## A CRITICAL ANALYSIS OF CHILDREN AND YOUNG PERSONS EMPLOYMENT REGULATIONS ENFORCEMENT IN MALAYSIA.

By:

Alliya Fuad Binti Mohd Azri (2012873132) Fatin Athira Binti Mustapa (2012888256) Izzat Arif Bin Abdul Jamil (2012881604)

Submitted in Partial Fulfillment of the Requirements for the Bachelor of Laws (Hons)

## Universiti Teknologi MARA Faculty of Law

a,

December 2014

The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

#### ACKNOWLEDGMENT

This research paper is made possible through the help and support from everyone who has contributed either directly or indirectly, including our parents, lecturers, family, and friends. We would like to dedicate and express our acknowledgment of gratitude to the following advisors and contributors to our research paper.

First and foremost, we would like to thank our supervisor, Mrs Jashpal Kaur Bhatt for her support and encouragement throughout the whole course of conducting this research. She she has guided us from the start and helped us organize our research. She has also sacrificed her time to meet us every week to get updates on our progress and made sure that we were on the right track. Her contribution is indeed invaluable and we could not ever thank her enough for that.

We would also like to extend our gratitude to our Legal Research and Methodology lecturer, Mrs Sivameenambigai a/p Veeriah for guiding our baby steps even before we started our research, during the making of our research proposal. Without her assistance, our research proposal would not have been approved and we would never be able to start our research paper. Last but not least our gratitude to the Faculty of Law, Universiti Teknologi MARA, for giving us the opportunity to conduct this research and provided assistance in terms of place and guidelines of research.

We would also like to thank Dato' Yasmeen Muhamad Shariff, the Executive Committee Member of the United Nations Committee on the Rights of the Child, Malaysia for taking sometime off her busy schedule to let us interview her and share her experience as a Committee Member. We deeply appreciate and honour her support and help with regards to our research.

Finally, we would like to thank our parents for providing moral and financial support in conducting our research. We would also like to thank the rest of our classmates and friends for providing the moral support and advice we needed to complete our research paper. This research paper would not be possible without all their support.

Alliya Fuad, Fatin Athira and Izzat Arif

## ABSTRACT

There are issues on the abuses of children and young persons in respect of employment in Malaysia. Children and young persons are distinct from one another. The main priority of this thesis is not only to analysis that distinction but also to find the loopholes within the Children and Young Persons (Employment) Act 1966 as well as its amendments in the Children and Young Persons (Employment) (Amendment) Act 2010. This research will compare laws on the employment of children and young persons in Malaysia in the Children and Young Persons (Employment) Act 1966, between the laws on children and young persons (Employment in Singapore, as well as the laws in international conventions that Malaysia has ratified, namely the Convention on the Rights of the Child, the ILO's Minimum Age Convention (No. 138) (1973) and the Worst Forms of Child Labour Convention (No. 182) (1999). The issues regarding child labour shall be raised in this research paper. By determining the issues of child labour and the defects in Malaysian laws on child labour, recommendations shall be made to improving the Children and Young Persons (Employment).

# TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iii
Table of Contents	iv
List of Statutes	vii

## **CHAPTER ONE:**

#### INTRODUCTION

1.0	Background of Research		1
1.1	Problem Statement		2
1.2	Research Questions		3
1.3	Objectives of Research		3
1.4	Research Methodology		4
1.5	Scope of Research		5
1.6	Limitation of Research	4	7
1.7	Significance of Research		7
1.7	Significance of Research		

## CHAPTER TWO: LITERATURE REVIEW

2.0	Introduction	9
2.1	Literature Review on Children and Young Persons Employment	9
2.2	Conclusion	12

#### CHAPTER THREE: LEGAL ANALYSIS ON THE EMPLOYMENT RATES, PATTERNS AND CONDITIONS OF CHILDREN AND YOUNG PERSONS

Introduction	13
Statistics of the number of children and young persons in the work	13
force in Malaysia	
3.1.1 Young Persons	15
3.1.2 Children	16
Abuses or issues relating to the employment of children and young	18
persons	
Conclusion	19
	<ul> <li>Statistics of the number of children and young persons in the work force in Malaysia</li> <li>3.1.1 Young Persons</li> <li>3.1.2 Children</li> <li>Abuses or issues relating to the employment of children and young persons</li> </ul>

## CHAPTER FOUR: LEGISLATIVE PROTECTION OF THE EMPLOYMENT OF CHILDREN AND YOUNG PERSONS IN MALAYSIA

4.0	Introduction	20
4.1	Protections of Children and Young Persons under the Law of	20
Malay	sia	

	4.1.1	Scope of Coverage and Definitions	21
	4.1.2	Terms and Conditions of Employment of Children and	23
	Young	g Persons	
	4.1.3	Comparison with the Employment Act 1966	26
4.2	Enfor	cement of the Children and Young Persons Employment Act	29
1966			
	4.2.1	Enforcement of the Act by the Department of Labour	29
	4.2.2	Complaints to the Industrial Relations	30
	4.2.3	The Human Rights Commission of Malaysia	31
	4.2.4	Enforcement of the Act by the Royal Malaysian Police Force	32
4.3	Concl	usion	34

## CHAPTER FIVE: COMPARISON OF THE REGULATION OF CHILD LABOUR BETWEEN MALAYSIA, SINGAPORE AND INTERNATIONAL CONVENTIONS

5.0	Introduction	
5.1	International Labour Organization (ILO)	35
	5.1.1 The Minimum Age Convention (No. 138) (1973)	36
	5.1.2 Worst Forms of Child Labour Convention (No. 182) (1999)	37
	5.1.3 Hazardous Child Labour	39
	5.1.4 Comparison of the Regulation of Child Labour	40
	between the Regulation in Malaysia and Conventions in the International	
	Labour Organization (ILO)	
5.2	Convention on the Rights of the Child (CRC)	41
	5.2.1 Convention on the Rights of the Child on Child Labour	42
	5.2.2 Convention on the Rights of the Child in Malaysia	43
	5.2.3 Comparison of the Regulation of Child Labour between	44
	the Regulation in Malaysia and the Convention on the Rights of the	
	Child (CRC)	
5.3	3 Singapore	
5.4	Conclusion	

## CHAPTER SIX: ISSUES IN CHILD AND YOUNG PERSONS EMPLOYMENT, RECOMMENDATIONS AND CONCLUSION

.

6.0	Introd	48	
6.1	Issues in Child and Young Persons Employment		48
	6.1.1	Employers not adhering to the Act	48
	6.1.2	Lack of Enforcement	50
	6.1.3	Lack of Statutory Protection	51
		6.1.3.1 Vague Provisions	52
		6.1.3.2 Contradictory Provisions	53
6.2	Recommendations		54
	6.2.1	Statutory Amendments	54