

**MALAYSIA'S INPUT FOR CLUSTER ON AUTONOMY AND INDEPENDENCE  
FOR DELIBERATION AT THE  
9<sup>TH</sup> SESSION OPEN-ENDED WORKING GROUP ON AGEING  
23-26 JULY 2018**

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**1. In your country/region, how is the right to autonomy and independence of older persons defined in legal and policy frameworks?**

The National Health Policy for Older Persons 2011 formulated by the Ministry of Health is guided by six important principles namely:

- i. Maintaining Autonomy and Self Reliance;
- ii. Recognising the Distinctive Needs of Older Person;
- iii. Supporting Carers;
- iv. Promoting Healthy Ageing;
- v. Providing Continuity of Care; and
- vi. Maintaining the Rights of Older Person to Quality of Life and Death.

In addition, ensuring autonomy and independence of older persons are the main objectives in the National Policy and Plan of Action for Older Persons under the Ministry of Women, Family and Community Development particularly under the strategies of "Promotion and Advocacy" and "Safety and Security". The main philosophy of the policy is to recognise older persons of diverse background and experiences in exercising their rights to have a prosperous life, being respected and are still able to contribute in the country's development.

**2. What other rights are essential for the enjoyment of the right to autonomy and independence by older persons, or affected by the non-enjoyment of this right?**

Fundamental liberties are protected under the supreme law of the State, the Federal Constitution, which include freedom of speech, assembly and association; freedom of religion and rights to education and property, amongst others. These liberties are accorded to citizens of Malaysia including vulnerable groups such as older persons, people with disabilities, women and children. There is no specific provision in the Federal Constitution that focuses on older persons, although other laws and regulations by respective Ministries / agencies at the federal and state level may state otherwise. Examples of these legislations are the Employment Act 1955; Wills Act 1959 (Revised 1988); Pensions Adjustment Act 1980; and Mental Health Act 2001.

The Government of Malaysia through the Ministry of Women, Family and Community Development and its agencies pay great attention to the less fortunate older persons who have no social or family support. Government institutions that accommodate these category of older persons provide basic necessities in terms of health, meals and social needs. As this is considered the last option for the older person, the Government encourages family and community support system to continue taking care of the older persons by introducing cash incentives for the qualified older persons and care providers

in terms of medical and assistive supplies. Homes with minimal fee or provided free of charge, are also offered by some charitable organisation. Private retirement or nursing homes on the other hand are provided by the private sectors for older persons who can afford them.

Health and medical services for older persons are also available in all government clinics and hospitals, as well as private hospitals. The older persons are free to make choices to seek treatment either in government or private facilities depending on their financial capacity. The public services (health clinics) are free for older persons.

**3. What are the key issues and challenges facing older persons in your country/region regarding autonomy and independence? What studies and data are available?**

Lack of universally-designed facilities and infrastructure such as pavements, buildings and public spaces is the key challenge for older persons in Malaysia in order for them to move independently. In cases of working children who cares for their parents, placing them in homes for older persons is a matter of taking the most workable solution given the situation, but it could affect the rights of the parents who may prefer to stay in proper homes. In addition, employment opportunities for older persons beyond the age of retirement is also an issue as this category of people is deemed not worthy anymore due to their fragile state of health.

Other issues faced by senior citizens seeking health services include transportation to bring them to health facilities. To overcome this issue, there are outreach programmes to provide health services to the community or in patient's home. This include HomeHelp and Domiciliary Services provided by the Ministry of Women, Family and Community Development and the Ministry of Health respectively.

**4. What steps have been taken to ensure older persons' enjoyment of their right to autonomy and independence?**

The Ministry of Health organises outreach programmes such as Home Visits and Domiciliary Services. Also, the Ministry of Women, Family and Community Development through the Welfare Department, strives to cater the best care and protection to older persons residing in Government institutions, while at the same time, ensuring that their basic human rights are fulfilled. However, some issues of implementation continues, i.e. limited number of certified personnel; training requirements; permanent budgetary provision. These impedes the effective delivery of care and protection to the older persons, effecting the protection of their human rights.

The Ministry of Women, Family and Community Development also established activity centres for mobile older persons to participate in activities organised by

NGOs for developmental purposes as well as to provide a platform for older persons to socialise with others of the same age group and with the community.

**5. What mechanisms are necessary, or already in place, for older persons to seek redress for the denial of autonomy and independence?**

In terms of enforcing legislation to care for the elderly, the Ministry of Women, Family and Community Development's priority is in promoting a caring society by cultivating family values and empowering communities in community-based care. Various programmes have been and are undertaken by the Government to promote intergenerational solidarity and increase the awareness of the elderly among the younger generation.

The Government through the Ministry of Women, Family and Community Development has also strengthened existing legislations to protect older persons. For example, the Domestic Violence Act 1994 was amended in 2017 to provide better protection to abuse victims including older persons and to rehabilitate family institutions. One of the main amendments to the Act involves the widening of the definition of 'family violence' by including dishonestly misappropriating a victim's property which causes the victim to suffer distress due to financial loss. This will provide protection over the financial wealth of older persons.

The National Advisory and Consultative Council for Older Persons is another mechanism at the highest level, in which representatives of older persons as well as NGOs have the opportunity to discuss and bring forward issues affecting older persons to the Minister of Women, Family and Community Development as the chair. Other relevant Ministries and agencies, which are responsible in implementing the Plan of Action for the Elderly, are appointed as members of the Council.

**6. What are the responsibilities of other, non-State actors in respecting and protecting the right to autonomy and independence of older persons?**

Grievances and complaints on denial of autonomy and independence can be directed to the police or the Social Welfare Department, in which each agency has their own Standard Operating Procedures to handle this matter. The newly launched National Human Rights Action Plan (NHRAP) is an important breakthrough for Malaysia in reaffirming its commitment to protect and promote human rights in the country. There are five core areas under NHRAP including one focusing on the rights of the vulnerable people: women, children, older persons, people with disabilities and refugees.

NGOs and representatives of older persons in the multi-disciplinary and cross-sectoral National Advisory and Consultative Council for Older Persons are equally responsible to deliberate issues on older persons including exercising their rights to autonomy and independence.

The Government is looking towards engaging the community in ensuring older persons' well-being are taken care of and that they live their lives to the fullest. This is also in line with the concept of 'ageing in place' that the Government is advocating, as the institutions would be the last resort for older persons. For this, it is important for the civil society, NGOs and community to work together with the Government so that an inclusive society could be created with active involvement of older persons.