

**CONSERVATION OF CULTURAL HERITAGE IN MALAYSIA:**

**A REVIEW ON NATIONAL HERITAGE ACT 2005**

NURUL HUDA BINTI ROZLAN	2011430436
AZZAHRA BINTI ROSLEE	2011609704
MASFUFAH BINTI AHMAD	2011265154
NOR'ALIA FATHANAH BINTI MOHD SALLEH	2011477118

Submitted in Partial Fulfilment of the Requirements for the

Bachelor of Legal Studies (Hons)

**Universiti Teknologi MARA**

**Faculty of Law**

DECEMBER 2013

The students confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

## ABSTRACT

Malaysia is very fortunate to have many historic buildings which have both the architectural and historical value which are protected in the National Heritage Act 2005. With the rising awareness amongst the public regarding the conservation of our precious national heritage, many historical buildings have been preserved and conserved very well. However, some of them have sadly been converted to become premises for banks, restaurants, offices or even shopping malls. Thus, in December 2005, parliament passed the National Heritage Act which came into force on 1 March 2006. This Act is a replacement of Antiquities Act 1976 and Treasure Trove Act 1957. The passing of this new Act draws the attention of the public as well as local organizations. Some give many credits, *inter alia*, alleged that the Act is already complete. Despite of the credits, the Act, at the same time, also received a lot of critics from various individuals, groups and organization as it is said to be ineffective and unenforceable. This research paper aims to draw the attention on the flaws or loopholes being purported against this Act and recommendations to overcome the alleged flaws. Among the issues that will be discussed in this research paper include, failure of authorities to observe their power efficiently, loopholes in our laws and lack of appreciation of the value of the heritage. We hope that this research paper will be a reading that will provide a better understanding on this Act.

## **TABLE OF CONTENTS**

i.	Acknowledgement	<b>i</b>
ii.	Abstract	<b>ii</b>
iii.	Table of Contents	<b>iii</b>

### **CHAPTER ONE: INTRODUCTION**

1.1	Introduction	<b>1</b>
1.2	Background of Study	<b>2</b>
1.3	Problem Statement	<b>3</b>
1.4	Research Objectives	<b>4</b>
1.5	Research Methodology	<b>5</b>
1.6	Scope of Research	<b>6</b>
1.7	Limitations of Research	<b>6</b>
1.8	Significance of Study	<b>7</b>
1.9	Conclusion	<b>8</b>

### **CHAPTER 2: LITERATURE REVIEW**

2.1	Introduction	<b>10</b>
2.2	Heritage Building Conservation In Malaysia	<b>10</b>
2.3	National Heritage Act 2005	<b>12</b>
2.4	Criticism On National Heritage Act 2005	<b>14</b>
2.5	Comparison With Other Countries	<b>15</b>
2.5.1	United States	<b>16</b>
2.5.2	United Kingdom	<b>18</b>

2.5.3 Australia	19
2.5.4 New Zealand	20
2.5.5 China	22
2.5.6 Southeast Asia	23
2.5.7 Singapore	23
2.6 The Need To Protect The Cultural Heritage Building	24
2.7 Conclusion	25

### **CHAPTER 3: THE LAWS ON THE CONSERVATION OF NATIONAL HERITAGE**

3.1 Introduction	26
3.2 <i>United Nations Educational, Scientific and Cultural Organization</i>	26
3.3 ICOMAS	27
3.4 The Policy of Conservation of National Heritage in Malaysia	28
3.5 Federal Constitution	32
3.6 Antiquities Act 1976 (Act 168) And Treasure Trove Act 1957 (Act 542)	34
3.7 National Heritage Act 2005 (Act 645)	35
3.8 Town And Country Planning Act 1976 (Act 172)	39
3.9 National Land Code 1950 (Act 518)	41
3.10 Conclusion	42

# CHAPTER 1

## INTRODUCTION

### 1.1 Introduction

Heritage is our past which needs to be preserved and taken care of so that it can be passed on to future generations. According to the Oxford Dictionary<sup>1</sup>, heritage is defined as property that is or may be inherited; an inheritance or valued objects and qualities such as historic buildings and cultural traditions that have been passed down from previous generations.

The meaning of heritage<sup>2</sup> itself is conceptualized as something of the past that is attach with, to the present and is regarded as knowledge defined within social, political and cultural context. It is proven in our environment through physical evidence such as monuments, buildings, streets, landscapes and societal activities. These have now become symbols of cultural identity and heritage of certain communities and in essence, they portray what we really are. By acknowledging and studying the qualities of buildings, we can relate and learn about not only the life of their predecessors but also the architectural innovations that were made in the past.

Heritage can be categorized into two categories which are cultural heritage and natural heritage<sup>3</sup>. Both of the tangible<sup>4</sup> and intangible<sup>5</sup> heritages are part of our national cultural heritage.

---

<sup>1</sup> Oxford Dictionaries "heritage". Oxford Dictionaries. Oxford University Press. Retrieved on June 04, 2013 from <http://oxforddictionaries.com/>

<sup>2</sup> In Malaysia, heritage is defined under Section 2 of National Heritage Act 2005 to import the generic meaning of a National Heritage, sites, objects and underwater cultural heritage whether it is listed in the Register, or not Whereas, National Heritage means any heritage site, heritage object, underwater cultural heritage or any living person declared as a National Heritage under section 67 of National Heritage Act 2005.

<sup>3</sup> Natural heritage includes natural features of any area in Malaysia which may consist of earthly physical or biological formations or group of such formations, geological or physiographical features,