stigmatisation and criminalisation of non-offending children. Furthermore, community-based rehabilitation, preventive strategies, and diversionary programmes are neither expressly provided for in the Act nor prioritised in practice. Consequently, the international principle that institutionalisation should be applied only as a measure of last resort is not adequately observed.

The issues arising from the ambiguous definition of children beyond parental control may be addressed by abolishing the use of this term in the CA 2001. Replacing "children beyond parental control" with "children in need of guidance" would promote a more child-centred conceptualisation, reduce stigmatising

connotations, and minimise the risk of criminalisation. In this context, the types or criteria of beyond-control behaviour become less significant, as the emphasis should instead be on families' responsibility to support and guide children exhibiting behavioural difficulties. All non-criminal misconduct should be addressed through appropriate, family-centred measures that actively involve parents or other family members, rather than through formal legal classification or judicial intervention.

Regarding the rehabilitative framework, several measures could improve the CA 2001. First, the Act could be amended to require family-based intervention before court proceedings begin. In this regard, section 46(3), which provides for a probation officer to investigate parental complaints, could be strengthened by requiring a compulsory family programme as a pre-court intervention. Second, the Court should be required to order family-based care when determining the appropriate order for children exhibiting behavioural problems. Instead of merely requiring the Court to "take into consideration" the desirability of family-based care under section 46(5), the provision should be revised to impose a compulsory obligation. Third, the challenges surrounding the implementation of orders placing a child in the care of a fit and proper person under section 46(5)(a) must be identified and addressed. The absence of recorded cases several years after the 2016 amendment presumably due to the unavailability of relatives or foster parents suggests persistent operational barriers that require urgent attention. Without effective implementation of this order, institutional detention is likely to remain the preferred choice. Fourthly, a family conference may be incorporated into section 46(7) as an additional order to support family-based care and to strengthen parental involvement in the child's rehabilitation process.

Nevertheless, Malaysia is likely to encounter substantive challenges in adopting Singapore's community-based model within the existing framework of the CA 2001. The structure of the Act places primary authority with the Court for Children and prioritises court-initiated and custodial responses, including detention in probation hostels or centres, thereby limiting the scope for community-based interventions. This statutory orientation limits meaningful family and community participation in the rehabilitation process and reflects a residual reliance on institutional solutions. Implementing community-based measures would therefore require legislative reform of the CA 2001 provisions to prioritise family-centred and community-driven interventions over detention. In addition, social norms favouring punitive responses to child misbehaviour have shaped how these provisions are applied in practice, further limiting acceptance of restorative approaches. Studies suggest that physical punishment and strict disciplinary practices remain acceptable to some Malaysian parents, reflecting enduring cultural norms in child-rearing practices (Ganapathy et al. 2022). In this context, community-based rehabilitation may be viewed

with some scepticism, particularly where it is perceived to diminish parental authority. These cultural perceptions may contribute to the continued reliance on custodial measures under the CA 2001, notwithstanding international standards that favour non-institutional approaches. Without addressing these perceptions through public education and gradual policy shifts, the transition towards community-based rehabilitation may face resistance in practice.

CONCLUSION

The current global movement towards a restorative concept in the administration of juvenile justice supports the implementation of diversionary measures by focusing on community-based programmes and family counselling to avoid the detention of children, especially those who commit non-criminal behaviour like beyond parental control in welfare institutions. Most current juvenile justice systems in the world, including Singapore, are now shifting from a punitive approach to a restorative-based approach with numerous methods of diversionary programmes and early interventions. This approach aligns with Sustainable Development Goal 16, which aims to create peaceful, fair, and inclusive societies and emphasises good governance and the rule of law. Implementing diversionary programmes for children beyond parental control in Malaysia would indeed align with this goal. These programmes may help achieve this goal by steering children away from crime and towards positive community involvement. They will promote a fairer and more inclusive society and thus contribute to sustainable development.

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