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RIGHT TO SOCIAL INCLUSION, PARTICIPATION AND ADEQUATE STANDARD OF LIVING FOR ELDERLY IN LONG-TERM INSTITUTIONAL CARE IN MALAYSIA

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Abstract:

Living in long-term institutional care provides elderly individuals with a wide range of support services designed to enhance their quality of life. Nonetheless, there are still worries about whether their rights are genuinely upheld, despite these services. This article examines the rights of elderly individuals opting for long-term institutional care from an international perspective and scrutinises how Malaysia specifically addresses this right for these individuals. This article employs a library-based doctrinal approach by examining relevant international laws, Islamic human rights principles, and related Malaysian legislation. The findings indicate that, at the international level, the right to an adequate standard of living, social inclusion and participation are recognised, but it is generally provided for people of all age groups. Due to the lack of specific legislation for the elderly, no law in Malaysia explicitly provides these rights. However, for elderly individuals residing in long-term institutional care, these rights are mentioned in various provisions, such as the Care Centre Act 1993 (CCA) and Care Centre Regulations 1994 (CCR) for private long-term care, and the Rules for the Management of Old Person's Homes 1983 (RMOPH) for public long-term care.

Keywords:

Rights of Elderly – Adequate Standard of Living – Social Inclusion and Participation – Long-term Institutional Care

Introduction

The ageing of population is becoming a significant global concern today, with numerous issues affecting the elderly, including elder abuse, neglect, and financial exploitation. Many argue that the elderly, like women, children, and the disabled, deserve to get proper care and protection due to their vulnerability.

The ageing population in Malaysia has attracted the attention of various segments of society in recent years. According to the latest figures from the Department of Statistics Malaysia (DOSM), the proportion of Malaysians aged 65 and above rose from 7.2% in 2022 to 7.4% in 2023, comprising 2.5 million individuals, indicating an ageing population trend in Malaysia (AWANI Columnist, 2023). The DOSM forecasts that by 2040, Malaysia will have nearly equal proportions of young people (18.6%) and older adults (14.5%). The elderly population is expected to exceed 6.0 million, signalling the country's transition into an ageing society.

One of the concerns related to the elderly is the issue of long-term care for them. Long-term care can be defined as a wide array of personal, social, and medical services and support designed to help individuals experiencing, or at risk of, a significant decline in their inherent abilities due to mental or physical illness and disability. This care aims to maintain a level of functional ability that aligns with their fundamental rights and human dignity (World Health Organization, 2022). Both professional caregivers and family members, friends, or other community members (informal caregivers) deliver long-term care over extended periods. An estimated 142 million elderly individuals worldwide struggle to meet their basic needs independently, with two-thirds likely requiring care and support at some point in their lives. Women, individuals living alone, and those with lower health and socioeconomic status are more prone to long-term care services (World Health Organization, 2022).

Long-term care enables individuals experiencing significant declines in intrinsic capacity to maintain their quality of life and continue ageing in important activities as independently and safely as possible, while respecting their basic rights, fundamental freedoms, and human dignity (World Health Organization, 2022). According to Kalideen, Govender & van Wyk (2022), these services aim to help individuals live independently and safely while carrying out their daily activities. (Kalideen, Govender, & van Wyk, 2022). Activities of daily living refer to essential tasks that everyone needs to perform, such as dressing, feeding, and bathing. Instrumental daily activities are tasks necessary for living independently in the environment, such as transportation, housekeeping, and shopping (Muhammad Syakir, Mohd Zaki, & Isma Liana, 2023).

There are two types of long-term institutional care in Malaysia which are formal long-term care and informal long-term care. Formal long-term care for the elderly refers to professional care services provided by trained and paid caregivers. These services are often delivered in various settings, such as nursing homes, assisted living facilities, or through home health care agencies. Formal long-term care includes a range of medical, personal, and social support services designed to help the elderly with daily activities and health needs. Whereas informal long-term care for the elderly refers to the care provided by family members, friends, or other unpaid caregivers. Typically, caregivers provide this type of care in the home, assisting with activities of daily living (ADLs) such as bathing, dressing, eating, and managing medication, as well as instrumental activities of daily living (IADLs) such as cooking, cleaning, shopping, and

transportation. Informal caregivers play a crucial role in supporting the elderly, often at significant personal, emotional, and financial cost to themselves.

Even though there is a demand for long-term institutional care for the elderly, residents living in these facilities face certain challenges. Some of the challenges include loneliness, lack of facilities, lack of activities, participation and malnutrition. During the International Federation of Ageing's 15th Global Conference Rights Matter in 2021, Michelle Bachelet, the UN High Commissioner for Human Rights, stated that older people have been rendered deeply vulnerable, especially those in care homes and institutions. She emphasised that in many, if not most, countries, there is a pressing need for reforms to uphold and advance the human rights of older people, empowering them to live full, free lives with dignity and equality (Bachelet, 2021).

Previous studies also highlighted on the critical role of community values and legal rights in ensuring proper care for the elderly (Amran, Norazmi, Amiruddin, Abdullah, Syed Najihuddin & Mhd Izzuddin, 2024). Communities provide foundational support by creating environments where the elderly feel valued, respected, and included. The establishment of a law would formalise and enhance protection for the elderly's rights, potentially ensuring their access to essential services and healthcare. By incorporating these rights into law, societies affirm the inherent dignity and worth of elderly, recognising their entitlement to care and support.

This article will examine certain legal rights of the elderly and evaluate whether the existing laws sufficiently address these rights in long-term institutional care.

Literature Review

Research on the rights of elderly individuals receiving long-term institutional care is scarce. Some of the available research discusses the issue from gerontology and social science perspectives. Therefore, this section will review some of the literature that discusses this topic.

Challenges in Long-term Institutional Care for Elderly

The elderly group is a vulnerable group facing numerous challenges in their lives. Those living in long-term institutional care experience similar difficulties. A study found that the elderly encounter various challenges such as worsening health conditions, malnutrition, insufficient shelter and housing, depression, reduced productivity, and financial instability. (Muhamad Firdaus, Abd Hamid, Hussein 'Azeemi, & Azman, 2020)

A study discovered that the rates of loneliness (56% to 95.5%), anxiety (3.6% to 38%), and depression (11% to 85.5%) are generally high among the elderly residing in long-term institutional care. The high prevalence rates of loneliness, anxiety, and depression among elderly in long-term institutional care suggest that these mental health issues should be addressed seriously, as their severity can lead to a decreased quality of life and higher morbidity and mortality for the individuals affected (Sharifah Munirah, 2018). The effects of loneliness develop gradually over time, weakening individuals' physiological defences and making them more susceptible to health issues (Siti Zuhaida, Azera Hasra, & Suraya Hanim, 2021). Factors contributing to the rise in loneliness statistics include life changes such as the death of a spouse, declining physical and cognitive abilities from reduced social interactions, relocation to unfamiliar environments, and unappealing routines in care homes (Noornajihan, Rezki Perdani, Shah Rizul, & Celal, 2022).

Additionally, elderly individuals in long-term institutional care often encounter challenges due to inadequate facilities within these centres. Noorlianni, Syazreen Nisa, & Shamshimah's (2024) research showed that Germany boasts the most effective long-term care system, scoring a perfect 100%, while Malaysia's system scores only 46%. Malaysia's low score is attributed to shortcomings in eight areas: the lack of a dedicated Act, a minimal legal framework, stringent means-tested assessments, limited coverage scope, restricted choice of service providers, inadequate financing mechanisms, the absence of cost-sharing elements, and negligible long-term care expenditures. These deficiencies pose risks to the continuity of services and the sustainability of the financing system.

Another study reviewed the minimum standard facilities for nursing homes worldwide and offers insights for developing standard nursing home facilities in Malaysia. There is a growing demand for elderly care services in nursing homes, but Malaysian nursing homes lack the necessary standard facilities to provide adequate care for the elderly. The study found that Malaysia does not have established minimum standards for nursing home facilities, highlighting the need for significant improvements to meet these guidelines. Adhering to these standards is crucial for ensuring the comfort of elderly residents. As the elderly population grows annually, Malaysia must improve its nursing home or home health care facilities to offer better services and meet the needs and expectations of residents (Nik Muhammad Faris, Hasif Rafidee, Mohd Asrul Hery, Nor Dalila, Muhd Hafzal, Ahmad Faezi & Nurul Hafizah, 2017).

Other challenges mentioned in one study revealed a shortage of social and recreational activities for elderly residents in old age homes. Participants from one of the facilities reported that there had been no organised social or recreational activities for the past seven years (Chew, Wirawani, & Lee, 2018). It is also found that participating in leisure activities enhances health and well-being (Aidanajwa & Ahmad Martadha, 2022). Health care professionals and management teams should encourage elderly residents of institutions to engage in or resume meaningful, valuable, and unique leisure activities. This engagement fosters a sense of continuity between the past and present, provides a sense of purpose, and offers future direction, all contributing to an improved quality of life. The health care industry and policymakers can utilise the insights from this study. Reengaging older adults with personalised, meaningful leisure activities requires the provision of adequate facilities.

A study in Malaysia examined the functions and facilities provided by the Department of Social Welfare, particularly in the realm of long-term care for the elderly. It further investigated how these facilities address the long-term care needs of Malaysian seniors based on Activities of Daily Living (ADL) and Instrumental Activities of Daily Living (IADL) categories. The study revealed that the programmes and activities are still highly individualised, and the management is somewhat ad hoc within the department's action plans. The programmes and activities offered by the Department of Social Welfare have limited focus on long-term caregiving, concentrating instead on the general needs of the elderly. This is evident from the lack of emphasis on ADL assistance, despite Malaysia's potential to provide a wider range of benefits for its elderly population (Muhammad Safwan & Mazlynda, 2018).

Another challenge faced by the elderly in long-term institutional care is malnutrition. Malnutrition may indicate neglect. Neglect is especially prevalent and can be identified if an elderly person appears malnourished, dehydrated, unkempt, untidily dressed, or has poor hygiene (Chung, 2021). Food insecurity is a key factor in determining whether elderly

individuals are at risk of or experiencing malnutrition. It particularly impacts the elderly, who often require increased health services and social support when facing food insecurity. This issue is associated with several factors, including low income, limited education, social isolation, living alone, minority status, functional impairments, and the walkability of their neighbourhoods (Mohamad Hasnan Ahmad et al., 2018).

Human Rights for the Elderly

Recognising the rights of elderly individuals is crucial to safeguard their well-being, given their vulnerability. Numerous studies address the rights of the elderly. However, there is a shortage of literature specifically focusing on the human rights of elderly individuals in long-term institutional care.

A study found that while youths are aware of the issues and basic rights of the elderly, their knowledge about the facilities, privileges, and welfare measures provided by the government for the elderly is lacking. This highlights the importance of raising awareness among young people and calls for government action. Understanding basic human rights and the various welfare activities offered by the government helps the elderly live happily and make full use of the available facilities (Ankitha, Sucharitha, & Sweta, 2018).

Another study discussed the widespread belief that care homes are "inherently risky" environments for safeguarding the human rights of "vulnerable" residents. The article identified five approaches to this issue, namely: the anti-institutional approach, the legalistic approach, the care quality approach, the equality approach, and the issue-based approach (Emmer De Albuquerque Green, Tinker, & Manthorpe, 2022).

Methodology

This research utilises a qualitative methodology, specifically employing the doctrinal research method and content analysis.

The Doctrinal Research Method is a library-based approach aimed at discovering definitive answers to specific legal issues or questions. The purpose of this methodology is to conduct focused inquiries to identify precise information (Salim Ibrahim, Zuryati, & Zainal Amin, 2017). Consequently, the researchers employ this doctrinal method to analyse legislation and case law pertaining to long-term care for the elderly.

The main sources of data are from international law treaties such as the Universal Declaration of Human Rights (UDHR), the Convention on the Rights of Persons with Disabilities (CRPD), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Universal Islamic Declaration of Human Rights (UIDHR), and the Cairo Declaration on Human Rights in Islam (CDHRI). The Care Centre Act 1993 (CCA), the Care Centre Regulation 1994 (CCR), and the Rules for the Management of Old Person's Homes 1983 (RMOPH) in Malaysia contain the relevant legal provisions. The national policies, including the National Policy for Older Persons 2011 and the National Human Rights Action Plan (NHRAP), were also considered. Additional data was collected from scholarly articles in various academic journals, as well as official reports and websites.

Result and Discussion

Despite the absence of a dedicated convention or international law for the elderly, they can still benefit from certain rights found in other international laws. These rights include the right to an adequate standard of living, as well as the right to social inclusion and participation.

Right to Adequate Standard of Living

The right to an adequate standard of living mandates that everyone must, at a minimum, have access to essential subsistence rights: sufficient food and nutrition, clothing, housing, and necessary care when needed. The key principle is that everyone should be able to participate fully and without shame or unreasonable barriers in regular, everyday interactions with others. Consequently, individuals should meet their basic needs in conditions of dignity.

Right to Adequate Standard of Living in International Law

The Universal Declaration of Human Rights (UDHR) of 1948 is a key international law that ensures this right. The UDHR's Article 25(1) asserts everyone's right to a standard of living sufficient for their health and well-being, as well as their families. This includes access to food, clothing, housing, medical care, and essential social services. Additionally, it guarantees the right to security in situations of unemployment, sickness, disability, widowhood, old age, or other circumstances beyond one's control that lead to a lack of livelihood (Universal Declaration of Human Rights, 1948).

In addition, the Convention on the Rights of Persons with Disabilities (CRPD) in international law acknowledges the right of persons with disabilities, including elderly individuals, to an adequate standard of living, which encompasses adequate housing. States parties must take appropriate measures to protect and promote this right without discrimination based on disability (United Nations Convention on the Rights of Persons with Disabilities, 2006). It is essential for long-term facilities to offer suitable and accessible housing conditions for elderly individuals with disabilities.

Article 28(1) of the CRPD states that States Parties acknowledge the right of persons with disabilities to an adequate standard of living for themselves and their families, which includes sufficient food, clothing, and housing, as well as the ongoing enhancement of living conditions. According to Article 28(2) of the same convention, States Parties acknowledge the right of persons with disabilities to social protection and the enjoyment of this right without discrimination based on disability. They must take appropriate measures to protect and promote the realisation of this right.

Article 28(2) outlines five measures. First, it ensures equal access for people with disabilities to clean water services, as well as affordable services, devices, and assistance for disability-related needs. Second, it guarantees access to social protection and poverty reduction programmes, especially for women, girls, and older persons with disabilities. Third, it ensures that persons with disabilities and their families living in poverty receive state assistance for disability-related expenses, including training, counselling, financial aid, and respite care. Fourth, it ensures that people with disabilities have access to public housing programmes. Lastly, it guarantees equal access to retirement benefits and programmes for persons with disabilities. Based on Article 28(2), it is evident that the second paragraph specifically mentions elderly persons in relation to the right to social protection. However, it refers to elderly

individuals with disabilities, not the elderly in general. In the other paragraphs, the article generally refers to persons with disabilities without specifically mentioning the elderly.

In addition to the CRPD, the International Covenant on Economic, Social and Cultural Rights (ICESCR) also addresses the right to an adequate standard of living (International Covenant on Economic, Social and Cultural Rights, 1966). Article 11 (1) of the ICESCR states that the States Parties to this covenant recognise everyone's right to an adequate standard of living for themselves and their families, including adequate food, clothing, and housing, and the continuous improvement of living conditions. They are committed in taking appropriate steps to realise this right, acknowledging the vital role of international cooperation based on free consent.

In the international law, there is also a non-binding agreement known as the Vienna International Plan of Action on Ageing (VIPAA). This is the first international framework addressing issues related to ageing, providing guidance for policy and programme development in this area. It was endorsed by the United Nations General Assembly in 1982 (resolution 37/51), following its adoption earlier that year at the World Assembly on Ageing in Vienna, Austria. Its goal is to enhance the abilities of governments and civil society to effectively manage the ageing population and address both the developmental potential and dependency needs of older individuals. It also encourages regional and international cooperation.

The VIPAA contains 62 recommendations. Specifically, Recommendation 18 advises that governments should ensure food and household products, installations, and equipment meet safety standards that consider the vulnerabilities of older adults. It also suggests promoting the safe use of medications, household chemicals, and other products by requiring manufacturers to provide necessary warnings and usage instructions. Additionally, it emphasises the need to facilitate access to medications, hearing aids, dentures, glasses, and other prosthetics for the elderly to help them maintain their activities and independence. Finally, it recommends limiting aggressive marketing techniques aimed at exploiting the limited resources of older individuals. (United Nations, 1982)

International law provisions affirm the right to an adequate standard of living, which includes access to food, clothing, housing, living conditions, social security, social services, and medical care. To safeguard these rights, legal measures should establish minimum standards encompassing all these aspects. An administrative authority should be appointed to monitor and enforce these standards, especially for vulnerable groups like older adults. Although most conventions, such as the CRPD, ICESCR, and UDHR, do not specifically address the elderly, they should nonetheless extend their protections to include this group.

Additionally, any discrimination in accessing food, or the resources and rights to obtain it, based on race, colour, sex, language, age, religion, political or other opinions, national or social origin, property, birth, or other status, with the intent or effect of undermining the equal enjoyment or exercise of economic, social, and cultural rights, is a violation of the Covenant.

In the Cairo Declaration on Human Rights in Islam (CDHRI) adopted by the Organization of Islamic Cooperation in Egypt on August 5, 1990, the right to a decent living is outlined. Article 17(a) states that every individual has the right to live in a clean environment, free from vice and moral corruption, promoting their self-development. It is the responsibility of the State and

society to maintain this right. Article 17(b) specifies that everyone is entitled to medical and social care, as well as access to public amenities provided by society and the State within the limits of available resources. Article 17(c) requires the State to ensure that individuals have a decent standard of living, enabling them to meet their own needs and those of their dependents, including essentials such as food, clothing, housing, education, medical care, and other basic necessities (Cairo Declaration on Human Rights in Islam, 1990).

Right to Adequate Standard of Living in Malaysia

At the international level, there are nine core treaties. However, Malaysia has ratified only three of these treaties: the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of Persons with Disabilities (CRPD).

Malaysia has also established the National Human Rights Action Plan (NHRAP) which is a government initiative aimed at promoting and protecting human rights in Malaysia. This plan aligns with Malaysia's commitments made during the Universal Periodic Review (UPR) in 2009 in Geneva, Switzerland. In 2018, the then Malaysian Prime Minister introduced the NHRAP. Thrust 3 of the NHRAP Baseline Study focuses on five vulnerable groups, including older individuals. Older people are identified as vulnerable due to their age and health conditions, making them susceptible to discrimination, abuse, neglect, and unfair treatment. The NHRAP highlights seven priority issues for older persons, including concerns about health and public services, awareness campaigns and preparation for ageing, home care, and the standards and quality of care centres for older individuals.

In Malaysia, there are two key laws which regulate the long-term care facilities for the elderly. The Care Centre Act 1993 and its regulations apply to private long-term care, while the public sector is managed by the Department of Social Welfare, which is regulated by the Rules for the Management of Old Persons' Homes (RMOPH) 1983.

The Care Centre Act 1993 (CCA) was enacted and enforced in 1994. Its main purpose is to set out detailed provisions governing the establishment and operation of care centres, aimed at safeguarding the well-being and welfare of residents in these designated care facilities. Additionally, the Care Centres Regulations 1994 (CCR) were introduced to supplement and specify additional provisions, guidelines, and requirements to support the effective implementation and enforcement of the CCA.

According to Section 2 of the Care Centre Act 1993, a care centre encompasses both residential care centres and day care centres. However, it does not explicitly mention about older people or care centres which provide for the specific needs of the elderly residents. The Act in question excludes certain types of centres. Section 3 of the Care Centre Act applies specifically to care centres operated in the private sector, while those operated by the government are not included. This means that the regulations and requirements outlined in Section 3 pertain only to privately managed care centres and do not extend to those under government operation. As a result, government-run care centres like Rumah Seri Kenangan and Rumah Ehsan are not subject to the regulations specified in Section 3 of the CCA.

In the Care Centres Regulations (CCR), operational conditions are specified to govern the functioning of care centres. These conditions encompass various aspects such as ensuring the

provision of high-quality care services, offering balanced diets and recreational activities, maintaining proper equipment and hygiene standards, and ensuring timely medical treatments. Regulation 7(1) of the CCR mandates that each centre must have a daily activity programme approved by the Director General of the Department of Social Welfare. This programme includes facilitating training, religious activities, and recreational activities for residents or individuals admitted for care, as well as providing treatment and therapy facilities that cater to their emotional, social, physical, and intellectual needs. Regulation 7(2) stipulates that the daily programme must incorporate rest periods and be overseen by a suitable supervisor, guardian, or instructor based on the age and physical condition of the resident or person receiving care. Regulation 7(3) requires the approved daily activity program to be prominently displayed within the centre.

Part 3 of the regulation deals with the building requirements for care centres. Regulation 11 stipulates that the building must comply with the minimum local by-laws on buildings in the area and meet the fire department's safety requirements. Regulation 12 specifies that the premises must be maintained in good and satisfactory condition. Regulation 13 requires the kitchen to be isolated from rooms or spaces used for sleeping, resting, or other recreational activities. According to Regulation 14(1)(d), each elderly person receiving care must have a minimum of 3.0 square meters of floor space.

Regulation 19 mandates that every centre must have at least one toilet for every five residents or individuals receiving care. These toilet facilities and sanitary preparations must always be kept clean and tidy. Regulation 20 requires each centre to have an adequate water supply. Regulation 21 stipulates that residential care facilities must provide sleeping accommodations, laundry facilities, and separate bathrooms for male and female residents, as well as suitable bed facilities for married couples.

Regarding food and beverages, Regulation 22 states that all food and drinks provided to residents or individuals receiving care must be prepared perfectly and hygienically and must be sufficient to meet their nutritional needs. A diet plan and food menu must be prepared, approved, and prominently displayed within the centre. The operator of each residential care centre is responsible for arranging necessary medical examinations for residents when required as provided in Regulation 24(1).

In 1983, the Department of Social Welfare Malaysia introduced the Rules for the Management of Old Person's Homes, aiming to standardise and enhance the quality of care provided in homes for the elderly. This regulatory framework was designed to ensure that the management of old folks' homes under the department's jurisdiction, including facilities like Rumah Seri Kenangan and Rumah Ehsan, was conducted efficiently and ethically. (Rules for the Management of Old Person's Home 1983, 1983)

The primary objective of these rules is to safeguard the well-being of elderly residents by establishing clear guidelines for the operation of these homes. This encompasses a range of aspects, from the qualifications and responsibilities of staff to the standards for facilities and services provided. By setting these standards, the Department of Social Welfare sought to ensure that the homes under its purview could offer a safe, comfortable, and supportive environment for their elderly residents.

The rules also stipulated the criteria for admitting residents, ensuring that only those who met specific conditions could benefit from the services provided by these homes. This is important in ensuring that resources are allocated effectively and that the homes could cater to the needs of the most vulnerable elderly individuals in society.

However, it is important to note that these rules are specifically applicable to old folks' homes managed directly by the Department of Social Welfare. Facilities such as Rumah Seri Kenangan and Rumah Ehsan are directly impacted by these regulations. These homes are known for providing comprehensive care, including medical services, recreational activities, and social support, tailored to the needs of their elderly residents.

Despite the positive impact of these regulations on government-managed homes, private and non-governmental old folks' homes are not subject to the same stringent rules. This created a disparity in the quality of care provided across different types of homes for the elderly in Malaysia. While government-managed homes adhered to the high standards set by the Department of Social Welfare, the level of care in privately managed homes could vary significantly.

Some of the provisions in the RMOPH implement the right to an adequate standard of living for residents. These rules are to ensure that the residents could live in an environment that promotes their health, well-being, and dignity, in accordance with the fundamental human rights principles. Some of the rights are related to right to food, medical care, and clothing.

Rule 37 stipulates that every resident must follow house rules and cooperate with staff instructions and orders, fostering an organised and respectful living environment. This rule ensures a structured community where the rights and needs of all residents are considered, thereby supporting a harmonious living standard.

Rule 38 requires that every resident should receive all prescribed medical and other treatments necessary for their health and welfare. This ensures that residents have access to essential healthcare services, a critical component of an adequate standard of living. Regular medical care and treatments help maintain residents' physical and mental health, contributing to their overall well-being.

Rule 53 mandates that each resident must have their own bed, toiletries, clothing, and other personal belongings, all approved by the Director General of the Social Welfare Department. This rule guarantees that residents have their own personal space and possessions, which are essential for personal comfort and dignity. Such provisions will ensure that residents' basic needs are met, furthering their right to an adequate standard of living.

Rule 54 stipulates that every resident is provided with sufficient and appropriate food based on a food measure approved by the director general. The rule includes detailed planning to accommodate dietary customs and religious practices, emphasising the importance of culturally appropriate and nutritious food. Proper nutrition is vital for maintaining health, and the requirement for careful planning and documentation ensures transparency and accountability in food provision.

Together, these rules underscore the commitment to upholding the right to an adequate standard of living for all residents in government-managed long-term care facilities. By ensuring access to healthcare, personal belongings, and nutritious food, the Rules for the Management of Old Person's Homes 1983 create an environment that respects and promotes the dignity, health, and well-being of elderly residents.

Right to Social Inclusion and Participation

One of the rights for older people is the right to social inclusion and participation.

Right to Social Inclusion and Participation in International Law

The United Nations Principles for Older Persons, a form of soft law in the international law, emphasises this in Principle 7. It underscores the importance of older individuals staying integrated in society and actively participating in the development and implementation of policies that impact their well-being (United Nations Principles for Older Persons, 1991). This principle highlights the need for age-friendly communities, where older people are valued, respected, and included. In such communities, elderly individuals in long-term care facilities should not be isolated or marginalised but should be supported in maintaining social connections, participating in community activities, and contributing to society in meaningful ways. Principle 16 affirms that older individuals should have access to educational, cultural, spiritual, and recreational resources within society. In the context of long-term care facilities, this means that older persons should be provided with opportunities for continued learning, cultural enrichment, spiritual fulfilment, and recreational activities to improve their quality of life and social connections.

Social inclusion in care and support is essential for addressing the comprehensive needs of older individuals. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) exemplifies an international hard law that upholds the right to social inclusion and participation. Article 13(c) of this convention emphasises the right to participate in recreational activities, sports, and cultural life, which applies to older women as well (Convention on the Elimination of All Forms of Discrimination against Women, 1981). This means that older women in institutional care should have opportunities to engage in social and cultural activities that enhance their well-being and social integration.

Another significant international hard law is the Convention on the Rights of Persons with Disabilities (CRPD), which emphasises the principle of full and effective participation and inclusion in society in its Article 3(c) (United Nations Convention on the Rights of Persons with Disabilities, 2006). This principle should be applied to older individuals with disabilities in institutional care, ensuring they have equal access to social, cultural, and recreational resources.

Right to Social Inclusion and Participation in Malaysia

On January 5, 2011, the government approved the National Policy for Older Persons ("Dasar Warga Emas Negara" or DWEN) and the National Senior Citizen Action Plan ("Pelan Tindakan Warga Emas Negara" or PTWEN) to address current and future needs. DWEN and PTWEN demonstrate the government's commitment to fostering independent, dignified, and respected senior citizens by maximising their potential through healthy, active, productive, and supportive ageing, thereby enhancing their well-being and contributing to national development. The aim of DWEN is to empower individuals, families, and communities by

offering efficient and effective elderly-friendly services and creating an environment where the elderly can lead prosperous lives.

The objectives of the policy include raising community awareness about the ageing phenomenon and empowering the community to address the challenges of old age, ensuring the safety and protection of older individuals, and establishing an efficient and integrated system for delivering elderly services. Six strategies are outlined to achieve the policy's objectives. One key strategy focuses on safety and protection, ensuring that older individuals have the right to security and protection in all aspects, regardless of their background. This includes guaranteed access to basic needs, social security, and legal protection from neglect, mistreatment, and abuse. Six strategies are outlined to achieve the objectives: promotion and advocacy, lifelong learning, safety and protection, governance and responsibility sharing, intergenerational engagement and integration, and research and development. The Intergenerational Engagement and Integration strategy aims to build an inclusive society by encouraging continuous involvement in economic and social activities. This strategy emphasises developing and reinforcing mutually beneficial relationships through programmes that promote connections and unity among the elderly and across different generations. It is important for these programs to highlight heritage aspects and foster relationships of mutual respect and support between generations.

To identify the right to social inclusion and participation in Malaysian law, the same laws which are the CCA, CCR and RMOPH are analysed. As previously mentioned, the CCA governs the licensing and registration of care centres in the private sector. The rights of the recipients are outlined in the CCR. Regulation 7(1) states that each centre must have a daily activity programme approved by the Director General. This programme should include training, religious, and recreational activities, as well as treatment and therapy facilities for residents or those accepted for care (Care Centre Regulations, 1994). The programme should address the emotional, social, physical, and intellectual needs of the residents or individuals in care. The daily activity programme mentioned in sub-regulation (1) should be overseen by an appropriate supervisor, caregiver, or teacher. It must be suitable for the ages and physical conditions of the residents or individuals receiving care and should include rest periods. The approved daily activity programme should be prominently displayed within the centre as mentioned in Regulation 7(2) and (3) respectively.

For long-term care in the public sector, such as Rumah Seri Kenangan and Rumah Ehsan, the RMOPH includes specific provisions. Rule 55 grants residents the right to practice their religious beliefs. Muslim residents must be provided with religious instruction and facilities to fulfil their religious obligations. Similarly, non-Muslim residents should receive religious instruction and facilities in line with their own beliefs. Additionally, Rule 56 stipulates that sufficient time and resources should be allocated for leisure and recreation, which may include organised social activities, excursions, and trips. Rule 57 states that every resident should be encouraged to receive visits from relatives and friends, unless the supervisor deems such visits undesirable.

Rule 61 also specifies that the director general must approve a house's daily timetable, which should include waking and sleeping times, practical training, domestic work, meals, leisure, and recreation. A copy of the timetable must be prominently displayed in the house. Any

significant deviations from the schedule must be recorded in the diary and reported to the director.

Conclusion

At the international level, there are no specific conventions dedicated solely to the elderly. The rights of the elderly are scattered across various documents. However, the United Nations has established soft laws for the elderly, such as the VIPAA, the United Nation Principle for Older Person and others. The right to an adequate standard of living is addressed in the CRPD, the ICESCR, and the UDHR. The right to social inclusion and participation is further addressed in CEDAW and CRPD. Although the CRPD focuses on people with disabilities, it includes provisions for the elderly, such as Article 28(2), which specifically mentions elderly persons in relation to the right to social protection. However, this article refers to elderly individuals with disabilities rather than the elderly in general. Other provisions in the CRPD refer to persons with disabilities without specifically mentioning the elderly. In contrast, the ICESCR and UDHR apply to all people in general. Additionally, the Cairo Declaration on Human Rights in Islam (CDHRI) upholds the right to a decent living.

In Malaysia, the country has demonstrated its commitment to the elderly population by endorsing the national policy for the elderly. The NHRAP has identified the elderly as a vulnerable group. The NHRAP also highlights seven priority issues for older persons including maintaining high standards and quality in care centres for older individuals. At present, there exists two types of long-term institutional care in the country, namely those provided by the government and the one operated by private sector. In the public sector, elderly long-term institutional care comes under the purview of the Department of Social Welfare and is regulated by the RMOPH. Conversely, in the private sector, elderly long-term institutional care is governed by the CCA and the CCR.

Thus, it is evident that Malaysia has shown a commitment to enhancing the rights of the elderly including the right to adequate standard of living, social inclusion and participation by integrating these rights into the national policy and various laws. However, in the private sector, the laws need to be more specific to the elderly since the CCA and CCR are not exclusively enacted for the elderly, but also cover other groups, such as children. Therefore, it is recommended to legislate specific laws for the elderly and to categorise different types of elderly individuals, such as dependent elderly, independent elderly, those with chronic illnesses, and other groups. This approach would ensure that the diverse needs of the elderly population are effectively addressed.

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