

**PUBLIC BUILDING ACCESSIBILITY IN MALAYSIA:
LEGAL CHALLENGES AND THE RIGHTS OF PERSONS WITH
DISABILITIES**

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Received 10 July 2025: Revised 26 July 2025: Accepted 27 July 2025

ABSTRACT

The growing proportion of persons with disabilities in Malaysia has underscored the urgent need for accessible public buildings, as access is intrinsically tied to the exercise of fundamental rights. This article examines the legal challenges that impede persons with disabilities' access to public buildings in Malaysia and proposes legal reforms to enhance compliance with international standards. A qualitative research design was employed, utilising a doctrinal legal methodology supported by content analysis. Primary data sources included statutory instruments such as the Persons with Disabilities Act 2008 [Act 685], the Uniform Building By-Laws 1984 (UBBL), the Convention on the Rights of Persons with Disabilities (CRPD), and relevant case law. The findings reveal several deficiencies within the current legal framework: inconsistencies between domestic legislation and CRPD, vague or narrow legal definitions, the absence of mandatory access audits, and limited enforcement powers of the National Council for Persons with Disabilities. These shortcomings hinder the realisation of accessibility rights for persons with disabilities. This study highlights the need for legislative amendments to Act 685 and the UBBL to align Malaysia's legal framework more closely with the CRPD. While the study is limited to a doctrinal analysis without empirical fieldwork, it offers a timely and original contribution by identifying specific legal reforms necessary to advance accessibility rights. The findings carry significant implications for policymakers, legal practitioners, and disability advocates seeking to ensure inclusive development through legal means.

KEYWORDS: *ACCESSIBILITY, PERSONS WITH DISABILITIES, PUBLIC BUILDINGS, DISABILITY, INCLUSIVE SOCIETY*

ABSTRAK

Peningkatan bilangan orang kurang upaya di Malaysia telah mewujudkan keperluan mendesak untuk memastikan bangunan awam boleh diakses, memandangkan akses secara langsung berkait rapat dengan pelaksanaan hak asasi manusia. Artikel ini bertujuan untuk meneliti cabaran undang-undang yang menghalang hak orang kurang upaya untuk mengakses bangunan awam di Malaysia serta mencadangkan reformasi perundangan bagi meningkatkan pematuhan terhadap piawaian antarabangsa. Reka bentuk penyelidikan kualitatif telah digunakan dengan mengaplikasikan

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metodologi perundangan doktrinal yang disokong oleh analisis kandungan. Sumber data utama merangkumi instrumen perundangan seperti Akta Orang Kurang Upaya 2008 [Akta 685], Undang-Undang Kecil Bangunan Seragam 1984 (UBBL), Konvensyen Mengenai Hak Orang Kurang Upaya (CRPD) serta kes-kes undang-undang yang berkaitan. Dapatkan kajian menunjukkan beberapa kelemahan dalam kerangka perundangan sedia ada, termasuk ketidak selaras antara undang-undang domestik dengan CRPD, takrifan undang-undang yang kabur atau terlalu sempit, ketiadaan keperluan audit akses secara mandatori dan kuasa penguatkuasaan yang terhad oleh Majlis Kebangsaan bagi Orang Kurang Upaya. Kekurangan ini menghalang pemenuhan hak akses kepada orang kurang upaya. Kajian ini menekankan keperluan untuk meminda Akta 685 dan UBBL agar kerangka perundangan Malaysia lebih selaras dengan CRPD. Walaupun kajian ini terhad kepada analisis doktrinal tanpa kajian lapangan secara empirikal, ia tetap memberikan sumbangan yang penting dan bersifat asli dengan mengenal pasti reformasi undang-undang yang khusus bagi memajukan hak akses kepada orang kurang upaya. Penemuan ini membawa implikasi yang signifikan kepada pembuat dasar, pengamal undang-undang dan aktivis hak orang kurang upaya dalam usaha memastikan pembangunan yang inklusif melalui pendekatan perundangan.

KATA KUNCI: KEBOLEHAKSESAN, ORANG KURANG UPAYA, BANGUNAN AWAM, KURANG UPAYA, MASYARAKAT INKLUSIF

1. INTRODUCTION

Persons with disabilities in Malaysia continue to face significant disparities in accessing essential services such as healthcare, education, and employment. They frequently experience inadequate access to disability-related support services and are systematically excluded from full participation in societal life. For instance, the lack of facilities for students with disabilities in institutions of higher learning has hindered them from experiencing a comfortable life similar to that of other students. According to the World Health Organization (2021), it was estimated that 16% of the global population had some form of disability in 2021, representing over one billion individuals. The significant proportion of persons with disabilities in the worldwide population necessitates the provision of various disability-friendly facilities and appropriate access to these services.

At the international level, the Convention on the Rights of Persons with Disabilities (CRPD) was introduced on 13 December 2006 during the 61st session of the United Nations General Assembly (Abdul Rahim & Abd. Samad, 2010). According to the United Nations (2022), as of 31 December 2022, 185 countries had signed and 164 had ratified the CRPD, including Malaysia. Malaysia ratified CRPD on 19 July 2010 with reservations on Articles 15 (Freedom from torture or cruel, inhuman or degrading treatment or punishment) and 18 (Liberty of movement and nationality) (Mokhtar & Md. Tah, 2016). According to the Human Rights Commission report (2011), Malaysia has not yet signed the Optional Protocol to CRPD. Under Article 1(1) of the Optional Protocol to CRPD, the United Nations Committee on the Rights of Persons with Disabilities is mandated to consider individual complaints regarding violations by any State Party concerning the provisions of CRPD.

According to the United Nations (2022), as of 31 December 2022, 94 State Parties had signed the Optional Protocol to CRPD, while 101 State Parties had ratified it. Malaysia's ratification of the CRPD demonstrates the country's commitment to implementing the rights of persons with disabilities as enshrined in the CRPD (Krishnamoorthi *et al.*, 2022). However, Malaysia's decision not to sign the Optional Protocol indicates that the country is not yet prepared to adopt the reporting mechanisms stipulated in CRPD as a benchmark for ensuring the rights of persons with disabilities in Malaysia.

CRPD represents a significant and unequivocal recognition of the fundamental rights of persons with disabilities, encompassing civil, cultural, political, social, and economic rights. Article 1 of CRPD outlines its purpose, which is to promote, protect, and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and to promote respect for their inherent dignity. Preamble (v) of CRPD recognises the importance of accessibility to the physical, social, economic, and cultural environment, as well as to health, education, information,

and communication, in enabling persons with disabilities to fully enjoy all human rights and freedoms. Furthermore, Article 9 of CRPD requires State Parties to take appropriate measures to ensure that persons with disabilities have equal access to their surroundings as persons without disabilities. Article 2 of CRPD affirms that discrimination on the basis of disability against any individual constitutes a violation of the inherent dignity and worth of the person. This includes all forms of discrimination, including the denial of reasonable accommodation.

Following Malaysia's ratification of CRPD on 19 July 2010, the Malaysian government, as a State Party to CRPD, bears the responsibility of upgrading its policies and legislation to create a public environment that is inclusive and accessible for persons with disabilities. According to the Human Rights Commission of Malaysia (2012), several issues were raised by *Gerakan Bersama Kebangkitan Orang Kurang Upaya 2012* in a memorandum entitled *Memorandum Gerakan Bersama Kebangkitan Orang Kurang Upaya 2012* (Memorandum BANGKIT 2012), which aimed to draw the attention of both the public and private sectors to the specific needs of persons with disabilities. *Memorandum BANGKIT 2012* outlined eleven key points that broadly urged the government to establish government and private agencies, as well as a society that is responsive and aware of the needs, capabilities, and contributions of persons with disabilities.

According to the Malaysian Bar (2012), in the legal context, Item 1 of *Memorandum BANGKIT 2012* proposed the strengthening of existing laws to ensure the survival and protection of persons with disabilities. This includes amending Article 8(2) of the Federal Constitution to explicitly prohibit discrimination based on disability, amending the Persons with Disabilities Act 2008 (Act 685) to provide appropriate remedies and penalties against parties who fail to uphold the rights granted to persons with disabilities, fully ratifying CRPD including the Optional Protocol and empowering the National Council for Persons with Disabilities established under Section 3 of Act 685. This also involves making the Council's reports accessible to all relevant stakeholders. Based on the issues highlighted in *Memorandum BANGKIT 2012*, several problems have been identified in relation to Malaysia's legal framework in ensuring access rights of persons with disabilities to buildings, particularly public buildings.

According to the Human Rights Commission of Malaysia (2019), although Malaysia has ratified CRPD, persons with disabilities continue to face challenges in gaining full access to public buildings. The report highlights that Malaysia's legal framework, particularly the Persons with Disabilities Act 2008 (Act 685), does not adequately empower persons with disabilities to take legal action against instances of discrimination or the failure to provide appropriate accessibility. Under Act 685, the government and related entities are immune from being sued for violations of these rights (Md. Tah, 2014).

Notably, the Ministry of Women, Family and Community Development (2022), there are seven categories of persons with disabilities in Malaysia, including physical, hearing, and visual impairments. However, the legal definitions concerning persons with disabilities and public buildings remain inconsistent, resulting in confusion and weaknesses in the implementation of existing laws. In this context, this article reviews and analyses the issue of accessibility to public buildings for persons with disabilities in Malaysia. It also evaluates the shortcomings of the current legal framework and proposes recommendations for a more comprehensive implementation of the law to ensure the rights of persons with disabilities are upheld.

Based on the issues discussed, the objective of this article is to analyse matters related to the right of access for persons with disabilities to public buildings in Malaysia and to propose legal improvements to ensure the protection of access rights for persons with disabilities to public buildings in the country.

2. LITERATURE REVIEW

Persons with disabilities face discrimination and various barriers that hinder their full participation in society on an equal basis with others. According to the Human Rights Commission of Malaysia (2014), the inequality experienced by persons with disabilities is caused by multiple obstacles, including attitudinal barriers and stigma, which often prevent them from being actively involved in society. Their difficulties in accessing essential services further marginalise this group, preventing them from leading a meaningful daily life (Asalal *et al.*, 2023).

In the legal context, the Federal Constitution does not explicitly prohibit discrimination based on physical or mental disability. In Malaysia, the case of *Jakob Renner & Ors v Scott King & Ors* [2000] 5 MLJ 254, which was decided by the courts before the enactment of Act 685, interpreted both Article 5 of the Federal Constitution, which guarantees the right to life, and Article 8, which guarantees the right to equality, as protecting against discrimination towards persons with disabilities. Although the Jakob Renner case specifically concerned the right of a child with disabilities to access education, the critical issue highlighted was the lack of adequate infrastructure in schools, which effectively denied the child's right to education (Sufian, 2007). Since the Jakob Renner case and the enactment of the Persons with Disabilities Act 2008 (Act 685), there have been no reported legal cases in Malaysia directly addressing the right of access to public buildings for persons with disabilities.

Although there have been no other reported legal cases in Malaysia, there remains a pressing need to evaluate the existing Malaysian legal framework (Madin, 2012). Persons with disabilities face substantial challenges in progressing in life because they are denied access to fundamental rights such as freedom of movement, education, employment, and social participation. This denial is largely due to the inaccessibility of buildings, particularly public facilities such as schools, business premises, workplaces, public transportation, and other public amenities (Madin, 2012). This demonstrates that the denial of access rights to public buildings for persons with disabilities is indeed a real issue in Malaysia and must be addressed urgently to prevent further marginalisation and discrimination.

Access to public buildings remains a critical challenge for persons with disabilities in Malaysia, despite the existence of legal provisions and policy commitments. Many public facilities, including schools, offices, transport hubs, and government buildings, are still not fully compliant with accessibility standards, which restricts the mobility and participation of persons with disabilities in society (Adam *et al.*, 2025). Although Malaysia has adopted universal design principles and introduced guidelines such as MS 1184:2002, the implementation and enforcement of these standards are inconsistent, leading to significant gaps between policy and practice (Adam *et al.*, 2025). Poorly designed ramps, inaccessible toilets, inadequate signage, and the absence of guiding blocks for the visually impaired are among the recurring issues that undermine accessibility (Adam *et al.*, 2025). Therefore, ensuring accessible public buildings is not merely a matter of infrastructure, but a fundamental prerequisite for achieving equality, inclusion and the protection of the rights of persons with disabilities in Malaysia.

At the international level, several legal cases have been reported concerning the right of access for persons with disabilities. One such case is *Stegner v. Franco*, 228 F.3d 889 (8th Cir. 2000). In this case, the United States Court of Appeals held that Mr. Burch, who was visually impaired, had standing to claim Title II of the Americans with Disabilities Act 1990 due to his inability to locate restrooms that were not marked in Braille or with any other identifiable signage. Another case, *The Royal Bank of Scotland Group Plc v. Allen* [2009] EWCA Civ 1213, established the obligation of service providers in the United Kingdom to make reasonable adjustments when it is impossible or unreasonably difficult for persons with disabilities to use services or access public premises, unless it would be unreasonable for the service provider to do so.

In the case of *Fowler v. Kanawha Valley Fine Jewellery and Loan LLC*, 2015 WL 164096 (S.D.W.VA. 2015), the court ordered the defendant to pay damages to the plaintiff due to injuries sustained as a result of the defendant's failure to provide an appropriately constructed wheelchair-accessible ramp at their business premises in the United States. Therefore, although no legal cases concerning access to public buildings for persons with disabilities have been reported in Malaysia since the enactment of Act 685, reference to the legal principles established in such international cases is essential. The situations faced in these cases can similarly occur in Malaysia, thus reinforcing the need for robust legal protections to uphold the rights of persons with disabilities.

In the context of previous literature, the perspectives of scholars from other countries regarding accessibility tend to focus more on raising awareness and promoting initiatives aimed at ensuring accessibility for persons with disabilities. Imrie (1996) asserted that since the early 1980s, governments in Western countries have voiced the need to improve the accessibility of spaces and areas within the built environment through public policy. This is evident in the establishment of institutions dedicated to developing accessibility policies for persons with disabilities in the United Kingdom. In the United States, the concept of a barrier-free environment has received attention since 1968. Policies and programmes intended to create accessible spaces for individuals with impairments have been prioritised in the welfare agendas of several countries, including Germany, the Netherlands, and Sweden. This reflects the growing awareness of the importance of access to buildings for persons with disabilities, which has, in turn, influenced the development of legal frameworks in these Western nations. Although Imrie's work focuses on the accessibility of the built environment for individuals with disabilities, it does not go into detail regarding the concept of universal design, as it had not yet been introduced at the time.

Furthermore, Molly *et al.* (1998) introduced and elaborated on the concept and principles of universal design. Universal design is defined as the design of products and environments that are usable by all people, to the greatest extent possible, regardless of age or ability. The concept is expected to become increasingly important in response to the growing number of persons with disabilities and the ageing global population. The development of the legal framework began as early as the 1960s in the United States, starting with federal legislation that served as a guideline for setting minimum accessibility standards for a small percentage of facilities and eventually expanded to ensure full access to the public. This demonstrates that legal frameworks play a significant role in advancing the concept of universal design. Since the idea of universal design was only recently introduced at that time, earlier writings focused more on its background, historical development, principles, and theoretical foundations.

Subsequently, Gray *et al.* (2003) explained that in creating a built environment that reduces barriers to disability, design practitioners, landscape architects, urban transport planners, developers, contractors, and other related parties must be considered as key stakeholders. In addition to the goal of establishing an environment that minimises barriers to the activities of persons with disabilities, building design practitioners can also benefit from consultations with groups representing persons with disabilities. Differing views on the significance of environmental factors as barriers to the participation of persons with disabilities in society, the feasibility of universal design, and legal justice have positioned the issue of access to buildings as a matter of civil rights. However, their writing does not address the legal requirements concerning the construction of buildings accessible to persons with disabilities.

From a legal standpoint, Sufian (2007) argued that there is a need to amend existing laws and policies to meet the needs of persons with disabilities and to ensure accessibility within the built environment, including buildings and housing in Malaysia. Although guidelines exist for developers in providing barrier-free public buildings, there is a lack of monitoring and enforcement mechanisms to evaluate the extent of compliance with these guidelines. Policymakers, urban planners, architects, designers and local authorities are urged to consider best practices from other countries as references in constructing buildings and housing that are friendly to persons with disabilities. Nevertheless,

Sufian's views do not take into account the provisions under the Persons with Disabilities Act 2008 (Act 685), as his article was written before the enactment of this legislation.

In the context of accessibility, Maidin (2012) emphasised that the barriers within the built environment require urgent attention. Accessibility is defined as the provision of equal access to all individuals. Local authorities should play a pivotal role in ensuring that building plans and planning permission applications are prepared with due consideration of the needs of persons with disabilities. A barrier-free environment would allow persons with disabilities to access public transport, buildings, and other facilities necessary for acquiring knowledge and skills required for employment. Furthermore, persons with disabilities would also gain the freedom to move within their respective communities. This, in turn, would enable persons with disabilities to become active members of society and contribute to community activities and development. Maidin's perspective takes into account the provisions under Act 685 and the Uniform Building By-Laws, the definition of the term "disability," the scope of existing Malaysian standards, the functions and roles of the National Council for Persons with Disabilities and local authorities, as well as the issue of weak enforcement. However, the issue of alignment between the existing legal framework and CRPD, as well as a specific focus on public buildings, is not addressed in her writing.

In the context of employment, Ta and Leng (2013) asserted that in Malaysia, accessibility issues within the built environment constitute the primary barrier faced by persons with disabilities in gaining access to employment opportunities. Although the Uniform Building By-Laws stipulate that all public buildings must be equipped with accessible facilities for persons with disabilities, the enforcement of these provisions is lacking. As a result, many public buildings remain inaccessible, especially for wheelchair users. The Persons with Disabilities Act 2008 (Act 685) has also been criticised for failing to protect persons with disabilities from discrimination and oppression. There have been calls for Act 685 to be amended or for a separate anti-discrimination act to be introduced, similar to legislation in the United States and the United Kingdom, to safeguard the rights of persons with disabilities in Malaysia. This particular writing focuses more on equality in employment and training opportunities for persons with disabilities and does not elaborate in detail on the legal framework in Malaysia concerning accessibility to public buildings by persons with disabilities.

Ramírez-Saiz *et al.* (2025) stated that recent advancements in universal design have placed greater emphasis on creating urban environments that are not only accessible to persons with disabilities but also responsive to the needs of a rapidly ageing population. The core idea behind universal design is to ensure that public spaces, facilities, and mobility systems are usable by as many people as possible, regardless of their physical, sensory, or cognitive abilities. Current developments highlight those features such as wayfinding systems, intermediate seating along walking routes, barrier-free and inclusive crossings, continuous and stable pavements, as well as the removal of steps and small obstacles, are no longer considered special accommodations but essential elements of inclusive planning. Importantly, recent research demonstrates a strong overlap between the mobility requirements of persons with disabilities and those of older adults, showing that both groups benefit significantly from the same design solutions. This recognition has led to a shift away from segregated infrastructure towards more integrated and holistic approaches that consider diverse needs simultaneously. By applying the principle of "design for all," policymakers, planners, and designers can foster safer, more comfortable, and socially inclusive environments that encourage participation, active mobility, and social connection across different population groups.

From a legal perspective, Md. Tah (2013) highlighted the need to establish remedial provisions to address any violations of the rights of persons with disabilities. In any legislation designed to protect civil rights, it is essential to employ anti-discrimination mechanisms to ensure the implementation and enforcement of such rights. One such mechanism involves the creation of remedial provisions that not only prescribe penalties but also allow persons with disabilities to lodge complaints against any authority or relevant agency. Among the proposals made are to strengthen Act 685 by incorporating remedial provisions, to repeal sections 41 and 42 of Act 685, and to expand the functions of the National Council for Persons with Disabilities to include investigating complaints

lodged by persons with disabilities. However, this writing addresses the legal framework related to Act 685 in a holistic manner and does not specifically focus on the legal aspects concerning access to public buildings by persons with disabilities in Malaysia.

Furthermore, Abdul Rahim *et al.* (2014) argued that universal design promotes accessibility for all individuals, encompassing a range of ages and abilities or disabilities. Professionals are urged to provide accessibility and apply universal design principles in all new projects, regardless of whether the development involves public or private buildings. Universal design should be included in the curriculum of all universities offering architecture degree programs to instil early awareness, and access audit simulations should be conducted to improve and upgrade the existing built environment. In summary, this study focuses on the relationship between universal design and accessibility and does not discuss the legal issues concerning the right of access for persons with disabilities to public buildings in Malaysia.

M. Rezaul (2015), on the other hand, argued that persons with disabilities in Malaysia have been marginalised from the national development agenda and live in poor social and economic conditions. Social exclusion at the community level occurs when facilities are inadequate and necessary equipment is lacking, preventing persons with disabilities from participating in community activities. At the institutional and national levels, exclusion is attributed to an unfriendly environment, inaccessible communication systems, and inadequate transportation, all of which result in limited access to public facilities and the absence of appropriate, legally recognised support at the national level. This writing is more focused on the factors contributing to social exclusion of persons with disabilities and does not address the legal framework in Malaysia concerning their right of access to public buildings.

Mohamad Zahari *et al.* (2022) contended that the legal framework in Malaysia regarding accessibility for persons with disabilities has progressed significantly with the enactment of the Persons with Disabilities Act 2008 (Act 685). This Act represents a pivotal step in recognizing accessibility as a fundamental right, particularly in relation to access to public buildings and facilities. The legislation aligns with Malaysia's commitment as a State Party to the United Nations Convention on the Rights of Persons with Disabilities (CRPD), emphasising equal opportunities and the elimination of barriers that hinder participation in social, economic, and cultural life. However, while the Act provides a policy foundation and establishes the National Council for Persons with Disabilities to oversee its implementation, it does not contain strong enforcement mechanisms or punitive provisions against non-compliance. As a result, the realisation of accessibility rights often relies on administrative measures, guidelines, and the goodwill of stakeholders rather than binding legal obligations. This has led to criticisms that the framework, while progressive in principle, remains limited in practice, requiring further legal reform to ensure more effective protection and enforcement of accessibility rights for persons with disabilities in Malaysia.

Based on the literature review above, it is evident that while there are existing studies discussing accessibility and the rights of persons with disabilities in Malaysia, most of these works provide only a general overview or focus on specific aspects such as social inclusion, infrastructure design, or policy implementation. However, they do not sufficiently address the comprehensive legal framework that governs the right of access to public buildings. This indicates a significant gap in scholarly discourse, particularly in terms of examining the strengths, weaknesses, and enforceability of the current legislative provisions. Hence, this article seeks to contribute to the body of knowledge by offering a detailed legal analysis of accessibility rights under the Persons with Disabilities Act 2008 (Act 685) in relation to public buildings, while also identifying areas where legal reform may be necessary to strengthen protection and enforcement mechanisms for persons with disabilities in Malaysia.

3. THEORETICAL FRAMEWORK

The analysis of public building accessibility in Malaysia requires a theoretical foundation that integrates disability studies, human rights, and legal perspectives. Accessibility, in this sense, is not limited to technical compliance with building codes but is closely tied to questions of equality, inclusion, and the lived experiences of persons with disabilities. The social model of disability provides an essential point of departure, emphasising that barriers within the built environment, rather than individual impairments, are the primary source of exclusion. Studies of Malaysian facilities have consistently documented such barriers, from poorly designed ramps to inaccessible restrooms, demonstrating that physical spaces continue to reproduce inequality when they are not designed with universal access in mind (Rahim *et al.*, 2014; Hashim *et al.*, 2012). This perspective positions accessibility as a prerequisite for inclusive citizenship and full societal participation.

At the international level, Malaysia's ratification of CRPD in 2010 binds the state to guarantee accessibility under Article 9. This obligation is reflected domestically through the Persons with Disabilities Act 2008 (PWDA), which represents a formal recognition of accessibility as a right. However, the Act has been assessed for its weak enforcement mechanisms and lack of penalties for non-compliance, which limits its effectiveness in practice (Hussein & Yaacob, 2012). Without institutionalised monitoring or sanctioning processes, accessibility provisions risk remaining declaratory rather than transformative. Comparative work suggests that stronger enforcement measures are critical, as seen in jurisdictions where accessibility standards are legally binding and coupled with penalties for violations (Wazani *et al.*, 2021).

The domestic legal framework in Malaysia provides additional points of analysis. The Uniform Building By-Laws 1984, particularly by-law 34A, mandate that new public buildings provide accessible facilities. Yet research has found that compliance is inconsistent, especially in older or heritage buildings, where retrofitting remains limited (Hooi, 2016). Accessibility audits of commercial complexes similarly reveal that while certain aspects of design meet accessibility requirements, others fall short, suggesting a pattern of partial or symbolic compliance (Hashim *et al.*, 2012). These findings highlight the persistent gap between legal standards and their implementation, raising questions about institutional accountability and political will.

A rights-based approach underscores that accessibility should not be seen as a charitable gesture but as a legal entitlement grounded in the right to equality. Article 8 of the Federal Constitution guarantees equality before the law, and when interpreted through the lens of disability rights, this provision affirms the obligation of the state and private actors to eliminate barriers that prevent equal participation. From this perspective, accessibility becomes an issue of substantive equality, requiring proactive measures to dismantle systemic barriers rather than mere formal guarantees (Kamarudin *et al.*, 2014).

At the same time, a socio-legal perspective draws attention to the broader social, cultural, and institutional contexts that shape how laws are implemented. Studies emphasise that challenges extend beyond legislative inadequacies to include attitudinal barriers, lack of awareness among building professionals, and limited institutional coordination (Krishnamoorthi *et al.*, 2024). Critical disability theory and rights-in-practice analysis suggest that without addressing these deeper structural and cultural factors, legal reforms will have limited impact. Thus, the theoretical framework for analysing public building accessibility in Malaysia rests on an integration of the social model of disability, human rights theory, constitutional equality principles, and socio-legal perspectives, enabling a more nuanced understanding of both the legal challenges and the lived realities of persons with disabilities.

Other jurisdictions have enacted enforceable accessibility legislation. In the United States, the Americans with Disabilities Act of 1990 (ADA) empowers individuals to bring civil actions for discrimination, including in relation to public facilities, and imposes penalties for non-compliance (Kanter, 2015). Similarly, the Equality Act 2010 in the United Kingdom provides explicit legal remedies and requires "reasonable adjustments" to be made by service providers and building

owners, strengthening the enforceability of accessibility rights (Yang & Chen, 2015). These examples illustrate that effective accessibility frameworks require not only declaratory provisions but also enforceable rights and sanctions for violations.

The domestic framework in Malaysia reveals further limitations in definitional consistency. Terms such as “persons with disabilities,” “public building,” and “universal design” are inconsistently applied or undefined across the PWDA and the Uniform Building By-Laws, leading to interpretative uncertainty. Comparative perspectives demonstrate how greater precision in statutory language can support enforcement. In Canada, the Accessible Canada Act 2019 provides clear definitions of accessibility and sets out measurable standards across federal jurisdictions (Prince, 2023). Likewise, in Australia, the Disability Discrimination Act 1992 incorporates accessibility standards directly into statutory obligations, creating a legal mechanism to challenge inaccessible facilities (Pooran & Wilkie, 2005). These approaches help ensure that accessibility provisions are not weakened by ambiguous or conflicting terminology.

The absence of mandatory access audits in Malaysian law also highlights the gap between Malaysia and other CRPD state parties. Countries such as Norway and Canada have incorporated building audits, regular reviews, and inspection regimes into their accessibility frameworks as part of compliance with Article 9 of the CRPD (World Health Organization, 2011). In Malaysia, by contrast, accessibility audits remain sporadic and largely research-driven rather than legally required, leaving significant deficiencies unaddressed (Kadir & Jamaludin, 2012). A comparative perspective suggests that without statutory mechanisms to monitor and enforce accessibility standards, the practical realization of rights remains limited.

Finally, the limited authority of the National Council for Persons with Disabilities under the PWDA illustrates the weakness of Malaysia’s institutional framework. While the Council is mandated to recommend legislative changes, it lacks the powers of enforcement or sanction. By contrast, in countries such as the United States, agencies such as the Department of Justice play an active enforcement role under the ADA, while the United Kingdom’s Equality and Human Rights Commission can initiate investigations and legal proceedings for accessibility failures (Kanter, 2015; Yang & Chen, 2015). These comparative models highlight the importance of empowering institutional bodies not merely to advise but to enforce compliance.

In the Association of Southeast Asian Nations (ASEAN) context, comparative perspectives offer additional insights. Singapore has adopted a relatively strong accessibility regime through the Building Control Act and the Code on Accessibility in the Built Environment, which impose binding obligations on new developments and retrofitted buildings to provide accessible facilities. The government also introduced mandatory accessibility upgrades for older buildings through the Accessibility Fund, thereby ensuring more consistent compliance than Malaysia’s largely declaratory model (Cherduriya & Tochaiwat, 2024). Thailand presents a different picture. The Ministerial Regulations on Accessible Facilities were enacted under the Persons with Disabilities Empowerment Act 2007, mandating that public facilities adopt accessible designs. Yet research shows that enforcement remains uneven, and accessibility barriers persist in transport and public buildings, often due to inadequate monitoring and professional awareness (Chuangchai, 2025; Kranrattanasuit, 2017). Comparative studies indicate that while Thai legislation recognizes accessibility as a right, weak enforcement mechanisms limit transformative impact, echoing challenges seen in Malaysia (Abd Samad, Said, & Rahim, 2018).

Indonesia has also advanced its framework following the Law on Persons with Disabilities 2016, which incorporates accessibility into building regulations and public service delivery. However, implementation remains highly localized, with significant variation across provinces and municipalities. Studies highlight persistent design and attitudinal barriers, alongside weak enforcement capacity at the municipal level (Kurniawan *et al.*, 2024; Parker, 2001). Unlike Singapore’s centralised enforcement and audit system, Indonesia’s decentralised governance often results in fragmented compliance.

This theoretical framework views public building accessibility in Malaysia as part of a broader human rights agenda while acknowledging weak enforcement and legal gaps that limit progress. Comparative experiences show that effective accessibility requires more than legal recognition; it depends on strong enforcement, clear definitions, regular audits, and empowered institutions. Singapore demonstrates how centralized oversight and mandatory measures can achieve real progress, whereas Malaysia, Thailand, and Indonesia continue to struggle with weak enforcement, limited retrofitting of older buildings, and reliance on non-mandatory audits. Together, these insights emphasize that accessibility must be supported by enforceable mechanisms to ensure genuine equality and inclusion.

4. METHODOLOGY

This study adopts a qualitative research approach employing a pure doctrinal-legal method. A qualitative research design based on Content Analysis was selected, as the study does not involve scientific or empirical investigation but instead focuses solely on library-based research concerning the legal access of persons with disabilities to public buildings in Malaysia. The Content Analysis method is appropriate, given that this article examines the contents of the Persons with Disabilities Act 2008 (Act 685) and the Uniform Building By-Laws (Selangor) 1986. Data collection was conducted through library research, which involved reading, examining, and extracting information from books, journals, articles, reports, and newspaper clippings. References were also made to relevant legal sources, including Act 685, the Uniform Building By-Laws (Selangor) 1986, and decided court cases.

5. FINDINGS

There are four main issues concerning the access of persons with disabilities to public buildings in Malaysia. These issues were identified through a comprehensive analysis of Malaysia's current legal provisions and their implementation in practice. The first issue is that the Malaysian legal framework is not aligned with the provisions of CRPD. Although Malaysia has ratified CRPD, the existing legislation, namely the Persons with Disabilities Act 2008 [Act 685], does not provide persons with disabilities with the legal right to initiate action against those who discriminate against them or fail to provide adequate facilities. The provisions under Act 685 grant immunity to the government and certain entities from being sued in court (Md. Tah, 2014). Section 41 explicitly states that no action, lawsuit, prosecution, or other legal proceedings shall be brought, initiated, or maintained in any court against the Government, the Minister, or the National Council for Persons with Disabilities. According to Section 2 of Act 685, the term "Minister" refers to the "Minister charged with the responsibility for social welfare."

Section 42 of Act 685 further refers to the application of the Public Authorities Protection Act 1948 [Act 198], stating that Act 198 shall apply to any action, lawsuit, prosecution or proceeding brought against the Government, the National Council for Persons with Disabilities or any of its members, committee members or agents, in relation to any act, omission or default committed in the course of their duties. These two provisions render Act 685 a "toothless tiger," offering no specific remedies for violations that involve discrimination against persons with disabilities (Md. Tah, 2014). As a result, persons with disabilities are not fully protected under Act 685 in instances where their rights, including the right of access to public buildings, are denied. This is because they are legally barred from initiating any proceedings against the Government, the Minister, or the National Council for Persons with Disabilities.

The second issue concerns the limited scope of the legal framework. This limitation arises from the absence and inconsistency of essential terminologies in Malaysian laws related to the right of access to public buildings for persons with disabilities. Section 2 of the Persons with Disabilities Act 2008 (Act 685) defines "persons with disabilities" as "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." Meanwhile, the Uniform Building By-Laws (Selangor) 1986

defines the term “disabled persons” under by-law 2 as “people with a physical, hearing, or sight impairment which affects their mobility or their use of the building as referred to under by-law 34A.” This reveals a contradiction in the definitions of persons with disabilities.

Additionally, the term “public building” is mentioned in Act 685 but is not defined either in Act 685 or in the Uniform Building By-Laws (Selangor) 1986. The term “universal design” is defined and included in Act 685, but it is neither mentioned nor defined in the Uniform Building By-Laws (Selangor) 1986. These inconsistencies and the absence of clear definitions for key terms relevant to the issue of access to public buildings for persons with disabilities in Malaysian law result in vague, limited, and incomplete legal interpretations of these terms.

The third issue is the absence of a legal provision mandating access audits. According to the World Health Organization (2011), the reporting guidelines for CRPD require State Parties, including Malaysia, to report progress in achieving Article 9 concerning accessibility. Several State Parties, such as Canada, Norway, and Uganda, have reported practices implemented to comply with Article 9, which include enacting legislation with mandatory accessibility standards, requiring reviews and inspections to ensure good design, and carrying out access audits of buildings. Access audits can be divided into two categories, namely audits to assess the existence of facilities for persons with disabilities and audits to determine the extent to which a particular facility within a building is functional and usable by persons with disabilities (Abdul Rahim and Abd. Samad, 2014).

In the context of building modifications, Kadir and Jamaludin (2012) note that certain renovations of public buildings have not been carried out in accordance with Malaysian Standards, thereby posing safety risks to building users. One example is ramps for wheelchair users that are too steep. In Malaysia, there are public buildings and basic facilities that do not meet the needs of persons with disabilities. In a survey conducted in 2012 by students from the Faculty of Architecture, Planning and Surveying at Universiti Teknologi MARA Malaysia, it was found that guiding blocks installed on the floor as tactile indicators for visually impaired persons to guide them toward Masjid Tuanku Mizan and the Immigration Department in Putrajaya were incorrectly positioned. The placement indicated the wrong direction, which could endanger and confuse visually impaired individuals who rely on tactile guidance to enter those buildings.

The fourth issue concerns the limited authority, function, and role of the National Council for Persons with Disabilities. Under Act 685, the Council has several functions. Among them, subsection 9(1)(f) of Act 685 provides that the Council is responsible for recommending amendments to existing laws and proposing new laws to ensure the full and effective participation of persons with disabilities in society, including facilitating accessibility. Subsection 9(2) of Act 685 further states that the Council shall have all such powers as are necessary for the performance of its functions under the Act. However, Act 685 does not include any provision that empowers the Council or any individual or body to impose penalties or prosecute any person, body, or agency for violations of any provision within the Act.

Accordingly, legislative gaps can lead to the denial of the right of access to public buildings for persons with disabilities and result in discriminatory practices against them. Inaccessibility to buildings, roads, and transportation systems, as well as the lack of assistive devices, can hinder participation in education and training, employment, family life, and community activities. Furthermore, it may foster negative attitudes and poor perceptions toward laws and institutions that fail to support the inclusion of this group.

6. DISCUSSION

Findings from the study reveal that there are critical issues concerning the right of access to public buildings for persons with disabilities in Malaysia. These issues should be taken seriously by both the government and society. This is because the right of access to buildings is a fundamental right for persons with disabilities, essential for ensuring continuity and realisation of other rights such as

access to education, employment, healthcare, and social participation. Without adequate access to public buildings such as schools, hospitals, office buildings, libraries, cinemas, and rehabilitation centres, persons with disabilities are unable to enjoy life on an equal basis with others and are hindered from participating fully in society. Denial of access to public buildings for persons with disabilities contradicts the principle of equality enshrined in the Federal Constitution, the CRPD, and the Persons with Disabilities Act 2008 (Act 685).

Based on the findings of the study, two key recommendations are proposed to improve and ensure better protection of the right of access to public buildings for persons with disabilities in Malaysia.

The first recommendation is that Act 685 should be reviewed and amended accordingly. One proposed amendment is to harmonise the definitions of the terms “persons with disabilities” and “disability” in Act 685 to be consistent with the definitions used in CRPD. This harmonisation is necessary to facilitate easier reference and clearer understanding among Malaysians, including persons with disabilities, in accordance with international standards as set out in CRPD. Additionally, Act 685 should be amended to include definitions for the terms “public building,” “access,” “accessibility,” and “access audit.” These amendments are crucial to clarify the meaning of these terms so that individuals responsible for the construction of public buildings can understand them more precisely, thereby avoiding disputes or confusion during the planning and construction of accessible public buildings in Malaysia.

Furthermore, the provisions within Act 685 relating to the functions of the National Council for Persons with Disabilities (the Council) should also be amended to empower the Council to receive complaints and conduct investigations regarding non-compliance with requirements for accessible public buildings. Act 685 should also be amended by repealing Section 41, which currently provides immunity to the government, Minister, Council, any Council member, committee member, or any other person lawfully acting on behalf of the Council. Section 42, which relates to the application of the Public Authorities Protection Act 1948, is also recommended to be repealed. These two sections should be replaced with provisions that protect the rights of persons with disabilities to lodge complaints or pursue legal claims in court. This is essential because the rights of persons with disabilities are already enshrined under Act 685. Those rights must be protected and guaranteed by ensuring the availability of appropriate remedies, including the introduction of legal provisions that protect against any form of oppression or discrimination and the imposition of appropriate penalties.

The second recommendation is that the Uniform Building By-Laws (Selangor) 1986 should be reviewed and amended accordingly. One of the proposed amendments is to harmonise the definitions of the terms “persons with disabilities” and “disability” in the Uniform Building By-Laws (Selangor) 1986 so that they are aligned with the context of CRPD. This harmonisation is necessary to facilitate easier reference and clearer understanding by the Malaysian public, including persons with disabilities, regarding these terms based on the international context provided by CRPD, which offers clearer and more comprehensible definitions.

In addition, the Uniform Building By-Laws (Selangor) 1986 should be amended to include definitions for the terms “public building,” “access,” “accessibility,” and “universal design.” These amendments are essential to clarify the meanings of these terms so that those responsible for constructing public buildings may understand them in greater detail, thereby avoiding disputes or confusion during the preparation of building plans and the construction of public buildings intended to be accessible to persons with disabilities in Malaysia.

Furthermore, the Uniform Building By-Laws (Selangor) 1986 should be amended to include a provision requiring building developers to submit an access plan outlining how persons with disabilities will access public buildings, before approval for the construction is granted. If such an access plan is not submitted, the local authority should not approve the proposed construction of the public building. Provisions should also be introduced to mandate access audits by building

developers and monitoring by local authorities. Developers and local authorities that fail to comply with these provisions should face legal action.

Additionally, the Uniform Building By-Laws (Selangor) 1986 should be amended to include a provision empowering any public authority to blacklist individuals or entities that construct public buildings which fail to comply with accessibility requirements for persons with disabilities.

7. IMPLICATIONS/CONTRIBUTIONS

This study offers several important contributions to both legal scholarship and disability rights advocacy in Malaysia. First, it fills a significant gap in the literature by specifically addressing the legal dimensions of accessibility to public buildings for persons with disabilities, an area that has received limited attention in Malaysian academic discourse. By employing a doctrinal legal methodology, the study systematically identifies and critiques critical deficiencies in the Persons with Disabilities Act 2008 [Act 685] and the Uniform Building By-Laws (UBBL), highlighting the misalignment between national laws and the standards set by CRPD.

Second, the article provides practical legal reform proposals aimed at improving the enforceability of accessibility rights, including the introduction of clearer legal definitions, access audit requirements, and the removal of immunity provisions that currently hinder accountability. These recommendations serve as a valuable reference for policymakers, legal practitioners, urban planners, and disability advocates working toward an inclusive built environment.

Finally, this study contributes to the broader human rights discourse by reinforcing the notion that accessibility is not merely a matter of infrastructure but a fundamental right that must be protected through strong legal frameworks. In doing so, it supports Malaysia's obligations under international law and promotes a shift towards a rights-based approach to disability policy.

8. CONCLUSION, LIMITATIONS AND FUTURE RESEARCH

This study has demonstrated that the legal framework governing access to public buildings in Malaysia remains inadequate and fragmented, thereby impeding the full realisation of the rights of persons with disabilities. Although Malaysia has ratified CRPD, the lack of enforceable legal remedies, vague definitions, absence of access audit requirements, and limited authority granted to the National Council for Persons with Disabilities continue to undermine the effective implementation of accessibility standards.

Some flaws in the study were identified. Notably, this research is limited to a doctrinal analysis of statutes, regulations, and selected case law, without incorporating empirical data or stakeholder perspectives. As a result, while the study offers a robust legal critique, it does not capture the lived experiences or practical challenges faced by persons with disabilities on the ground.

Therefore, future research should consider adopting a mixed-methods approach by integrating empirical fieldwork, including interviews with policymakers, disabled persons' organisations, architects, and enforcement agencies. Such research would provide a more comprehensive understanding of both the legal and practical barriers to accessibility and would further strengthen the case for legislative and policy reform. Additionally, comparative studies with jurisdictions that have successfully enforced accessibility laws could offer valuable insights for Malaysia's ongoing efforts to promote inclusivity and uphold the rights of persons with disabilities.

ACKNOWLEDGEMENT

The author acknowledges the Department of Law, Centre for Foundation Studies, Universiti Teknologi MARA. Special thanks to those who contributed to this project directly or indirectly.

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