MANAGEMENT OF BABY DUMPING IN MALAYSIA: CONSIDERING SOCIO-CULTURAL, LEGAL AND RELIGIOUS CONTEXT


Abstract
The cases of fetus and infant dumping have been robustly reported in the media. This paper focuses on the aspect of social psychology in which the emphasis is placed upon the attitudes, perceptions and social responses towards baby dumping and its management. In a cultural and social setting in Malaysia where the majority of the population affiliate themselves as Muslim and follow the teaching of Islam, the cases of fetus and baby dumping is considered a grave issue. Necessary actions should be imposed to curb this distressing phenomenon and it demands immediate attention in order to save the lives of the baby. At present, in Malaysia, there exist efforts in establishing shelters for dumped babies. However, there are also questions about the appropriateness of establishing shelters for dumped baby which have raised polemics and wide debate in the general society. Some members of the community are against the establishment of such shelters due to their fears and stigma of dumped babies cases that presently becomes a growing epidemic festering the Malaysian society. There are also other groups in the society who support the establishment of baby shelters due to their concern to protect the life of the baby. This paper is conceptual in nature and thus, aims at discussing the aspect of management of baby dumping in Malaysia by addressing the socio-cultural, legal and religious context prior to data collection phase. In addition, this article also attempts to address the challenges that might be faced by the baby shelters. It is hoped that this study will be able to give enlightenment to the general public on the issue of the establishment of baby hatch.

Keyword: baby dumping, baby hatch, management

Abstrak

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Masyarakat Malaysia masih tidak terbuka dan ‘takut’ untuk berbincang mengenai isu ini dan isu pembuangan bayi masih dianggap sebagai stigma sosial. Terdapat juga di kalangan masyarakat umum yang bersifat terbuka dan menerima penubuhan pusat pembuangan atau penempatan bayi ini untuk menunjukkan keprihatinan mereka terhadap bayi yang tidak berdosa itu. Kertas kerja ini adalah bersifat konsepsual dan bertujuan untuk membincangkan faktor sosio-budaya, perundangan dan agama dalam konteks Malaysia sebelum menjalankan proses pengumpulan data. Kertas kerja ini juga akan membincangkan tentang cabaran yang dihadapi oleh pengurus pusat penempatan bayi. Kertas kerja ini juga bertujuan untuk memberi kesedaran kepada masyarakat umum mengenai keperluan untuk mewujudkan pusat penempatan bagi bayi yang terbuang.

Kata kunci: Pembuangan bayi, baby hatch, pengurusan

INTRODUCTION

The alarming rate of infant abandonment cases in Malaysia in recent years has caused shock and distress to the whole nation. In 2006, there were 83 cases of baby dumping reported in comparison with 63 cases in year 2000 (Bedu, Katip Mohd Sahid & Syed Mansor, 2008). In these cases, the babies who were delivered out of wedlock were left unattended in mosques, temples and even dumped in rubbish bins, dirty drains, riverside, flushed in toilet bowls and were exposed with dangerous animal attacks (Kasim, 2010). In 2000 alone, 65 cases were reported in the country, 2001 (97 cases), 2002 (98 cases), 2003 (92 cases), 2004 (78 cases), 2005 (67 cases) and 2006 (83 cases) (Bedu et al., 2008). The increased number of statistical figures signalled an urgent need to provide a holistic solution as a reaction towards solving the issue. Recent studies also show an increasing number of cases of premarital sexual relationship which led to premarital pregnancies among young teenagers under the age of 18. The statistical figures obtained from the Polis DiRaja Malaysia (PDRM) stated a drastic increase in the number of cases reported from 2004 until 2009 (Sarnon, Mohamad, Fauziah, Alavi, Nen, Hoesni, Zaizul & Azreena, 2012). According to Sabran (2003), as cited in Sarnon et al. (2012), there were more than 300 children and young adult within the age of 13 to 25 found to engage in sexual deviant and free sex activities.

The government has shown profound concern towards this trend because the phenomenon involves the young generation who is hoped to take the role in governing and shaping the country into a developed nation by the year 2020. As a result, the government has encouraged non-profit organizations (NGOs) to work together to curb this social illness. Consequently, concerted efforts to curb this issue have been taken up, and the effort include proposing sex education which can be integrated in the school curriculum (Wong, 2012; Nordin, Zakaria, Mohamed Sawal, Hussin, Ngah & Nordin, 2012), establishing remedial institutions for women who have delivered baby out-of-wedlock (Sarnon et al, 2012) as well as provision of centres for the unwanted babies such as baby shelters or “baby hatch”.

As a matter of fact, an initiative from the Malaysian government through Kementerian Pembangunan Wanita, Keluarga dan Masyarakat (KPWKM) in collaboration with Pertubuhan Kebajikan dan Pengurusan Anak Yatim (ORPHANCARE) has developed a strategy to help the innocent babies from being thrown away in dangerous places by their biological mother (Gooch, 2010). There are non-profit and nongovernmental organizations that provide alternative solutions for mothers who have a child delivered out of wedlock. These organizations delivered their solution through disseminating knowledge about sexual
reproduction and how to prevent sexually transmitted diseases and unwanted pregnancies (Gooch, 2010). The government thus far maintained up to 60 welfare centers which offer aid and assistance for the unwed mothers and their babies (Gooch, 2010). The rising number of centres that cater the requests of these cases has shown an important need to develop a well-organized, systematic and holistic model of management as a plausible solution to baby abandonment issues.

Nevertheless, the principal establishment of these centres is not intended to encourage the act of sexual intercourse among young couples in out of wedlock relationship, but to help and save the innocent babies from being thrown away in unwanted places (Aruna, 2013; Pak 2010). These centres were also built to provide remedial solutions such as counselling, psychosocial support and support system for mothers who dumped their babies (Aruna, 2013; Kamaruddin, 2012). However, it is important to emphasize that the development of the model and management of the abandoned baby centres in Malaysia should take into consideration the socio-cultural, religious and legal realms to ensure the effectiveness of managing this issue in accordance to the local context. The explanation of the importance of these contexts are outlined in the following discussions.

SOCIAL-CULTURAL CONTEXT

The first factor that needs to be taken into account in developing a model of managing the baby dumping centre is the social milieu of the Malaysian context. In Malaysia, where the majority of the population embraces and strongly affiliate themselves as Muslim who follow the religion of Islam, the act of any open and explicit sexually-related activities are not only a social taboo but is against the ruling and teaching of Islam. As in Surah al-Isra’ verse 32, Allah says:

“Nor come high to adultery: for it is a shameful (deed) and an evil, opening the road (to other evils)” [17:32]

Based on the above Quranic verse, Islam prohibits any intimate interaction between an unmarried male and female such as holding hands, kissing, hugging and sitting in close proximity. According to Sayyid Sabeq in his book “Fiqhu Sunnah”, the reason for that is mainly because of protecting the dignity and purity of the relationship between the opposite sex (Abdur Rahman A. Al Sheha, n.d).

Furthermore, other ethnic groups such as the Chinese and Indians, who also formed the Malaysian society, also consider explicit sexually-related activities among male and female who are not married as social taboos. This shows that the social perceptions towards immoral acts are negative, as they are against the social and moral prescriptions of the Malaysian eastern moral and values (Lee, Chen, Lee & Kaur, 2006; Wong, 2012).

A study exploring the knowledge, attitudes and behaviors of young multiethnic Muslim – majority of society in Malaysia concurs that the majority of woman surveyed still adhere to non-liberal and religious values in relation to premarital sexual behaviour (Wong, 2012). Therefore, any intimate and personal contact between male and female are traditionally perceived as insolent, dissipated and in the religion of Islam these acts are forbidden. As a reaction to these kinds of behaviour, the society often shifts to pointing blames and looking for fault findings. Consequently, those who have engaged in this act of disarray were stigmatized and labelled as socially irrelevant and insignificant. Therefore, commonly they
would be punished with strict rulings or being ostracized from their family members and larger society. With this kind of negative labelling, the women who are commonly becoming the victim of this “tragic incident” of insolence often engage in denial, delaying and even avoiding to seek effective solutions altogether (Link & Phelan, 2006). As a result, the chances of these women to opt for abandoning their babies are very high (Wong, 2012).

According to Link and Phelan (2006), stigmatized person is often discouraged to seek for care and help, although initially they were willing to do. Help seeking behaviour may impose more stress and tragic experience as they may assume that people will further label them and having to lose face. Stigma associated with having sexual intercourse as a result of out of wedlock relationships are often exacerbated in the Malaysian setting as this act is considered morally and religiously wrong. Thus, to reveal their actions would cause them to be deinstitutionalized and thus often led to social rejection and lower self esteem (Link & Phelan, 2006). These women, therefore, were confused and caught in between what they plan to do and what the society expected them to do.

Consistent with the study conducted by Wright, Gronfein and Owens (2000) among mentally ill patients, the effects of deinstitutionalization caused the patient to feel socially dejected and thus lower their sense of self. However, unlike the Western context such as Germany, Austria and Sweden, which are more tolerant of premarital sex (Widmer, Treas & Newcomb, 1998) and generally welcome the approach of organizing baby shelter, the notion of developing baby shelter in Malaysia is perceived as aggravating the social issues of premarital sexual relationship.

The current scenario indicates that the society has expressed their sympathy with the fact that the babies were not at fault and should not bear the sufferings of being thrown away or dumped (Kohm & Liverman, 2002). Kohm and Liverman (2002) who cited from Crimmons et al. (1997), concur that the society responded to this issue as being haunted by the horrific nature of the offense. Pearson (1997) added that the public also could not comprehend of the offense made by the mothers because they have this understanding that the innocent and vulnerability of the babies would develop feelings of nurturance and protection (as cited in Kohm & Liverman, 2002). Nevertheless, an immediate and necessary action from the society to help and provide support and care for both the mothers and their infants is so far discouraging. The make-up of the Malaysian society that is collectivist in nature, however, divert from its expected values and norms. The Malaysia collectivist society that is known as upholding strong filial obligation and social ties, unfortunately did not portray the reality in confronting this distressing phenomenon.

Consequently, assessing and analysing the socio-cultural background of the population is vital prior to establishing and organizing a centre for baby shelter in Malaysia. In this case, any centre that offers services for those females who have been pregnant and wished to abandon their babies, the consequences of social stigma towards these women should be taken into consideration in the awareness program and the services of these centres.

**RELIGIOUS CONTEXT**

Besides social context, the establishment of the baby shelter should also consider the religious context of the society. According to the Malaysian Federal Constitution (Kusrin, Nasohah, Samuri & Mat Zain, 2013), Islam is the nations’ religion, therefore, only the
perspective of the Islamic religion will be discussed here. On the issue of abandoned children, it is emphasized that innocent babies need to be loved and cared for. According to Islam, keeping and maintaining legitimate descendant through marital ties is a form of ibadah or duty of worshipping to Allah (Abdur Rahman A. Al Sheha, n.d.). However, in spite of illegitimate children who were born out of adultery or extramarital relationship, their birth cannot be blamed. This is in line with Islamic perspectives, the baby is not sinful, and still have the right to live as fellow human beings. Hence, no society can deny the baby’s rights to live as a human being. As Allah says in Surah Al An’am, Verse 151;

Say, "Come, I will recite what your Lord has prohibited to you. [He commands] that you not associate anything with Him, and to parents, good treatment, and do not kill your children out of poverty; We will provide for you and them. And do not approach immoralities - what is apparent of them and what is concealed. And do not kill the soul which Allah has forbidden [to be killed] except by [legal] right. This has He instructed you that you may use reason."[6:151]

Children is an amanah or trust from Allah not only for the family but for the larger society (Chowdry, 2003). This responsibility is coined as fardu kifayah or obligatory collective acts. The acts of caring for this unfortunate child should be carried out collectively to ensure the continuous sense of peace and love as being ordained in the religion. In addition, the act of saving lives of these unwanted babies is categorized as amar ma’ruf or an act of kindness and to prevent the act of vices. This is in accordance with the Quranic verses of Ali-Imran, verse 104:

"And let there be [arising from you a nation inviting to [all that is] good, enjoining what is right and forbidding what is wrong, and those will be the successful”[3:104]

Therefore, from the viewpoint of Maqasid Shari’ah, setting up a baby hatch is seen to be coincide with an aspect of the Maqasid namely "keeping offspring". Providing this abandoned child to an adoptive family can be regarded as a noble effort, an effort that is meant to inculcate the sense of "family and belonging" in them. In addition, apart from maintaining the child’s welfare, every married couple who wish to adopt the child need to seriously follow the guidance prescribed by the Shariah law (Chowdry, 2003).

Illegitimate child is often perceived by the society as those who do not deserve any rights or protection from family, government and communities at large. Nevertheless, from the perspective of Islam and its divine law, an illegitimate child is required to receive protection from her mother, her mother's family and as well as the higher authority. In addition, illegitimate child is also entitled to the privileges, health, benefits, welfare, education, and can perform daily activities just like any other children with lawful status. Allah mentioned that parents and society at large are responsible to care for the rights of the children with all the basic rights and necessities. In turn, these acts protect them from the punishment of hellfire in the hereafter. Allah mentioned in Surah Al Tahrim, verse 6;

"O you who believe! Ward off yourselves and your families against a Fire (Hell) whose fuel is men and stones, over which are (appointed) angels stern (and) severe, who disobey not, (from executing) the commands they receive from Allah, but do that which they are commanded”[66:6]

Given this knowledge and information, the management of baby shelter should make the society aware of the importance of saving a human life as a basic obligation in Islam.
Awareness program should heavily emphasize on the aspect of the child as an “amanah” or a trust from Allah. Collaboration with the mosque and religious authority could help to disseminate information and awareness with regard to this issue.

The management of baby shelter needs to abide by the rules and guidelines prescribed by the Islamic religion on the matters of handling the issues of adoption. They are also responsible to equip with the knowledge with regard to illegitimate children. The adherence of Islamic law in this regard is imperative in order to protect the “offspring” issue which may bring further implication in a marital relationship.

LEGAL CONTEXT

Each individual has rights and equality. Individuals should not be discriminated against on the basis of personal attributes over which they have no control. Illegitimacy, like race and sex, is a characteristic that attaches to a child at birth. It is not within the child’s control and they cannot be abandoned without lawful justification. The contemporary sense of justice, equality, and individual rights demands that a person be judged on his or her own merits, and not be punished for the misdeeds or the choices of others (Wolfgang, 2000).

There is support for the notion that children are innocent, should be protected and should not suffer because of their parents’ failure to marry (Wolfgang, 2000, p. 236). The U.S. Supreme Court has adopted this position in its equal protection analysis of discrimination on account of illegitimacy in a string of cases starting in 19681. The European Court of Human Rights has interpreted Article 8 of the European Convention on Human Rights in a strikingly similar way (Meeusen, 1995, p. 130).

Germany even has a constitutional provision, Article 6, Section 5 of the Basic Law, that mandates specifically that “illegitimate children shall be provided by legislation with the same opportunities for their physical and spiritual development and their place in society as are enjoyed by legitimate children” (Rabl, Stoll, and Vasold, 1988, p.190).

Discrimination based on illegitimacy, however, is different from that based on race or sex. The status of being illegitimate, unlike race and sex, is not visible. Indeed the distinction between legitimate and illegitimate is a legal construct entirely. As such, to reach the point of legitimacy can be extended by legislative action to cover children of void, voidable, and attempted marriages. Laws may provide for legitimation by subsequent marriage, by official acknowledgement, or judicial decree. The status distinction between legitimate and illegitimate can also be abolished altogether. Eliminating the concept of illegitimacy, of course, is one thing; assuring each child of a legal and substantive relationship with both parents poses a much greater challenge.

In Malaysia, there is no provision of law under which specific act related to offenses of abandoning the baby. Even so, it is alluded to in the Children Act 2001 and a number of other provisions in the Penal Code (Children Act, 2001). From a legal perspective, the

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establishment of baby shelters or 'baby hatches' for abandoned babies is seen in accordance with Section 17 (1) (e) of the Child Act 2001 which states that a child is in need of care and protection if the child has no parents or guidance or been abandoned by his parent or guardian and after reasonable period the parent or guardian cannot be found, and no other suitable person willing and able to care for the child (Children Act, 2001).

In addition, all baby dumping cases investigated under Section 31 of the Children Act punishable by a maximum fine of RM 20,000 or jailed up to 10 years or both upon conviction. Recently, a bill has been made to classify it either as a murder case and the person charged will be investigated under Section 302 of the Penal Code which carries the mandatory death penalty, or attempted murder case under Section 307 of the same Code with the maximum jail sentence of 20 years. In Islam, the act of saving a life is regarded as one of great merit and service to humanity (Mohammad Hashim Kamali, 2010). Thus, the establishment of baby shelters is also in line with the Shariah. Therefore, those who work in baby shelters should always remind themselves about their responsibility to take care of the abandoned babies without negligence.

The Challenges Await in The Establishment of Baby Shelter
In reflecting the social-cultural, religious and legal context of Malaysian setting, there are a few challenges await in establishing and managing baby shelter in the Malaysian context. Several identified challenges are; multidisciplinary approach to managing the baby shelter, distribution of resources, legal aspects and collaborative support from the government. The following section will discuss these possible challenges.

MULTIDISCIPLINARY APPROACH
As a result of negative social perception of females who had engaged in premarital sexual relationship, newborn babies became the victims of their act. The public still lacks the awareness on the importance of saving the babies’ lives. This is because the general public mostly focused on the act of sexual relationship out of wedlock. Therefore, the management of baby shelters faces the challenges of making the public aware on the importance of saving those innocent lives. In making this into realization, centres should collaborate with specialists from several disciplines of studies such as religious experts, social workers, psychologists, medical and police officers and counsellors.

The collaboration of multidisciplinary approaches could facilitate the effectiveness of having this centre which aimed to save the child’s lives. The role of religious experts for example, is mainly important to help the public understand the importance of saving the child’s lives as one of the collective effort (jarihu kifayah) as proposed by Islam (Mohamad Hashim Kamali, 2010). Wong (2012) proposes that sexual reproductive health teaching should not only be focused on women who had engaged in premarital sex activities but also integrated in the respective national or ethnic religious education. Given that the religious leaders are closer to the people in their communities, they could disseminate sexual reproductive health education and awareness through religious classes in the mosque or other religious institutions.

The role of helping professionals such as social workers, counsellors or psychologist are also needed in the baby dumping centre to establish a continuous facilitation of psycho-social care to potential mothers who were willing to share about their emotions and feelings. The helping professionals could offer help by providing voluntary consultation for the women to aid
coping skills and problem solving strategies. The provision of counselling sessions may be offered to these mothers if they were willing to share their emotions and feelings. Further communication such as flyers, business card, booklet or information leaflet could be supplied at the centre. This can be considered an opportunity for the centres to have further communication with mothers who have engaged in premarital sexual relationship.

DISTRIBUTION OF RESOURCES

The allocation of financial resources from the government authority in helping to curb baby dumping cases is limited. Most of the services are run in collaboration with non-governmental agencies or private companies that support corporate service responsibility (CSR). Due to the limited amount of resources distributed for the purpose of establishing and enhancing baby shelter services, the number of such institutions or services is also limited to certain geographical areas. It is important to consider a considerable amount of allocation from the authority to emphasize on the social health of the young population since they are the ones who will run the country towards a developing nation.

LEGAL ASPECT

Any organization either from private or public sector which has the intention to establish the baby shelter should be equipped with vast knowledge in legal aspect especially on the issue of identifying the parents and religious identity of the child, responsibility for its maintenance and care and criminal acts. With such knowledge, the baby’s welfare is protected and guaranteed. The management of the center should also be aware of the procedures in giving the baby away for adoption by potential parents. Understanding the legal aspect from both the civil and Syariah law is imperative to operate such centre. Nevertheless, the Malaysian population which consists of diverse racial and religious background becomes a challenge for the management of baby shelter. This is because non-Muslim organization who plan to operate this centre should be aware of the procedure outlined by the Syariah law in matters involving dumped baby who is not identified with any religious orientation.

COLLABORATIVE SUPPORT FROM GOVERNMENT

There are many NGOs (non-governmental organization) working hard in handling this issue such as Pusat Kebahagian Wanita dan remaja (KEWAJA) (a shelter home for women and youth), Orphan CARE, Pertubuhan Kebajikan Darul Islah Malaysia (Perkid) and Sekolah WAWASAN. Indeed, there is still a lack of support from the government to these NGO bodies who take part in resolving this issue. For example, Orphan Care only received a license to give awareness talks to any organizations, institutions, and society. While, KEWAJA had been seized by Jabatan Kebajikan Masyarakat (JKM) on 12 November 2012, due to its failure of having a valid certificate to operate the centre since 2003 until 2012 (Sinar Harian, 13 December 2012).

The government should play an important role in handling this issue by giving full support to existing care centres for the abandoned baby and the mother. In addition, it is suggested that the government could establish welfare associations or Care Centre to help young mothers to put newborns at selected places such as hospitals, fire stations, private welfare agencies.
adoption agencies, mosque or churches. It is to guide, give counsel, and save the lives of innocent babies from being thrown and killed. The centre will also provide an opportunity for couples who have no children and want to adopt a child.

Measures to curb baby dumping is also practiced in western countries such as the “Baby’s Cradle” in Germany, Japan, Italy, Austria, Hungary, Vatican City, USA, India, Czech Republic and South Africa (Magnusen, 2001; Gosh, 2013; Ramesh, 2012). The practice of operating baby shelter could not only save the lives of innocent babies but also ensuring and protecting the future of the child. In addition, it is also hoped that the shelter could provide an avenue and opportunity for the biological mother and father to realize and reflect upon their deeds and mistakes (Gosh, 2013).

RECOMMENDATION

Understanding and being sensitive towards such social stigma is vital in order to highlight effective ways to create awareness to the general public about the importance of establishing baby shelter (Link & Phelan, 2006; Wong, 2012). The management of such centres should not only focus their services on responding to the negative repercussion of premarital sexual relationship but also on enlightening the general public on the salient issues at hand, namely the increased mortality rate of newborn baby who were dumped at unnecessary places. The society should be enlightened that the issue at hand is with regard to the innocent lives of the fetus and babies, rather than shifting the blame for the adults who are responsible for dumping the babies.

CONCLUSION

In conclusion, the issue of abandoned baby has been widely discussed and debated but there is a paucity of research being conducted in discussing the management of baby shelters and the challenges that await in the establishments of such centers. Establishing and managing baby centres require detailed planning and organizing and should take into account the social-cultural, religious and legal factors to ensure its feasibility and effectiveness that fits the local context.

BIBLIOGRAPHY


Al-Quran Al-Karim.


Shaari, S. (2012, November 11. 'KEWAJA 'Kami diaibkan''. *Sinar Harian*.


