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## **The Influence of Children's Rights in the Implementation of the Provision of Education for Young Prisoners In Malaysia**

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### **ABSTRACT**

The paper will examine the extent to which the notion of children's rights, particularly educational rights has been perceived by the Malaysia Prisons Department in relation to the provision of educational opportunities amongst young prisoners. The discussion covers the interview data from the Malaysian prison officials towards discovering why the Malaysian government has been providing educational opportunities for young prisoners. In conclusion, the findings suggest the implementation of law and policy regarding educational provision available for young prisoners in Malaysia is driven by a commitment of the government to fulfill the notion of children's rights, particularly educational rights.

**Keywords:** *children's rights; education; young prisoners; prison; Malaysia*

### **INTRODUCTION**

The Prisons Department in Malaysia, being a correctional entity<sup>1</sup>, through its vision and mission is responsible to provide a safe detention and rehabilitation institution.<sup>2</sup> Besides

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<sup>1</sup> See further Rosfizah Md. Taib, *Empowering Young Inmates through Lifelong Learning Programs in Malaysia: Prospects and Challenges*, 2011, retrieved at

<http://icll2011.oum.edu.my/extfiles/pdf/Empowering%20Young%20Inmates%20Through%20Lifelong%20Learning%20Programs%20in%20Malaysia%20Prospects%20and%20Challenges.pdf>

controlling over the residents by treating them humanely upon implementing the detention order by the court, one of the functions of the Malaysia Prisons Department is to implement the rehabilitation programme for the residents through various approaches.<sup>3</sup>

The Offender Management division is the responsible unit that formulates, designs and implements various rehabilitation programmes for offenders. All the rehabilitation programmes are designed based on the principles of "Knowledge, Attitudes, Skills, Intelligence and Humanity" (KASIH) which "KASIH" has been declared to be the motto of the division. The division believes every offender has potentials to be rehabilitated and so its main objective is to shape the attitudes among the offenders to be responsible and socially productive towards their return into the society.<sup>4</sup>

The data covers the interviews with five respondents who were selected based on the *purposive sampling*: the Director General of the Prisons Department, Malaysia (at the time of the interview was the Deputy Director General of the Prisons Department, Malaysia), secondly; the Director of the Management Offender division (the division was formerly known by the Rehabilitation and Treatment Unit of the Prisons Department, Malaysia), thirdly; the Education Section Officer of the Prisons Department, Malaysia, fourthly; the Chief Inspector of the Prisons Department, Malaysia, who represented the Director of the Kajang Prison and fifthly; the Director of the Henry Gurney School, Malacca. The data interviews from each respondent were transcribed verbatim and subsequently analyzed thematically according to a set of established themes in order to perform a continuous flow of discussion.

The current paper presents some of the data from a recent study, adopting a qualitative methodology, exploring the views of the Malaysian prison officials regarding the significance of the notion of children's rights, particularly educational rights in relation to the provision of educational opportunities amongst young prisoners.

In this paper, the author outlines the discussion into 2 sections; namely:

1. How do the prison officials in Malaysia perceive regarding the notion of children's rights, particularly educational rights in relation to the provision of educational opportunities amongst young prisoners? and;
2. How do the prison officials in Malaysia observe the relationship between the notion of children's rights, particularly educational rights and the provision of educational opportunities amongst young prisoners?

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<sup>2</sup> Prisons Department of Malaysia, (accessed 2009, October 27). *Vision, Mission and Objectives*. Retrieved from

[http://www.prison.gov.my/bi/index.php?option=com\\_content&view=article&id=288&Itemid=64](http://www.prison.gov.my/bi/index.php?option=com_content&view=article&id=288&Itemid=64)

<sup>3</sup> See website of the Prisons Department of Malaysia, (accessed 2011, August 3). *Vision, Mission, Objectives and Functions*. Retrieved from

<http://www.prison.gov.my/portal/page/portal/hijau/visi>

<sup>4</sup> Further details, refer "Pengurusan Banduan" ("Offender Management" division), retrieved at <http://www.prison.gov.my>; accessed 12 August 2010

Therefore, the aim of this paper is to discuss whether the attitudes of the Malaysian prison officials in understanding the significance of the notion of children's rights, particularly educational rights has influenced the government in providing educational opportunities for young prisoners detained within the penal institutions?

### **The Development of Educational Opportunities for Young Prisoners and the Establishment of Integrity Schools within the Malaysian Prisons Institutions**

From the data, we may gather that the development of educational opportunities available for young prisoners within the Malaysian prisons institutions was informally begun when, at the initial stage, the management of the Kajang Prison opened the "3Ms" ("Membaca, Menulis dan Mengira") classes to teach young inmates basic knowledge to read, write and count. Next, adult offenders<sup>5</sup> with relevant academic qualifications were given the role of "teachers" in assisting some candidates who were preparing for their public examinations.

Later, when more young prisoners showed an interest in engaging in academic activities (after observing some good achievements of their own cell mates), the management started to develop educational provisions more systematically. As a result of collaboration between the Malaysia Prisons Department and the Ministry of Education ("MoE"), Integrity Schools were set up in 2008, staffed by academic teachers from the MoE who provide academic education to young detainees<sup>6</sup> in Malaysian penal institutions. Currently, there are 6 Integrity Schools across the country which established on the zone basis: Kajang Integrity School (Central zone), Kluang Integrity School, Muar Integrity School (Southern zone), Marang Integrity School (Eastern zone), Sungai Petani Integrity School (Northern zone), Kota Kinabalu Integrity School other than the Malacca Henry Gurney School and Keningau Henry Gurney School<sup>7</sup>.

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<sup>5</sup> The adult offenders were among the offenders who have convicted in the criminal breach of trust (CBT) cases.

<sup>6</sup> On 10 April 2008, the Minister of Home Affairs (former Minister), Dato' Seri Syed Hamid Albar Syed Jaafar Albar has officiated the Kajang Integrity School in Kajang Prison substituting the Kajang Prison Young Offenders Training Centre. Instead, the learning system in Henry Gurney School, Telok Mas, Malacca and Henry Gurney School, Keningau were also updated to ensure the practice is in line with all the newly established Integrity Schools. Refer Buletin Insaf, Malaysia Prisons Department, No. 2/2008 at page 3 – 5.

<sup>7</sup> Read further Rosfizah Md. Taib, *Educating and Rehabilitating the Child and Young Offenders in the Prisons: A Practice in Malaysia*, ICYouth 2011, Palm Garden Hotel, Putrajaya, Malaysia; 1-3 November 2011

## **Attitudes of the Prison Officials regarding the Notion of Children's Rights, Particularly Educational Rights in Relation to the Provision of Educational Opportunities amongst Young Prisoners**

*"Students," not "Inmates"*

It is interesting to highlight from the data that all the respondents had used the term "student(s)" interchangeably to refer to "young prisoner(s) and/or young offender(s)" and they were also observed not to emphasize on the term "inmate(s)" during the interview sessions. The author could feel that the respondents were not pretending when they did so as they were spontaneous in using the terms "student(s)", "child/children", "juvenile(s)" or "kid(s)" throughout the interviews.

The data shows that all respondents had clearly mentioned to the author that they regarded the young inmates as "students" or even their own children instead of "convict(s)" or "criminal(s)." They believe that the status of young people who have been legally criminalized or convicted should never be a reason for the prison managers to mistreat them, just as they would not mistreat other ordinary children and young people. They argue that as the prison managers, their main function is to help these young people correct themselves and reform by undergoing rehabilitation programmes during their institutionalization, and not to just negatively label them due to their personal criminal records. To them, these young people deserve to be respected as they also have self-esteem like other human beings. In addition, by respecting and getting acquainted with them, the officials agree that young prisoners comply much more easily with the planned rehabilitation programmes.

The Director of HGS said that,

*"That's why I still refer to them as students, although the law would refer to them as 'inmates'. I still call them 'students'. Because this is a reform school, we need to respect them as students. They need to have self-esteem too. So they will be close to us, the management, and they can follow the programmes that we planned for them".*

Another respondent, the Chief Inspector told that, *"[M]y position here...is like any other officer... we will not tolerate any misbehaviour on their part... but as their 'father' here... if I am too strict with them, who else can they turn to if they have to voice out their feelings?"*

### *Fulfilling a Duty*

Furthermore, the respondents believe that they owe a duty to the government to encourage young prisoners in developing their potential even though the youths are confined behind bars.

The Director General clearly explained,

*"[B]ecause here, we view the programme as our obligation...which means ... as stated in Act 151 (Prison Act, 2008); we accept this responsibility..."* The Director of HGS clarified, *"It is our government's policy to reform the offenders, they are given rehabilitation, the inmates here are also included... That's why now, the government's policy is to acknowledge the presence of juveniles in this type of institution."*

The Education Officer further commented, *"The responsibility has been given to our prison so we have to implement the programme while they are here and it is true that education is part of the rehabilitation process"*. Finally, the Director of Rehabilitation and Treatment inserted, *"The government has its responsibility...so it has to...I agree..."*

According to the above quotations, the prison officials were of the opinion that they should provide educational opportunities for young prisoners in prisons so as to satisfy their legal obligations. We may also agree that the prison officials are motivated to fully undertake supporting policies, rules and regulations set by the government to enhance educational opportunities for young people detained in the prisons. Here, the author feels compelled to reveal that there was no statement made by any of the officials during the interviews to demonstrate that they despised or demeaned young prisoners from receiving the government's attention on the issue of the provision of educational opportunities in prisons.

### *Worthwhile or in Vain*

From another perspective, when the author posed a question as to whether it was worthwhile or otherwise for the Malaysian government to allocate a huge expenditure for the provision of educational opportunities for young prisoners in incarceration, among the impressive responses received by the author may be described as follows:

*"In terms of if it's a worthy investment or not, we don't really look at it that way... Because it has been stated in our laws..."* (the Director General);

*"I feel the issue of whether this is worthy or not, is not really an issue at all because it is our responsibility anyway, because we would still provide them with knowledge if they were students outside. If they enter prison, we still have to spend money on them; furthermore if they are outside, they are more likely to be a burden, and they might disturb the society. So for me, that question, whether or not it is worthy, it is already our responsibility and we need to focus on that."* (the Education Officer);

*"I would think that 'worthwhile' carries many meanings. But if it concerns whether it is worthwhile to provide help and assistance, then the answer is yes. Whether it is worthwhile to hope for maximum success, then I feel...I can't really hope for 100% success. They have the potential to become model citizens. We have to remember that... Nothing is permanent but change!"* (the Director of HGS) and *"It is not the issue whether it is worthy or not... but it is a must!"* (the Director of Rehabilitation and Treatment).

The above quotations reflect the commitment of the prison officials in providing educational opportunities for young people detained in the institutions, and they honestly see it as a sacred duty and not a charade. Furthermore, we may denote how the officials demonstrate their perceptions in believing that young prisoners still have the potential to develop into useful Malaysian citizens in the future, although the youths are currently confined behind bars.

### **Attitudes of the Prison Officials regarding the Relationship between the Notion of Children's Rights, Particularly Educational Rights and the Provision of Educational Opportunities amongst Young Prisoners**

The findings demonstrate the prison officials view there is a close relationship between the notion of children's rights, particularly educational rights and the provision of educational opportunities amongst young prisoners based on a few points as follows:

First; the establishment of the Integrity Schools was aimed to provide equal education to those young detainees similar to educational opportunities received by other school children outside the institutions. As the Director General elaborated:

*"[O]ur [the Malaysia Prisons Department] strategy is to provide the same level of education... equal to the education in schools by building the Integrity Schools. We are planning the strategy to develop the necessary path for the students to embark on... The building of the Integrity Schools is an initiative started by the prisons board. So, the government will be able to see the benefit of the project. This is because the youngsters are the country's assets... the next generation of leaders... so we need to look at it specifically... although the offenders had done something wrong... let's give them another chance..."*

The Chief Inspector further added, *"We want to have the same level for the offenders so they will not feel that they are second-grade students..."*

The Director of Rehabilitation and Treatment further commented,

*"I decided on it as such... anyone who comes to the Integrity Schools... they have an opportunity to study, and they will be confident of their future, just like the youths outside the prison system. They have a chance to study the academic subjects as well as the vocational subjects in a formal manner. They also have a chance to take part in other available fields. So after this, they would have a future just like their friends outside [the prisons]."*

Next; the respondents view the implementation of Integrity Schools within prison institutions in Malaysia is intended to provide a second chance for the youths to gain education whilst they are being institutionalized. The Education Officer clearly stated,

*"We think of it as the continuation and opportunity for them to further their studies... if there are no Integrity Schools, this means the end for them, stop schooling,*

*enter prison, stop schooling. So there is no chance for them to have a formal education...so the concept actually is... the Integrity Schools is the continuation of the outside system, it's just that we have transported these kids from outside to the school in here... that's it actually, we want to give them a second chance, if there is no second chance it means that when they enter the prison, that's it... 100% of their lives gone. This is because they are still at a young age, schooling age!"*

The Director of HGS also explained in detail,

*"Actually, we already have an excellent education system in our country. Since we already have this excellent system, it's a good idea to extend it into the Integrity Schools. I don't think there is a need to change it. The teachers would need to follow the syllabus... the curriculum concept... the hours of teaching. That is the same for our school system [government schools outside]. When it's holiday time, we also have it. There isn't a single thing in Integrity Schools which does not follow the outside school system".*

From the above quotations too, the prison officials wish to state that the function of the Integrity Schools is similar to any other state (government) schools outside, which is to provide young prisoners with suitable access to education, to facilitate the process of the establishment of personal growth and character of the youths. In fact, we may assume the respondents are confident that the Integrity Schools are able to stand as a "substitution" school similar to other regular state (government) schools which aim to provide the youths with certain formal educational opportunities that could develop their personal potential towards becoming useful citizens in the future.

Furthermore, the data mentioned earlier would certify that the officials agree the education system applicable in the Integrity Schools is actually similar to the curriculum that applies in state (government) schools, which is in accordance with the National Educational Curriculum based on the National Educational Philosophy.

In addition, the data show that the respondents have revealed the government's commitment to various policies, especially education-related policies, to encourage the provision of education for young people in penal institutions, which ultimately lead to the establishment of the Integrity Schools within the prisons. To again quote the Director of HGS:

*"[T]hat's why now, the government's policy is to acknowledge the presence of juveniles in this type of institution [closed institutions].*

*This is the policy of the Minister of Education. I think Dato' Seri Hishamuddin<sup>8</sup> is really concerned about this matter. We give them this chance. And we hope that one day, they will become good citizens who can help the nation in aspects of development".*

Therefore, the data shows that the respondents agree that other governmental departments such as the Ministry of Education (MoE) also has similar responsibilities

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<sup>8</sup> At the time of the interview, Dato' Seri Hishamuddin Hussein was the Minister of Education in Malaysia.

towards developing young people in penal institutions. Thus, as both the Prisons Department and the MoE have the same intention towards developing the potential of every young person in incarceration according to the principles of lifelong-learning<sup>9</sup> programmes and the National Educational Philosophy (NEP), which is also to develop the potential of these young people, they have, therefore, been collaborating towards the implementation of formal educational programmes via the establishment of Integrity Schools in 2008.

## **Recommendations and Suggestions**

The responses from the data would suggest the prison officials opine the implementation of law and policy regarding educational provision available for young prisoners in Malaysia is driven by a commitment of the government to fulfill the notion of children's rights, particularly educational rights.

The data further recommends that senior prison officials agreed the Malaysian government has never prevented young prisoners from receiving equal educational opportunities as enjoyed by children outside the institutions, and thus, they undertake suitable measures to provide similar educational opportunities for young people during their incarceration.

The data further implies that the Malaysia Prisons Department attempts to purposely follow the National Education System regulated by the Ministry of Education, Malaysia to reduce any possible educational gaps in terms of maintaining a similarly good quality of educational provision for the youths in prisons as received by other youths outside the institutions. The compliance with the National Education System in the provision of educational opportunities for young prisoners in custody may highlight that the Malaysia Prisons Department has a desire to equate the right of access to education of these young offenders in accordance with the aspirations of the Malaysian government to, among others, produce Malaysian citizens who are knowledgeable and competent, who possess high moral standards, and who are responsible and capable of achieving a high level of personal well-being as well as being able to contribute to the harmony and betterment of the family, the society and the nation at large as enshrined in the National Educational Philosophy.<sup>10</sup>

The data also concludes that the recent move undertaken by the Malaysia Prisons Department, i.e. the collaboration between the department and the Ministry of Education, Malaysia, which consequently established the "Integrity Schools" in 2008, has revealed that the Prisons Authority is increasingly concerned about the future of young prisoners, thus demonstrating that the department has prepared to extend more

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<sup>9</sup> Read *Empowering Young Inmates through Lifelong Learning Programs in Malaysia: Prospects and Challenges*; Proceeding for the International Conference on Lifelong Learning 2011, organized by Open University of Malaysia; Seri Pacific Hotel, Kuala Lumpur, Malaysia; 14 – 15<sup>th</sup> November 2011.

<sup>10</sup> National Educational Philosophy - further details can be found at the official website of the Ministry of Education, Malaysia at [www.moe.gov.my](http://www.moe.gov.my)



opportunities for young prisoners to receive an education in accordance with the specific policy and laws. The implementation of the school has brought a new era in the provision of education among young people in penal institutions across the country - the Ministry of Education has been supplying trained and qualified teaching staff, textbooks and reading materials for the benefit of the students in prisons. The data highlights that the Malaysian government recognizes that no child or young person should be denied the right of receiving a proper education, even though they may have been convicted of a criminal offence.

The data further suggests that the senior prison officials presume they are obliged to fulfil the duties specified in the National Educational Philosophy, the Child Act, 2001, the Convention on the Rights of the Child, the United Nations Standard Minimum Rules (Treatment of Offenders) 1954 and the United Nations Standard Minimum Rules for the Administration of Juveniles (the "Beijing Rules"). These duties refer to the provision of equal educational opportunities for young people within the Malaysian penal institutions. The interview data confirms that all the respondents have discussed these relevant regulations and provisions, and they refer to them for guidance to provide appropriate access to education for young people in prisons.

The data from prison officials also indicate that young people in prisons are no different from other school children outside the institutions, except for the age factor and also their educational rights. The data also reveals that the respondents felt that since the young people in these institutions are still at a young age, they are eligible to receive educational assistance appropriate for their personal development similar to that if they had not been institutionalized. Arguably, the officers presume that young prisoners are also entitled to receive a quality education to develop their full personal potential during their period of imprisonment as if they had the same educational opportunities like those outside of the institutions.

Next, the data from the prison officials affirm that they had never regarded young people in the institutions as criminals; rather, they consider the youths to be just like other ordinary school children who should be given adequate educational opportunities towards becoming 'good' persons. The author can conclude that the prison officials have no hesitation in believing that the young prisoners can still be guided in the proper direction of their original role as citizens of Malaysia, i.e. responsible for contributing to a fully developed nation by 2020 to meet the national interest.

The data from the respondents point out that other than food and shelter, educational needs are also regarded as a basic requirement for young prisoners in institutions and therefore, the youths are entitled to be educated in a suitable manner as other school children outside institutions. The thoughts of all the respondents reflect that every young prisoner is like other children around the world, and needs to be nurtured and developed to grow up as a free and independent human.

In this context too, all prison officials consider that the government has duties towards providing adequate educational assistance as enshrined in the national educational child-related policies pertaining to giving education to all children across the country,

particularly with regards to the efforts of achieving Education for All (EFA) goals. The interview data with these respondents also verifies their understanding that the government through its relevant agencies, namely the Malaysia Prisons Department and the Ministry of Education, Malaysia, should undertake necessary strategies and measures to provide appropriate educational access to young people in penal institutions as per that provided to children in the state (public) schools.

## CONCLUSION

The present study sought to analyze whether the attitudes of the Malaysian prison officials towards understanding the significance of the notion of children's rights, particularly educational rights influences the provision of educational opportunities amongst young prisoners.

The author discovers the perceptions of the prison officials towards understanding the significance of the notion of children's rights signify their thinking that every young prisoner has potential to be better persons and that they are able to positively contribute to the national development once they are released from the institutions.

Furthermore, the paper would like to conclude that the Malaysian prison officials believe the the idea of children's rights, particularly educational rights has become the main driving factor that has prompted the Malaysian government to provide educational opportunities for young prisoners detained in the penal institutions.

Finally, the author would like to suggest that more empirical studies should be carried out in the future to find out how effective the implementation of the notion of children's rights is being performed within the prison institutions in Malaysia as at today?

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For further information about UNAFEI, refer: <http://www.unafei.or.jp/english/pages/History.htm>  
"The United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of

Offenders (UNAFEI) is a United Nations regional institute, established in 1962 by agreement between the United Nations and the Government of Japan, with the aim of promoting the sound development of criminal justice systems and mutual cooperation in Asia and the Pacific Region."

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