



## FOREST RESEARCH INSTITUTE MALAYSIA (FRIM) AS HERITAGE FOREST: EXISTING LEGAL PROTECTION AND ITS EFFECTIVENESS



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### ABSTRACT

#### Article History

Received: 16 September 2019

Revised: 18 October 2019

Accepted: 27 November 2019

Published: 23 December 2019

#### Keywords

FRIM  
Forest  
Heritage  
Law.

FRIM campus is located in Kepong, Kuala Lumpur, Malaysia was established in 1985 recognized as National Heritage Site in 2012. FRIM's area is estimated 544.3 hectare to be considered as the largest man-made tropical forest and the oldest in the world and has the objective to achieve the recognition of the UNESCO World Heritage Site by 2020. FRIM has the world's oldest exotic tree species serving as a research center for forestry, biodiversity conservation and forest resources, and tropical forests. Therefore, FRIM's legacy status needs to be maintained with good management in accordance with the established law. Some legislations such as the Malaysian Forest Research Institute Act 2016 [Act 782], National Heritage Act 2005 [Act 645], National Forestry Act 1984 [Act 313], National Land Code, Land Acquisition Act 1960 [Act 486] and the Town and Country Planning Act 1976 [Act 172] will be discussed to review the effectiveness of law protection against FRIM as a heritage forest. The methodology of this study will use library study approaches and interviews with related respondents. The study found that FRIM's forest site was not covered under several relevant Acts as there is no such gazette was registered in accordance with the provisions of the Act. Therefore, legal protection under existing legislation is less effective. The study suggests that FRIM to be gazetted as a permanent reserved forest based on its own function and as a river reserve capable of protecting FRIM's forest status from developmental threats.

**Contribution/ Originality:** This study contributes to the understanding of the need for effective law and enforcement for cultural and natural heritage protection, particularly for places which is open for public like FRIM.

### 1. INTRODUCTION

Since FRIM was recognized as National Heritage Site and nominated as World Heritage Site, FRIM legal status and protection should be taken into account, so that the site will remain preserved and conserved from human interventions. This study will be discussing some legislations such as the Malaysian Forest Research Institute Act 2016 [Act 782], National Heritage Act 2005 [Act 645], National Forestry Act 1984 [Act 313], National Land Code, Land Acquisition Act 1960 [Act 486] and the Town and Country Planning Act 1976 [Act 172] to review legal protection of FRIM as a heritage forest and its effectiveness of such laws to protect FRIM from planned or developmental threats.

### 1.1. Forest Research Institute of Malaysia (FRIM) Act 2016 [Act 782]

FRIM Act is enacted to provide for the continuing existence of FRIM which was initially established by the Forest Research and Development Board of Malaysia which shall be a body corporate under this Act and the dissolution of the Board to specify the administration, function and powers of FRIM and provide for matters relating to FRIM. Following the enforcement of the FRIM Act, the Malaysian Forestry Research and Development Board Act 1985 (Act 319) was repealed. FRIM's functions are listed in section 4 of the act which include the function of implementing forest-based research and development programs, forest conservation, commercialization of research findings, monitoring of program organizer activities, providing technical services and forest-based consultants, and more.

Additionally, Section 5(2) FRIM Act explains comprehensively the Institute's powers, which includes power to develop and co-ordinate any activities relating to forestry which deem necessary for the administration of the Institute and its functions. In addition to Section 5, Part V (Sections 29 to 35) lists other powers of the Institute among others, the power to make an order for the imposition, alteration or revocation of a research on the export of all or any forest produce and such order shall be gazetted in the Gazette.

The Institute is also empowered to establish a company, commercialize research findings, the power to impose fees and charges for any technical facilities and services, advice, consultants or anything relating to forest-based industries, as well as the power to borrow and invest. Furthermore, the Institute is empowered to make such regulations expedient to carry out the provisions of this Act and employ agents, consultants and technical advisers for the exercise of the functions of FRIM.

Based on the above-mentioned provisions, we can see that there are still some loopholes in ways to protect FRIM's at current and future state since the provisions are more focusing to management-basis. In order to attract outsiders to come to FRIM, the Institute has opened doors to the public to participate in planned activities such as Canopy Walk, Kroh River Waterfall, bicycle and jogging tracks, cross-forest and so on. These activities will indirectly cause water and environmental pollution in FRIM.

Without comprehensive and practical rules and regulations to outsiders and FRIM staff, FRIM's safety and environment could not afford to be fully protected and this might affect the forest ecosystem. As we are well aware, as a place that fits the tourist with various activities available, FRIM is one of the destinations targeted to boost the eco-tourism in Selangor. As such, the Act 782 still needs to be revised and enhanced to protect FRIM in a holistic manner so that its benefits and interests can be enjoyed together. This is true since there is no price tag that can equate the conservation value of FRIM for its biodiversity and ecosystem services that FRIM provides (Abdullah *et al.*, 2015).

### 1.2. National Heritage Act (NHA) 2005 [Act 645]

FRIM has received National Heritage Site status in 2012, and consequently the NHA shall apply to protect FRIM site from any exploration and/or developmental purposes. According to the then Minister of Culture, Arts and Heritage, Datuk Seri Dr. Rais Yatim.

The NHA is regarded as a common law relating to Malaysia's heritage. This Act defines the national heritage as "any heritage site, heritage object, underwater cultural heritage or any person declared as National Heritage under section 67". Section 67 of the Heritage Act states, the Minister may declare any heritage site, heritage object, underwater cultural heritage listed in the Register or any person living as a National Heritage by order published in the Gazette.

In Malaysia, there are several natural sites which also got the same heritage declaration i.e; Mulu State Park in Sarawak, Kinabalu State Park in Sabah, Royal Belum Park in Perak, Lake Garden in Kuala Lumpur, Gunung Ledang State Park in Johor, Tanjung Piai State Park in Johor and Harimau Cave in Perak. Additionally, as of natural heritage, Mulu State Park and Kinabalu State Park have been awarded the World Heritage Site by

UNESCO, whereas Bandar Georgetown, Malacca and Lenggong Valley Archeological Park was recognised as World Heritage Site for the category of cultural heritage (Ramli *et al.*, 2015). FRIM and Royal Belum Gardens, Perak are also nominated in the list of UNESCO Heritage Sites.

FRIM is an unique nomination by Malaysia to UNESCO World Heritage Center because although FRIM is a research institute of forestry, it is not a natural forest, but a 100-year-old experiment forest plantation, hence not a natural but cultural heritage (Rasyikah *et al.*, 2018).

An interview was conducted with the National Heritage Department (JWN), and the Heritage Officer said, among the criteria considered before FRIM was proclaimed as National Heritage Site were due to the uniqueness of its flora and fauna, tangible and intangible cultural heritage or underwater cultural heritage as mentioned in Section 67 (2) (g) NHA whereby FRIM contains a unique collection of biodiversity and is the largest collection center for the largest *Dipterocarpaceae* collection in the world apart from the fact that it is the oldest and largest man-made tropical forest in the region (Abdullah *et al.*, 2015).

Being a heritage site will ensure that FRIM campus will be protected against developments that threaten its environment (Abdul and Ayyati, 2013). This is because FRIM campus is also a conservation site as provided under Section 45 (1) NHA at the date of its establishment as a heritage site and shall be conserved in accordance with the conservation management plan.

A conservation area may enter a buffer zone around a central center or enter a buffer zone around a site that has been designated as a heritage. Under the National Physical Plan, buffer zone is a green area that separates two non-complementary land use activities, for example housing and industrial areas. Generally, this zone becomes a prohibited area and should be free from harassment and human activity that can diminish the area (Mokthsim, 2017).

The requirement of buffer zone is also required by the Selangor Waters Management Authority (LUAS) Enactment 1999 ("LUAS Enactment"). This is a state legislation that applies to FRIM since FRIM is within the state of Selangor. For buffer zones protection at the FRIM campus, Section 43 of the LUAS Enactment states that no person shall operate any source conversion activities in the flood zone, river reserve or any other zones of protection or other buffer zones declared under section 48 or on a water source without the written permission of the Director, unless expressly authorized under any law provisions or otherwise which have been declared in writing by the Director do not require consent. Any building or construction constructed or constructed must also be removed or demolished by that person.

Section 48 of the LUAS Enactment further explains the establishment of a protective zone where the State Authority may designate a protective zone and buffer zone but not limited to river reserves and flood zones for the purpose of saving any water source, reservoir and environmentally sensitive coastal area. Subsection (3) continues, each zone of protection shall be established by notification in the Gazette and shall include the description of the zone being declared, the geographic boundary of the zone and the restrictions applicable in the zone.

Where protection zones have been established, no person may attempt or cause any activity or work that restricts or conflicts with the purpose of such protection zone. Accordingly, protection zones and buffer zones shall be protected as provided in the provisions of this Act and the State Authority should play an important role in carrying out and enforcing the mandates and powers conferred by the Act to safeguard those zones.

### *1.3. Role and Functions of the Heritage Commissioner*

Each heritage site declared in the Gazette shall be listed in the National Heritage Register and followed by protecting the area as a protected zone. Under Section 63 and Section 61 NHA, infringing on gazetted areas is an offense. Subsequently, Act 645 also clarifies the roles and responsibilities of the wide Commissioner in line with the powers conferred by the Act. The Commissioner appointed by the Minister shall be published in the Gazette and the term of office for not more than three years and eligible for reappointment. Section 6 NHA stipulates the

function of the Commissioner amongst others to designate the heritage sites, to monitor the conservation activities, to promote heritage related research and to integrate heritage protection with the local planning.

Any dealings involving heritage sites such as selling and/or name-changing of the heritage sites shall notify the Commissioner in writing within twenty-eight days from the date of the agreement and/or from the date of completion of such purchase or acquisition. For a purpose of heritage site care, if the heritage site is located on the land of the title, upon consultation with the State Authority, the Commissioner may inspect, maintain, conserve and preserve the heritage site through purchase or lease.

Where the owner or resident agrees with any arrangement made with respect to the heritage site, the Commissioner may make a contribution for the cost of carrying out any repair or conservation work as it deems necessary.

The Commissioner shall also pay any damage to the site or monument as a result of the transfer of any monument and may agree with the payment of any compensation to the owner of the site. Section 39 NHA allows the Commissioner or any authorized officer to enter a heritage site granted to the owner or resident to examine, survey, investigate or carry out any work necessary for the conservation, repair, sealing and cleaning as it deems fit and necessary.

In addition, the Commissioner also has the duty to prepare a heritage site conservation management plan after consultation with the Council for the purpose of (a) promoting the conservation, preservation, rehabilitation, rehabilitation or reconstruction of a site heritage; (b) ensuring the proper management of a heritage site including the use and development of all buildings and land within the heritage site and the preservation of the environment including the physical, physical, social, economic, traffic and economic growth measures; and (c) promote the scheme for education, or for practical and financial assistance to, the owner and the population, and for the community's involvement in decision making.

#### *1.4. Planning and Development within a Heritage Site*

With regard to the planning and development of a heritage site, the intended developer and State Authority must comply with the Town and Country Planning Act (TCPA) 1976 [Act 172]. In this regard, Section 58 (1) (f) TCPA enables the Local Authority to provide protection for monuments, land and buildings with historical or architectural interests. Therefore, the TCPA can prevent the developer from making any modifications and invasion of areas that have been banned by the Local Authorities. In the event of any planning plan involving a heritage site, the National Heritage Act 2005 is applicable and there are certain provisions to be taken into account by the planning authority, Local Authority and/or the developer.

On a different note, Section 32 NHA requires the heritage Commissioner to give notice to the local planning authority for a specific area stating that the location of a heritage site. Thus, the local planning authorities may consider any action plan in relation to with the interests of the heritage site in preparing any development plans under the TCPA. After that, the planning authority should prepare a plan for the purpose of preserving, treating the features and shape of the building in the preparation of the plan in detail which will enhance the safety and beauty of the building, as a tourist attraction product under the administration of the local authority (Mohd *et al.*, 2013). In this respect, section 12(3) (1) (viii) emphasizing the preservation and protection factors of a heritage sites without adverse effect when developing the area.

Subsequently, local planning authorities shall apply to the Commissioner in advance for any development planning for the heritage site. Under section 40(1) NHA, the Commissioner shall coordinate and advise the local planning authority before granting any planning permission or development order involving a heritage site. The Commissioner may also place certain conditions with the local planning authority when granting planning permission or development order involving a heritage site such as requiring the protection and retention of any particular characteristic of the heritage site and/or request payment of any damages caused to any heritage site

after the development work is completed. In addition, for a planning development plan in the heritage site, section 46 (2) of the Heritage Act requires the Commissioner to submit a conservation management plan to the State or local authority in order to coordinate its conservation management plan and guidelines.

### *1.5. Governance of FRIM Forest*

Article 74 (2) of Malaysian Constitution provides that matters relating to land including agriculture and forestry are under the jurisdiction of the State Government. In accordance with the provisions of the Federal Constitution, the enforcement of written laws pertaining to forests in Malaysia are divided into three, namely the National Forestry Act (NFA) 1984 which applicable in East Malaysia; the Forest Enactment 1968 in the state of Sabah; and the Sarawak Forestry Ordinance 1954 in the state of Sarawak.

The NFA is enacted to uniform states laws that administer, manage and conserve forest in Peninsular Malaysia, and it shall not be enforceable in any state unless it has been adopted through a corresponding state law. The Government's intention to make amendments to the NFA is to strengthen the combat logging activities and to empower biodiversity conservation and restoration activities. Through NFA and (Amendment) 1993, a comprehensive and practical law that has been established for a better conservation management purposes.

Section 9 NFA provides that any land which is not Government land or reserved land or land vested in the State Authority can be acquired as a permanent reserved forest in accordance with the Land Acquisition Act 1960. Section 10 NFA further provides that the Director shall classify the permanent reserved as either forest for timber production, soil protection or reclamation, flood control, water catchment or wildlife sanctuary. Forest can also be designated as a virgin jungle reserved forest, or forest for amenity, education and research.

The State Authority may remove the status of permanent reservation but must replace the area considering the need for land and water conservation, diversity of life and other considerations on the environment. Other considerations under section 12 NFA includes the need to maintain timber production, State's economic needs, and appropriate land area approximately the same as a permanent reserved forest. To date, FRIM's forests are not gazetted as any category of permanent reserved forest. From the interviews conducted with LUAS officer, FRIM's forests are not gazetted as reserved water catchment lands, while according to FRIM officers, FRIM's forests are not gazetted and classified for its relevant functions under section 10 NFA.

On a different note, the property ownership rights in Peninsular Malaysia are governed under the Federal Constitution, the National Land Code (NLC) 1965 and the Land Acquisition Act (LAA) 1960. The land acquisition right is allocated in accordance with Article 13 of the Federal Constitution that any acquisition must be made with sufficient compensation. Section 3 LAA provides that State Authority may take any land required for any public as well as commercial purpose. Land that cannot be acquired under LAA is federal land, Federal Reserve (gazetted), government land, and any reserve land as forest under the NFA.

Regarding FRIM status generally, if FRIM is reserved as a forest reserve and or permanent reserved forest, then FRIM should be protected and the potential for the acquisition of the land for purposes under Section 3 LAA will be difficult unless with the approval of the Authority State or the State Director of Forestry. Nevertheless, as aforesaid, FRIM is neither gazetted as reserved water catchment lands nor as permanent reserved forests. FRIM land is also not covered under the LAA as "hill land" under section 3 LAA where the use of hill land was limited to the purpose agriculture and mining only. Based on these loopholes, protection under LAA is not applicable to FRIM forest which prohibits all work on hill land such as cutting down trees or clearing the area unless authorized by the Land Administrator.

According to section 5 NLC, river means any river, stream, creek or other natural water-course, and any tributary, distributary or artificial deviation. The definition of "river" is also given under section 2 of the 1920 Water Act, which "includes a river branch and any natural water flow and channel as well as canals that are subject to this Code". This NLC has certain provisions relating to land planning and development, such as land use

categories, i.e. agricultural land, building and industrial, implied conditions and interest restrictions, change conditions, breach of conditions and consequences arising from it.

Under section 52 NLC, land licensed by the State Authority is divided into three categories, namely agricultural land, building land and industrial land. When a land title is issued, real conditions and restrictions of interest (if any) will be imposed as determined at the discretion of the State Authority. Certain implied conditions apply to agricultural land, building land and industrial land. If the land owner intends to change the conditions imposed on his land, for example changing the terms of use of agricultural land to the building (for the purpose of home construction and so on), the application for such purposes may be made under section 124 or section 124A of the NLC. On this note, FRIM campus is an agricultural forest land area with exotic plant species that needs to be preserved and protected under the NLC.

## 2. CONCLUSION AND RECOMMENDATION

The extent of legal effectiveness for the purpose of protecting FRIM site is yet comprehensive nor holistic in nature. There are still loopholes as to its security against environmental degradation, gazettement status, protection and enforcement of State Authorities.

From the perspective of land status and classification of land or river reserves, there is little to suggest that FRIM forest should be protected. Since FRIM are not gazetted as protected land or forest reserves, steps must be taken to gazette FRIM as a permanent reserved forest based on its own function under the National Forestry Act 1984. FRIM can also be reserved as a river reserve and forest reserve under Land Acquisition Act 1960 in order to protect FRIM from exploration and developmental threats.

Besides lack of protection from existing legislations, FRIM must also be equipped with a good heritage site conservation management plan (CMP). Under the CMP, every individuals and community living within or surrounding FRIM should understand the heritage value of FRIM and should play their part in conserving and protecting FRIM's outstanding universal value.

Community involvement is seen to be at a low level whereby they are aware about the need for participation, but still there is no action performed by community (Solihah *et al.*, 2015). As such, more cooperation are needed between the community and FRIM's management, and this can be done through awareness programs for heritage site conservation. This is pertinent for FRIM since the community must not only benefit from the heritage recognition, but also actively participate in the conservation programs and perhaps in the decision making process concerning FRIM.

**Funding:** This study received no specific financial support.

**Competing Interests:** The authors declare that they have no competing interests.

**Acknowledgement:** Both authors contributed equally to the conception and design of the study.

## REFERENCES

- Abdul, K.& N. Ayyati., 2013. FRIM heritage site the pride of the nation. FRIM In Focus. 6-8.
- Abdullah, M., M.P. Mamat, M.R. Yaacob, A. Radam and L.H. Fui, 2015. Estimate the conservation value of biodiversity in national heritage site: A case of Forest Research Institute Malaysia. Procedia Environmental Sciences, 30: 180-185. Available at: <https://doi.org/10.1016/j.proenv.2015.10.032>.
- Mohd, Y.Y., D. Hanapi and K. Ab Samad, 2013. Protecting heritage: Effective conservation and preservation efforts in the development of the Country. Geografia Online ©2013, ISSN 2180-2491TM Malaysian Journal of Society and Space, 9(2): 64 - 77.
- Mokhtsim, N. 2017. The Timeline Of Forest Management In Malaysia Towards Achieving Sustainable Development Goals. PhD Thesis. Universiti Malaya: Kuala Lumpur.

- Ramli, Z., M. Mokhtar, M. Razman and S.Z.S. Zarina, 2015. Heritage-based tourism in Malaysia: Potentials and challenges. Proceedings of the 8th International Seminar: Ecology, Human Habitat and Environmental Change 2015, 4.
- Rasyidah, K.M., H. Kamaruddin, A. Yaakob, I. Wook, S.S. Sulaiman and M. Mustafa, 2018. Outstanding universal values of the Malaysian forests. International Journal of Asian Social Science, 8(7): 427-433. Available at: <https://doi.org/10.18488/journal.1.2018.87.427.433>.
- Solihah, M., M. Marzuki, R.S. Ramli, J. Mapjabil, M.K.Z. Abidin and M.P. Yusoh, 2015. UNESCO heritage city management and local community involvement: Case study in George Town, Penang. Geografia-Malaysian Journal of Society and Space, 11(12): 87-99.

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