

**HONOURS PROJECT PAPER**

**(LAW 533)**

**A STUDY ON THE EFFECTIVENESS OF THE CHILD ACT 2001  
IN EDUCATING CHILD OFFENDERS**

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## **ABSTRACT**

Our research on the effectiveness of the Child Act 2001 in educating child offenders focuses on whether the punishment or rehabilitation measures are more efficient in deterring the child offenders and also to suggest ways to enhance the efficacy of the laws in educating them. We looked into the involvement of participants in the programs held in the Henry Gurney School and Tunas Bakti School. Our sources for this research is the Child Act 2001 and other relevant statutes as well as decided cases, books regarding implementation of the law in educating them, articles regarding all the issues involving these child offenders. The adopted method used was more in qualitative approach as our type of study is of a social legal nature. We gathered the bulk of our findings were based from interviews from Magistrates of Court for Children, Social Welfare Officers, Prison Department and also one child offender. The findings revealed that the preferred philosophy in educating child offender is of rehabilitative measure and we have provided alternatives in our conclusions and recommendations. Finally, we believed we have achieved our research objectives as to effectiveness of the Child Act 2001 in educating child offenders in hope that this research will assists policy makers in improving the social justice system of child offenders.

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# CHAPTER 1

## BACKGROUND OF THE RESEARCH

### 1.0 Introduction

Child offenders, a social problem up till then associated with America and the rest of the West is making its presence felt in Malaysia. The Prison Act 1995 empowers the Prison Department of Malaysia to detain child offenders aged between 14 and 18 years in prison as young prisoners or in Henry Gurney School (approved school) as students.<sup>1</sup> There are many statutes in Malaysia which contains the provision on definition of a child offender for example The United Nations Conventions on the Right of Child 1989, Child Act 2001, Evidence Act 1950 and Age of Majority Act 1971. But the most accurate definition from the legal point of view a child offender under the Child Act 2001 can be defined as a person under the age of 18 years and who have criminal responsibility at the age of 10 years.<sup>2</sup>

In Malaysia it has been recorded by the Royal Malaysian Police that there were 14,691 child offenders who were arrested for committing offences throughout the years of 2002 and 2004.<sup>3</sup> That is an average of 420 cases per month and 14 cases per day.<sup>4</sup> The parliamentary secretary to the Women, Family and Community Development Ministry recently revealed alarming figures for the last three years.<sup>5</sup> There were as many as 18,334 convictions of criminal offences involving children aged between 10 and 18 for theft, robbery, extortion, house-breaking, drug possession and trafficking, gambling, firearms, illicit sex, rape, illegal racing and prostitution.<sup>6</sup>

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<sup>1</sup> Prison Act 1995

<sup>2</sup> Section 2 Child Act 2001 (Act 611)

<sup>3</sup> Dr. Nasimah Hussin, "Child offender delinquencies in Malaysia : legal provisions and prospects for reforms", available at <http://www.childjustice.org/docs/hussin2005.pdf>, accessed on 29 January 2009

<sup>4</sup> Ibid 4

<sup>5</sup> Ranita Hussein, "Crime, punishment and the child offender", New Straits Times, Sunday, 05 August 2007 available at [http://www.malaysianbar.org.my/opinions/comments/comment\\_crime\\_punishment\\_and\\_the\\_child\\_offender.html](http://www.malaysianbar.org.my/opinions/comments/comment_crime_punishment_and_the_child_offender.html), accessed on 30 January 2009

<sup>6</sup> Ibid 6