REVIEW ARTICLE

INVISIBLE, VULNERABLE AND MARGINALIZED CHILDREN IN MALAYSIA

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Abstract

Children have rights to be loved and be given fair opportunity. In developing world like Malaysia, there are estimated large number of children who are considered excluded from getting appropriate education, health provision, birth registration and rights as others. These are stateless, invincible children who were raised with multi factorial background and have been excluded from their basic rights. There are multi causality why they existed and part of curbing these problems related to strong government policy and advocacy. Without that, these children are exposed to manipulation, abuse and involvement in the high risk behaviour. The existence of marginalized children has brought forth debate on collaborative work between the governmental and community towards enhancing life of these group of children.

Keywords: Marginalized Children, Ethics, Health Care, Rights

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Introduction

“Children are the inheritor of a nation”.

The Convention on the Rights of the Child defines a child as a human being below 18 years under the law applicable to the child. A child is not a miniature of an adult but a person who needs protection, love and nurturing to assist their development and experiences. Age of consent differs around the world and is bound to societal and cultural influences. The issues surrounding children are very unique mainly due to by proxy decision making, ethical dilemma on consent, confidentiality and right of autonomy.

Marginalized children are defined as children who are outside and peripheralized from the mainstream group or centre of the society. They have little control of their lives, little resources available to them and subjected to stigmatization with negative public attitudes. Children who are born in the disadvantage families such as asylum-seekers, refugees, irregular migrants and undocumented parents are marginalized group and hence they become stateless. Other disadvantaged groups of children are
– those who are born in poverty with income disparities; indigenous and minority communities; children with disabilities and require palliation; children from the rural and urban poor; and Lesbian Gay Bisexual Transgender Intersex Questioning (LGBTIQ) children; children living with AIDS and HIV; street children; children of sex workers; children who one or both parents are drug abuser; trafficked children and children who are in conflict with the law. They face restrictions on access to education, healthcare, birth registration and child protection services. The violence, neglect, abuse and maltreatment of children also occurred rampantly. Lack of systematic and transparent monitoring system, to empower children’s rights and protection as a human being, has become a major challenge. These include lack of legislative or administrative protections, lack of clearly defined roles and responsibilities for the authority and also poor accountability from the governmental sectors.

Discrimination in migrant children has been largely stemmed on their uncertain migration status in Malaysia. Children from poor rural background and born out of wedlock also continue to be a significant dilemma in the society. There are also a number of children whose parents are without proper registration and identification, or whose parents have died or cannot be traced their citizenship. This has led to difficulties in registration in birth certification and even access to health and education. They are deprived of their freedom of thought, expression, conscience, religion and their right to life, survival, protection, participation, development and equality.

Whilst Malaysia is known for transit and destination of child trafficking, there is a need for greater effort to prevent increasing in these children in Malaysia. In March 2012, the government confirmed a total of 977 survivors of human trafficking have been identified from 2008 to 2012; these may represent the tip of the iceberg problems. The number of marginalized is growing steadily and we have yet to find an agreeable solution for them. All of these mainly related from the backlash of social dogma and stigma. The Malaysian Immigration Act 1959/1963 have labeled them as ‘illegal immigrants’ and would be vulnerable to arrest, prosecution, and even detention.

**Problem in the East of Malaysia**

Decades of irregular migration to Sabah has resulted in large numbers of undocumented children of migrants from the Philippines and Indonesia. They are even at risk of statelessness. Local children from the native people like Bajau Laut, despite being ethnically recognized by the government, are at risk because unregistered children due to poor knowledge and information.

Many other reasons of failure to possess such documentation include - lack of knowledge of the importance of legal documents; bureaucracy problems in the government sectors; financial difficulties and irregularities; illegal and unregistered parental marriage; lack of proof of birth(born at home by villagers); and the abandonment of the child without identification. In contrast, children who are born to foreign parents/migrant workers also are at risk of statelessness if their births are not registered at the respective consulate, and thus inability to trace their family’s country of origin. This is a major problem for a large number of children of Indonesian and Filipino descent in Sabah, many of whom were born in Malaysia and who have never known their countries of origin.
Children from Rohingya, Palestinian, Syrian, and from other war-torn countries have not been able to obtain citizenship here due to protracted exile and the family decision to travel to Malaysia and to stay here illegally.

There are estimated about 44,000 children are born to illegal immigrants, live in the streets and did not attend schools. These children are not citizens as they do not possess a birth certificate. They have no governmental support and some were forced into prostitution, participate in criminal activities or involving with illegal labour to fulfill their daily needs. They are neither welcomed nor given any protection or access to education due to the current policies and legislations.

Complex issues

In theory, basic human rights should be available to everyone and everywhere. However, all nations reserve these rights for their citizens only, and such rights are often not accessible to certain extent especially the marginalized children. These include access to health care, identity cards, education and social security. When children reach an age to work and vote, they often find these opportunities are limited. A stateless person is an undocumented person who is unable to produce necessary document to prove their citizenship of a country. The United Nation Children’s Fund (UNICEF) has created collaborative projects, by private and public partnerships, for children’s rights advocacy.

In Malaysia, marginalized children face various challenges:

1) Many children in Malaysia suffer from poverty. Although the country has made significant efforts to improve the situation, UNICEF estimates that more than 72,000 children under the age of 15 still live in difficult conditions without the means to fulfill their own basic needs. Some may be a second generation stateless children due to their parents, being a stateless person, also gave birth in Malaysia.

2) Education in Malaysia is mandatory for children between 6 and 18 years old, and public schools are free. About 90% of children attend school, but there are huge disparities between rural and urban regions. Children in rural areas (mostly indigenous children) often do not attend school. The refugee or illegally migrants’ children have to learn their childhood experiences by living with the family only.

3) Malaysian authorities forbid children of immigrant or asylum-seeking parents to be registered in the system. Although, improvement has been made to improve the condition, there are still many gaps to be filled. Some asylum seekers fear the risk of being arrested as illegal immigrants if they try to register their children. Without a birth certificate, the children are regarded as stateless, and hence they are forbidden from being enrolled in the public schools. Their rights to an identity and to an education are being violated.

4) Discrimination still persists towards children of ethnic minorities, girls and those with social stigma like HIV children. AIDS is still a culturally sensitive subject in Malaysia, which precludes effective information on prevention for both adults and children from being
disseminated. There are concerns for underage girls who will be subjected to abuse if marriage occurs at early age. The minimum age for marriage for Muslim is 18 for boys and 16 for girls. Muslims younger than 16 years of age must seek permission from the religious tribunal before getting married. The ethnic minorities are usually left behind in education and social development.

5) Children who live in the streets are often victims of child abuse (neglect), sexual exploitation and child labour. Malaysia has been a destination country for many women and girls from Indonesia, Thailand, the Philippines, Cambodia, Vietnam, Myanmar, Mongolia or China. They immigrate with the hope of finding work or a better life, but are forced into prostitution by human trafficking. It is illegal for children under the age of 14 to work, but many work to contribute to the total family income.

Solutions

Many healthcare workers are facing dilemma when these children when presented to the local healthcare facilities. The current government does not give any financial aid to cover the treatment cost for them. Even in emergency setting, some hospitals refused the continuity of care despite going against our ethical foundation - primum non nocere, non maleficence and beneficence. Even if they have legal documentation, they are still subjected to second class treatment due to social stigma. Many healthcare workers have skewed view and less willing to give the best care for them. There are individuals, through their personal capacity, try to alleviate the problems, by regularly involved in non-governmental organization (NGO) activities and providing basic and minimal healthcare screen. These personal capacities work are on voluntary basis, sometimes without continuity of care.

Universal non-discriminatory continuity of care is also important in emergency situation.\(^8\) If the child presented in emergency code, a physician should stabilize the patient first as part of medical obligation, and once stabilize, they should be referred appropriately, even to their country of origin for the continuity of care. Sponsorship of medical care by virtue of personal, self-initiated or even company’s aid is initiated perhaps through galvanizing media pleas. But as for Muslim, zakat foundation can provide wider and vital role by embarking to cover some of the expenses for daily and medical expenses for these unfortunate group of children.

Other important aspect is to address marginalization itself. Caring society not only would bring stability to the nation but also helping these children from being abuse, trafficking and left behind. The appropriate political parties have to play role in lobbying for policy to improve universal child’s health and the life of marginalized children. This may go through a long process of political will and debate with active advocacy role throughout the nation. In local scale, community contribution and partnership by NGOs, UNICEF and governmental agencies will help appropriate resolution to avoid social vulnerability.\(^9\) Providing training and adequate skills under state adoption project will help them to survive for their future’s life.
Conclusion

On the basis of health and rights, paediatricians should be aware their roles in treating the marginalized children. Though, sometime, there is no clear guideline on what to do, the role in delivering health service should be equal in term of health promotion, health prevention, management, and if no viable option available, then continuity of care to where they can get help is mandatory. The government should revise standard of care in this vulnerable group to avoid health inequalities and getting better partnership with NGOs for a sustainable health programs and cover. Local partnership, through volunteerism and collaboration, is warranted to move all section of the society, to curb the rapidly growing number of invisible and marginalized children.

References


