

Comparison of legislation concerning people with disability and heritage environment in Malaysia and developed countries

J M Marsin^{1,4}, S I Ariffin², R N R Shahminan³

¹Doctoral philosophy candidate at Department of Architecture,

²Associate Professor at Department of Architecture

³Director, Centre of Study of Built Environment of the Malay World, Centre of Study of Built Environment of the Malay World, Faculty of Built Environment, Universiti Teknologi Malaysia, Johor

Email: marsin.j@gmail.com

Abstract. Heritage towns and buildings are invaluable cultural assets of a nation, and are extremely useful in manifesting place identity, and crucial in promoting tourism. These places of cultural significance should be made accessible to everyone including people with mobility or sensory impairments, the elderly, parents with small children and those who are temporarily disabled due to injury or illness. By creating a accessible heritage environment not only can you cater towards the increasing population of disabled people, but you could increase the number of cultural properties as resources of a nation through ‘accessible tourism’. However the differences in implementation of barrier-free tourism for historic buildings and places are rather large between developed and developing countries such as Malaysia. This paper serves as preliminary study on accessibility of heritage environment in Malaysia. First, review of some related definitions, perception toward disability, and background studies in disability movement will be discussed to achieve better understanding of the increasing population of disabled people and how it would affect the development of infrastructure in the built environment. Second, it will look into existing legislation concerning heritage conservation and legislation on provision of access for the disabled in Malaysia and other developing countries. Finally, this paper seeks to find gaps between these legislations and conclude with some recommendations.

1.0 Introduction

Malaysia has a rich content of heritage built environment which are invaluable cultural assets of a nation that are extremely useful in manifesting place identity, and certainly crucial in promoting tourism culture. Despite the improvement in tourism sector which has ranked Malaysia as the 9th most visited place in the world by United Nation World Tourism Organisation in 2012, the heritage environment in Malaysia need more improvements in term of its accessibility for all.

These places of cultural significant should be made accessible to everyone including people with mobility or sensory impairments, the elderly, parents with small children and those who are temporarily disabled due to injury or illness. Everyone should have the right to experience the services provided within their environment and from one generation to the other to achieve social

⁴ To whom any correspondence should be addressed.



equity which is one of the factors of sustainable development [1]. By creating accessible heritage environment it does not mean to only cater the increasing population of disabled people, but it also could increase numbers of cultural properties as resources of a nation through 'accessible tourism'. However the gap of differences in implementation of barrier-free in historic building & places are rather large between developed and developing countries such as Malaysia. This paper serves as preliminary study on accessibility of heritage environment in Malaysia.

2.0 Background

2.1 Definition of Disability, Accessibility and Universal Design

Disability is the umbrella term for impairments, limitations of activity and restrictions of participation which refers to the negative aspects of the relationship between an individual with a health condition and contextual factors of that individual which are environmental and personal [2].

In Malaysia, Person with Disability Act 2008 recognizes disability as an evolving concept and as a result of interaction between Persons with disabilities (those who have long-term physical, mental, intellectual or sensory impairments) with attitudinal and environmental barriers may hinder their full and effective participation in society.

Accessibility is a general term used to define how easy it is for people to get to, use and understand things [3]. This can be achieved by implementing Universal Design in our environment.

Universal Design (UD) is design of products and environments usable by all people, to the greatest extent possible, without the need for adaptation or specialized design [4].

2.2 Definition of Heritage Buildings & Conservation

Heritage can be divided into two types which are cultural heritage and natural heritage. Heritage buildings are considered as tangible cultural heritage.

"Cultural heritage" includes tangible or intangible form of cultural property, structure or artefact and may include a heritage matter, object, item, artefact, formation structure, performance, dance, song, music that is pertinent to the historical or contemporary way of life of Malaysians, on or in land or underwater cultural heritage of tangible form but excluding natural heritage' [5].

Conservation is defined as all the processes of looking after a place so as to retain its cultural significance [6]

3.0 Comparison of Policy, Legislation & Guidelines

As a developing nation, we should look upon the developed countries that have established system in conservation of heritage buildings and also dedicated in providing accessible environment to PWDs. The countries that have been selected for this paper are United Kingdom due to close relationship historically in governance and heritage built environment with Malaysia and Australia and Singapore due to their close proximity.

The criteria we seek are the existence of policies on PWD and heritage environment. These could determine the stand of authorities in protecting the right of PWD and also conservation of their heritage environment. Another criterion we seek is the existence of guidelines in improving access in heritage environment published by the authority as it is an indicator that there is an effort to assist owners of heritage buildings to provide access for the disabled and elderly.

Table 1. Existing legislations and guideline.

Country/ Criteria	United Kingdom	Australia	Singapore	Malaysia
Policy on PWD	DDA 1995 DDA 2005 Equality Act 2010 [7]	Disability Discrimination Act 1992 [9] Human Rights Commission Act 1986	-	Person With Disability Act 2008
Policy on Heritage Environment	National Heritage Act 2002 [7]	Australian Heritage Council Act 2003	Preservation of Monuments Act 1971 URA Act	National Heritage Act 2005
Guideline in Improving Accessibility in Heritage Environment	Easy Access to Historic Buildings [8]	Eric Martin, 1999 Improving Access to Heritage Buildings [10]	-	-

***DDA** : Disability Discrimination Act **PWD**: Person with Disability **URA**: Urban Redevelopment Authority

3.1 Discussion on Developed countries

As seen in Table 1, United Kingdom and Australia, as a developed country have already established sets of policies for PWD rights and heritage conservation, and on top of that, guideline to improve access in heritage environment which links PWD right to equally have access in heritage environment.

However looking at the closest developed country to Malaysia, Singapore seems to have not put any legislation regarding PWD and no guideline to provide access to heritage environment. Despite not having legal policy on PWD's needs, the government of Singapore has setup National Council of Social Services that assist PWD to reach an independent living and also the 'Enabling Masterplan' that aim to create inclusive environment in Singapore that can maximise the potential of PWD and integrate them as member of the society [7]. Furthermore, initiatives in providing access has been taken by individuals and organisations and fortunately inclusive environment has begun to receive attention from authority as the trend of elderly population is increasing[8]. Even though policies are not enacted it can be considered sufficient if the authority can provide services and facilities for PWD to enable them to live independently.

Heritage conservation was not regarded as high priority in Singapore until mid-1980's when the pressure to demolish old building has resided due to large-scale land reclamation in Marina South and the decline of tourist arrivals in 1983 [9]. As heritage buildings and places are being put under the control of Urban Redevelopment Authority (URA), accessibility to heritage buildings may have the same fate as it is toward public buildings.

3.2 The right of PWD in Malaysia

The Person with Disability Act that was enacted in 2008 is expected to bring positive changes in catering the need of PWD. However this act is different from Disability Discrimination Act. The gaps between the acts are shown in Table 2 below. Selections of attributes were done from clauses related to provision of service, facilities, amenities and access to public building.

Table 2. Comparison between Disability Discrimination Act & Person with Disability Act (Malaysia).

Attributes	Rights of PWD	Wellbeing of PWD	Legal service / complaint	Services for WD	Monitor implementation of policy	Equal use of Public Facilities	Duty to provide access by owner	Legal action on non-compliance	Encourage research on PWD
DDA (B)	√	√	√	√	√	√	√	√	X
DDA (A)	√	√	√	√	√	√	√	√	√
PWDA (M)	√	√	X	√	√	√	X	X	√

B: United Kingdom A: Australia M: Malaysia DDA: Disability Discrimination Act PWDA: Person with Disability Act

It is evident in table 2 that PWD Act 2008 is lacking on the legal services for PWD and legal action plus it is not compulsory for owner of building to provide access for the disabled. In clause 26(2), Chapter 1 in Part IV in PWD Act 2008, it is only mentioned that the government and provider or owner of service and public building to give ‘appropriate consideration’ and take necessary measures to ensure that such public facilities, amenities, services and buildings and the improvement of the equipment related here to conform to universal design in order to make it accessible persons with disabilities [10]. Different from Disability Discrimination Act, PWD Act 2008 serves more of an administrative and enabling policy without legal penalisation being stated, yet it is an important step towards organising standard, policies and regulation of Accessible Design [11].

To achieve a developed nation status by 2020, the top-down approach of building the nation of Malaysia where the government will create a policy and initiating development which will be followed by private and business sectors, is now changing [11]. There is new light of hope for PWD as the government has plan to have a more inclusive socio-economic development which were dedicated in a one whole chapter (Chapter 4) in The Tenth Malaysia Plan 2011-2015 [12]. The key strategies to work towards inclusiveness of socio-economic development are:

- Elevating the livelihoods of the bottom 40% households;
- Enhancing Bumiputera (‘son of soil) economic participation;
- Ensuring basic physical infrastructure is accessible to all; and
- Enabling a progressive and more inclusive society in line with the 1Malaysia concept.

3.3 Access to Heritage Environment in Malaysia through Tourism

Although the authority in Malaysia does not have any guideline to improve access to Heritage environment, there are rooms of improvements including those stated in the legislation. For an instance, it is mentioned in National Heritage Act In part III – Administration of the Act of Act 645- National Heritage Act 200, that one of the functions of heritage commissioner is ‘to supervise and oversee the conservation, preservation, restoration, maintenance, promotion, exhibition and accessibility of heritage’ [5]. Furthermore, Malaysia has already signed the *Convention on the Rights of Persons with Disabilities* which clearly state in Article 30 to recognise and ensure PWD ‘enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance’[13]. There has been suggestion to create a governance mechanism where the local authority has appointed access consultants and advisory individuals who are disabled to cope with access issues in heritage buildings in Malaysia as existing in the UK and Wales [11].

Besides, heritage environment in Malaysia has now become one of the highlights in Malaysia’s tourism sector. Malaysia has several UNESCO World Heritage Sites such as Georgetown in Penang and Melaka. As tourism has become one of the National Key Economic Area (NKEA) in

the Tenth Malaysian Plan, preservation and restoration of historic sites, building and artefact will be continued to preserve national heritage and maintaining the increasing number of tourist to Malaysia.

Additionally, accessible tourism is gaining popularity in Malaysia. This is evidence from the emergence of several websites on inclusive design and accessible tourism in Malaysia such as <http://www.inclusivemalaysia.com.my/>. An international conference -South East Asia Conference on Accessible Tourism (SEACAT), was also organised by *Beautiful Gate Foundation for the Disable* in 2012 with the theme 'Accessible Tourism Promotes Regional Development' [14]. Suggestions to make tourism available for the disabled have been forwarded through mass media such as newspaper since before the enactment of the PWD Act in 2008. The executive director of Beautiful Gate, Sia Siew Chin said that PWD and the elderly with mobility impairment also have desire to travel just like other people without disability [15]. Adding to that, providing access to heritage environment not only encourage tourist of all kind of abilities including the elderly to visit Malaysia, it could also mean that PWD might have more opportunity of employment in tourism sector.

4.0 Conclusion

The policies in Malaysia regarding PWD and accessibility in heritage environment might not reach the level of that in developed countries such as United Kingdom and Australia. However there are rays of hope in fulfilling the need of PWD as the government has also moving towards a more inclusive socio-economic development and promoting universal design/accessible design in Malaysia's built environment. Even though the PWD Act 2008 might not imply compulsory measure, the authorities or voluntary organisations or businesses can provide facilities, amenities and services like it was done in Singapore.

Provision of access in heritage environment should be taken seriously by local authorities in Malaysia as it will ensure equal right to enjoy and learn from historic buildings and places other than increasing the market for tourism. The population PWD in the whole wide world is increasing and they might be potential customers in the future. For sure with research, appropriate consultation on access and conservation on heritage, plus practice of innovative universal design, heritage environment can be accessed by all.

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