



Legal Right to Participate in Recreational and Leisure Activities Among Persons with disabilities (PWDs) in Malaysia

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Abstract. Persons with disabilities (PWDs) shall have the right to participate in recreational and leisure activities equally, as declared by the international convention and PWDs Act 2008 of Malaysia. Despite this, PWDs keep experiencing barriers in many aspects of life. Like other non-disabled, PWDs should be enjoying life where their participation in recreation and leisure is part of social inclusivity and socialization process. Where accessibility is the key pillar, access to recreational and leisure facilities and venues should be an integral part to the participation of PWDs in the communities. To enable the environment for PWDs, some countries have offered accessible cinema, installed PWDs' footpaths to enjoy the outdoors and developed a map with information on accessibility in all facilities provided. Believing that national policies and laws play roles, a regulatory framework should be set in place to empower PWDs right of access to recreational and leisure activities. Thus, the intention of this paper is to examine PWD's legal right to participate in recreational and leisure activities. The outcome will be identified on the rights of PWDs in Malaysia. Furthermore, it will be based to support the strategic goals of the National Welfare Policy, National Policy for PWDs and National Plan of Action for PWDs as well as SDG principle of "leaving no one behind".

Keywords: Persons with disabilities (PWDs), Accessibility & Leisure

1. Introduction

Person with disabilities (PWD) need more time as compared to those without disabilities especially in managing and handling their needs and conduct daily and routine activities. Their life is different from normal people without any disabilities. Furthermore, those PWD have been a part of society and have always been subjected to social exclusion. In fact, their life in the social structure also been a topic of dispute in the society where they live because being in exclusion from social life and having difficulty to access to a basis services, cultural and social activities, close social circles and economical fields are considered as a second disability for them as PWD. In fact, according to the World Report on Disability that been published by World Health Organization (WHO) and World Bank, 15% people in the world's population experienced disability (Ping, 2015 & Ramlan, 2019).

Therefore, social exclusion by being isolated and separated and integrity are critically important for the PWD. PWD is not the one who should live off being discriminated against as they have the same rights with people with no disabilities. PWD should be given the same chances of living in inclusion by having equal access and rights to be treated equally and all should be included in all policies. Besides that, United Nations (2016) also defines inclusion as the process of improving the terms of participation in society for people who are disadvantaged based on age, gender, disability, ethnicity, as well as economic and migration status. Promoting social inclusion requires removing barriers to people's participation, including certain laws, policies, and institutions. It also requires changing discriminatory attitudes and behaviour and taking active steps to make participation easier.

2. PWDs

World Health Organization (WHO) (1980) defines disability as a restriction or a lack of ability to perform normal activities manifested as behaviours, skills and tasks expected from the body as a whole or humans or as a restriction of movements or inability to perform movements caused by a handicap. Disability is also referenced in multiple parts of the Sustainable Development Goals (SDGs), specifically in the parts related to education, growth and employment, inequality, accessibility of human settlements, as well as data collection and the monitoring of the SDGs.

In Malaysia, the services, and assistive aids for PWDs are under the jurisdiction of the Department of Social Welfare (DSW), under the Ministry of Women, Family, and Community. With the mission of "empowering community in need toward social well-being," all matters including registration, rehabilitation, and welfare of PWDs are directed to this department. PWDs are classified into seven (7) categories: (1) Physically disabled (2) Visually disabled (blind) (3) Deaf (hearing impaired) (4) Speech impaired (5) Learning impaired (6) Mentally impaired and (7) Multiple disabilities. The Malaysian Parliament has passed the Persons with Disabilities Act 2008 (hereinafter referred to as the "Act of 2008") on 24 December 2007. This Act came into force on July 7, 2008. However, awareness of the needs of the group PWDs has started to get attention

before the existence of Act 2008 again (Maidin, 2012). One of the things that is often the topic of conversation is the existence of the need to recognize the rights of the disabled and also the need various efforts are made to improve the living standards of the disabled, especially those who live in remote areas.

The Ministry of Women, Family and Community Development (KPWKM) is targeting to resolve amendments to the PWDA 2008 and the report on CRPD) by this year of 2023. KPWKM Secretary-General Datuk Dr Maziah Che Yusof said the ministry had aware that there is a need to amend the act as the time is changing and it is a need for the purpose of improving the well-being of disable (Malay Mail, 3 December 2022).

Disabled people are defined by the Malaysian Plan of Action for People with Disabilities 2016-2022 as "...a person with a long-term disability a long time in terms of physical, mental, intellectual or sensory when faced with various obstacles may not be able to engage fully and effectively in society". While Department of Social Welfare had recognized mental disability as "a state of severe mental illness makes a person unable to function either partially or fully in matters pertaining to his or relationships in society. While United Nations Convention on the Rights of Persons with Disabilities in Article 1 defines 'disability' as: Persons with disabilities include those who have long-term physical, mental, intellectual, or sensory impairments, which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Malaysia on the other hand although adopting the definition, omitted the phrase 'on an equal basis with others. This is evident in section 2 of Persons with Disabilities Act 2008 which provides that: Persons with disabilities include those who have long-term physical, mental, intellectual, or sensory impairments, which in interaction with various barriers may hinder their full and effective participation in society. Section 39 of the PWDA 2008 mentions further that a person with severe disabilities is: - ...[a] person suffering from one or more disabilities who is dependent on others for basic daily living activities. While Section 2 of PWDA 2008 defines important terms including the following: 'persons with disabilities' to include those who have long term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society (Kalimuthu, 2023).

3. Recreational and Leisure Activities

Leisure activities are defined as 'everyday activities of childhood in all sport, entertainment, learning and religious expression'. Being active and involved in freely chosen activities are essential for the development of skill competencies, socializing with peers, exploring personal interests, and enjoying life. Without opportunities to participate in leisure activities 'people are unable to explore their social, intellectual, emotional, communicative, and physical potential and are less able to grow as individuals'. While recreation is simply defined and it refers to experiences and activities chosen and pursued by the individual in his/her free time; the basis being that the experience sought and activities pursued, in the real sense of the word, 're-creates' the individual so that he or she may be refreshed to enable him/her to resume daily obligations, whatever those may be. Recreation is any pursuit engaged upon during leisure time, other than

pursuits to which people are normally 'highly committed' ([the latter includes] such things as optional shopping, overtime, secondary work, house repairs, car maintenance, further education, homework, childcare, religion and politics') (John Ap, 1986). Recreation is considered as activity through which leisure may be experienced and enjoyed but it is also seen as a social institution, socially organized for social purposes.

4. Why do PWDs need to access?

Despite the important role that leisure time plays in individuals' health, wellness and quality of life, the life of PWD addressing leisure remains extremely limited due to them having a restricted social life and leisure activities. Participation in social life by disabled people will make them be a citizen with a feeling that they are a part of the society, and this is very important to ensure their social inclusion in the socialization process.

There are a lot of factors that make them have a complicated physical activity especially their access to fitness of leisure space and recreational areas to conduct their activities as people with no disabilities. The problem is due to the facilities provided for PWD in exercising their leisure and recreational activities are insufficient. Although policy and legislation, such as the introduction of Persons with Disabilities Act 2008 (Act 685) (PWDA 2008) and Malaysian ratification of the United Nations CRPD for promotion of the betterment of PWD, the rights of the persons with disability PWD have yet to be fully practiced. In fact, the provisions based on Article 8 of the Federal Constitution 1957 have provided equality of all before the law and protection for all citizens against discrimination on grounds of race, descent, or place of birth in any law. However, PWD still having the problems despite of the provision provided constitutionally especially the basic rights of accessibility (Abdullah, N, et al., 2017.)

Additionally, PWDA 2008 had signified the position of PWD to another level from charity-based approach into a right-based approach. It proven the acceptance of PWD in the Malaysian society. Despite considering them to be medically attended and support, they have now been considered as a person to be facilitated with special need of their participation in the community as well as others too (Ramlan, 2019 & Rasid, et al., 2022). This includes their right to be included in participating in leisure and recreational activities as provided in Section 32 of PWDA 2008 provides as to the access to recreation, leisure and sport. This section indicates the right to participate in recreational, leisure and sports activities on the basis equality with the disabled is also provided subject to the existence of any circumstances that may endanger the safety of the disabled.

5. Legal Rights to Participate in Leisure and Recreational Activities

Accessibility in the built environment is becoming increasingly important in Malaysia, not just to prepare for an ageing population but also to PWD despite of population with no disabilities. In fact, the fields of recreation and leisure reveal that many PWDs are facing challenges while accessing and participating in recreational activities,

which are due to various barriers or constraints. Not all recreation activities are accessible or suitable to all, including PWDs. In the case where it happened that lot of recreational places where people do recreation activities have steps and it is not convenient for wheelchair and blind users especially when it involves hiking, the facilities are not really equipped and provided to the PWDs. Lack of facilities refers to inadequate basic or inaccessible facilities, malfunctions of facilities, lack of safety elements, or facilities not suitable or inaccessible by PWDs due to their 'non-inclusive' design. Access to fitness and recreation facilities is an important issue for people with disabilities.

Although policy and legislation have helped to remove various environmental barriers, there remain a substantial number of inaccessible features in fitness and recreation facilities. (Riley, B. B., et al., 2008). Any recreational participation had been made possible or easy due to aid from organizations. For example, when programs are organized by any parties or associations, they will provide all the necessities needed by the PWD. In CRPD, under Article 9 Accessibility 1. To enable persons with disabilities to live independently and participate fully in all aspects of life. Thus, Malaysia as one of the state's parties that ratified this convention shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.

These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia: (a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces. Furthermore, according to Article 9 of CRPD, states to take appropriate measures to ensure persons with disabilities have access to the physical environment, transportation, information, and communications, and to other facilities open or provided to the public – including identification and elimination of barriers to accessibility. Apply to buildings, roads, transportation, and other indoor and outdoor facilities – schools, housing, medical, workplaces, information, communications and other services.

6. Conclusion

For the legal rights of people with disabilities (PWD) to participate in leisure and recreational activities in Malaysia. Please keep in mind that laws and regulations may have changed since then, so it's essential to consult the most recent and authoritative sources for up-to-date information. The Persons with Disabilities Act 2008 (Act 685) addresses various rights and issues related to persons with disabilities. However, the act does not specifically focus on leisure and recreational activities in which it establishes provisions for non-discrimination and equal treatment of persons with disabilities in various areas, including public services and facilities. This may have implications for ensuring accessibility to leisure and recreational venues. Thus, it is many concerns to safeguard equivalent chances for PWDs in Malaysia to fully have the legal rights as needed. In such a case, the elements is very important to be highlighted that the need of specific

provisions related to leisure and recreational activities and perhaps, to prevent discrimination against PWDs.

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