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Protecting Vulnerable Consumers Access to Public Utilities

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This Presentation



1. Importance of public utilities to meet the SDGs, the deficit in meeting the Goals and the impact on consumers.
2. Malaysia's protection of vulnerable consumers in terms of access to public utilities, and in law.
3. Mainstreaming protection of vulnerable consumers of utilities and other essential services.



SDGs, Public Utilities and Vulnerable Consumers

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SDGs &

Public Utilities



Water & Sanitation

Goal 6

Ensure availability and sustainable management of water and sanitation for all.



Energy

Goal 7

Ensure access to affordable, reliable, sustainable and modern energy for all.



ICT / Internet

UN Sec-Gen and ITU consider internet access as a crucial enabler for accelerated achievement of all 17 SDGs.

Global Access

Deficit



Water & Sanitation

- 2.2 billion people need access to safely managed drinking water, including 884 million currently without basic drinking water services.
- 4.2 billion people need access to safely managed sanitation.
- 3 billion people need access to basic handwashing facilities.
- Water scarcity could displace 700 million people by 2030.



Energy

789 million people lack electricity, 1 in 4 in some developing countries.



ICT/Internet

28% of urban and 62% of rural households do not have internet access at home.

Access Disparity

The Vulnerable

In the US (2013 – 2017) an estimated 1,121,100 people ($\pm 25,500$) had insecure water access, with 47% located in the 50 largest metropolitan areas.

Unplumbed households in cities, more likely to be headed by people of colour, earn lower incomes, live in mobile homes, rent their residence, and pay a higher share of their gross income toward housing costs.

Gaps in urban water access are neither random nor accidental but underpinned by precarious housing conditions and systemic social and racialized inequality.

Katie Meehan (2020)

Access To Utilities

Criteria & Standards

1. Need for agreed appropriate national criteria and standards on availability, affordability, quality, and information and redress.
 - Available – e.g. for water, piped to the home
 - Affordable - % of minimum wage to access utilities
 - Acceptable quality – reliable and safe
 - Information and redress mechanisms – relevant information in a usable format and a redress mechanism that is efficacious
2. Greater awareness of the standards that have been developed by the ISO and other agencies to measure aspects of what we collectively refer to as access.

The background of the slide is an aerial photograph of a city skyline at dusk. The sky is a mix of purple, blue, and orange. In the foreground, there is a dense residential area with many buildings and trees. A large, dark blue rectangular box is overlaid on the center of the image, containing the title text in white.

Access to Public Utilities in Malaysia

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Access to

Public Utilities

UTILITY	PERCENTAGE ACCESS
Water	100%
Sewerage	96%
Electricity	99% (Peninsular) 98% (Sabah) 97% (Sarawak)
Household internet access	91.7%
Smartphone penetration	66.5%

Data from Department of Statistics Malaysia, WHO and World Bank

Granulated data will reveal disparities

Price

Electricity



TARIFF USAGE PER MONTH	RATE (sen/kWh)
1 – 200 kWh	21.8
201 – 300kWh	33.40
301 – 600 kWh	51.60
601 – 900kWh	54.60
901kWh	57.10

Minimum monthly charge is RM3.00

Price

Water



USAGE	RATE	MIN PAYMENT (RM)
0-20 m ³	0.57	6.00
21-35 m ³	1.03	
35 m ³ & above	2.00	

Water subsidy

Water a state matter in the Malaysian federation and subsidy varies by state.

Selangor state: free water up to 20 cubic meter per month since 2008.

Eligibility

- Malaysian citizens with monthly household income of RM4,000 and below.
- Residential homes with individual water meters and residential building using bulk meters (low-cost apartments, flats) upon confirmation by government.
- ONLY 1 account per premise and ONLY for 1 premise.

Price

Internet



Fixed - line broadband

- Average cost per month: RM132.50 (US \$31.85)

Mobile data

- Average price: 1GB RM3.70 (US \$0.89)
- Cheapest: 1GB RM0.50 (US \$0.12)
- Most expensive: 1GB RM30.20 (US \$7.26)

(US \$1 = RM4.16)

Cable.co.uk (2021)

Access Disparity

Water & Sanitation

Several groups are left behind and there are gaps in realizing the human rights to **water and sanitation**:

- Orang Asli (indigenous peoples of Peninsular Malaysia)
- Population affected by megaprojects
- Population living in informal settlements - occupied by Malaysian nationals, stateless, undocumented population or others with irregular status
- Refugees and asylum seekers
- Transgender and gender non-conforming persons

Malaysia's access statistics do not include those living in coastal villages, traditional style houses, known as "long houses", and other forms of informal settlements.

Disconnections due to the inability to pay. Currently, there are 24,000 disconnections per month on average for the entire country in the total of 6.9 million domestic connections.

Disconnection due to inability to pay is a violation of the right to water.

OHRC Special Rapporteur (2019)

Covid 19 Pandemic Relief



Temporary Measures For Reducing The Impact of Coronavirus Disease 2019 (COVID-19) 2020 [Act 829]

Adopted 12 August 2020 and gazetted 23 October 2020.

Section 7

Inability to perform any contractual obligation arising from categories of specified contracts due to measures taken under the Prevention and Control of Infectious Diseases Act 1988 to control the pandemic “***shall not give rise to the other party or parties exercising his or their rights under the contract***”.

Utility contracts not specified as a category of specified contracts.

If they had been, there would have been no disconnections for non-payment and there could have been an easy-payment scheme arranged for when the Act ceases to be of effect.

Covid 19 Pandemic Relief

Electricity

Peninsular Malaysia

MONTHLY USAGE	DISCOUNT (%)
200kWj and less (more than 2.9 million users)	40
201kWj to 300kWj (1.4 million users)	15
301kWj to 600kWj (2.4 million users)	10
601kWj to 900kWj (700,000 users)	5

In addition to monthly RM40 Electric Bill Rebate for the registered underprivileged in the *e-Kasih* system.

Sabah

30% discount on *electricity* bills.

Sarawak

25% discount on *electricity* bills.

Covid 19 Pandemic Relief

Water & Sanitation



Water

No rebates in Peninsular Malaysia.

30% discount in Sabah.

25% discount in Sarawak.



Internet services

No discounts or rebates.

An aerial view of a city skyline at dusk, featuring prominent skyscrapers like the Petronas Towers. The image is overlaid with a semi-transparent blue filter. A dark blue horizontal bar is positioned across the middle of the image, containing the title text in white.

Legal Protection for Vulnerable Consumers

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Equality Law



Malaysia has a written constitution and **Article 8** deals with Equality.

Article 8 (1) provides:

“All persons are equal before the law and entitled to the equal protection of the law.”

Unlike in the UK and some other countries, Malaysia **does not** have an Equality Act.

Disability Law



Signatory of Convention on the Rights of Persons with Disabilities 2006

Article 1

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.

Persons of Disability Act 2008

Section 2

“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.

Preamble of Persons of Disability Act 2008 includes:

RECOGNIZING that **disability is an evolving concept** and that disability results from the interaction between persons with disabilities and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with persons without disabilities.

Vulnerability in

Malaysian Law & Policy

No Malaysian law or official policy document includes the terms '*vulnerable*' or '*vulnerability*'.

However, there are provisions in Malaysian law that could be the basis for protection of vulnerable consumers.

- *Consumer protection law*
- *Utilities law*

Consumer Protection Act 1999

- A comprehensive omnibus law of 17 parts and 173 sections.
- Protect consumers vis-a-vis suppliers and manufacturers/producers.
- No mention of particularly vulnerable consumers including children or the aged.

Part IIIA Unfair Contract Terms introduced in 2010 is an exception: distinguishes between procedural and substantive unfairness.

Court or Tribunal may, in determining procedural unfairness, take into account whether the consumer:

*“suffered serious disadvantages in relation to other parties because the consumer was unable to appreciate adequately the contract or a term of the contract or its implications **by reason of age, sickness or physical, mental, educational or linguistic disability, or emotional distress or ignorance of business affairs.**”*

(S. 24C (2) (g) (ii))”

- Can be a rich source of protecting consumers.
- Awaits an aware legal profession and progressive judiciary to give it effect.

Utility

Commissions

Utilities have all been corporatized, and in part privatized.

Federal government maintains controlling interest by way of three statutory Commissions:

- Water Commission
- Energy Commission
- Multimedia and Communications Commission (MCMC)

Required to protect consumer interest, and with agreement of Minister, set prices and other conditions of supply.

None as yet explicitly provide for vulnerable consumers.

The multimedia and communications commission has service provision clauses for disabled persons.

Powers of

Minister & MCMC

Communications and Multimedia Act 1998 Part VIII on Consumer Protection enables Minister to:

- Intervene “*freely or frequently*” to set rates “*for good cause, or as the public interest may require*”, determine special rate regulation regimes for particular groups of persons (s.199);
- Determine required application services for disabled consumers (s, 192);
- Direct the Malaysia Communications and Multimedia Commission (MCMC) to determine system to make services available to under-served areas or under-served groups (s.202); and
- Establish a Universal Service Provision Fund with contribution by licensees (s.204).

Consumer Forum & Consumer Code

Communications and Multimedia Act 1988:

Requires establishment of **Consumer Forum (s.189)** and **Consumer Code (s. 190, 191)**.

- General Consumer Code of Practice for the Communications and Multimedia Industry Malaysia (GCC) (2003); and
- Internet Access Service Provider (IASP) Sub-Code (2005)

Both codes do not make any reference to vulnerable consumers, or even disabled consumers.

Dispute Resolution & Redress (MCMC)

MCMC empowered to:

- Resolve consumer complaints as regards conduct of licensees (s.195) and
 - Establish procedures and guidelines for consumer complaints handling (s.196).
-
- Consumers first complain to licensee, if matter unresolved complain to the Consumer Forum, and if dissatisfied with the decision appeal to MCMC for a final decision.
 - Procedure not mandatory – consumer may choose any other option available under the law before, during or even after the decision.

Dispute resolution & redress are not specifically provided for in relation to electricity and water services.

Consumers will have to access the Consumer Claims Tribunal under the Consumer Protection Act, or the courts.

OFCOM (UK)

Office of Communications (OFCOM) (UK) has identical powers.

It provides special services for the vulnerable:

- Broad definition of vulnerable: due to circumstances such as age, physical or learning disability, physical or mental illness, low literacy, communications difficulties or changes in circumstances such as bereavement.
- Providers required to **establish, publish and comply with clear and effective policies and procedures** for **fair and appropriate treatment** of vulnerable consumers.
- Examples of special services:
 - ✓ Priority fault repair
 - ✓ Bills and contract in accessible format
 - ✓ Third party bill management
 - ✓ Best tariff notification

Mainstreaming Protection of Vulnerable Consumers

Mainstreaming Protection Of

Vulnerable Consumers

For real change, policies to address consumer vulnerability have to be integrated into all aspects of the operations of organisations – be they government, business or social organisations.

For this we need to:

- 1. Protect vulnerable consumers *via* both consumer law and essential services law by imposing obligations on regulators and service providers. Such reform need to:**
 - Stipulate role of regulators and their monitoring and reporting requirements (e.g. reporting surcharges for late payment, connections & disconnections in supply of utilities).
 - Enable price regulation to favour the financially vulnerable.
 - Facilitate financial counselling services for the financially vulnerable.
 - Establish a Commission and an Ombudsman to address consumer vulnerability in essential services supply.

Importance of

ISO Standard 22458

UK efforts on behalf of vulnerable consumers was facilitated by **British Standard *BSI 18477: Inclusive service provision - identifying and responding to consumer vulnerability.***

ISO is developing a similar standard: ***ISO 22458 Consumer vulnerability – Requirements and guidelines for the design and delivery of inclusive service.***

- Malaysia is a member of the Project Committee ISO/PC 311 Vulnerable consumers which was responsible of drafting the standard.
- The draft which has been sent to members for voting draws on global experience of dealing with vulnerable consumers and applies to all organizations, be they government, private or social organizations.
- ISO 24588 will be a major impetus for measures to serve the needs of vulnerable consumers.
- NGOs will have an opportunity to lead by example and precept.

Mainstreaming Protection Of

Vulnerable Consumers

- 2. Adoption of the ISO 22458 standard *Consumer vulnerability – Requirements and guidelines for the design and delivery of inclusive service. The standard will***
 - Help make inclusive service the norm, emphasizing organizational commitment, openness and accountability, and progressive organizational learning.
 - Help organizations arrive at meaningful KPIs for their service provision.
 - Assemble department heads, line managers, and employees to discuss areas that should be measured and slated for process improvements.

- 3. Greater awareness raising and activism by consumer organizations and academia of the need to protect vulnerable consumers will serve as a catalyst to alleviate the detriment endured by vulnerable consumer.**

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An aerial view of a city skyline at dusk, featuring the Petronas Twin Towers in the center. The sky is a mix of purple and blue, and the city lights are beginning to glow. The foreground shows a dense residential area with many smaller buildings.

Thank You

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