



**CHILDREN'S COMMISSIONER CALLS FOR REFORM OF SECTION 97 OF THE
CHILD ACT 2001 TO ENSURE LEGAL CERTAINTY FOR CHILDREN
IN CONFLICT WITH THE LAW**

KUALA LUMPUR (24 APRIL 2026) - The Children's Commissioner refers to the recent decision of the Federal Court, chaired by Chief Justice The Right Honourable Datuk Seri Panglima Wan Ahmad Farid bin Wan Salleh, which dismissed applications by seven inmates seeking a review of their detention 'at the pleasure' of the Ruler.

The applications, brought under Order 137 of the Rules of the Federal Court 1995, challenged Section 97(2) of the Child Act 2001, which allows for the indefinite detention of children at the pleasure of the Yang di-Pertuan Agong, Ruler or Yang di-Pertua Negeri, in lieu of the death sentence. The applicants argued that this provision is discriminatory and unjust, particularly in light of reforms under the Abolition of Mandatory Death Penalty Act 2023 and the Revision of Sentence of Death and Imprisonment for Natural Life Act 2023, which now permit adult offenders previously subject to mandatory death sentences, to receive determinate terms of imprisonment as an alternative sentence, while children, falling within the ambit of Section 97 of the Child Act 2001 may still be subjected to the indeterminate period of imprisonment, without a clearly defined sentence and without meaningful judicial review of the continuation of that detention. The Federal Court dismissed the applications, holding that Section 97(2) remains valid in law, that distinctions between adult and juvenile offenders are permissible and that detention 'at the pleasure' is non-justiciable as it falls within the prerogative powers of the Ruler.

While the Children's Commissioner respects the Court's decision, the continued retention of indefinite detention for offences committed by children remains a matter of grave concern. Such a framework is difficult to reconcile with the core principles of children's rights, including legal certainty, proportionality, rehabilitation, reintegration and the best interests of the child. A child should never be left without clarity as to the basis, duration and review of his or her detention.

Although Section 97(4) of the Child Act 2001 provides for a mandatory annual review by the Board of Visiting Justices, with potential recommendations for release, this mechanism does not provide sufficient transparency, consistency or accountability. In the absence of clear statutory criteria, regularised disclosure and judicially cognisable safeguards, the review process may operate inconsistently and may fail to provide an effective rights-based pathway towards early release and reintegration.

Anecdotal evidence from past detainees indicate that the period of detention can be exceedingly long, from 15 to over 25 years. There are offenders, who committed the offences when they were children but are now over 40 years old currently languishing in prison under this order. Such a predicament underscores the human rights consequences of a sentencing framework that allows childhood offending to result in incarceration extending far into mature adulthood, without a determinate sentence imposed by the court at the outset. Such an outcome is fundamentally at odds with the philosophy of child justice, which must be directed toward rehabilitation and social reintegration rather than open-ended punitive incapacitation.



**MEDIA STATEMENT
THE OFFICE OF THE CHILDREN'S COMMISSIONER OF THE
HUMAN RIGHTS COMMISSION OF MALAYSIA (SUHAKAM)**

In February 2026, the CRC Committee listed Section 97 as an indefinite detention, which is a form of torture and cruel, inhuman and degrading treatment of children. In this regard, upon the recent review of our Country Report on the Convention of the Rights of the Child, the United Nation Committee on the Rights of the Child has explicitly called on Malaysia to repeal Section 97(2) and to establish periodic, rights-based review mechanisms grounded in the best interests of the child.

The need for legal reform is therefore compelling. From a children's rights perspective, any law governing children in conflict with the law must satisfy at least four minimum requirements: first, the child must know the legal consequences of the sentence imposed; second, detention must remain exceptional and for the shortest appropriate period of time; third, the law must provide a real and reviewable opportunity for release based on rehabilitation and maturity; and fourth, the process must be transparent enough to prevent arbitrary or disproportionate deprivation of liberty. Section 97, in its present form, raises serious concern on each of these fronts.

The Children's Commissioner therefore calls on the Government to urgently reform Section 97 of the Child Act 2001 by abolishing detention at the pleasure for children found guilty of offences punishable by death penalty and replacing it with a sentencing and review framework that is determinate, transparent, reviewable and fully consistent with constitutional guarantees and Malaysia's obligations under the UNCRC.

A child-centred justice system must prioritise rehabilitation over punishment and ensure that no child is left in prolonged legal uncertainty.

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**Office of the Children's Commissioner
The Human Rights Commission of Malaysia (SUHAKAM)
24 April 2026**