

Elderly as a Vulnerable Group: A Legal Review in Malaysia

*Warga Emas sebagai Golongan Rentan:
Tinjauan Perundangan di Malaysia*

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ABSTRACT

Malaysia is experiencing significant demographic changes with a rapidly increasing elderly population. According to the Department of Statistics Malaysia, the percentage of citizens aged 60 and above is expected to exceed 15% by 2030. This demographic shift underscores the urgent need to address the welfare and protection of the elderly. This article aims to examine the position of the elderly as a vulnerable group in terms of legal protections in Malaysia by reviewing the specific legislation and policies for the elderly, including laws that provide for their protection, care, and welfare as well as comparing the legal position of the elderly with other vulnerable groups. Using a qualitative research methodology involving legal analysis, this article examines the existing legal framework intended to protect the rights and well-being of the elderly, identifying weaknesses and shortcomings in the legal system. This article also proposes necessary improvements to ensure more comprehensive and effective protection while emphasizing the importance of having strong legal provisions to address issues such as abuse, neglect, and financial exploitation. The findings of this study are expected to provide useful guidance for policymakers and legislators in their efforts to strengthen legal protection for the elderly in Malaysia.

Keywords: Elderly; vulnerable groups; law; protection; welfare; care

ABSTRAK

Malaysia sedang mengalami perubahan demografi yang signifikan dengan peningkatan populasi warga emas yang pesat. Menurut Jabatan Perangkaan Malaysia, peratusan warga negara berumur 60 tahun ke atas dijangka melebihi 15% menjelang tahun 2030. Peralihan demografi ini menekankan keperluan mendesak untuk menangani kebajikan dan perlindungan warga emas. Objektif kajian adalah untuk mengkaji perundangan dan polisi khas untuk warga emas, termasuk undang-undang yang memperuntukkan perlindungan, penjagaan, dan kebajikan mereka. Selain itu, kajian ini bertujuan untuk membandingkan kedudukan warga emas dari segi perundangan dengan golongan rentan yang lain. Menggunakan metodologi kajian kualitatif yang melibatkan analisa perundangan, artikel ini meneliti kerangka perundangan sedia ada yang bertujuan melindungi hak dan kesejahteraan warga emas, serta mengenal pasti kelemahan dan kekurangan dalam sistem perundangan tersebut. Artikel ini juga mencadangkan penambahbaikan yang diperlukan untuk memastikan perlindungan yang lebih komprehensif dan efektif. Selain itu, ia meneliti fungsi undang-undang dalam melindungi warga emas, menekankan kepentingan memiliki peruntukan undang-undang yang kukuh untuk menangani isu-isu seperti penderaan, pengabaian, dan eksploitasi kewangan. Hasil kajian ini diharapkan dapat memberikan panduan berguna bagi pembuat dasar dan penggubal undang-undang dalam usaha mereka untuk memperkukuh perlindungan undang-undang bagi golongan warga emas di Malaysia.

Kata kunci: Warga emas; kumpulan rentan; undang-undang; perlindungan; Kebajikan; penjagaan

INTRODUCTION

The global elderly population is undeniably growing at a rapid pace, and aging is a universal phenomenon affecting all nations. While the increase in life expectancy is widely celebrated as a significant achievement, it is equally undeniable that the aging population presents considerable challenges for economies, societies, and families worldwide.

A society is considered aging if at least 7% of its population is aged 65 and above. Conversely, a country is considered aged if it has 14% or more of its population aged 65 and above. According to the United Nations (UN), the number of elderly people worldwide is expected to be more than double from 841 million in 2013 to over 2 billion by 2050. By 2047, it is projected that the number of elderly will exceed the number of children. In developing countries, similar projections show that the elderly population will double by 2025. In Asia, half of the world's elderly population resides, and by 2050, the elderly population in Asia will double. Countries such as the Philippines, Malaysia, and Singapore are expected to experience an annual increase of four percent in the elderly population, doubling within 17 years. The UN has declared that 60% of the elderly population originates from Asia.

The well-being of the elderly has become a primary agenda for every country worldwide. The United Nations has introduced various international guidelines to protect the well-being, dignity, development, and human rights of the elderly. Many countries have focused on developing social support and welfare programs for the elderly based on legal frameworks aligned with UN standards. However, Malaysia's achievements are far below than other Asian countries. Malaysia is expected to become an aging country within 25 years. By 2035, Malaysia will become an aged country with 15% of its population consisting of elderly individuals. In 2023, Malaysia is on track to achieve aged country status by 2030. The Department of Statistics Malaysia (DOSM) reported that the percentage of elderly individuals increased to 7.3% in 2022 compared to 7.0% in 2021. DOSM also reported that the median age of Malaysians increased from 30.1 years in 2021 to 30.4 years in 2022. In 2022, about 11.1% or 3.6 million Malaysians were over 60 years old, which is the retirement age set by the government in 2019. The increase in the elderly population in Malaysia is due to several factors, including better healthcare, lower mortality rates, declining fertility rates, and longer life expectancy. The significant increase in aged population impacts Malaysia's economy and social structure. Department of Statistics Malaysia reported that spending on the elderly increased yearly, reaching 2.4 billion ringgits in 2021 compared to 2.3 billion ringgit the previous year. This scenario indicates the burden faced by the government due to the aging population which include pension payments, healthcare, and social benefits to meet the needs of the elderly in Malaysia.

Therefore, this article will examine the legal status of the elderly in Malaysia, compare their status with other vulnerable groups, and suggest changes that can be made to recognize the status of the elderly in Malaysia.

METHODOLOGY

This study adopts a contextual analysis to explore the current legal frameworks related to older individuals in Malaysia, evaluating their effectiveness and identifying areas for improvement to ensure comprehensive legal protection. The article represents a form of transdisciplinary legal research, as it addresses laws concerning older individuals, a field that can be categorized as interdisciplinary law. The research integrates two primary disciplines: law and the social sciences.

Legally, the field of law regarding older individuals intersects with various legal domains, including family law, medical law, and health ethics. This study is reform-oriented, aiming to bring about positive changes within the legal system. Therefore, a doctrinal research approach is employed, which involves conducting a critical content analysis.

This study employs a qualitative research design, which is suitable for analyzing legal evidence and constructing arguments typically found in legal reviews. Given that legal issues surrounding the care and protection of the elderly involve an interdisciplinary study between legal and social aspects, the research is not purely legislative. Instead, it involves a legal system that incorporates social, cultural, conceptual, and practical elements.

In addition to doctrinal research, the study uses a descriptive-comparative research methodology. Descriptive-comparative research, also referred to as comparative research or comparative critical analysis, seeks to explain and compare various variables, characteristics, or phenomena. This approach involves examining the similarities and differences between two or more groups, situations, or conditions to better understand their features and relationships. The study will compare the laws related to older individuals in Malaysia with those governing other vulnerable groups, such as children, individuals with disabilities, and other at-risk populations. Through comparative analysis, researchers aim to identify patterns, similarities, and differences, providing a more comprehensive understanding of the subject. This comparative approach, which draws on legal principles from various fields, helps identify the fundamental concepts shaping legal development.

Data collection involves legal analysis through various analytical, critical, philosophical, and historical methods. The qualitative data analysis focuses on examining non-numerical information from primary and secondary sources, including reports, journals, articles, case studies, seminar papers, and Hansards. The research relies on both primary sources, such as statutes, decided cases, and legal journals, and secondary sources, such as books, websites, and reports. Analytical and critical methods enable researchers to review, critique, and suggest reforms for ineffective legal provisions. This research also incorporates philosophical or jurisprudential methods to achieve a comprehensive understanding of the topic. These methods are particularly useful in doctoral-level studies and involve critically examining the philosophical foundations of legal theories, focusing on issues such as justice, morality, and the nature of laws concerning older individuals and vulnerable populations. Finally, the historical method is employed to trace the origins of policies protecting older individuals and the development of laws related to other global vulnerable groups, such as children and individuals with disabilities. By examining historical developments, the research aims to provide a thorough understanding of the issues and propose solutions based on an analysis of past trends and outcomes.

DEFINITION AND CONCEPT OF THE ELDERLY

Generally, the elderly are often referred to as older adults or veterans who have reached old age. The World Health Organization (WHO) refers to the elderly as individuals who have retired from the workforce. The World Assembly on Aging defines the elderly as individuals aged sixty and above (United Nations World Assembly on Ageing, 1982). The National Policy for Older Persons defines the elderly as individuals aged 60 and above, as adopted by the United Nations World Assembly on Ageing in Vienna. This definition is also accepted by other ASEAN countries.

In Malaysia, the term 'elderly' refers to someone who has lived long, is old, or is nearing old age. The term 'elderly' is also said to refer to people aged 60 and above and is synonymous with 'old person.' According to the Department of Social Welfare Malaysia, the elderly are classified as those aged 60 and above. However, the Department of Statistics Malaysia sets the elderly age at 65 and above.

Kalish (1982) provides three dimensions to define the elderly. First, based on chronological age, a person is considered old when they reach 65 years. Second, Kalish refers to physical changes in body shape, facial features, hair color, hearing, and vision. Third, the elderly can be defined based on social roles, such as those who have retired, no longer work, and have become grandparents. Wan Ibrahim (2000) considers the elderly to be individuals aged 60 or 65 based on gerontology or chronological age. This age gap is based on the retirement age for different countries, where developed countries with longer life expectancy have a retirement age of 65, while developing countries like ASEAN countries have a retirement age of 60. Che Leman Hamzah (2003) defines the elderly as individuals aged sixty and above. Gerontologists categorize the elderly into two groups: those aged 65 to 74 (early old age) and those aged 75 and above (late old age) (Orimo et al., 2006). However, the official portal of the Post-Service Division categorizes the elderly into three age groups: young-old (65-74 years), old-old (75-84 years), and oldest-old (85 years and above).

Considering the various definitions of the term "elderly," it is important to establish clear and specific age limits to ensure effective legal management and address related matters in Malaysia. For the purposes of this article, the term "elderly" will be used interchangeably with "old person."

THE ELDERLY AS A VULNERABLE GROUP

The elderly are often perceived as a vulnerable and dependent group in need of protection, both for themselves and their property. Aging is influenced not just by chronological age but also by factors like genetics, lifestyle, and environment. While many elderly individuals possess financial resources and maintain active roles in society, they remain susceptible to health risks, economic dependency, and social challenges such as loneliness, neglect, and abuse. As aging progresses, it is often accompanied by illness and frailty, which can lead elderly individuals to experience a state of vulnerability like that of childhood.

The perception of their weakness frequently makes the elderly targets for exploitation. Crimes and ethical violations against them are increasing, with rising reports of abuse and neglect. For instance, the Deputy Director of the Sexual, Women, and Children's Investigation Division in Bukit Aman reported a 20% rise in elderly abuse cases during the Movement Control Order. A report from May 2022 revealed that one in every hundred elderly individuals in Malaysia had been a victim of financial scams, often orchestrated by family members or syndicates. The advent of technology exacerbates this issue, as many elderly people lack the knowledge to protect themselves from online scams.

Instances of abuse and neglect of the elderly, both emotional and physical, are frequently reported. For example, a young man was sentenced to seven years in prison and three strokes of the cane for injuring his mother with a lawn mower rod after she refused to give him money. In another case, a man was charged under Section 506 of the Penal Code for criminal intimidation of his mother, facing imprisonment or fines. Additionally, there are cases of elderly individuals being

abandoned in public spaces by their families without facing significant legal consequences. One such case involved an elderly man left at a mosque by his nephew, while another involved an elderly woman abandoned by her family on the roadside. Both individuals were eventually placed in welfare centers supported by zakat (alms).

Health problems associated with aging, such as hypertension, diabetes, heart disease, and stroke, further complicate the lives of elderly individuals. In Malaysia, mental health challenges like depression and dementia are also prevalent among the aging population. The National Health and Morbidity Survey in 2018 highlighted that a portion of the elderly population suffers from these conditions. Although outright neglect of the elderly is relatively rare, their rights and needs are often overlooked by both their families and society at large.

Zaharah (2019) identifies the challenges of aging in terms of finances, health, family, and environmental factors. As they age, elderly individuals require financial resources to meet their daily needs and manage their health. However, finding employment is difficult due to the widespread perception that the elderly are less productive, more prone to health issues, and in need of additional care. Siti Zaila (2018) also emphasizes that the elderly face numerous social and economic challenges affecting their well-being and quality of life. These challenges include health problems, chronic diseases, cognitive decline, social isolation, financial instability, limited access to healthcare, elder abuse, housing difficulties, loss of independence, technology-related obstacles, caregiver stress, age discrimination, and end-of-life decisions. The growing challenges faced by the elderly have far-reaching consequences, including increased government fiscal pressure to provide income support, healthcare, and social services. Despite their vulnerability, elderly individuals often struggle to access legal protection and social services.

POLICIES FOR THE ELDERLY IN MALAYSIA

Like many nations, Malaysia is actively working to safeguard the rights of its elderly population through the introduction of various social policies aimed at addressing aging-related issues. These policies include the National Policy for Older Persons (1995), the updated National Policy for Older Persons (2011), the National Health Policy for Older Persons (2008), and the annual celebration of National Elderly Day on October 1, which began in 1992. The central aim of these policies is to provide comprehensive welfare protection for the elderly in areas such as health, economy, and general well-being. Notably, these policies align with international frameworks like the Vienna International Plan of Action on Ageing (1982) and the Madrid International Plan of Action on Ageing (2002), both of which Malaysia is a signatory to.

Prior to the establishment of the National Policy for Older Persons, the government introduced the National Social Welfare Policy in 1990, which identified the elderly as a priority group due to growing concerns about issues like abuse and neglect. These social problems were recognized as potentially disruptive to national welfare. In alignment with the third sustainable development goal—ensuring good health and well-being—the government's focus is on promoting healthy lives for all, including the elderly. The National Social Welfare Policy seeks to ensure social justice, particularly for older individuals, and is supported by 11 United Nations resolutions, including the Principles for Older Persons (Resolution 46/91). Following this, an action plan for the elderly was developed, featuring six key strategies: lifelong learning, promotion and support, security and protection, governance, intergenerational solidarity, and research. A revision in 2008 led to the formulation of the National Policy for Older Persons in 2011.

Malaysia was one of the first countries to develop a national aging policy following the 1982 Vienna World Assembly on Aging. Initially presented in 1995, the National Policy for Older Persons was revamped in 2011 to meet the evolving needs of Malaysia's aging population. The 1995 policy aimed to ensure that older individuals were provided with opportunities for care, protection, and involvement as respected members of their families, communities, and society. As a result, the National Advisory and Consultative Council for Older Persons (NSCACC) was established in 1996 to oversee the development and implementation of policies related to the elderly. This council comprises both government and non-governmental organizations and introduced the Malaysian Policy Action Plan in 1999.

The updated 2011 National Policy for Older Persons acknowledges the diversity of elderly citizens and recognizes their right to live a dignified life while contributing to national development. This policy represents the government's commitment to creating a supportive environment that empowers older individuals to live independently. The six strategies outlined in the policy include promotion and advocacy, lifelong learning, security and protection, governance and shared responsibility, intergenerational solidarity, and research and development. Through these strategies, the government provides comprehensive health services and ensuring financial security for the elderly through mechanisms such as insurance.

The objectives of the 2011 policy are to promote the dignity and respect of the elderly, foster their participation in national development, and ensure they have access to adequate care and protection. The framework for elderly well-being is built around five dimensions: productive aging, healthy aging, active aging, positive aging, and supportive aging. Additionally, the Malaysian government has introduced the National Plan of Action for Health Care of Older Persons in 1997, followed by the National Health Policy for Older Persons in 2008, which seeks to address the healthcare needs of older individuals by promoting autonomy, supporting caregivers, and ensuring continuity of care. This policy incorporates lessons from global frameworks such as the Vienna Plan and the Madrid International Plan of Action on Ageing.

The 2008 National Health Policy for Older Persons focuses on six guiding principles: autonomy, unique needs of the elderly, caregiver support, healthy aging, continuity of care, and the right to a quality life. It commits the government to ensuring that elderly individuals achieve optimal health through a coordinated and integrated healthcare system. In 2011, the Ministry of Women, Family, and Community Development introduced further revisions, strengthening the commitment to providing comprehensive care and protection for older citizens, regardless of their background.

In line with the National Policy for Older Persons, the Plan of Action for Older Persons was developed, incorporating principles such as dignity, independence, participation, care, and protection, alongside strategies for research and development. This cross-sectoral initiative involves ministries, agencies, NGOs, and the private sector to ensure the well-being of older individuals. Additionally, the 11th Malaysia Plan highlights the need for inclusive strategies to improve the standard of living for Malaysia's senior citizens, offering services that ensure their welfare as they age. To support low-income elderly individuals, the government provides RM500 in financial assistance through the Department of Social Welfare.

However, while these policies reflect noble goals of empowering and protecting the elderly, their effectiveness is hindered by the lack of legal enforceability. Although a draft Elderly Bill was in progress as of 2019, its introduction has been delayed, leaving many policies without the necessary legal framework to protect the elderly effectively.

LEGAL PROVISIONS FOR THE ELDERLY IN MALAYSIA

Malaysia's current legal protections for the elderly are fragmented and inconsistent. Although the Federal Constitution is the supreme law and provides fundamental rights such as personal liberty, freedom from slavery, equality before the law, and protection from unjust laws through Articles 5 to 13 of the constitution, the provisions do not specifically cater to the unique needs of the elderly. Consequently, there is a lack of laws explicitly designed to protect this vulnerable population.

The existing legal framework for the elderly includes several laws such as the Domestic Violence Act 1994, Penal Code, Care Centres Act 1993, Employment Act 1955 (Part-Time Employees) 2010, Minimum Retirement Age Act 2012, Pensions Act 1980, and Employees Provident Fund Act 1991. However, these laws are not comprehensive enough to address many critical issues faced by the elderly, such as financial exploitation, emotional abuse, and neglect.

For elderly individuals still in the workforce, the Employment Act 1955 provides minimum standards for working conditions, including working hours, overtime, rest days, public holidays, sick leave, and termination benefits. The Wills Act 1959 (Revised 1988) helps elderly individuals prepare wills, while the Pensions Act 1980 and Employees Provident Fund Act 1991 offer financial security for retired public and private sector employees, thus reducing reliance on adult children for support. However, these laws only cover 60% of the workforce, excluding the 40% of elderly individuals who are self-employed.

To ensure the safety and interests of elderly individuals in care homes, the Care Centres Act 1993 regulates the registration, control, and inspection of care facilities. This Act classifies elderly care centres into two types: residential care centres (where the elderly stay for more than one day) and daycare centres (where care is provided for more than three hours but less than 24 hours per day). These centres must be licensed by the relevant ministry. However, the protections under the Care Centres Act 1993 are limited to elderly individuals residing or visiting these care centres and do not extend to all elderly individuals across Malaysia.

Malaysia does not have specific laws dedicated to protecting the elderly from abuse and neglect. However, there are statutory instruments, such as the Domestic Violence Act 1994 (Act 521) and the Penal Code (Act 574), that offer some degree of protection to this group. Despite these provisions, it has been reported that the protections under these acts are minimal and insufficient to address the specific needs of elderly individuals.

The Domestic Violence Act 1994 provides legal protection in cases of domestic violence. Section 2 of the Act defines domestic violence as actions intended to cause or threaten physical injury, or actions that result in psychological abuse and emotional harm to the victim. It further states that domestic violence can be committed against a spouse, former spouse, child, adult with disabilities, or other family members. While the term "elderly" is not explicitly mentioned, elderly individuals may fall under the category of "adults with disabilities," referring to those who are physically or mentally weak, unhealthy, or aged and are part of a family unit. Thus, elderly individuals basically can obtain protection under the Domestic Violence Act 1994 through the term's 'parents' or 'adults with disabilities.' However, these terms do not provide comprehensive protection for elderly individuals who do not have children or are still in good health.

The Domestic Violence Act is often associated with spousal or child abuse, leading to the perception that it primarily applies to these cases. Its protections are not well-suited for addressing elder abuse, particularly neglect or abandonment, as temporary or protection orders may not be sufficient. The Act also lacks mandatory reporting requirements for elder abuse and offers limited legal protection for elderly victims. Amendments for clearer and more specific provisions on elder

abuse have been repeatedly suggested. Additionally, the Act does not adequately address emotional abuse or financial exploitation, and it only applies to cases where the victim and abuser live together, limiting its effectiveness in protecting the elderly.

The Penal Code (Act 574) is another primary law protecting victims in criminal cases such as murder, kidnapping, rape, and injury. The Penal Code is essential in Malaysia to protect individuals from crimes against their person, family, and religion. The Penal Code covers offenses related to religion, life, and body, including causing injury, confinement, criminal assault, kidnapping, slavery, extortion, rape, and incest. Therefore, offenses frequently committed against the elderly, causing injury, for example, can be prosecuted under Sections 323, 325, and 326 of the Penal Code. These sections provide for penalties for causing minor and serious injuries to others intentionally. All these sections apply to any individual who is a victim of injury, including the elderly, and the penalties vary depending on the severity of the injury experienced by the victim. In the case of *Tan Peng Huat vs. Tan Hee Soon* [2021] MLJU 1003, the court ordered the defendant to pay RM45,000 in compensation for the injuries suffered by the 68-year-old plaintiff.

Another example of decided case involving elderly victim is *Mohamad Syahrwan bin Abdullah vs. Pendakwa Raya* (2019) 1LNS 9978, where the appellant was charged under Section 392 of the Penal Code for robbing a 69-year-old elderly woman in Machang, Kelantan. Section 392 provides that anyone who commits robbery shall be punished with imprisonment for up to fourteen years and may also be fined or caned. The appellant robbed the victim's handbag containing a mobile phone, car keys, house keys, and RM275 cash. The appellant intentionally caused injury to the victim during the robbery. This action resulted in an offense under Section 394 of the Penal Code for causing injury intentionally during a robbery. The appellant pleaded guilty in the Kota Bharu Sessions Court and was sentenced to 9 years in prison and 4 strokes of the cane. The appellant appealed for a lighter sentence, claiming he was caring for his elderly parents. The Court of Appeal upheld the Sessions Court's sentence, considering the serious injuries of the victim and the fact that she was an elderly woman. The court stated that the appellant should have considered his elderly parents before committing the robbery. The court maintained that the 9-year imprisonment was consistent with sentencing trends and upheld the conviction.

The Domestic Violence Act 1994 and the Penal Code provide basic protection against criminal violence committed by family or the public, with authorities responsible for investigating and prosecuting cases of physical abuse. To convict offenses committed by family members against the elderly, the Penal Code must be read together with the Domestic Violence Act 1994, so it can be classified as a domestic violence crime and legal action can be taken. This aligns with the requirements of Section 3 of the Domestic Violence Act 1994. However, while the Penal Code offers a broader legal foundation for prosecuting crimes, it does not specifically delineate provisions for elderly victims. Furthermore, not all cases can be read together with the Domestic Violence Act 1994.

In essence, while Malaysia has legal instruments like the Domestic Violence Act 1994 and the Penal Code to address various forms of abuse and crime, including those affecting the elderly, there remains a recognized need for dedicated legislation explicitly tailored to comprehensively protect the rights and well-being of elderly individuals throughout the country.

In Malaysia, aspects related to Muslims fall under the jurisdiction of the state government, as stated in the Ninth Schedule, List II of the Federal Constitution. For example, a father's responsibility to provide for his child is contained in the Islamic Family Law Act or Enactment of each state, such as the Islamic Family Law Enactment (State of Selangor) 2003 (EUUKINS 2003). Generally, EUUKINS 2003 addresses Islamic family law issues in Selangor including marriage,

divorce, custody, and other family issues for Muslims. In the context of the elderly, EUUKINS 2003 includes provisions on maintenance under Part VI, which includes the husband's obligations towards the wife and children, as well as other detailed provisions. Section 60(1) provides for maintenance from the husband to the wife, while Section 73(1) obliges the father to support his children. A review of this section does not show any specific provisions regarding children's responsibility to support their parents. However, Section 61 states the court may order a person responsible according to Syariah law to pay maintenance to another person who is unable to earn a livelihood due to disability or illness, provided the court is satisfied regarding the suitability of such an order. This provision also implies that the elderly can be included in this category of 'another person,' extending the application of this provision to children who need to support their parents.

For non-Muslims, maintenance obligations are governed by the Law Reform (Marriage and Divorce) Act 1976 (Act 164), which addresses monogamous marriages and marriage registration for non-Muslims in Malaysia. Section 3(3) of the Act specifies that it does not apply to 'Muslims or individuals married under Syariah law.' However, a spouse's conversion to Islam does not prevent the court from confirming a divorce. Similar to the Islamic Family Law Enactment, Act 164 does not explicitly mandate that children provide financial support for their parents, as it primarily covers maintenance for spouses and children.

In the case of Khalil Ahmad vs. Kamal Khalil (2004) CLJ (Sya) 10, the plaintiff, an elderly man and father of the defendant, sought financial support from his son after receiving no maintenance for ten years. The claim was made under Section 60 of the Islamic Family Law Enactment of Negeri Sembilan 1983, which allows the court to order maintenance for someone unable to work due to disability or illness, in accordance with Syariah law. The plaintiff argued that his son had a duty to provide support and requested RM500 per month, RM36,000 in arrears, and RM2,000 to cover his stepmother's medical expenses. The court ruled in favor of the plaintiff, ordering the defendant to pay RM2,000 for medical costs and RM200 monthly as maintenance.

In another case, Kassim Bin Othman and Fatimah Binti Salleh vs. Raja Suzana Binti Raja Kasim and Zul Azli Bin Hashim (2010), a university lecturer was sued by her elderly parents for failing to provide financial support. The case was heard in the Negeri Sembilan Syariah High Court under the Islamic Family Law Enactment. The parents claimed they had been evicted from their home after transferring the property to the defendant, who then failed to uphold her promise of support, citing a limited salary as the reason. The court ordered the defendant to pay RM250 per month to each parent. In this instance, the father was 72 years old, and the mother was 64, both falling under the elderly category.

These cases illustrate that there are mechanisms to protect the rights of the elderly in Malaysia. However, the laws do not specifically mention them. Additionally, the relevant laws are fragmented, spanning both state-enacted legislation and federal law. While existing laws in Malaysia generally apply to the elderly, they do not adequately address the specific needs of this demographic. The elderly are not protected under specific laws like the Elder Abuse and Neglect Act. There is a need for the enactment of more specific laws for the benefit of the elderly. For example, Section 60 of the Islamic Family Law Enactment of Negeri Sembilan 1983 does not specifically provide for the elderly as eligible, and this provision does not cover maintenance orders for healthy parents. Therefore, the enactment of specific laws for the elderly should be considered and expedited. As Malaysia is expected to become an aging nation by 2035, it is vital and urgent to establish comprehensive policies, laws, and frameworks to protect and care for the elderly in preparation for this demographic transition.

LAWS FOR OTHER VULNERABLE GROUPS IN MALAYSIA

Malaysia has the Child Act 2001, which offers comprehensive protection for children against neglect, abuse, violence, and exploitation. Additionally, the National Child Protection Policy was developed to ensure every child is safeguarded while raising awareness and fostering commitment from all stakeholders. Specific regulations and institutions, such as the Child Protection Team, Coordinating Council, and Visiting Board, have been established to implement and oversee child protection measures.

The Child Act 2001 (Act 611) is an act to consolidate and amend the laws relating to the care, protection, and rehabilitation of children and to provide for related matters. The Act clearly states that it recognizes that the nation's vision to become a fully developed country encompasses social justice and the moral, ethical, and spiritual development that is as important as economic development in creating a united, progressive, peaceful, caring, just, and humane Malaysian society. The Act acknowledges that children, due to their physical, mental, and emotional immaturity, require special protection, care, and assistance after birth to enable them to participate positively in achieving the aspirations of a civilized Malaysian society. The Child Act 2001 (Act 611) repealed the Juvenile Courts Act 1947, the Child Protection Act 1991, and the Women and Girls Protection Act 1973, consolidating the laws relating to the care, protection, and rehabilitation of children. This Act significantly impacts the legal landscape, recognizing children as vulnerable and protected from neglect, abuse, violence, and exploitation.

The Department of Social Welfare, which is also the government institution responsible for coordinating and caring for the elderly, emphasizes that children are an important human resource for the nation. This human resource can be optimally developed by providing a safe and conducive environment. Therefore, protecting children from neglect, abuse, violence, and exploitation is crucial and should be prioritized. The National Child Protection Policy is in line with the philosophy of the Convention on the Rights of the Child (CRC) and the Child Act 2001, emphasizing the principle of protecting children for their best interests.

Similarly, the Persons with Disabilities Act 2008 (Act 685) in Malaysia provides for the registration, protection, rehabilitation, development, and welfare of individuals with disabilities, as well as the establishment of the National Council for Persons with Disabilities and related provisions. One of the key objectives of this Act is to acknowledge that disability is an evolving concept, arising from the interaction between individuals with disabilities and attitudinal and environmental barriers that impede their full and equal participation in society.

The Destitute Persons Act 1977 (Act 183) is another Act specifically enacted to provide for the care and rehabilitation of destitute persons and to control begging. The Destitute Persons Act 1977 has been the main strategy of the federal and state governments to address the problem of beggars and the homeless. With this law, welfare officers have the authority to conduct raids on 'begging destitute persons' and detain them in shelters. For nearly 42 years, this Act has provided opportunities for destitute persons to receive care and protection as well as rehabilitation in rehabilitation centers. These centers include Desa Bina Diri or Rumah Seri Kenangan.

There is no denying that some cases of elderly individuals living in homelessness and poverty have been reported in local newspapers, leading to their eventual rescue and placement in shelters like Rumah Seri Kenangan. However, reports also highlight elderly individuals living in poverty whose welfare rights remain inadequately protected. These individuals are not classified as destitute because they still have a place to live and are not homeless, which results in less attention from society. The reality is that these elderly individuals do not receive protection under

the Destitute Persons Act 1977, as the Act only applies to those begging in public places or living as vagrants. This gap is evident in several cases reported in Malaysian newspapers. For instance, in 2017, it was reported that an elderly couple, Ismail Sipat, 85, and his wife, Amnah Alan, 65, lived in poor conditions near the port town of Klang. For over eight years, they had no stable income and resorted to collecting bottles or begging in town. In another case, reported on February 11, 2019, a 67-year-old woman, Fatimah Yusoff, lived alone in a dilapidated house in Kampung Pengkalan Nangka, Kota Bahru, for more than five years, trying not to burden her children and in-laws.

Despite Malaysia having specific laws to protect children, workers, and the poor, it is surprising that there are no laws specifically addressing the issues faced by the elderly. The elderly remain one of the few global groups without dedicated international agreements to safeguard their rights, unlike children, women, and persons with disabilities, who are protected by specific agreements.

LEGAL IMPROVEMENTS FOR THE ELDERLY IN MALAYSIA

Malaysia currently lacks specific laws that comprehensively protect the elderly. While there are existing laws that provide general protection, they do not address various critical aspects of elderly life, such as emotional and financial well-being. As a result, these laws are not comprehensive or holistic enough to ensure the welfare and sustainability of the elderly, who are a vulnerable group. The current legal system has several shortcomings, including weak law enforcement, limited awareness of elderly rights, and insufficient legal provisions. Case studies have revealed numerous instances where the elderly do not receive adequate protection, such as cases of abuse and neglect, which often go unreported or are poorly managed. One of the primary issues is the lack of effective law enforcement, and many elderly individuals and their families are unaware of the rights they have under the existing legal framework.

Proposals to draft an Elderly Bill to protect the rights of the elderly in various aspects, such as emotional and financial, have yet to be implemented. The implementation and enforcement of a more detailed and comprehensive Elderly Act need to be introduced urgently by 2030. While law enforcement is not the only solution, it can at least protect the rights of the elderly by creating an inclusive environment in society. There is a need to introduce specific laws that provide more comprehensive protection for the elderly. This includes laws addressing abuse, neglect, and financial exploitation. Practical steps include increasing training and awareness for law enforcement authorities and public awareness campaigns to increase knowledge about the rights of the elderly.

From a legal perspective, Malaysia can consider drafting an Elderly Act similar to the Child Act 2001, which was specifically enacted for children. This is important to control cases of abuse and neglect of the elderly in the future. Proposals for Malaysia to set an elderly age limit in law can be implemented considering there is no consensus on the elderly age threshold, whether in Malaysia or abroad. For example, developed countries set the elderly age at 65 years and above, considering their elderly population remains healthy and active at that age. Furthermore, the Ministry of Women, Family, and Community Development categorizes the elderly into young-old, old-old, and oldest-old. This group categorization aims to facilitate activities suitable for different age groups. Meanwhile, the National Policy for Older Persons sets the elderly age at 60

years and above. Therefore, setting the age threshold for the elderly can be a starting point for a brighter future and facilitate various matters related to the elderly in Malaysia.

The government can also provide various financial incentives for employers who hire or retain older workers and train them. This step can be implemented considering many elderly individuals are still healthy and can contribute their energy and ideas to national development. This can also help develop a social security program in our country, as studies show that retirement income for most elderly individuals is insufficient. Furthermore, with Malaysia facing inflation, such a social security program is seen as more comprehensive for continuous development. Therefore, government proposals to draft specific laws protecting the elderly must be supported and implemented seriously to provide appropriate protection and address abuse and neglect of this vulnerable group.

The enactment of laws for children, persons with disabilities, the destitute, and the homeless shows that the Malaysian government recognizes and acknowledges vulnerable groups in Malaysia. In Malaysia, the Federal Constitution is the supreme law, as stated in Article 4(1). In this context, Article 8(1) addresses equality, stating that all persons are equal before the law and entitled to equal protection. However, there are exceptions as allowed in Article 8(2). Article 8(2) of the Federal Constitution states that:

"There shall be no discrimination against citizens on the grounds only of religion, race, descent, place of birth or gender in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishment or carrying on of any trade, business, profession, vocation or employment."

This statement clearly shows that the Federal Constitution, as the supreme law, guarantees equal rights for all individuals in Malaysia. In other words, as the Malay proverb goes, "Di mana bumi dipijak, di situ langit dijunjung," meaning "Where the earth is stepped on, there the sky is upheld," which implies everyone must "abide by the rules and laws where they live." In this context, equal rights mean that the elderly also have the right to be protected under the law as other vulnerable groups.

For example, overall, legal protection for children in Malaysia is found to be more comprehensive than for the elderly, who still need improvement through specific laws and more holistic support initiatives. Laws must ensure that the elderly are protected from physical, emotional, and financial abuse. The elderly need adequate financial protection to ensure they do not face economic hardship. The Care Centres Act 1993 provides some provisions for elderly care, but improvements are needed to ensure its effectiveness. Laws must ensure that the elderly have sufficient access to healthcare services, including medical treatment, home healthcare services, and other related health facilities. The Domestic Violence Act 1994 itself highlight that :

"Every individual has the right to live in a safe environment free from abuse,"

Previous studies also support that specific laws for the elderly are needed in Malaysia. The Domestic Violence Act 1994 (Act 521), Penal Code, and Islamic Family Law Enactment (State of Selangor) 2003 discussed also highlight many gaps that need to be addressed in provisions for the elderly. These laws are not comprehensive and holistic enough to ensure the overall well-being of the elderly. Furthermore, cases of neglect and abuse of the elderly show room for improvement in laws to prepare Malaysia as an aging nation. As the Child Act 2001 (Act 611) is enacted specifically for children, it is proposed that Malaysia also needs an Elderly Act that provides provisions for all aspects related to the elderly, according to their age and needs, to control neglect

and abuse. The elderly also have the rights and privileges to continue their daily lives according to their age but are often neglected, especially in legal empowerment. Laws are essential in ensuring that systems of rules or norms are adhered to by individuals and society.

CONCLUSION

The existing laws in Malaysia offer some level of protection for the elderly and align with certain principles outlined in the United Nations Principles for Older Persons (UNPOP) 1991. However, these protections are broad and do not provide the comprehensive safeguards required to fully meet the needs of the elderly, as envisioned in various policies and frameworks. Key aspects, such as religious protection, dignity, and the recognition of the elderly as respected members of society, are not sufficiently addressed. Many of the current legal provisions were originally designed to protect women and families, rather than focusing specifically on the elderly. As Malaysia's elderly population continues to grow, it is crucial to amend existing laws or introduce new, specialized legislation to ensure adequate protection for this vulnerable group.

To address the challenges posed by the increasing number of elderly citizens, Malaysia must strengthen its legal framework by enacting specific laws that safeguard the rights and welfare of older individuals. The introduction of dedicated legislation, similar to the Child Act 2001, would ensure that the elderly are afforded the necessary legal protections. It is imperative to recognize the urgency of providing this legal support, creating a safe and inclusive environment for the elderly. While progress in this area may have been delayed, it is never too late to implement the legal measures necessary to enhance the welfare of elderly individuals in Malaysia.

The rights of the elderly should not diminish with age. Therefore, comprehensive legal provisions must be established, consistent with the protections guaranteed by the Malaysian Federal Constitution, to address the unique needs of the elderly. Without such tailored instruments, the elderly will continue to remain a vulnerable group, lacking the specific legal protections they deserve.

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