

**Identification of possible gaps in the protection of the human rights of older persons
and how best to address them**

QUESTIONNAIRE

Background

The Open-ended Working Group on Ageing, in its [decision 13/1](#) adopted at the thirteenth session, requested the co-facilitators to submit proposed intergovernmental negotiated recommendations to be considered at the fourteenth session of the Working Group and to be presented for consideration by the General Assembly, in accordance with resolution [77/190](#), regarding the existing international framework of the human rights of older persons and possible gaps, and options on how best to address them.

The purpose of this questionnaire is meant to facilitate the consideration of the existing international framework of the human rights of older persons and the identification of possible gaps in the protection of the human rights of older persons and how best to address them.

The questionnaire will be sent to all States Members of the United Nations, observers in the General Assembly, A-status National Human Rights Institutions, non-governmental organizations with ECOSOC Status and previously accredited organizations to the Working Group, as well as United Nations Funds, Programmes, Specialized Agencies and other UN Entities.

The Questions

Identification of gaps

1. For each of the topics that have been considered by the Open-ended Working Group since its eighth session, please state possible gaps your Government/organization has identified in the normative framework and practical implementation for the protection of the human rights of older persons. *(500 words each)*

a) Equality and non-discrimination

In Malaysia, there is no specific law with regards to the older persons, instead, their rights are encompassed under the concept of equality as enshrined in the Federal Constitution, specifically under Article 8 (1) of the Federal Constitution which states that “all persons are equal before the law and entitled to the equal protection of the law.” However, we have a dedicated council tasked with addressing issues related to older persons – The National Advisory and Consultative Council for Older Persons. The Council was set up in May 1996 under the chairmanship of the Minister of Women, Family and Community Development in line with the National Policy of Older Person With the establishment of this

Council, the Plan of Action for Older Persons was formulated in December 1998. The Department of Social Welfare, an agency under the Ministry of Women, Family and Community Development (MWFC) is the Secretariat for the Council and serves as the focal point for issues relating to older persons. The Council also monitors and evaluates the effectiveness of programmes carried out for the older persons. Additionally, there is an upcoming revised Plan of Action for Older Persons (2024-2030) provides the implementation framework. Government is currently working on a draft Bill on Older Persons which is expected to be tabled in the Parliament in due time.

b) Violence, neglect and abuse

In Malaysia, violence, abuse and neglect cases concerning older persons will be convicted under the Penal Code (Act 574), Domestic Violence Act 1994 and the Persons with Disabilities Act 2008. There are various laws in the form of statutes and regulations relating to older persons. However, these laws and the regulations were drafted to fulfil the specific objectives of the statutes and the regulations concerned and not specifically related to older persons. The laws which are of general application will be applicable to older persons just like any other persons.

c) Long-term care and palliative care

The current facilities and services for long-term care of older persons in Malaysia are provided by the Government, NGO's and the private sector. For MWFC, the objective of the services provided through the Department of Social Welfare is to meet the needs of the poor older persons. However, institutional services are provided as the last resort for the older persons. This is because family values to care for the elderly are always instilled among the society. Currently, there are 10 Homes for the Older Persons directly under the management of the Department of Social Welfare and financed by the Government and these homes, known as Rumah Seri Kenangan, are located throughout the country. The objective is to provide proper care and protection for the needy elderly, treatment and better quality of life. Currently, there are 1,048 occupants in these homes.

MWFC has also established 2 homes for the chronically ill, known as Rumah Ehsan. The objective of the homes is to provide a comfortable and tranquil surrounding, care, treatment and shelter for those who are not self-sufficient and those with chronic illnesses. Currently, there are 194 occupants in these homes. Additionally, MWFC has established the Home Help Services throughout the country through smart partnerships with NGOs to provide care for older persons living alone. Among the services provided are bringing the bedridden older persons to hospitals / clinics for health treatment and assisting the older persons

to clean themselves in the aspect of personal hygiene. There are 2,174 NGO volunteers providing services to 6,698 older persons.

In an effort to expand primary health care services in health clinics especially on palliative care, since 2019, this service has also been included through the provision of the Domiciliary Healthcare Programme (home care services of palliative patients) piloted in Kedah, Penang, Perak and Selangor. The domiciliary services currently involve 26 health clinics in Selangor, 10 in Kedah, 1 in Penang and 2 in Perak.

d) Autonomy and independence

The National Advisory and Consultative Council for Older Persons was set up in May 1996 as a specific advisory, initiating and coordinating body to provide cooperation and to ensure a systematic approach to the issues of older persons. The Council consists of representatives of the government agencies (through the appointment of 7 sub-committees with their respective areas of oversight: health; social and recreation; housing and environment; employment; economy; research and development; as well as education and spirituality), members from NGOs, experts on ageing, academia and private sectors. Ageing-related matters have been extensively discussed under each of the sub-committee as socioeconomic issues are cross-cutting issues across sectors.

e) Social protection and security (including minimum social protection)

In 2021, the employer contribution rate for the Employment Provident Fund (EPF) members with salary less than RM5,000 has been decreased from 11 per cent to 9 per cent. The Government has launched the establishment of Private Retirement Scheme (PRS), which will provide employees and the self-employed with an additional avenue to save for their retirement. As a voluntary private retirement schemes, the PRS offers contributors choice to decide on the amount of regular contributions and select the PRS Providers to manage their retirement funds. Individuals have the choice to select the PRS funds to meet their retirement needs and have the flexibility.

For the self-employed, a scheme known as i-Saraan was introduced in 2021, whereby, for members aged below 60 years old will receive a 15% government incentive of the contribution made by the members, subject to a maximum of RM250 per year. For the housewives, a scheme known as i-Suri was introduced in 2018. I-Suri member enjoy the same benefits as EPF members, like yearly dividends on their retirement savings, withdrawal of savings, incapacitation

benefit and death benefit. I-Suri member part with a minimum of RM5 a month in order to be eligible to receive a government incentive of RM40 per month. Government also increased minimum pension rate to RM550 under Skim Keilatan.

The Government of Malaysia has activated the Malaysia Social Protection Council (MySPC) on 29 May 2019. This Council is led by ICU JPM and supported by four working committees on Social Assistance, Social Insurance, Labour Market Intervention and Data Management. MWFCD is the leading ministry for the Social Assistance Working Committee. The Government is working towards enhancing the efficiency of social protection service delivery to vulnerable groups including older persons.

f) Education, training, lifelong learning and capacity-building

Continuous efforts have been taken by the Government to improve the older persons' quality of life. In 1996, the National Information technology Agenda by the National Information Technology Council, lifelong activities and opportunities were made available for elderly population particularly those who are in the rural communities. In 2008, the University of the Third Age Malaysia (U3A Malaysia) was launched after a successful pilot program to promote lifelong learning among the elderly. The 'Lifelong Learning Initiative for the Elderly', programme aimed to promote active and productive older persons by introducing lifelong activities that facilitate the sharing of life experiences, building knowledge and gaining new skills in later life.

Through Activity Centres for older persons (PAWE) platform also provide lifelong learning that give benefit for 52,495 older persons. The Government has also developed the Malaysia Education Blueprint 2015–2025 (Higher Education) which includes LifeLong Learning (LLL) initiatives and future challenges. The Government aims to enculturate lifelong learning into Malaysian society to make learning and relearning an integral part of Malaysian culture and a way of life. This will be achieved and catalysed through a high quality, well-coordinated, harmonised and respected lifelong learning system with learning communities in every organisation.

g) Right to Work and Access to the Labour Market

Even though the Government has imposed the minimum retirement age for employment in private sectors, however it is encouraged the older persons to be re-enter employment should they wish to remain active. Under the Minimum Retirement Age Act 2012, the minimum retirement age of a private sector

employee has been increased to 60. On the other hand, the compulsory retirement age (reached the age of retirement) for members of public service is 55/56/58 or 60 years subject to the retirement age option selected by the member (stipulated in the Pension Act 1980).

Among initiatives taken to support older persons' participation in income-generating work are as follows:

Virtual "Hiring Seniors" Workshop

To support older persons' participation, Ministry of Human Resources (MOHR) through TalentCorp has held a virtual "Hiring Seniors" Workshop. The main focus of the workshop was to leverage on the growing talent of seniors to support the Malaysian workforce as we move towards becoming an aged nation by 2030. The input from the workshop is useful towards the development of a framework by taking a holistic approach to implement senior recruitment initiatives at the national level.

Job Matching Centre

The Government is in the midst of expanding the functions of several Activity Centers for older persons (PAWE) to include job matching services and business empowerment activities for older persons. The centre will become a network of collaboration with various agencies to provide employment opportunities and economic empowerment for senior citizens.

Job Fair and Employment Programme for Senior Citizens

MOHR under its agencies has conducted several job fair and employment opportunities such as Karnival Aspirasi Madani career fair to provide opportunity for senior citizens to access to labour market. On top of that, employers are given 100% tax rebate on costs to retrain older persons.

h) Access to justice

As indicated in (a), the rights of older person are covered under the concept of equality as enshrined in the Federal Constitution, specifically under Article 8 (1) of the Federal Constitution. Despite the absence of dedicated law in Malaysia to protect older persons – such as protection against discrimination – most written laws on matters such as employment, retirement and health care in Malaysia concerning human rights protection are age neutral. Therefore, there is nothing to restrict older persons from accessing justice and seeking redress through and within the parameters of these laws.

i) Contribution of Older Persons to Sustainable Development

The multifaceted contributions of older persons are crucial for societal well-being, particularly as global populations age. Recognizing and leveraging their valuable experiences is essential for building inclusive and sustainable societies that value diversity and wisdom. Encouraging active participation and creating supportive environments for older individuals can foster resilience and contribute to sustainable communities.

Town and Country Planning Department or currently known as PLANMalaysia has published Guidelines on Physical Planning for the Elderly in 2018. It is a planning guide for Federal Agencies, State Authorities, Local Authorities, public agencies, students, private agencies and non-governmental bodies in planning, developing and designing senior citizens' settlements.

j) Economic security

The government through the Department of Social Welfare provides financial assistance for older persons amounting to RM500 per month to assist the elderly poor to remain in their families/communities. The recipients of this financial assistance must be Malaysian citizens aged 60 years and above, and with household income below RM1,169 per month and are registered with the Department of Social Welfare, in addition, it must be proven that the family is in need. In 2022, a total of 140,447 older persons have received the financial assistance which cost the government a total of RM831,419,415.

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k) Right to Health and Access to Health Services

The Ministry of Health (MOH) Malaysia has been at the forefront of promoting and providing comprehensive healthcare services for the elderly through its dedicated Elderly Healthcare Services program, a vital component of the Expanded Scope of Family Health services. The primary objective of this initiative is to facilitate the achievement of optimal health levels among the elderly population by offering a holistic and all-encompassing range of healthcare services.

This program is grounded in The National Healthcare Policy for the Elderly, which underscores the importance of fostering healthy aging by equipping the elderly, their families, and communities with knowledge and creating supportive environments that enable them to lead independent lives, commonly referred to as "Ageing in Place." A key focus of these services is to encourage active participation by the elderly in health promotion activities and lifelong disease prevention strategies. Beyond simply improving the health status of our elderly

citizens, these services are designed to be friendly, equitable, culturally sensitive, non-discriminatory in terms of gender, seamless, and comprehensive.

MOH is committed to aligning its efforts with the World Health Organization's policy on active and healthy aging. This commitment extends across all levels of healthcare delivery, including primary, secondary, tertiary healthcare services, and community-based care. Elderly healthcare services are readily accessible at health clinics (Klinik Kesihatan), where a wide array of services is offered, including:

- health promotional activities
- health screening and assessment
- medical examination and consultation
- rehabilitation services
- as well as recreational, social, and welfare activities all facilitated through Senior Citizen Club (Kelab Warga Emas) in health clinics.

Currently, all 1,076 health clinics across Malaysia offer these elderly health services. Moreover, in tertiary care, MOH have 15 hospitals with geriatricians and 21 hospitals offering geriatrician visitations. A recent development by the Ministry of Health is the expansion of elderly health services to rural clinics (Klinik Desa), broadening their scope from maternal-child health services to include elderly health services provided by Community Nurses (Jururawat Masyarakat).

l) Participation in the public life and in decision-making processes¹

The Ministry of Women, Family and Community Development has also established 161 Activity Centers for older persons (PAWE) throughout the country to enable them to organize activities and socialize with the community. There are 52,495 older persons registered with these centres. To further the cause of Healthy Ageing within our communities, the Ministry of Health has initiated the Senior Citizen Club. This initiative serves as a platform to encourage community participation and strengthen engagement with non-governmental organizations (NGOs) while defining the roles and responsibilities of the community in elderly healthcare. It provides a space for the elderly to partake in social, religious, and spiritual activities with their peers, fostering an environment conducive to healthy and active aging. Presently, there are 264 active individuals through Senior Citizen Club groups throughout Malaysia, each operating under the umbrella of their respective health clinics.

Commented [MARBR2]: additional

¹ To be discussed at the 14th Open-Ended Working Group on Ageing

m) Social Inclusion

Social inclusion efforts in Malaysia have been a focal point in addressing various aspects of society to ensure equal participation and opportunities for all citizens. It is an ongoing process where Malaysia continues to evolve its strategies to create a more inclusive and equitable society. Government agencies, non-governmental organizations (NGOs), and community-driven initiatives all play crucial roles in advancing social inclusion in the country.

Because of that, MWFC through the Department of Social Welfare provides financial assistance (or grants) to NGOs registered under the Central Care Act 1993 and eligible based on the specified criteria. Monthly grants and one-off grants disbursed include the Nourishment Grant (for food and drink), Administrative Grant, Per Capita Grant, and Improvement Grant. The distribution of these grants serves as an incentive for elderly care center operators and, at the same time, helps alleviate operational expenses.

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n) Accessibility, infrastructure and habitat (transport, housing and access)²

In line with the national agenda of social inclusiveness, older persons are also provided with 50% discount for major modes of transportation in the country. Besides that, WE CARE Services have been established by the Central Welfare Council of Peninsular Malaysia and supervised by the Department of Social Welfare to provides transportation services for older persons in commuting to hospitals/clinics for health treatment or other purposes especially for those who live alone. It also functions as a medium of accessibility to older persons and persons with disabilities. Until August 2023, this service has benefited 10,231 older persons.

On the issue of facilities for the elderly, The Physical Planning Guidelines for Senior Citizens published in 2018 serves as a guide and reference to the state authorities, local authorities, developers, private companies, and NGOs in planning, development and control of living spaces and facilities for older persons. This guideline shall be read in conjunction with Development Plans, in particular Local Plans and Special Area Plan. To date, three states (out of 11 states) in Peninsular Malaysia have adopted the planning guideline to be further translated into their local planning and development control. The states are Perlis, Perak and Selangor.

² To be discussed at the 14th Open-Ended Working Group on Ageing

[Options on how best to address the gaps](#)

- 1. Please state how your Government/organization has engaged with international and regional human rights mechanisms (for example: universal periodic review (UPR) treaty bodies, special procedures, regional mechanisms), specifically with regard to older persons. (500 words)**

Malaysia has actively engaged with international and regional human rights mechanisms to address concerns related to various demographic groups, including older persons. The government's involvement in these mechanisms reflects its commitment to upholding human rights standards on a global and regional scale.

We have participated in the Universal Periodic Review process where it provides an opportunity for Malaysia to showcase our achievements, discuss challenges and receive recommendations from other states. Malaysia has used this platform to address concerns related to older persons, including their rights to healthcare, social inclusion, and protection against discrimination.

Malaysia is also a party to several international human rights treaties, and engages with the corresponding treaty bodies responsible for monitoring the implementation of these treaties. These treaties have implications for the rights of older persons, particularly in areas such as healthcare, social security and protection against discrimination. Malaysia's engagement with treaty bodies involves submitting periodic reports on its progress in implementing treaty provisions and participating in constructive dialogues to address concerns raised by the treaty monitoring bodies.

Malaysia is a member of the Association of Southeast Asian Nations (ASEAN) and engages with regional mechanisms to promote human rights within the ASEAN context. While ASEAN is in the process of developing a regional human rights mechanism, its current engagement primarily occurs through the ASEAN Intergovernmental Commission on Human Rights (AICHR). Malaysia participates in discussions and initiatives within ASEAN to address human rights concerns, including those relevant to older persons. Advocacy for the inclusion of older persons' rights in the regional human rights discourse is crucial for shaping policies and practices within the ASEAN community.

Malaysia is also committed member of the ASEAN community and has played a leading role in the development and implementation of the ASEAN Human Rights Declaration (AHRD). For instance, during Malaysia Chairmanship of ASEAN in 2015, the ASEAN countries has come together to adopt the Kuala Lumpur Declaration on Active Ageing: Empowering Older Persons in ASEAN. Senior Officials Meeting on Social Welfare and Development (SOMSWD) has been mandated to raise the standard of living of older persons in ASEAN through the

implementation of the Regional Plan of Action on Implementing the Kuala Lumpur Declaration on Ageing: Empowering Older Persons in ASEAN.

This Declaration was formulated based on the awareness that aged population in ASEAN of 60 years old or over is projected to increase from 74.4 million in 2020 to 127 million in 2035. This shows that the speed of ageing in ASEAN countries is much faster than in most developed countries. So far, there are two projects under SOMSWD Work Plan 2021-2025 undertaken by Malaysia to support the implementation of the Regional Plan of Action on Implementing the Kuala Lumpur Declaration on Ageing: Empowering Older Persons in ASEAN which is The Study on Old Age, Poverty and Active Ageing in ASEAN: Trends and Opportunities and also "ASEAN-Wide Research Networking on Ageing" (ARNA). Malaysia will always be committed to promoting and protecting human rights especially for older persons at the national and regional levels and is making progress in addressing its human rights challenges.

Commented [MARBR4]: additional points as suggested by Mr. Chua.

2. Have those engagement resulted in positive impact in strengthening the protection of the human rights of older persons? Please elaborate. (500 words)

The Universal Periodic Review (UPR) has played a significant role in strengthening the protection of the human rights of older persons in Malaysia. Through the UPR, Malaysia has been strengthening the implementation of the National Policy for Older Persons which includes measures to promote the economic, social, and cultural rights of older persons by reviewing the existence Plan of Action for Older Person.

The UPR has helped to raise awareness of the issue of elder abuse in Malaysia. This has led to increased calls for action from the government and civil society. The government is currently examining the draft bill for the elderly prepared by consultant based on a study which is "Study of The Content, Approach and Scope for Establishment of a Special Act for Elderly Citizens in Malaysia".

The Federal Constitution of Malaysia has ensured that the fundamental liberties of Malaysians are guaranteed in Articles 5 to 13, which encompasses the basic human rights principles as stated in the Universal Declaration of Human Rights (UDHR).

Thus, the National Policy for Older Persons is the government's commitment to create a conducive environment for older persons who are independent, with dignity, high sense of self-worth and respected by optimizing their self-potential through a healthy, positive, active, productive and supportive ageing. The policy outlines six (6) strategies to empower the individual, family and the community towards improving the well-being of older persons; life-long learning; safety and security; governance and shared responsibility; inter-generational solidarity; and research and development. The policy acknowledges the older

persons as citizens with varied background and experiences, have the rights to enjoy a comfortable and respected life and contribute to the development of the nation.

Malaysia also developed the National Plan of Action Plan for Health Care of Older Persons with the formulation of six (6) guiding principles; maintaining autonomy and self-reliance; recognizing the distinctive needs of older persons; supporting carers; promoting healthy ageing; providing continuity of care; and maintaining the rights of older person to quality of life and death. Through this Policy, the Government has made a commitment to ensure older persons will achieve the optimal health through integrated and comprehensive health and health related services.

3. What other options can be considered to strengthen the protection of older persons? Please elaborate. (500 words)

Strengthening the protection of older persons in Malaysia requires a comprehensive approach that addresses various aspects of their lives, including healthcare, social welfare, financial security, and legal protection.

Government has completed a study related to the care of the elderly; "A Diagnostic Study to Develop an Integrated and Sustainable Long-Term Care Model for The Elderly in Malaysia. This diagnostic study is in line with the government's desire to provide formal and informal services and facilities to achieve the overall well-being of the people. The results of this study were examined and considered in the preparation of the Plan of Action for Older Persons 2024-2030. The main purpose of this study is to form a long-term care (LTC) model for the elderly. This study diagnosed the supply gap and suggested improvements to existing services. It also identified the demand for formal and informal services specifically in the care of the elderly from the aspect of human capital as well as the financing system.

Malaysia is currently preparing the Ageing National Agenda for an aged nation by 2030 which focuses on medium and long-term socioeconomic development plans. This agenda supported by relevant ministries and all stakeholders in line with the whole-of-nation approach. The purpose of this agenda is to further strengthen the country's preparation to deal with an ageing population which will cut across various sectors. It includes challenges in health, education, finance, productivity and labour as well as the use of technology that will determine long-term and sustainable economic growth.

The Government of Malaysia is also working on Malaysia Social Protection Council (MySPC) led by the Prime Minister with the aim of strengthening the national social protection system, and coordinating a comprehensive and integrated social protection agenda, focusing in addressing the issues on social safety net. The Government intends to enhance the efficiency of social protection service delivery, to the vulnerable citizens, such as women, children, people with disabilities, elderly, and informal workers. MySPC aims to

fulfil the national development priorities, by adopting the whole-of-nation approach, with the principle of “leave no one behind”. The targeted outcomes from MySPC are to optimize fiscal resources; to ensure sustainable economic growth; to ensure higher quality of life; to ensure healthier and active nation; to provide productive human capital and ready to cope with the future; and to reduced inequality.

The Malaysian government is optimistic about boosting the country's economy through the care industry. This focus aims to meet the increasing demand for elderly care and address the needs of two main groups under MWFC: PWDs and children. The synergy between the Care Economy and efforts to train Skilled Caregivers serves as a catalyst for economic development and it requires collaboration across ministries to ensure effectiveness.

The government is currently implementing Stakeholder Mapping to understand the needs and involvement of parties in the care industry. This aligns with the development of the National Aging Action Plan, led by the Ministry of Economy, to bring clarity and efficiency to the initiative. We believe in caring for the elderly within their families. Emphasizing Family-Based Care, the growing care industry provides trained caregivers, ensuring quality care at home, avoiding the need for separate facilities.

4. If applicable, what is your assessment on the protection of the human rights of older persons according to regional and international instruments? (500 words)

Malaysia has ratified a number of international human rights treaties that protect the rights of older persons, such as the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination against Women. Malaysia has also enacted a number of domestic laws that protect among others the rights of older persons, such as the Persons with Disabilities Act 2008 and the Domestic Violence Act 1994.

Commented [MARBR5]: additional

The government's initiative in ensuring the well-being of the elderly in Malaysia is in line with several action plans and declarations on population ageing at the global and regional levels:

(a) Adopted in 2015, the Kuala Lumpur Declaration on Ageing: Empowering Older Persons in ASEAN recommends actions to promote “healthy, active, and productive ageing”, seeking to strengthen older persons and their families, and

(b) The 2002 Madrid International Plan of Action on Ageing, takes a development approach on population ageing and covers areas such as older persons and development, health and well-being, and ensuring an enabling environment for older persons.

The government has developed a number of policies and programs to support older persons in line with the National Policy and Action Plan for Older Persons. Thus, there has

been an increase in awareness of the rights of older persons, and older persons are becoming more active in advocating for their rights. The government, private sectors and also community need to continue to work together to ensure that the rights of older persons are protected in Malaysia.

The Persons with Disabilities Act 2008 protects the rights of older persons with disabilities. The Act prohibits discrimination against older persons with disabilities, and it provides them with a number of rights, such as the right to education, the right to work, and the right to access healthcare. The Domestic Violence Act 1994 protects the rights of older persons who are victims of domestic violence. The Act provides older persons with a number of protections, such as the right to apply for a protection order, the right to counselling, and the right to safe housing.

The National Policy for Older Persons outlines the government's commitment to promoting the rights and well-being of older persons. The policy sets out a number of goals, such as increasing the participation of older persons in society, improving the quality of life of older persons, and protecting the rights of older persons.

MWFCD has also completed a study on the content, approach, and scope for the establishment of a Special Act for Older Persons in Malaysia in October 2021. The study found a need to enact specific laws for older persons to protect this group in line with the increasing number of older persons every year. The enactment of a special act for older persons aligns with the 12th Malaysia Plan (RMK12), which outlines economic revitalization, strengthening of security, well-being and inclusivity, as well as sustainability.

The effort to establish an act for older persons is one of the country's preparatory steps in addressing the issue of an aging population and towards achieving the status of an Aging Nation by 2030. This preparation requires the attention of the government and all parties to create the necessary support structures for older persons. The Bill on Older Persons is expected to be tabled in the Parliament in due time.

Commented [MARBR6]: Additional inputs as requested by Mr. Chua