6th CoMBInES
Volume 6 No 1 (2026)

Accepted : July 11th, 2026
Published : September 30th, 2026
DOI : 10.37253/combines.v6i1.12791

Conference on Management, Business, Innovation, Education and Social Science
https://journal.uib.ac.id/index.php/combines

Legal and Regulatory Challenges in Malaysia's Childcare Sector: Implications for Service Quality and Sustainability

Sairun Syakira Binti Saiman[1],
sairunsyakira@utar.edu.my[1]

Nuraishah Binti Raimie[2],
nuraishah@utar.edu.my[2]

[1,2]Faculty of Accountancy and Management, Universiti Tunku Abdul Rahman, Malaysia

Abstract

The increasing participation of women in the labour force and the shift towards dual-income households in Malaysia have significantly increased the demand for non-parental childcare services. As a result, childcare services have evolved from being a private family matter into a critical socio-economic concern, closely linked to child development, workforce productivity, and gender equality. The growing reliance on childcare providers places substantial responsibility on these institutions to deliver safe, reliable, and high-quality care. In Malaysia, childcare services are broadly categorised into home-based and institution-based centres, as provided under the section 5 of the Child Care Centre Act 1984 (Act 308). While this regulation establishes minimum standards such as for registration and operation, the rapidly evolving nature of childcare demand has exposed significant weaknesses in the existing regulatory system. Despite the importance of the childcare sector, concerns regarding service quality, child safety, and regulatory effectiveness continue to emerge. Incidents of child abuse, negligence, and the excalation of unregistered childcare services highlight deeper structural and legal challenges. These issues raise critical questions regarding whether Malaysia's current legal and regulatory framework is adequate to ensure both quality service delivery and long-term sustainability of the childcare sector. Therefore, this study examines the legal and regulatory challenges in Malaysia's childcare sector, focusing on their implications for service quality and sustainability.

Although Malaysia has established a legal framework governing childcare service under the relevant Acts and regulations, it remains largely fragmented, outdated, and compliance oriented. The current regulatory approach predominantly reflects a preventive principle, where intervention is generally triggered after risks are identified or when harm becomes foreseeable based on existing standards. This reactive orientation limits the ability of the framework to respond effectively to uncertain, emerging, or unanticipated risks in childcare settings. In contrast, the precautionary principle advocates for proactive intervention even in the absence

of full certainty, particularly where vulnerable groups such as children are involved. By incorporating precautionary measures into existing preventive strategies, childcare givers and regulators can ensure stronger protection for children, even when risks are not fully known or immediately observable. This integration enables earlier intervention, reduces the likelihood of harm, and addresses the inherent limitations of a purely preventive approach. While the preventive principle remains an important foundation of risk regulation, its shortcomings highlight the need for a more forward-looking and protective regulatory framework that ensures uncertainty does not delay necessary safeguarding actions, thereby strengthening overall safety standards in childcare environments.

As mentioned earlier, the existing laws for childcare services in Malaysia primarily emphasise registration and minimum standards, with limited focus on continuous quality improvement, professionalisation of childcare givers, and integrated governance. As a result, significant gaps persist in areas such as childcare giver qualifications and monitoring mechanisms. These shortcomings are further reflected in reported cases of child abuse and negligence within childcare settings, which expose weaknesses in it legal provisions. Additionally, the lack of comprehensive quality assurance systems and inconsistent regulatory oversight raises concerns about the sector's ability to deliver safe and high-quality services. Hence, these issues were not solely based on legal perspective per se but has broader implications for service quality, child safety, and sector sustainability, particularly in meeting the needs of modern families. Accordingly, this study aims to; (1) examine the existing legal and regulatory framework governing childcare services in Malaysia, (2) analyse key legal and regulatory challenges affecting childcare service quality and sustainability and (3) propose policy and regulatory improvements to enhance the quality and sustainability of childcare services in Malaysia.

Childcare services in Malaysia are primarily governed by the Child Care Centre Act 1984 (Act 308) and the Child Care Centre Regulations 2012, which establish the legal requirements for registration, operation, and inspection of childcare centres. These are complemented by other legislation such as the Child Act 2001 (Act 611), the Sexual Offences Against Children Act 2017 (Act 792), the Penal Code (Act 574), and the Persons with Disabilities Act 2008 (Act 685), which provide broader protection for children. While these laws collectively aim to safeguard child welfare, scholars have noted that the regulatory framework remains largely compliance based as well as focusing on minimum standards rather than quality outcomes. In the regulatory perspective, it does not sufficiently address the needs required for complexity of childcare service delivery, particularly to ensure well development of the children and quality services. Country such as Australia have implemented the regulatory frameworks emphasising quality assurance, continuous monitoring, and professionalisation of its childcare givers. The nature of the childhood education and care in Australia have undergone significant reforms, typically regarding corporate childcare quality provision and viability. In Australia, the National Quality Framework has been developed by the current Australian Government to improve the quality, access, and equity of early childhood services. The gist of the childcare regulations in the Australian states is based on the quality structural of the following requirements such as quality of the physical environment, administrative processes for the operation of a service, the numbers and qualifications of staff required, staff to child ratios and the size of groups in which children are organized.

This study adopts a doctrinal legal research methodology, complemented by qualitative analysis. The doctrinal approach involves a systematic examination of primary legal sources,

including statutes, regulations, and relevant case law governing childcare services in Malaysia. In addition, a comparative legal analysis perspective is incorporated by examining selected jurisdictions, particularly Australia, which are recognised for their more developed childcare regulatory systems. Secondary sources, including academic literature, policy reports, and government documents, are also analysed to provide contextual insights. This combined approach enables a comprehensive evaluation of Malaysia's childcare regulatory framework and facilitates the identification of key legal and structural challenges. The analysis reveals that Malaysia's childcare regulatory framework is characterised by several structural and legal challenges that significantly affect both service quality and the long-term sustainability of the sector. These challenges are not isolated but interrelated and collectively contributing to a regulatory environment that prioritises minimum compliance over meaningful quality outcomes.

One of the most significant challenges identified is the outdated nature of the Child Care Centre Act 1984. While the Act provides a foundational legal structure, it remains largely unchanged. The framework is predominantly compliance-oriented, focusing on registration requirements and basic operational standards rather than holistic quality assurance. The absence of clear benchmarks for developmental outcomes, childcare giver competencies, and service performance further limits the effectiveness of the law in ensuring quality childcare provision. Consequently, the framework reflects a "minimum standards" model rather than a "quality-driven" regulatory system.

Second major challenge lies in the insufficient regulation of childcare giver qualifications and professional standards. Current legal requirements for childcare providers in Malaysia remain relatively basic and do not adequately emphasise on continuous professional development. It is true to be said that all the childcare givers are required to attend the *PERMATA Early Childhood Care and Education course (KAP)* course before they can run the childcare services, but the KAP course only obliged to be taken once a before the childcare givers able to start its childcare services. Generally, the KAP course refer to course focuses on parenting training and various aspects of early childhood education to ensure that childcare providers comply with quality standards. This initiative aims to support the holistic development, safety, and well-being of children while addressing the rising number of accidents and child fatalities reported in the media. This deficiency has direct implications for service quality. The absence of stringent continuous development qualification requirements increases the likelihood of untrained or underqualified individuals entering the childcare service sector. Judicial cases further illustrate this concern. For instance, in *PP v Nur Fatin Nabila bt Azmi*, the perpetrator's limited training background raises questions about the adequacy of existing qualification standards and their enforcement. The lack of professionalisation within the childcare workforce also contributes to high staff turnover, low job recognition, and inconsistent service delivery, ultimately affecting both quality and sustainability.

A further challenge is the absence of structured quality assurance systems within the regulatory framework. Current regulations primarily focus on input-based standards, such as infrastructure and staff ratios, without incorporating outcome-based measures. There is limited use of performance indicators, quality rating systems, or systematic evaluation tools to assess service quality. This contrasts with more developed childcare systems, where continuous assessment and improvement are integral components of regulation. The lack of such mechanisms restricts the ability to monitor service quality effectively and limits opportunities for continuous improvement within the sector.

These regulatory challenges significantly affect childcare sector sustainability, including regulatory uncertainty, limited policy support, and workforce issues that drive high turnover and destabilise service provision, ultimately hindering the sector's ability to meet growing demand while maintaining quality standards. Considering the identified challenges, this study proposes several key recommendations aimed at strengthening Malaysia's childcare regulatory framework and enhancing both service quality and sustainability. First, comprehensive legislative reform is necessary to modernise the Child Care Centre Act 1984. The revised framework should move beyond minimum compliance and incorporate quality-oriented standards, including clear benchmarks for child development outcomes, childcare giver competencies, and service performance. Second, the professionalisation of the childcare workforce should be prioritised. This includes the introduction of mandatory qualification standards, structured training programmes, and continuous professional development requirements. Enhancing the status and competency of childcare givers is critical to improving service quality and safeguarding children. Fourth, greater institutional coordination is required to address governance fragmentation. Establishing a centralised or integrated regulatory framework could enhance policy coherence, streamline enforcement, and improve accountability across agencies. Finally, Malaysia should create a new system to ensure high-quality childcare. This system would focus on actual results for children, rather than just basic requirements. It would measure things like how well children are developing, the quality of interactions between caregivers and children, safety, and overall service. To support this, a national continuous quality rating and improvement system should be introduced by benchmarking Australia's Childcare National Quality Framework. This would categorize childcare centres based on their quality and encouraging centres to continuously improve. The new framework should also include self-assessments by centres, and required reporting to ensure accountability and ongoing monitoring by the authorize bodies. A comprehensive and coordinated reform approach is therefore essential to ensure that legal and regulatory improvements translate into meaningful enhancements in service quality and long-term childcare sector sustainability.

In conclusion, this study has critically examined the legal and regulatory challenges within Malaysia's childcare sector and their implications for service quality and sustainability. The analysis shows that although Malaysia has an established legal framework under the Child Care Centre Act 1984 and related regulations, the system remains largely outdated, fragmented, and focused on minimum compliance rather than comprehensive quality outcomes. Other than that, current childcare services in Malaysia shows inadequate childcare giver qualification standards, and the absence of structured quality assurance mechanisms. These shortcomings are further reflected in judicial case involving abuse, which highlight limitations in the current legal provisions in adequately protecting children within childcare settings. Collectively, these challenges have significant implications for both service quality and the sustainability of the childcare sector. Such challenges contribute to uneven service delivery, workforce instability, and reduced public confidence, while also limiting the sector's capacity to meet increasing demand. Comparative insights from jurisdiction such as Australia demonstrate the value of more integrated, outcome-based regulatory systems that emphasise quality assurance, professionalisation, and continuous improvement. In conclusion, this study underscores the urgent need for comprehensive reform of Malaysia's childcare regulatory framework to strengthen legal protections, ensure sustainable, and high-quality childcare services that support broader socio-economic development.

Keywords:
Childcare regulation; Malaysia childcare law; Service quality; Child Care Centre Act 1984; Social sustainability

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