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Call to hold parents, guardians liable for actions of children

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PETALING JAYA: An academic has called on authorities not to ignore the law but to hold parents and guardians liable for their children's actions, especially when they result in death or serious injuries.

Universiti Teknologi Mara Social and Policy Studies lecturer Prof Dr Yarina Ahmad said such action is necessary to send a message to society that being unaware of what their children have been up to is unacceptable.

"Parents and guardians cannot plead innocence when their children cause an individual to be killed or suffer serious injuries. They should also not be allowed to avoid liability on the excuse that the culprit is a minor."

She was commenting on several incidents involving death caused by children.

In an Aug 9 incident in Bachok, Kelantan, a 12-year-old boy allegedly lost control of the three-wheeled motorcycle he was riding with five child passengers.

The vehicle fell into an irrigation

► Caretakers cannot plead innocence just because culprits are minors, especially when behaviour results in death or injuries: Academic

canal, resulting in the drowning of a 13-month-old girl who was seated on her brother's lap.

In the latest incident on Aug 15, two teenagers collided while performing "wheelies" with their motorcycles in Jalan Elmina Business Park, Sungai Buloh.

She said while the Child Act 2001 holds parents and guardians liable for their children's actions, it does not cover the negligence of a child towards a third party.

Lawyer G.K. Ganesan Kasinathan said under Section 31(1)(a) of the Child Act 2001, parents or guardians who neglect their children, act negligently in a way that may cause the child to suffer physical injury or allow their child to be neglected may be fined not more than RM50,000, jailed for up to 20 years, or both.

"Under Section 39(5) of the Road Transport Act 1987, parents or guardians who cause or allow their children under the age of 16 to drive

a motor vehicle may be fined not more than RM2,000, jailed for up to six months, or both."

Yarina said proper enforcement of the Child Act 2001 would significantly influence and shape adult behaviour and ensure negligence or failure to act responsibly is not ignored.

She said social problems, such as *mat rempit* and aimless loitering, influence children to engage in violent and risky behaviour.

"The culture of underage motorcycle riding is prevalent in rural and certain residential areas. Underage riders operate motorcycles without safety measures and some even do so with small infants or toddlers as passengers."

She said there is a lack of enforcement regarding child negligence as many such cases remain legally unresolved and the penalties need to be raised.

She added that Norway, Finland

and Australia have zero tolerance for child negligence but Malaysia is more lenient with grieving parents and rarely pursues legal action against them.

"As the family institution weakens, parents and guardians must learn to cope with the changing demands of parenting and play their role in addressing the question of negligence. Children should be taught about right and wrong."

Ganesan said while parents are generally not held criminally liable for the crimes of their children, an exception is made when they design, assist or contribute to the child's delinquency.

"In some countries, there are specific laws concerning 'contributing to delinquency' under which parents are held criminally liable for their children's actions."

He said parents can face civil liability in tort for failing to properly supervise their children or for damages caused by their children's intentional acts.

A tort is a wrongful act other than a breach of contract that injures another and for which the law imposes civil liability.

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