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ARTICLES

The Role of the Court for Children in Dealing with Children Involved in Crime

Jal Zabdi Mohd Yusoff* and Sridevi Thambapillay**

Introduction

In most legal systems, if a person has committed an offence, he or she is subjected to various forms of punishment. The purpose of the punishment imposed on the offender may be retribution, incapacitation, rehabilitation or deterrence. The same principle applies if the offence is committed by a person below the age of 18 years old (a child according to the law in most countries). However, due to their immaturity and as they are still in the process of learning, a particular punishment imposed on an adult will not be imposed on the child if the same offence is committed by the latter. Thus, if an adult in Malaysia commits an offence of causing grievous hurt, he can be sentenced up to a maximum of seven years of imprisonment. However, if the same offence is committed by a child, there are several options available to the Court for Children in order to dispose of the said case.

Since there are several options available to the Court for Children, the question that arises is how will the court decide which order is suitable for a child? Who would be deciding the future of a child faced with a charge in the Court for Children? What are the main considerations the Court for Children would consider before making a decision? This issue is important as whatever the decision the Court for Children makes, it will definitely affect the future of the child. Thus, in this paper, the writers attempt to discuss the above issues in the light of the current scenario in Malaysia.

* Associate Professor, Faculty of Law, University of Malaya.
** Lecturer, Faculty of Law, University of Malaya.
1 The Child Act 2001, s 2 defines “child” as a person under the age of 18 years old.
2 Penal Code, s 325.
3 See further discussion on this issue in sub-paragraph “Options Available to the Court for Children upon the Finding of Guilt”.