

PROMOTING AND PROTECTING THE RIGHTS OF THE ELDERLY IN MALAYSIA: GUIDANCE FROM THE INTERNATIONAL HUMAN RIGHTS LAW AND EXPERIENCE OF OTHER COUNTRIES

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Abstract

The ageing of population is a worldwide phenomenon which is occurring in most countries of the world and Malaysia is not an exception. Globally, the population of older persons is growing by two per cent each year, considerably faster than the general population as a whole. By 2050, the number of older persons in the world is projected to exceed the number of young for the first time in history.¹ The United Nations Committee on Economic, Social and Cultural Rights has identified the elderly as a vulnerable group which requires specific attention and needs. Realising that the elderly are in a vulnerable position and at risk to various forms of abuse and exploitation, there has been an increased concern among the international community in recent years, for the creation of an international convention on the rights of the older persons. Having an international convention that tailored to the particular needs of older persons is seen as an essential tool in promoting and protecting the rights of the elderly. In recognition that the Malaysian elderly population too has steadily increased over the years, it is therefore considerably significant that the interests and rights of this special group of population is to be given due attention. Against this background, this paper aims to provide an overview on the existing laws that protect and promote human rights of the elderly in Malaysia, within the context of the rights proclaimed by the international and regional human rights instruments. The paper begins with the brief accounts on the trend of population ageing in Malaysia. This is followed by the discussion on the status of the elderly within the framework of the international and regional human rights instruments. Malaysia's commitments on the elderly issues will also be highlighted. Reference will also be made to selected countries which have enacted elderly specific legislation as one of the mechanisms in protecting the rights of their older persons. Finally, the paper ends with some recommendations to be adopted in safeguarding the rights and interests of the Malaysian elderly so that they too can enjoy human rights guaranteed to the other members of the society.

Keywords: *elderly, older persons, elderly's rights' human rights*

1.0 Introduction

The world is experiencing an unprecedented demographic transformation where a large number of persons are being added each year to the aged population. This phenomenon which is termed as "population ageing" first swept across the industrially developed nations of Europe, but currently, most parts of the world are experiencing an increase in their elderly populations, although they may vary in terms of the pace and

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¹ United Nations, *World Population Ageing 1950-2050*, Population Division DESA, United Nations, 2002, p. xxix.

intensity. The primary demographic forces which are responsible for causing the rise in the proportion of the elderly are the long term decline in fertility and mortality rates. The turn of the twenty-first century has witnessed a substantial growth in the number of elderly people in some parts of the world, particularly countries in the Asia and Pacific region. Demographers predict that based on the current population forecasts, population ageing in the first half of this century should exceed that of the second half of the 20th century. This is substantiated by the fact that many post war baby boomers² born between 1946 and 1964, who represent a sizable demographic bulge, will gradually move into the ranks of senior citizens.³ The World Health Organisation (WHO) and the United Nations Committee on Economic, Social and Cultural Rights have recognised that the elderly persons are among the most vulnerable groups in society who deserve special attention. They are vulnerable compared to other groups, because they are more prone to various forms of discrimination, abuse and exploitation as they are often perceived as physically weak individuals and can be easily taken advantage of.

Table 1
Past, Present and Future Trends of Senior Citizens, Malaysia, 1960-2030

Year	Number of Senior citizens ('000)	Per cent of total population	Growth rate of:	
			Senior Citizens	Total
	Population			
1960	386.6	4.8	-	-
1970	546.1	5.2	3.5	2.6
1980	745.2	5.7	3.1	2.3
1991	1,032.3	5.9	3.0	2.6
2000	1,398.5	6.3	3.4	2.6
2010*	2,134.0	7.4	4.2	2.2
2020*	3,439.6	9.9	4.8	1.9
2030*	4,933.4	12.0	3.6	1.7

* Projections

Source: Department of Statistics, Malaysia, *Population Ageing Trends in Malaysia, Population Census Monograph Series No. 1, 2000.*

Similar to other developing countries, Malaysia too is gradually moving towards demographic ageing. Table 1 demonstrates the Malaysian population structure for the past four decades (1970-2010). Within this period, there has been a steady increase in the share of the persons aged 60 years and above. The data indicated that the

² "Baby boom" refers to the sharp increase in births during the first two decades after World War II.

³ H R Moody, *Aging: Concepts and Controversies*, 4th ed., Pine Forge Press, Sage Publications, California, 2002, p. xxi.

proportion of older persons has increased from 5.2 per cent in 1970 to 6.3 per cent in 2000.⁴ Whereas within the same time period, there has been a continuous reduction in the proportion of the children (0-14 years); from 44.9 per cent in 1970 to 33.5 per cent in 2000. The trend in the increase of the number of elderly continues in recent years. In 2011, the total percentage of persons aged 65 years and above was 5.1, it increased slightly to 5.3 in 2012 and continued to raise to 5.5 in 2013.⁵ The increase in the number of population aged 60 and above is projected to continue for the next twenty years. Table 2 shows that between the year 2010 and 2035 the total number of older persons will increase by twofold. The statistics shows that Malaysia is likely to attain the status of an ageing nation by the year 2035 when the number of people aged 65 and above make up at least 10% of the total population.

Table 2
Population Projection by Age Group Malaysia, 2010-2040

Year	0 -14 (‘000)	%	15-64 (‘000)	%	65+ (‘000)	%	Medium age
2010	7,822.1	27.4	19,341.4	67.6	1,425.1	5.0	26.3
2015	7,733.4	25.4	20,917.9	68.8	1,779.9	5.8	28.2
2020	7,780.7	24.0	22,445.9	69.2	2,214.6	6.8	29.9
2025	8,009.5	23.4	23,533.4	68.6	2,751.3	8.0	31.5
2030	8,087.9	22.5	24,542.0	68.2	3,335.7	9.3	33.0
2035	7,893.4	21.1	25,606.1	68.5	3,889.9	10.4	34.5
2040	7,537.2	19.6	26,615.6	69.0	4,405.1	11.4	36.0

Source: Department of Statistics Malaysia, *Population Projections Malaysia 2010-2040*, November 2012, p.2

Improvement in public health, particularly dealing with sanitation and the availability of clean and potable water, the eradication of infectious diseases, as well as advances in medical technology have brought about a reduction in the number of children being born and more people surviving to old age. Life expectancy of the Malaysian population has improved tremendously. As of 2013, life expectancy of Malaysian male and female are 74.2 years and 79.1 years respectively. With the intensity of the sudden surge of older population, the topic of population ageing and concerns of the elderly is becoming as a high priority agenda, and it will remain important and relevant as many

⁴ Department of Statistics, Malaysia, *Population Ageing Trends in Malaysia*, Population Census, Monograph Series No.1, 2000

⁵ Department of Statistics, Malaysia, *Demographic Indicators 2013*.

of us will in due course join this 'special' group of people. In view of the fact that Malaysia will one day join the ranks of the aged nation, it is therefore timely to address the issue of how the human rights of the elderly can be promoted and protected, so that they can equally enjoy these rights similar to other groups of the society, since they will soon become a significant part of our society.

2.0 The Elderly's Rights in the International Human Rights Documents

At the outset, it must be mentioned that compared to other population groups, the elderly as a distinctive group, have not yet received the international legal attention they deserve. It is observed that until now there is no single international human rights instrument that adequately addresses the specific human rights needs and protections required for the elderly. In other words, the elderly remains as the only vulnerable group which has not become the subject of any specific international human rights treaties.⁶ Having said this, nonetheless, there exists some provisions in the international human rights instruments which promote and encourage respect for human rights of mankind in general and therefore clearly applicable to older persons as well. These provisions can be found in the Universal Declaration of Human Rights (UDHR) 1948,⁷ the International Covenant on Civil and Political Rights (ICCPR) 1966, and the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966.⁸

In UDHR 1948, one of the provisions which is relevant to the well being of the elderly is provided in Article 25 (1) which states:

Everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond control.

This provision establishes a minimum entitlement for the basic necessities of life such as food, clothing, housing, medical care in the event of old age. Article 25 which provides security in old age, is seen as a significant pronouncement to be used in favour of advancing human rights protection for the elderly.⁹

As regards to ICCPR 1966, which provides for the basic civil and political rights, there are several provisions which are significant for the protection and promotion of elderly's rights. Article 6 for example guarantees the inherent right to life. The article provides:

"Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."¹⁰

⁶ There are specific human rights instruments which specifically address the needs of specific group such as women, children and the persons with disabilities; namely the UN Convention on the Elimination of All Forms of Discrimination against Women 1979, Convention on the Rights of the Child 1989 and Convention on the Rights of Persons with Disabilities 2007 respectively.

⁷ Adopted by the United Nations General Assembly on December 10, 1948, Res 217A(111).

⁸ Adopted by the United Nations General Assembly on December 16, 1966, entered into force on January 3, 1976, Res. 2200A(XXI).

⁹ Rivera, *Worldwide Ageing: Findings, Norms, and Aspirations*, Revista Juridica Upr. Vol. 79, 2010, p.241.

¹⁰ See also article 4(5) of the American Convention.

This right is important in relation to the elderly as their life is often at stake. Associated with right to life in context of older persons, it concerns with the prohibition on imposing death penalty to the elderly. The act of withholding treatment and refusing life-sustaining treatment against the elderly patient is also an instance which violates the right to life.

Article 7 of ICCPR 1966 is also relevant to protect the rights of the elderly, it states:

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

Article 7 aims to protect both the dignity and the physical and mental integrity of the individual. In relation to the elderly, this provision is very much relevant to the 'legally incapacitated' elderly patients since they are incapable of giving informed consent. In addition, this provision also affords protection to the elderly who are staying in the institutional care, from being tortured, treated cruelly or subject to the use of restraints. As observed by Megret, that there has been an increased call world wide, to make sure that the use of restraints is closely embedded in human rights protection to minimise the potential for abuse particularly towards the elderly residents of the public or private nursing homes.¹¹

Article 9 of ICCPR 1966 is equally important in protecting the rights of the elderly. The article provides:

"Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."

The above mentioned right is relevant to the elderly who has been placed and detained in the institution care against their will. In Malaysia this situation is provided for by virtue of s.3 of the Destitute Persons Act 1977, while the equivalent provision in UK can be found in s. 47(1) of the National Assistance Act 1948.

There are also some rights embodied in the ICESCR 1966 which are of equally important and relevant to older persons. It is to be noted that the rights enshrined in the ICESCR 1966 are usually expressed as "rights of progressive implementation" which means that the States are not immediately required to fully realise those rights, rather they have the continuing obligation to move as expeditiously and effectively as possible in achieving the goal set forth in this Covenant. Among the rights which are relevant and crucial to older persons are rights to social security, rights to adequate standard of living and rights to health which are mentioned below.

Article 9 provides the right of everyone to social security, including social insurance. This provision recognises the rights of the elderly to receive old-age benefits.

¹¹ F Megret, "The Human Rights of Older Persons: A Growing Challenge", *Human Rights Law Review* 11:1 p.55

Article 11 : "The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions."

Article 12: "The States Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."

The right to health as provided in article 12 of the ICESCR 1966 is very much relevant to older persons as they are more susceptible to illness and disability than any other age group, as such they ought to command special attention in matters concerning health care.

3.0 Regional Human Rights Instruments

It is at the regional level that one finds a few scattered explicit references made to the elderly's rights. These provisions contained in the respective instruments which are discussed below.

3.1 European Continent

3.1.1 European Social Charter

Article 23 of the Revised European Social Charter¹² provides that every elderly person has the right to social protection – With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular:

To enable elderly persons to remain full members of society for as long as possible, by means of:

- a) Adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;
- b) Provision of information about services and facilities available for elderly persons and their opportunities to make use of them;

To enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:

- a) Provision of housing suited to their needs and their state of health or adequate support for adapting their existing housing;
- b) The health care and the services necessitated by their state;
To guarantee elderly persons living in institutions receive appropriate support while respecting their privacy, and participation in decisions concerning living conditions in the institution

In a nut shell, Article 23 mentioned above aims to enable elderly persons to remain full members of society and to grant them the right to take part in society's various fields of activity. Another salient features of this provision concern with the right of the elderly persons living in institutional care. Among the rights guaranteed to them are the right to

¹² Entered into force January 7, 1999.

privacy, the right to personal dignity and the right to participate in decisions concerning the living conditions in the institution.

3.1.2 Charter of Fundamental Rights of the European Union¹³

Article 25 provides that the Union recognizes and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.

3.2 American Continent

3.2.1 Protocol of San Salvador

Article 17

Everyone has the right to special protection in old age. With this view the States Parties agree to take progressively the necessary steps to make this right a reality and, particularly, to:

- (a) Provide suitable facilities, as well as food and specialised medical care, for the elderly individuals who lack them and are unable to provide them for themselves;
- (b) Undertake work programs specifically designed to give the elderly the opportunity to engage in a productive activity suited to their abilities and consistent with their vocations or desires;
- (c) Foster the establishment of social organisations aimed at improving the quality of life for the elderly.

3.3 African Continent

3.3.1 African (Banjul) Charter on Human and Peoples' Rights, 1981¹⁴

Article 18 (4) stipulates that the aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.

4.0 Examples of Other Countries

Some countries have been at the forefront in protecting and enforcing the rights of the older persons. Among the developed nations, Japan has introduced and developed a number of elderly specific legislations, beginning with the Poor Relief Law which covered the disadvantaged and disabled elderly introduced before the Second World War. After the war, the Japanese government enacted the National law for the Welfare of the Elders. This elderly specific legislation received strong public support from welfare organisations and senior citizens' groups. The law clarified the responsibilities of the national and local governments towards the welfare of the elderly, and endorsed a systematic and universal approach to welfare policies for the aged, such as the promotion of facilities for the elderly, home welfare, health promotion and social participation.¹⁵ The Act empowers the central and local governments to provide funds to the elderly welfare homes which offer home care aid services, respite care services

¹³ Entered into force December 7, 2000.

¹⁴ Adopted 27 June 1981. Entered into force 21 October 1986.

¹⁵ Masanobu Masuda and Katsuhisa Kojima, "Japanese Social Security for the Elderly from a Viewpoint of Life Cycles", Review of Population and Social Policy, No. 10, 2001, p. 40.

and other similar services. The Act was designed to cater for the needs of the low income elderly who has no relatives to care for them. As the demand for long term care services increases, the coverage eventually expanded to cover any elderly person based on this social welfare services law. The Health and Medical Service Law for the Elderly 1982 is another important piece of legislation which is relevant to maintaining and protecting the physical and mental health of the Japanese elderly.

The United States of America too has been concerned with the plight of their elderly. One of the earliest legislation passed in order to enforce the rights of the older persons is the Older Americans Act 1965. This Act aimed at providing comprehensive social services for older persons. It was passed as a response to congressional concerns about the lack of community social services for the elderly then. The Act is considered the major vehicle for promoting the delivery of social services to the ageing population. This Act allocates grants to states to create social services for the elderly. This Acts established the Administration on Ageing, which administers the states' grants and acts as the federal resource on elderly matters. It is also responsible in helping to improve the lives of all older people and to ensure the continuous care services for the vulnerable elderly.

South Africa has also taken measures to provide legislative protection for the enjoyment of elderly rights. The South African Act on Older Persons, No. 13 of 2006 spelt out its objectives to maintain and promote the status, well-being, safety and security of older persons,¹⁶ to maintain and protect the rights of older persons¹⁷ and to combat abuse of older persons.¹⁸ The Act basically aims to create an enabling and supportive environment for older persons living in community-based care and also residential settings. The act places responsibilities on the providers of support services for older persons to comply with the national norms and standards to ensure that the rights of the older persons are protected and to prevent them from abuse and exploitation.¹⁹

Within the South East Asian region, Thailand has enacted specific legislation for the protection and maintenance of their elderly. Thailand enforced the Older Persons Act 2003 on 1 January 2004. The Act consists of 24 sections, which among others provide for the establishment of the Elderly Fund,²⁰ the rights of the elderly to have access to medical and public health services, education, useful information, transportation, housing, food and clothing²¹ and tax privilege for children who take care of their parents.²² In addition to the Thailand Older Persons Act 2006, the rights of the poor older persons to enjoy public health services and welfare is constitutionally recognised. It is

¹⁶ Article 2(a) South African Act on Older Persons 2006.

¹⁷ Article 2 (b) South African Act on Older Persons 2006.

¹⁸ Article 2(e) South African Act on Older Persons 2006.

¹⁹ See Chapter 2, chapter 3 of the South African Act on Older Persons 2006.

²⁰ See section 13 of the Thailand Older Persons Act 2003.

²¹ See section 11 of the Thailand Older Persons Act 2003.

²² See section 17 of the Thailand Older Persons Act 2003.

stipulated that a person who is over sixty years of age and has insufficient income for living shall have the right to welfare, public facilities and appropriate aids from State.²³

Some countries have enacted specific legislation which make provision for the maintenance of aged parents by their children. The Singapore (Maintenance of Parents Act 1995) and Philippines (Parents Support Act 1998) are examples of such statutes.

5.0 Human Rights in Malaysian Law

In Malaysia, some of the basic human rights principles as embodied in the international human rights instruments are enshrined constitutionally in the Federal Constitution. These human rights principles are applicable to all persons which include the older persons. These international human rights principles are embodied in Part II of the Constitution under the heading of 'Fundamental Liberties.'

Article 5 (1) provides: No person shall be deprived of his life or personal liberty save in accordance with the law.

Article 8 (1) states: All persons are equal before the law and entitled to the equal protection of the law.

Article 9: freedom of movement

Article 13 provides (1) No person shall be deprived of property save in accordance with law.

6.0 Malaysia's Commitments to Elderly Issues: Policy Responses

6.1 National Policy for Older Persons

The issue of elderly was specifically highlighted for the first time in the Sixth Malaysian Plan,²⁴ thus giving impetus to action and place some kind of pressure on the government to formulate policies responsive to the growing number of this group. In response to this, the National Policy for Older Persons was formulated and it was endorsed by the government on 25th October 1995, with the integral aim of:

"Creating a society of senior citizens who are contented and possess a high sense of self-worth and dignity, by optimizing their potential and ensuring that they enjoy all opportunities as well care and protection as members of their family, society and nation."²⁵

The underlying principle of this policy is to give due respect and recognition to the status of the older people by creating a dignified and highly esteemed society of older persons. Being the older members of the society who have contributed significantly in many aspects, they deserve a special position in the family, society and the nation.

²³ See section 53 of Constitution of the Kingdom of Thailand 2007.

²⁴ Government of Malaysia, *Sixth Malaysian Plan 1990-1995*, Percetakan Nasional Malaysia Berhad, Kuala Lumpur, 1990, p. 571.

²⁵ Jabatan Kebajikan Masyarakat, *Pelan Tindakan Dasar Warga Tua Negara*, Appendix A, Jabatan Kebajikan Masyarakat Malaysia, Kementerian Perpaduan Negara dan Pembangunan Masyarakat Malaysia, September 1999.

Focusing on the principle of 'active and productive ageing' as advocated in the Vienna Action Plan of Ageing 1982, the policy envisages a positive perception of the older persons by allowing them to integrate, participate and contribute to the social and national development. They are not to be marginalized in the mainstream of the development; instead, they should be accepted as an integral members of society who can contribute to the productivity of the country. This whole vision is a move away from the conventional perspective, where more often than not, the elderly are viewed as passive recipients of benefits.

This national policy has three principal objectives, namely:

1. To enhance the respect and dignity of the elderly in their family, society and nation,
2. To improve the potentiality of the elderly so that they continue to be active and productive in national development, and to create opportunities to assist them to continue to be self-reliant,
3. To encourage the establishment and availability of specific facilities to ensure the care and protection of the elderly towards enhancing their well-being.

The above mentioned national policy for the elderly together with its objectives were formulated based on the principles laid down in the United Nations World Assembly on Ageing in Vienna 1982, where by its Action Plan gives emphasis on the strategies to safeguard the rights, interests and needs of the elderly in five specific areas:

- Respect and dignity
- Self reliance
- Participation
- Care and protection
- Research and development

Following the endorsement of the said policy, a National Senior Citizens Advisory and Consultative Council (NSCACC), under the then Ministry of National Unity and Social Development (MNUSD), was established on 22nd May 1996.²⁶ The NSCACC which comprises of government, non government and selected individuals functions as the national coordinating body on ageing; it formulates policies, coordinates, monitors and evaluates ageing related activities. Nonetheless, it should be pointed out that the NSCACC as to date has not performed particularly well. This is due to its limited jurisdiction and it has little de facto control over the functioning of various agencies responsible for issues related to the elderly.²⁷

Two years after the establishment of the NSCACC, the National Action Plan for the elderly was formulated in December, 1998. The central aim of this Action Plan is to ensure for the integration and participation of the elderly in the development process. Among the focus areas in this Action Plan are education, employment, social

²⁶ *Id* at p. 3.

²⁷ F S Ong (et al.), *Ageing in Malaysia: Progress and Prospects*, in T Fu and R Hughes (eds.), *Ageing in East Asia: Challenges and Policies for the Twenty-First Century*, Routledge, London, 2009, p. 144.

integration, recreation, health, social security, media, research and development. On 5th January 2011, a new National Policy for Older Persons and its action plan were launched to replace the 1995 National Policy for Older Persons and the 1998 Plan of Action for the Older Persons. This new national policy for older persons was formulated with the objectives to develop the potential of the elderly so that they remain active and productive in national development and to create opportunities for them to continue to live independently. In addition, it is also expected that the society's respect towards the elderly will continue to improve.²⁸ In formulating this new national policy for the elderly, the government has taken into consideration the three priority areas outlined in the Madrid International Plan of Action on Ageing. These three priority areas are mainstreaming ageing in the nation's developmental agenda, advancing health and well-being of the older persons and ensuring enabling supportive environment for the aged.

6.2 Malaysia Health Policy for Older Persons

Persuant to the endorsement of National Policy for Older Persons 1995, the Ministry of Health (MOH) launched the Plan of Action for Older Persons Health Programme in 1997 aimed to provide medical and health facilities suitable and specific to the needs of the elderly to ensure optimum health care for the elderly in this country. Ten years after the launching of the Plan of Action for Older Persons Health Programme, in 2007 the MOH convened a workshop for drafting the National Health Policy for Older Persons as well as to review the existing action plan. The workshop was held from 26 February to 1 March 2007, and was attended by sixty-three participants from various professional backgrounds.

The National Health Policy for Older Persons was drafted and eventually endorsed in 2008. The Policy Statement is as follows:

*"To ensure healthy, active and productive ageing by empowering the older persons, family and community with knowledge, skills an enabling environment; and the provision of optimal health care services at all levels and by all sectors."*²⁹

The objectives of this policy is three fold:

1. To improve the health status of older persons.
2. To encourage participation in health promoting and disease prevention activities throughout the life course.
3. To provide age friendly, affordable, equitable, accessible, culturally acceptable, gender sensitive, seamless health care services in a holistic manner at all levels.
4. To advocate and support the development of an enabling environment for independent living (ageing-in-place).³⁰

²⁸ See Malaysian National Policy for the Elderly 2011, available at www.kpwkm.gov.my

²⁹ MOH, *National Health Policy for Older Persons*, Family Health Development Division, Ministry of Health, Malaysia, 2008, p. 11.

³⁰ *Id* at p 13-14.

Together with this policy, a detailed plan of action for the health of older persons was also endorsed. This Plan of Action governs six specific areas:

1. Services for primary health care.
2. Services for medical care and rehabilitation at secondary and tertiary level.
3. Health education and promotion.
4. Research and development.
5. Interagency and intersectoral collaboration.
6. Legislation

7.0 Recommendations

In Malaysia, the elderly as a specific group, have not been given serious attention in terms of the legal protection of their rights and interests. The legislators seem slow in recognizing the elderly as a specific and vulnerable group which requires some legal protection. To date, there is no specific and comprehensive legislation governing the elderly in Malaysia, which provides adequate protection to them. The existing elderly related legislations are the Workmen's Compensation Act 1952 and the Employee Social Security Act 1969 which provide indemnity against employment related accident or injury. The Pension Act 1980 and the Employment Provident Act 1991 provide for income security or old age financial support after retirement. As regards to the elderly who are living in institutional care settings and community based care, the law that governs them are the Rules for the Management of Old Persons' Homes 1983, Rules for the Management of Homes for the Chronically Ill 1978 and the Care Centre Act 1994. These relevant legal provisions regulating institutional care for the elderly however only provide a minimum protection to the residents in terms of ensuring the safety and hygiene of the premise. There is no explicit provision which guarantees and confers legal rights to them as residents. It should be pointed out here that the existing rules and regulations seem to be ineffective in protecting the elderly from abuse and neglect and inadequate in its approach to autonomy and individual rights.

Perhaps at this juncture, one of the suggestions which Malaysia can consider is to have complementary legislation to improve the existing legal framework in order to protect the human rights of the older persons, alternatively the internationally recognized elderly rights can also be incorporated into the existing elderly related domestic law to further enhance their status.

8.0 Conclusion

Like many other countries in the world, Malaysia too is experiencing an increase in the share of her elderly population as indicated in the National Census which has been conducted in the past fifty years. In respond to this demographic changes, the Malaysian government has formulated and endorsed the National Policy for Older Persons 1995 as well as the Malaysian Health Policy for Older Persons 2008 with the view to protect and promote the general well being of elderly Malaysian. Compared to other age groups, older persons are in a vulnerable position and they are prone to various kinds of discrimination, exploitation and violation of their rights. As such, it is timely to rethinking the appropriate measures or approach in protecting their rights.

One of the mechanisms which can be adopted is by having a specific legislation to protect the civil, political, economic, social and cultural rights of older persons. Malaysia must begin to think of creating a body of law that will safeguard the elderly's rights, so that they too can lead a dignified and secured lives, as equal members of society.

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