

Access to Public Buildings for Persons with Disabilities in Malaysia

Nur Azlina Mohamad Zahari

*(Legal Department, Putrajaya Corporation

Email: inaazlina@gmail.com)

Abstract:

Access to public buildings is one of the rights of persons with disabilities set out in the Persons with Disabilities Act 2008 [Act 685] of Malaysia. The right of access of persons with disabilities to public buildings is based on the principle of equality as contained in Article 8 of the Federal Constitution. Prior to the existence of the Persons with Disabilities Act 2008, Malaysia has ratified the United Nations Convention on the Rights of Persons with Disabilities on 19 July 2010, with reservations against Article 15 (Freedom from torture or cruel, inhuman or degrading treatment or punishment) and Article 18 (Liberty of movement and nationality). However, the persons with disabilities in Malaysia are still struggling to gain proper access to public buildings and have resulted to the denial of their rights to full participation in the society. The issue that arises is whether there is any provision in Persons with Disabilities Act 2008 [Act 685] relating to the right of access to public buildings in Malaysia? To what extent can persons with disabilities file a lawsuit in the event of denial of their right of access to public buildings in Malaysia? This question should be answered by using the qualitative method of legal analysis which is by examining the provisions of Persons with Disabilities Act 2008 [Act 685] relating to access to public buildings and the right of persons with disabilities to make claims in the court in the event of violation of their rights. This paper will identify the provisions of Persons with Disabilities Act 2008 [Act 685] relating to the right of access to public buildings in Malaysia and propose some amendments to protect the rights of persons with disabilities to access to public buildings in Malaysia.

Keywords —persons with disabilities; access; Malaysia; Persons with Disabilities Act 2008

I. INTRODUCTION

Media is a powerful force in changing societal misconceptions and represents persons with disabilities as part of human diversity. The story of a teenager with disabilities who was neglected by his mother, Muhammad Firdaus Dullah has been widely displayed in the mass media. Three Malaysian athletes with disabilities stole the world's spotlight when they performed brilliantly by earning gold medals at the Rio 2016 Paralympic Games. In 2020, the country was shocked by the news of national weightlifter with disabilities, Muhammad Ata Maarof who died in his family

home as a result of being trapped in the fire. Persons with disabilities have limited capabilities and need the support and attention of the community in advancing themselves. Society needs to focus on the ability of persons with disabilities rather than their deprivation or disability so that persons with disabilities can contribute to the country, in addition to not being marginalized and left behind in the mainstream. According to the World Health Organization, it is estimated that 15% of the world's population experience disabilities and this figure represents more than one billion people. As of 2019, there were 548,195 persons with disabilities registered with the Social Welfare

Department of Malaysia compared to 73,107 persons with disabilities in 1998. The increase of persons with disabilities in the population has resulted into the existence of demand for the provision of facilities, including the facilities of public buildings for persons with disabilities to ensure equality and justice. This paper will focus on the legal framework relating to the right of access of persons with disabilities to public buildings in Malaysia within the context of Persons with Disabilities Act 2008 [Act 685] ("Act 685").

In line with the principle of equality as set out in Article 8 of the Federal Constitution of Malaysia, the convenience and access of persons with disabilities to basic needs, buildings, transportation, education, information and other needs are vital and need to be emphasized to help persons with disabilities to live more comfortably and secure their lives in the future. In the context of accessibility to the building, every construction and design of the building should be user-friendly to make it easier for persons with disabilities to deal with and use the services provided. This includes considering the provision of wheelchairs and lifts that are easily accessible to persons with disabilities to ensure greater safety to them.

The United Nations Convention on the Rights of Persons with Disabilities ("CRPD") which came into force on 3 May 2008 is a major international instrument that promotes, protects and ensures that all persons with disabilities enjoy all human rights and freedoms and promotes respect for the dignity of persons with disabilities. In Malaysia, the law containing the provisions relating to the registration, protection, rehabilitation, development and well-being of persons with disabilities is Act 685. Act 685 was enforced on 7 July 2008 with the aim to provide provisions for registration, protection, rehabilitation, development and well-being of persons with disabilities, the establishment of the National Council for Persons with Disabilities and matters relating thereto.

II. DEFINITION OF PERSONS WITH DISABILITIES, ACCESS AND ACCESSIBILITY

In terms of language, "persons with disabilities" is defined as persons who experience disabilities. The Black's Law Dictionary defines "persons with disabilities" as persons who do not have the ability to perform some functions. CRPD defines "persons with disabilities" as persons with long-term physical, mental, intellectual or sensory disabilities who, in interaction with various barriers, would face difficulties to have full and effective participation in society on the basis of equality with other human beings. In Act 685, "persons with disabilities" means those with long-term physical, mental, intellectual or sensory disabilities who, when interacting with various barriers, can restrict their full and effective participation in society.

The term "access to the building" is not defined in CRPD and Act 685. Black's Law Dictionary interprets "access" as an opportunity or ability to enter, approach and pass from or to a place or communicate. The term "access" is not defined but referred to in CRPD and Act 685. In addition, the term "accessibility" is also not defined but referred to in CRPD and Act 685.

In the design concept, "accessibility" means the applicability of an object by a person with disabilities and specifically means that an object is acceptable, feasible and understandable to everyone with varying degrees of ability. In simple terms, "accessibility" means removing obstacles. The term "accessibility" also refers to the ability to gain access to, understand, or approach a thing or a person. Accessibility not only means to support persons with disabilities but also to ensure that all the benefits and responsibilities in this community life are available and can be shared with the majority members of the community. Without accessibility, an individual cannot move from one place to another and live like other normal persons

because his movement is limited and his need for life cannot be achieved and fulfilled.

III. PROVISIONS WITH RESPECT TO THE ACCESS OF PERSONS WITH DISABILITIES TO BUILDINGS IN THE UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)

CRPD is the first human rights treaty in the 21st century and the fastest growing human treaty in history. CRPD contains several preambles and 50 clauses that touch on the rights of persons with disabilities. CRPD is a current and comprehensive recognition of the fundamental rights of persons with disabilities, covering civil, cultural, political, social and economic rights. The purpose of CRPD is to promote, protect and ensure that all human rights and freedoms are fully and fairly enjoyed by all those with disabilities and to promote respect for the dignity of these persons.

In CRPD, the provisions relating to the rights of persons with disabilities to access to buildings have been clearly stated. The preamble (v) of CRPD recognizes the importance of accessibility to the physical, social, economic and cultural environment, as well as to health, education, information and communication to enable persons with disabilities to fully enjoy all human rights and freedoms. Further, Article 9 of CRPD states that States Parties shall take appropriate measures to ensure that accessibility by persons with disabilities is equivalent to that of persons without disabilities, including identifying and removing barriers and barriers to accessibility that shall apply to buildings, roads, transport, external and internal facilities, information, communications and other services. Article 9 of CRPD also lists the steps to be taken by member states such as developing, promoting and regulating the application of minimum standards and guidelines for accessibility to facilities and services opened or provided to the public, ensuring that private bodies that provide facilities and services to the public have taken into account the

aspect of accessibility to persons with disabilities, providing training to stakeholders on accessibility issues faced by persons with disabilities, providing signage in Braille writing and in an easy-to-read and understandable form in buildings and at other facilities open to the public as well as providing forms of assistance including guidance to facilitate accessibility to other buildings and facilities. Article 12 of CRPD further states that States Parties shall take the necessary steps to provide access to persons with disabilities as the support that may be necessary in exercising their legislative capacity.

In addition, CRPD also states that persons with disabilities are entitled to access to justice, access to homes, homes and other community support services, access to private mobility, access to information, access to education, access to health, access to work and employment, access to clean water services as well as proper and affordable services, equipment and other assistance for disability-related needs, access to social protection programmes and poverty eradication programmes, access to assistance from States Parties related to spending on disability in poverty situations and access to public housing programs. CRPD also recognizes the rights of persons with disabilities to access to benefits and retirement programmes, access to cultural materials in the form of accessible formats, access to television programmes, films, theatres and other cultural activities, access to places for performances or cultural services, access to sports venues, recreation and tourism, equal access for children with disabilities to participate in gaming activities, recreation, leisure and sports including in schools, access to services offered by those who organize recreational, tourism, leisure and sports activities, as well as access to international cooperation, including international development programmes.

CRPD also recognizes the importance of accessibility to the physical, social, economic and cultural environment, as well as to health, education, information and communication, to enable persons

with disabilities to fully enjoy all human rights and freedoms. Accessibility is also stated as one of the general principles of CRPD in addition to other principles namely respect for dignity, anti-discrimination, full and effective participation in society, equality in opportunity, equality between men and women and respect for the development of the capacity of children with disabilities. CRPD mentions that States Parties shall take appropriate measures to ensure that accessibility by persons with disabilities is equivalent to that of persons without disabilities, including identifying and disposing of barriers and barriers to accessibility that shall apply to buildings, roads, transport, external and indoor facilities, information, communications and other services.

In summary, CRPD is an international instrument which contains provisions relating to disability, accessibility by persons with disabilities, inclusive principles and measures to be implemented by States Parties for successful implementation of CRPD. CRPD is a binding instrument that places responsibility and obligation on States Parties that sign CRPD. However, the implementation and compliance of such States Parties cannot be ensured and is fully monitored by the United Nations. Therefore, the effectiveness of CRPD that depend on the compliance of the relevant States Parties is still questionable, even though CRPD is the main international instrument that guarantees the rights of persons with disabilities for the time being.

IV. PROVISIONS RELATING TO THE ACCESS OF PERSONS WITH DISABILITIES TO BUILDINGS IN THE PERSONS WITH DISABILITIES ACT 2008 [ACT 685], MALAYSIAN STANDARDS AND PERSONS WITH DISABILITIES ACTION PLAN 2016-2022

In Malaysia, Act 685 was enforced on 7 July 2008 with the aim of giving recognition to the rights of persons with disabilities. The purpose of the drafting of Act 685 is set out in the long title of the Act, which is to provide for the registration,

protection, rehabilitation, development and well-being of persons with disabilities, the establishment of the National Council for Persons with Disabilities and matters relating thereto.

The five purposes of this Act are further explained in the preamble of this Act. First, Act 685 recognizes that disability is an ever-evolving concept and that disability results from the interaction between persons with disabilities with attitude and environmental barriers that restrict their full and effective participation in society on the basis of equality with persons with disabilities. Second, Act 685 recognizes the existing and potential valuable contributions made by persons with disabilities to the well-being and diversity of the community and society as a whole. Third, Act 685 further recognizes the importance of accessibility to the physical, social, economic and cultural environment, to health and education as well as to information and communication, to enable the full and effective participation of persons with disabilities in society. Fourth, Act 685 also recognizes that persons with disabilities are entitled to opportunity and protection, as well as equal assistance in all circumstances and subject only to such limitations, restrictions and protection of rights as provided by the Federal Constitution. Fifth, Act 685 also recognizes the importance of cooperation between the Government and the private sector and non-governmental organizations in ensuring the full and effective participation and involvement of persons with disabilities in the community.

In Act 685, there is a provision that describes specifically with respect to the access of persons with disabilities to public buildings. Subsection 26(1) states that persons with disabilities shall have the right to access to and use facilities, amenities, services and public buildings opened or made available to the public on the basis of equality with persons with disabilities. Subsection 26(2) provides that the Government and the providers of any facilities, amenities, services and public buildings shall give appropriate consideration and take the necessary steps to ensure that the facilities,

amenities, services and public buildings as well as the improvement of the equipment associated therewith meet the universal design to facilitate access to and use by persons with disabilities. The provisions set out in CRPD and Act 685 in respect of access to buildings are approximately the same. However, Act 685 does not go into detail on the steps to be taken by the Government and providers of any facilities, amenities, services and public buildings to guarantee the right of access of persons with disabilities to public buildings as set out in Article 9 of CRPD.

Section 27 of Act 685 touches on the access of persons with disabilities to public transport facilities. The provision states that persons with disabilities shall have the right to access to and use of facilities, amenities and public transport services opened or made available to the public on the basis of equality with persons with disabilities. Further, the access of persons with disabilities to education is described in section 28 of Act 685. The provision states that persons with disabilities should not be excluded from the general education system on the basis of disability, and children with disabilities should not be excluded from preschool, primary, secondary and higher education, on the basis of equality with persons or children with disabilities, including vocational training and lifelong learning. Further, section 29 of Act 685 touches on the access of persons with disabilities to employment. This provision explains that persons with disabilities shall have the right to access to employment on the basis of equality with persons with disabilities.

In addition, section 30 of Act 695 describes the access of persons with disabilities to information, communications and technology. Subsection 30(1) of Act 685 states that persons with disabilities shall have the right to access to information, communication and technology on the basis of equality with a person with disabilities. In addition, subsection 31(1) of Act 685 states that persons with disabilities shall have the right to access to a cultural life on the basis of equality with a person

with disabilities. Section 32 of Act 685 also touches on access to recreation, leisure and sports. Subsection 32(1) of Act 685 states that a person with disabilities shall have the right to participate in recreational, leisure and sports activities on the basis of equality with persons with disabilities but subject to the existence or appearance of any circumstances that may endanger the safety of persons with disabilities.

It is clear that there is only one provision in Act 685 that touches on the access of persons with disabilities to facilities, amenities, services and public buildings. However, the right of persons with disabilities to other access such as public transport, education, employment, information, communication and technology and cultural life as set out in sections 27 to 31 of Act 685 demands the provision of access to good and accessible public buildings for persons with disabilities, which involve access to public buildings. For example, persons with disabilities should be given access to public buildings, i.e. school buildings or universities to gain access to education.

In light of the development of accessibility to persons with disabilities, three Malaysian Standards were published in the 1990s, namely MS 1183:1990 – Specification for Fire Prevention in the Design and Construction of Buildings, MS 1184:1991 – Code of Practice for Access For Persons with Disabilities to Public Buildings and MS 1331:1993 – Code of Practice for Access to Persons with Disabilities Outside buildings. However, the access of persons with disabilities to public buildings in Malaysia is not fully guaranteed as all Malaysian Standards are not legally binding effect and this has resulted in leeway to comply with construction requirements by designers and founders of public buildings in Malaysia in meeting accessibility features by persons with disabilities. In addition, there is no specific definition of the term "public building" although public buildings are an important subject in MS 1184:2002 and the scope of public buildings is specified only in MS 1184:200. On August 9, 2016, the Ministry of

Women, Family and Community Development launched the Persons With Disabilities Action Plan 2016-2022 ("Persons With Disabilities Action Plan") which contains the Persons with Disabilities Policy, Strategic Thrust and Strategic Core Objectives. Persons With Disabilities Action Plan lays out ten Strategic Thrusts, where Strategic Thrust 1 is to improve the accessibility of persons with disabilities. The objectives of Strategic Thrust 1 are to increase the provision of access to the physical environment in the urban and rural areas with the concept of universal design, to increase the accessibility and usability of public transport facilities by persons with disabilities, to increase the accessibility to information and communication and to increase the access of persons with disabilities to insurance and banking services. The launch of Persons With Disabilities Action Plan demonstrates the Malaysian Government's initiative in recognizing equal rights and opportunities for persons with disabilities for full participation in society. However, Persons With Disabilities Action Plan is not legally binding and only acts as a guideline and measure in setting a policy in relation to the rights of persons with disabilities. This shows that a good legal framework is vital in guaranteeing the rights of persons with disabilities to access to public buildings in Malaysia.

V. LEGAL CASES IN RELATION TO THE RIGHT OF ACCESS OF PERSONS WITH DISABILITIES TO BUILDINGS

There have been a number of legal cases involving the right of access of persons with disabilities to buildings that have been reported in several countries which have the relevant legal framework. One of the interesting benchmark cases is *Hills Grammar School v Human Rights & Equal Opportunity Commission* case. The case is also the first case that referred to the Australian Disability Discrimination Act 1992 with respect to access to education for persons with disabilities. In this case, the admission of a 6-year-old schoolgirl named Scarlett Finney to Hills Grammar School was rejected by the school because the student had a

spina bifida disease that made her physically disabled. In a letter dated 20 August 1997, Hills Grammar School has made it clear that the school cannot provide sufficient resources to care for the student. Family members of the student made a complaint on behalf of the student to the Equal Opportunity Commission (HREOC).

On July 21, 1999, Commissioner Graeme Innes issued a ruling that Hills Grammar School had unlawfully discriminated against the student for reasons of disability by referring to sections 3, 5, 6, 11, 22, 67 and 94 of the Disability Discrimination Act 1992 Australia. The Commissioner also decided that the level of hardship experienced by the school when taking students with disabilities did not cause undeniable difficulties to the school. The Commissioner also found that the school had made decisions based on the response to the disability of the students and the school renovations required by students. The Commissioner also noted that the student and the entire school community could benefit from the student's attendance to the school.

Based on this case, it is found that the Disability Discrimination Act 1992 Australia has been used as the basis of the main argument to guarantee the right of access of students with disabilities to attend school buildings and gain access to education. It was also found that the school's actions had resulted in the student's right of access to the school building and access to education having been denied resulting in the student being discriminated against for his disability.

In Malaysia, the Federal Constitution does not specifically state discrimination based on physical or mental disabilities. However, the Malaysian Constitution contains one of the most important provisions which forms the basis of the drafting of the Persons with Disabilities Act 2008 [Act 685]. The most important provision in question is Article 8(1) which states that all persons are equal before the law and entitled to equal protection before the law. Article 8(1) of the Federal Constitution

recognises the concept of equality towards all persons including persons with disabilities in Malaysia. In *Jakob Renner & Ors v Scott King & Ors*, a case which was decided by the Court prior to the existence of Act 685, a child with a mental disability was prevented from entering the school and obtaining an education at the school because the school informed that the school was inappropriate and not conducive to the learning process of the relapse. In that case, the Honourable Judge Low Hop Bing has ruled as follows:

“.. In my view, the principle is that where the overriding educational needs of children were likely to be threatened, this would necessitate the tilting of the balance of justice in favor of providing continuance of education for the affected children. This is particularly so in Malaysia which is already steadily moving towards a regional center for educational excellence and is indeed a role model to the developing countries of the world... I agree with the submission advanced for the plaintiffs that to deny the plaintiff's education because he is physically handicapped is undoubtedly running against the strong current of providing education to the younger generation, especially as we are moving towards the new millennium. A wheelchair bound child should not, ipso facto, be denied his basic rights to and needs for education. It is not out of place and indeed it is so often illustrated as a universally accepted example that one of the greatest living scientists of our age Professor Stephen Hawkins owed his origin to the exercise of his basic rights to and the need for education. This has made it possible for him to occupy the Newton Chair as Professor of Mathematics at the University of Cambridge.”

In addition, the important thing in *Jakob Renner & Ors v Scott King & Ors* is that the Court has placed both Article 5 of the Federal Constitution which is the right to life and Article 8 of the Federal Constitution which is the right to equality as a prohibition of discrimination against persons with

disabilities. Although the case of *Jakob Renner & Ors v Scott King & Ors* is explicitly related to a child's right to education, the basic thing to note is the absence of perfect infrastructure in schools that has indirectly led to the denial of children with disabilities' rights to education. After *Jakob Renner & Ors v Scott King & Ors* and the existence of Act 685 and the revisions made to the reports issued by the Malaysian Human Rights Commission, no legal case were reported relating to the right of access of persons with disabilities to public buildings in Malaysia. While no other legal cases have been reported, there is a need to see the extent to which Act 685 guarantees the right of persons with disabilities for access to public buildings. There is a question as to whether the scope of the Malaysian legal framework provides rooms to persons with disabilities to bring their claims to the court in the event of denial of the right of access for persons with disabilities to public buildings.

VI. PROVISION IN RESPECT OF CLAIMS IN COURT BY PERSONS WITH DISABILITIES IN THE EVENT OF DENIAL OF ACCESS TO PUBLIC BUILDINGS IN MALAYSIA

In order to identify provisions relating to the protection available to persons with disabilities for access to public buildings, reference may be made to section 41 of Act 685 which touches on the protection of legal action and legal proceedings. The provision states that there are several parties to whom there shall not be taken, commenced or maintained action, suit, prosecution or other proceedings in respect of any act, neglect or default made or done by him in good faith or any omission left by him in good faith in such nature, namely the Government, the Minister, the Council, any member of the Council or any member of the Committee or any other person acting lawfully on behalf of the Council. Next, section 42 of Act 685 touches on the application of the Protection of Public Authorities Act 1948. The provision states that the Protection of Public Authorities Act 1948 [Act 198] shall apply to any action, suit,

prosecution or proceeding against the Government, the Council or against any member of the Council, any member of the Committee, or agent of the Council in respect of any act, neglect or default committed or omitted by him in such nature.

Both of these provisions indicate that Act 685 is advocacy and not observational in nature as section 41 of Act 685 protects the Government, Minister, the Council, any member of the Council or any member of the Committee or any other person acting lawfully on behalf of the Council against legal action and legal proceedings taken by any person under Act 685. Section 42 of Act 685 also protects public authorities through the application of the Protection of Public Authorities Act 1948. In addition, there is no provision set out in Act 685 in respect of penalty for offences in the event of non-compliance or breach of any responsibility by the parties in ensuring that access, rights and interests are maintained under Act 685. These matters render that Act 685 cannot be fully enforced to guarantee the rights and interests of persons with disabilities in Malaysia, especially access to public buildings. These provisions have made Act 685 as a "toothless tiger" and there is no specific remedy for any violation that discriminates against persons with disabilities.

In addition, attention should also be given to the functions of the National Council for Persons with Disabilities. Section 3 of Act 685 mentions the establishment of the National Council for Persons with Disabilities under Act 685 to perform a number of functions, which are among others, to recommend to the Government changes to existing laws and to propose new laws to ensure the full and effective participation of persons with disabilities in society, including to facilitate accessibility. The National Council for Persons with Disabilities has all such powers as may be necessary for, or in connection with, or incidental to, the performance of its functions under Act 685. However, Act 685 does not contain any provision which empowers the Council or any person or body to impose a fine or carry out prosecution against any person, body or

agency in the event of a breach of any of the provisions of Act 685.

VII. CONCLUSION

In summary, although Malaysia has ratified CRPD and has enacted Act 685, the right of persons with disabilities to access to public buildings in Malaysia is not fully guaranteed. As one of the States Parties ratifying CRPD, it is Malaysia's responsibility to ensure that the purpose of CRPD which is to promote, protect and ensure that all human rights and freedoms are fully and fairly enjoyed by all persons with disabilities can be achieved through proper implementation and enforcement of the law. The launch of Persons With Disabilities Action Plan in 2016 and the existence of standard codes related to the access of persons with disabilities to public buildings is seen as a positive development in Malaysia. However, the plan alone is not sufficed if the Malaysian legal framework in particular Act 685 is not reviewed and improved in line with CRPD in order to ensure the continuity of the guarantee of the access rights for persons with disabilities to public buildings.

It is found that the Malaysian legal framework does not fully protect and guarantee the right of persons with disabilities to have proper access in public buildings in Malaysia. The concept of equality has been recognized in Article 8(1) of the Federal Constitution as applying for all persons, including persons with disabilities in Malaysia. In terms of the right of access of persons with disabilities to public buildings, subsection 26(1) of Act 685 provides that persons with disabilities shall have the right to access to and use public buildings opened or made available to the public on the basis of equality with persons with disabilities. This is in line with the concept of equality stated in Article 8(1) of the Federal Constitution.

However, Malaysia's existing legal framework which is Act 685 does not fully protect and guarantee the right of persons with disabilities to have proper access in public buildings in Malaysia.

This is because Act 685 is advocacy and not observational as there is no provision set out in Act 685 in respect of offences and remedies in the event of non-compliance or breach of any responsibility by the relevant parties in ensuring access, rights and interests are maintained under Act 685. In addition, Act 685 also does not provide space for enforcement as section 41 of Act 685 protects the Government, Minister, Council, any member of the Council or any member of the committee or any other person acting lawfully on behalf of the Council against legal action and legal proceedings taken by any person under Act 685. Section 42 of Act 685 also protects public authorities through the application of the Protection of Public Authorities Act 1948. These matters render that Act 685 cannot be fully enforced to guarantee the rights and interests of persons with disabilities in Malaysia, especially access to public buildings.

The legal framework in Malaysia is also seen as inconsistent with the content of CRPD. The purpose of CRPD is to promote, protect and ensure that all human rights and freedoms are fully and fairly enjoyed by all those with disabilities and to promote respect for the dignity of these persons. Article 9 of CRPD states that States Parties shall take appropriate measures to ensure that accessibility for persons with disabilities is equivalent to that of persons without disability, including identifying and disposing of barriers and obstacles to accessibility that shall apply to buildings, roads, transport, external and internal facilities, information, communications and other services. Based on the first findings, the Malaysian legal framework does not fully protect and guarantee the right of persons with disabilities to have proper access in public buildings in Malaysia. Therefore, the legal framework in Malaysia is inconsistent with the content of CRPD which recognizes the importance of accessibility as emphasized in Article 9 of CRPD.

Based on the discussion in this article, it is proposed that a more orderly and complete provision with respect to the access of persons with

disabilities to public buildings shall be included in Act 685. The amendments that can be proposed in Act 685 are among others, the definitions of the term access and accessibility and measures to be taken by the responsible parties in ensuring the access of persons with disabilities to public buildings. In addition, the provision in respect of actions that can be taken by persons with disabilities in the event of a violation of the rights under Act 685, in particular the access to public buildings and the functions of the National Council for Persons with Disabilities in connection with such actions shall be included in Act 685, besides replacing section 41 and section 42 of Act 685 with more strengthened provisions. With the proposed provisions, the Court will have clearer guidance in determining whether there is a denial of the right of access of persons with disabilities to public buildings in Malaysia. Failure to provide adequate access to persons with disabilities means a denial to the opportunities and rights of persons with disabilities to gain access to education, work, exercise, business, get healthcare, vote and live a life as other community members. Therefore, the provisions of Act 685 should be reviewed to guarantee rights of persons with disabilities in Malaysia.

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