

NEGLECT OF INDIGENT ELDERLY PARENTS IN MALAYSIA: A CURRENT LEGAL ANALYSIS IN CONTEMPORARY CONTEXT

Nur Rabiatuladawiah binti Abdul Rahman*

Faculty of Law, Governance and International Relations
Universiti Islam Melaka
rabiatul@unimel.edu.my

Khairunnisa Ishak

Teh Hong Piow Faculty of Business and Finance
University Tunku Abdul Rahman
khairunnisa@utar.edu.my

Mohamad Haiqal Danial bin Hamdan

Faculty of Law, Governance and International Relations
Universiti Islam Melaka
haiqaaldanial@gmail.com

**Corresponding author*

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ABSTRACT

The neglect of elderly, incapacitated parents by their adult children is an escalating concern in Malaysia's ageing society. This article examines the issue from a legal perspective, analyzing existing Malaysian laws and identifying gaps in protections for vulnerable elderly parents. A qualitative doctrinal approach is used, reviewing statutory provisions (civil and Islamic family law) and related policies. The findings indicate that current legal frameworks – including the Penal Code, Domestic Violence Act 1994, and Islamic family law provisions – only partially address elder neglect, focusing mainly on physical abuse or spousal/child victims. Key legal lacunae are evident: there is no explicit statutory duty of adult children to support or care for ageing parents in civil law, and enforcement of Islamic maintenance obligations for parents remains weak. This has contributed to inadequate protection, as seen in rising cases of abandoned elderly parents. The article discusses comparative insights from jurisdictions like Singapore and India, where specific legislation mandates filial responsibility. It recommends legal reforms in Malaysia, including amending existing laws and enacting a dedicated Senior Citizens Act or Maintenance of Parents Act to impose clear responsibilities and penalties for neglect. Such reforms, coupled with strengthened social support and awareness, are crucial to safeguard the rights and welfare of incompetent elderly parents in line with Islamic principles, societal values, and international human rights standards. The conclusion calls for urgent, comprehensive legal intervention to ensure no elderly parent is left neglected or destitute.

Keywords: Welfare, Filial duty, Elder neglect, Incompetent elderly, Malaysia

**PENGABAIAAN IBU BAPA WARGA EMAS YANG TIDAK BERKEMAMPUAN DI
MALAYSIA: ANALISIS UNDANG-UNDANG SEMASA DALAM KONTEKS
KONTEMPORARI**

ABSTRAK

Pengabaian terhadap ibu bapa yang telah tua dan tidak berdaya oleh anak-anak dewasa merupakan isu yang semakin membimbangkan dalam masyarakat Malaysia yang sedang menua. Artikel ini meneliti isu tersebut dari perspektif perundangan dengan menganalisis undang-undang sedia ada di Malaysia serta mengenal pasti kekosongan dalam perlindungan terhadap ibu bapa warga emas yang rentan. Pendekatan kualitatif doktrinal digunakan dengan meneliti peruntukan undang-undang (undang-undang keluarga sivil dan Islam) serta dasar berkaitan. Dapatan kajian menunjukkan bahawa rangka perundangan semasa – termasuk Kanun Keseksaan, Akta Keganasan Rumah Tangga 1994 dan peruntukan undang-undang keluarga Islam – hanya menangani isu pengabaian secara separa, dengan penekanan kepada penderaan fizikal atau mangsa dalam kalangan pasangan/anak. Kekosongan undang-undang yang ketara dikenal pasti: tiada kewajipan statutori yang jelas bagi anak dewasa untuk menyara atau menjaga ibu bapa yang menua dalam undang-undang sivil, manakala penguatkuasaan kewajipan nafkah dalam undang-undang Islam terhadap ibu bapa masih lemah. Hal ini telah menyumbang kepada perlindungan yang tidak mencukupi, sebagaimana yang dilihat dalam peningkatan kes ibu bapa tua yang ditinggalkan. Artikel ini turut membincangkan perbandingan dengan bidang kuasa lain seperti Singapura dan India yang mempunyai undang-undang khusus yang mewajibkan tanggungjawab anak kepada ibu bapa. Artikel ini mencadangkan pembaharuan undang-undang di Malaysia termasuk pindaan terhadap undang-undang sedia ada dan penggubalan Akta Warga Emas atau Akta Pemeliharaan Ibu Bapa bagi menetapkan kewajipan dan hukuman yang jelas terhadap pengabaian. Reformasi ini, bersama sokongan sosial dan kesedaran yang diperkukuh, amat penting untuk melindungi hak serta kebajikan ibu bapa yang tidak berdaya, selaras dengan prinsip Islam, nilai masyarakat dan piawaian hak asasi manusia antarabangsa. Kesimpulannya menyeru kepada campur tangan undang-undang yang menyeluruh dan segera agar tiada lagi ibu bapa tua yang diabaikan atau terbiar.

Kata Kunci: *Kebajikan, Tanggungjawab anak, Pengabaian warga emas, Ibu bapa tidak berupaya, Malaysia*

INTRODUCTION

Malaysia is experiencing a significant demographic shift toward an ageing population. In 2021, the country officially attained the status of an “ageing nation” when the proportion of citizens aged 65 and above reached 7% of the total population (Bernama, 2023). This trend has continued rapidly – by 2023, about 7.4% of Malaysians (approximately 2.5 million people) were 65 or older, and projections estimate this figure will rise to 4.5 million by 2030 (Saieed, 2024). The growth in the elderly population, combined with longer life expectancies and smaller family sizes, has heightened concerns about the care and welfare of older persons. Figure 1 illustrates the increasing share of Malaysia’s population that is in the senior age bracket, a trend expected to accelerate toward 2030 and beyond.

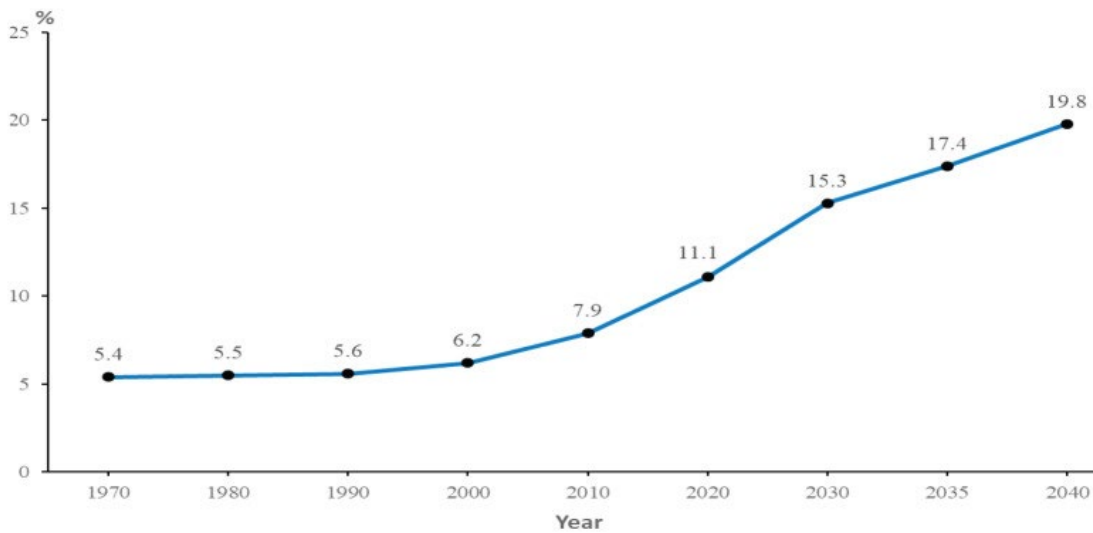


Figure 1. Percentage of population in Malaysia by age group (1970–2040). The proportion of older persons (aged 60+; red segment) expanded from 5% in 1970 to over 11% in 2020, and is projected to exceed 15% by 2030 as Malaysia becomes an aged society (Department of Statistics Malaysia, 2023).

Within this changing demographic landscape, incidents of neglect and abandonment of elderly parents by their adult children have become more visible. Reports in Malaysia highlight cases of aged parents left in hospitals or care homes without family support, or even living homeless on the streets (Abdul Wahab, 2024; Saieed, 2024). The Malaysian Ministry of Women, Family and Community Development recorded 2,144 senior citizens abandoned at hospitals nationwide between 2018 and mid-2022, of whom only 43% were eventually reunited with their families (Abdul Wahab, 2024). In 2021 alone, a year that fell within the COVID-19 pandemic, 752 elderly patients were documented as abandoned by relatives, with the majority having to be placed in welfare homes (Abdul Wahab, 2024). Such statistics underscore the severity of the problem and its consequences for vulnerable older persons. Elderly who are neglected or cast off by their children often suffer extreme hardship, lacking proper shelter, care, and emotional support. Many end up in institutional care or as destitute persons under government care programs, highlighting a breakdown in the family support system that traditionally is expected to care for ageing parents.

Several factors have been identified as contributing to the rise in elder parent neglect. Modernization and urbanization have altered family dynamics, adult children today juggle work and bear family responsibilities, and some struggle to care for ageing parents, especially if those parents have chronic illnesses or disabilities. Socioeconomic pressures, such as job instability or financial strain, can exacerbate intergenerational tensions (Che' Sharif et al., 2015). Studies in Malaysia have noted that elder abuse and neglect correlate with factors like the caregiver's stress and personality, the elderly person's health needs, and weakened social support networks (Che' Sharif et al., 2015; Alavi et al., 2011). Cultural attitudes are shifting as well: while traditional values in Malaysian society (across all ethnic and religious groups) emphasize filial piety and respect for parents, these norms are being tested by contemporary lifestyles. Indeed, Islamic teachings strongly enjoin children to care for their parents, and Malay Muslim culture in particular places a moral obligation on offspring to ensure the well-being of their elderly parents (Baharudin & Juhari, 2022). Failing to fulfill this filial

responsibility is not only socially frowned upon but also considered a sin in religious terms. Other Malaysian communities (Buddhist, Christian, Hindu, etc.) similarly uphold values of filial duty. Despite these cultural and religious imperatives, instances of neglect continue to occur, suggesting that moral obligations alone may not be sufficient to prevent the mistreatment or abandonment of elderly parents.

Globally, elder abuse and neglect are now recognized as pressing public health and human rights issues. The World Health Organization (WHO) estimates that about 1 in 6 people aged 60 or older have experienced some form of abuse in community settings in the past year (World Health Organization [WHO], 2024). Elder abuse encompasses physical, emotional, and sexual abuse, financial exploitation, as well as neglect and abandonment (WHO, 2024). Neglect is defined as the failure of a caregiver to meet an older person's basic needs, it can be just as harmful as overt abuse, often leading to serious physical injuries, illness, or psychological trauma (Dong, 2015). The United Nations Human Rights Council, in Resolution 33/5, stressed that violence against older persons (including neglect and the withholding of basic necessities) is a widespread phenomenon requiring concerted action (United Nations Human Rights Council [UNHRC], 2016). These international perspectives frame elder neglect as not merely a private family matter, but a societal problem that demands legal and policy responses.

In Malaysia, concern over the neglect of “incompetent” or incapacitated elderly parents has prompted discussions about the adequacy of existing laws. Presently, Malaysia does not have a singular comprehensive statute focusing on elder abuse or the obligations of adult children toward ageing parents in general. Some provisions in various laws touch on aspects of the issue, but enforcement appears limited and many cases go unreported – for instance, only 23 cases of elder abuse were formally reported to authorities between 2014 and 2016, reflecting significant under-reporting (Abdul Wahab, 2024). The absence of clear legal mandates or avenues for elderly parents to seek redress may contribute to this silence. By contrast, other countries have instituted specific legal mechanisms: e.g. Singapore's Maintenance of Parents Act 1995 provides a tribunal where neglected parents can claim financial support from their children, and India's Maintenance and Welfare of Parents and Senior Citizens Act 2007 makes it a legal duty for children (or heirs) to care for and maintain their elderly parents, enforceable through special tribunals (Abdul Wahab, 2024). These examples underscore the potential for law to play a role in preventing elder neglect and ensuring children uphold their filial responsibilities.

Against this backdrop, this article provides a legal analysis of the neglect of incompetent parents by adult children in Malaysia. The objectives are two-fold: (1) to examine the current legal provisions in Malaysia that relate to elder parent neglect and evaluate how far they protect the rights and welfare of elderly parents, and (2) to identify gaps (“lacunae”) in the existing legal framework and propose reforms such as legislative or policy, to better address the neglect of vulnerable elderly parents. The analysis covers both civil law and Islamic law dimensions, reflecting Malaysia's dual legal system, and draws on comparative insights where relevant. Ultimately, strengthening the legal protections for elderly parents is essential to complement social and moral efforts, ensuring that no ageing Malaysian is denied care, dignity, or support in their final years.

LITERATURE REVIEW

Concept of Elder Neglect and Its Impacts

Elder neglect is generally defined as the failure of a responsible caregiver to provide necessary care to an older person, thus harming or placing the elder at risk of harm (Dong, 2015). It is one form of elder abuse, which also includes physical abuse, psychological or emotional abuse, sexual abuse, and financial or material exploitation (WHO, 2024). Neglect can be passive, due to caregiver inability or lack of awareness, or active, where care is deliberately withheld. In the context of parent-child relationships, neglect may manifest as adult children not providing food, shelter, healthcare, or companionship to an ageing parent who is unable to secure these necessities on their own. The effects of neglect on elderly individuals are profound. Neglected seniors often suffer from malnutrition, untreated medical conditions, depression, and feelings of abandonment. Research indicates that elder abuse and neglect contribute to higher rates of hospitalization and mortality among older adults (Dong, 2015). Moreover, the trauma of being forsaken by one's own children leaves deep psychological scars, including anxiety, loneliness, and loss of self-worth. These impacts underline why elder neglect is viewed as not only a personal or family tragedy but a significant public health concern requiring societal intervention (WHO, 2024).

Existing Policy Frameworks

On the policy front, Malaysia has recognized the needs of its ageing population through various initiatives. The National Policy for Older Persons (Dasar Warga Emas Negara, DWEN) was introduced in 2011 to promote the well-being of senior citizens. This policy emphasizes “productive ageing” and family-based care, asserting that the family is the primary institution for elder support. It encourages communities and NGOs to assist in elder care and calls for improving healthcare, housing, and social participation for seniors. However, DWEN is a policy guideline and does not itself impose legal obligations on individuals (KPWKM, 2011). The government, through the Social Welfare Department (Jabatan Kebajikan Masyarakat, JKM), operates a limited number of Rumah Seri Kenangan (RSK) and Rumah Ehsan homes that provide shelter and care for abandoned or destitute elderly (CodeBlue, 2023). Additionally, financial assistance schemes exist, such as Bantuan Warga Emas (Elderly Aid), which provides RM500 monthly to eligible low-income seniors or their caretakers (Women, Family and Community Development Ministry, 2023). These measures, while helpful, function more as social support rather than preventive or punitive tools regarding neglect by family. There is currently no legal requirement in Malaysia's civil law that mandates adult children to financially support or physically care for their ageing parents. Thus, the responsibility is largely moral and social, backed by cultural expectation but not legal enforceability (Mat Salleh et al., 2022).

Scholarly Perspectives in Malaysia

Academic discourse in Malaysia has increasingly called for legal reform to address elder neglect. Legal scholars note that Malaysia's current laws dealing with family responsibilities focus on spouses and young children – for example, laws mandate parental support for minor children and spousal maintenance – but do not explicitly extend the same principle to children supporting parents (Mashitah Nabees Khan et al., 2021; Mat Salleh et al., 2022). Mashitah N. Khan and colleagues (2021) argue that the welfare of elderly parents should be regarded as part of the family institution's duties, and they highlight the lack of a specific legal avenue in civil courts for an abandoned parent to claim maintenance.

Hasiah Mat Salleh et al. (2022) examine Malaysian statutes and conclude that existing provisions are “still not comprehensive” in safeguarding the rights of the elderly. They point out that while abuse and negligence of elders can sometimes be addressed under general laws (like the Penal Code or Domestic Violence Act if physical harm is involved), these laws do not cover scenarios of non-support or abandonment where no overt criminal act has occurred. Muhammad Hazim et al. (2019) provide an analysis of elder care laws and similarly call it an initial analysis, finding significant gaps and recommending the introduction of a dedicated Elderly Persons Act. These scholarly works form a consensus that Malaysian law has a notable lacuna when it comes to filial neglect: there is a need either to amend current laws or pass new legislation to explicitly protect elderly parents from being neglected. The literature emphasizes that any legal solution must be culturally sensitive and accompanied by improved support systems (Mashitah Nabees Khan et al., 2021; Hasiah Mat Salleh et al., 2022). In summary, prior research and commentaries set the stage by highlighting the gravity of elder neglect in Malaysia, the insufficiency of existing legal measures, and the potential benefit of legal reform drawing on both domestic values and international examples.

This literature review establishes that the neglect of incompetent (incapacitated) parents by their adult children is a multifaceted issue, involving social, cultural, and legal dimensions. The core gap identified is a legal one: the lack of enforceable filial responsibility in Malaysia’s current legal framework. The subsequent sections of this article will delve into the methodology of our legal analysis, present the findings on what the current Malaysian laws provide (or fail to provide) regarding this issue, and then discuss the implications, including recommendations for strengthening the law to better protect vulnerable elderly parents.

METHODOLOGY

This study employs a qualitative legal research methodology (doctrinal approach) to analyze the treatment of elderly parent neglect under Malaysian law. The research process involved two main components:

Data Collection: We conducted extensive library research and legal document analysis. Primary sources included Malaysian statutes (such as the Penal Code and relevant provisions of family law and welfare law) and regulations that could apply to situations of elder neglect. Islamic law sources (statutory enactments in various states and federal territories governing Islamic family obligations) were also reviewed to understand the duties of Muslim children towards parents. Additionally, reported cases (if any) and parliamentary debates were sought to gauge how these laws have been interpreted or discussed in practice. Secondary sources, including academic journal articles, legal commentaries, government reports, and news reports from credible outlets (e.g., The Star, New Straits Times, Bernama, CodeBlue) were collected to provide context, statistics, and expert opinions. The literature review above summarizes much of the secondary data relevant to framing the issue.

Data Analysis: Using a content analysis approach, the provisions of identified laws were examined to extract their scope and limitations concerning elder parent neglect. For each relevant law or policy, we asked: Does this law provide any protection or remedy for an elderly parent who is being neglected by their children? If so, what are the mechanisms (e.g., criminal penalties, civil claims, care services)? If not, where are the gaps? The analysis was organized by categorizing laws into civil, criminal, and Islamic law perspectives. We also analyzed for “lacunae” – areas where no law currently applies. Comparative analysis was then applied by looking at how similar issues are addressed in other jurisdictions (Singapore, India, etc.),

drawing from foreign statutes and scholarly analyses. This comparative element is used to highlight possible solutions or approaches that could fill Malaysia's legal gaps. All information is interpreted through an academic legal lens, ensuring an objective, critical evaluation of the laws rather than a purely descriptive account.

No human subjects or interviews were involved in this research; it is purely a legal and document-based analysis. The methodology aligns with typical legal scholarship, focusing on statutory interpretation and doctrinal critique. By combining statute analysis with insights from recent data and interdisciplinary studies, the research aims to provide a well-rounded understanding of the effectiveness (or shortcomings) of current laws. The findings in the next section will detail what this methodological approach revealed about Malaysia's existing legal provisions on the neglect of elderly parents by adult children.

FINDINGS

Our analysis of Malaysian laws relevant to the neglect of incompetent (incapable) parents by their adult children reveals a patchwork of provisions. These provisions, spread across several statutes, address certain aspects of elder abuse or familial responsibility, but there is no single comprehensive law that squarely covers the scenario of adult children neglecting their dependent elderly parents. The findings are organized by category of law: criminal law, family/domestic violence law, Islamic family law, and social welfare law. A summary of these provisions and their scope is presented in Table 1 for clarity.

Criminal Law – Penal Code

Malaysia's criminal law is codified in the Penal Code (Act 574). The Penal Code does not explicitly mention elder abuse or neglect; however, it contains general provisions that could be used to prosecute certain abuses of elderly parents. For instance, Section 323 criminalizes voluntarily causing hurt, Section 325 covers voluntarily causing grievous hurt, and Section 506 addresses criminal intimidation. If an adult child physically assaults an elderly parent, these sections provide a basis for criminal charges (Penal Code, Act 574). In cases of extreme neglect, if the neglect can be framed as an act that endangers life or causes harm, there might be scope to charge under provisions related to causing hurt by rash or negligent acts (for example, Section 336 for endangering life or personal safety of others). However, using the Penal Code to address neglect is challenging because neglect is typically an omission (failure to act) rather than a commission (active conduct), and the Penal Code largely deals with active offenses. Unless the neglect is so severe that it can be deemed to have caused injury (such as severe malnutrition or illness), it may not fit neatly into any Penal Code provision.

Notably, Malaysia's Penal Code has specific sections for child abandonment or exposure (Section 317 covers exposure of an infant under 12), but there is no parallel section for abandoning or neglecting an elderly parent. Thus, criminal law provides at best an indirect remedy: an abusive adult child can be punished for violence against a parent, but a neglectful child who simply fails to care for or visit a parent is not criminally liable under current law (Mat Salleh et al., 2022). This represents a significant gap – many cases of elder neglect do not involve overt physical harm, and thus fall outside the reach of criminal prosecution.

Domestic Violence Act 1994 (DVA)

The Domestic Violence Act 1994 (Act 521) is a key piece of legislation aimed at protecting victims of abuse within the household. Importantly, the DVA's definition of "domestic violence" extends beyond spousal abuse; it includes emotional abuse and neglect, and the law applies to a range of family relationships. Under the DVA (as amended), a "member of the family" includes, among others, parents. Furthermore, the Act recognizes abuse against an "incapacitated adult" by a family member as a form of domestic violence (Domestic Violence Act 1994). In principle, this means that if an adult child were to intentionally abuse or seriously neglect an elderly parent who is dependent (incapacitated due to age or illness), the victim parent could seek protection under the DVA. Remedies available include protection orders (which could, for instance, require the perpetrator child to stay away or stop certain behaviors) and the facilitation of medical treatment or care for the victim. The DVA is civil in nature but works in tandem with criminal law – a breach of a protection order or commission of violence can trigger criminal charges under the Penal Code.

However, several limitations emerge in applying the DVA to elder neglect. First, the DVA has historically been underutilized for elder abuse cases; it is more commonly invoked in spousal or child abuse scenarios. There is a general lack of awareness that elderly parents can seek protection orders against abusive children (Mashitah Nabees Khan et al., 2021). Second, while the Act covers emotional abuse and "neglect" in terms of withholding care, in practice it may be difficult for an elderly person to initiate DVA proceedings against their own child due to emotional ties, fear of retaliation, or lack of support in navigating the legal process. Third, the Act's remedies do not explicitly force a child to positively provide care or maintenance – they mainly serve to restrain harmful behavior. For example, a protection order could forbid a child from harassing or abusing the parent, but it cannot compel the child to start visiting or financially supporting the parent. In summary, the DVA provides some framework for addressing elder abuse/neglect as a form of domestic violence (particularly if there is clear evidence of abuse), but it is not a comprehensive solution for ensuring filial support. The Act's focus is on stopping violence, and it treats symptoms rather than the root problem of abandonment or non-support.

Islamic Family Law (Syariah) Provisions

In Malaysia, matters of family law for Muslims are governed by state Islamic family law enactments (with a federal Act for Federal Territories). These laws primarily address marriage, divorce, maintenance of spouses and children, inheritance, etc. Crucially, Islamic law imposes a duty of "nafkah" (maintenance) on children to care for their parents if the parents are in need. For instance, Section 61 of the Islamic Family Law (Federal Territories) Act 1984 provides that it is the responsibility of a man to maintain his parents if they are infirm and unable to maintain themselves (Islamic Family Law Act 1984). Similar provisions exist in the state enactments, reflecting the Shariah obligation of filial piety. This means a Muslim father or mother who is destitute or incapable can go to the Syariah Court and apply for a maintenance order against their financially capable children. In theory, the Syariah Court can order the child to pay a monthly sum for the parent's upkeep. Non-compliance with such an order can result in enforcement proceedings or contempt of court in the Syariah system.

On paper, this Syariah provision directly addresses part of the issue – it gives (Muslim) elderly parents a legal avenue to claim support. In practice, however, it appears to be underutilized. Applications by parents against children in Syariah courts have been relatively rare, possibly due to cultural reluctance of parents to "sue" their own children (Mat Salleh et al.,

2022). Additionally, Syariah court orders are only applicable to Muslim parties. Non-Muslim elderly parents do not have a corresponding legal right to claim maintenance from their children, since civil law has no equivalent of Section 61. This creates an unequal situation: a Muslim parent theoretically can seek legal redress for neglect (though it's seldom pursued), whereas a non-Muslim parent has no such direct legal recourse aside from possibly a civil suit under common law (which would be novel and uncertain in outcome). Another limitation is that the Islamic family law provisions cover financial maintenance but not other forms of neglect (like failing to visit or provide personal care). Moreover, enforcement of these orders can be challenging if children simply lack the means or if family relationships break down completely. Nonetheless, the existence of the Islamic maintenance obligation is significant – it affirms that, in Malaysia's religious legal perspective, caring for elderly parents is not just moral but a legal duty for those of the Islamic faith. Any effort to improve laws might consider mirroring this duty in civil law so that it extends to all Malaysians.

Social Welfare and Other Laws

Malaysia has certain laws and regulations geared towards social welfare which indirectly intersect with the issue of elder neglect. One such law is the Destitute Persons Act 1977, which empowers authorities to take into custody and care “destitute persons” found in public places (Destitute Persons Act 1977). An abandoned elderly person who is homeless or without support could be classified as a destitute person under this Act. The Act allows social welfare officers to place such individuals in government-run welfare homes (after certain due process like inquiries). While this ensures that abandoned seniors are not left to die on the streets, it is a reactive measure. It does not penalize the family members who neglected the person; rather, it shifts the burden of care onto the state. The Act's intent is to prevent vagrancy and provide care for those who literally have nobody, but in elder abandonment situations it essentially serves as a band-aid solution after the harm (family abandonment) has occurred. Another relevant law is the Private Aged Healthcare Facilities and Services Act 2018, which regulates elder care facilities (ensuring standards in nursing homes, etc.). This law, however, deals with the regulation of care homes and does not address family duties or neglect directly.

Malaysia's Federal Constitution and human rights commitments also form part of the backdrop. While there is no explicit constitutional right for an elderly parent to be cared for by their child, one could argue that the spirit of Article 8 (equality) and Article 10 (freedom of association) imply the state should not discriminate in providing protection to vulnerable groups, including the elderly. Malaysia has commitments under international instruments like the Universal Declaration of Human Rights (which in Article 25 refers to the right to security in the event of old age) and is supportive of efforts at the UN level to enhance protections for older persons. As of now, these higher-level principles have not translated into specific domestic laws on elder neglect.

Summary of Legal Provisions: The table below (Table 1) summarizes the main legal provisions in Malaysia that relate to the neglect of elderly parents, along with their scope and limitations:

Table 1. Existing Legal Provisions on Elderly Parent Neglect in Malaysia

Law / Provision	Scope and Coverage	Limitations
Penal Code (Act 574) –	Criminalizes abuse causing physical hurt (Sections 323, 325) or threats (Section 506) against any person,	Does not criminalize passive neglect or failure to support. No specific offense for abandoning an elderly parent. Requires

Law / Provision	Scope and Coverage	Limitations
General criminal law	including parents. Also covers endangerment of life (Section 336).	proof of bodily injury or threat; omission to act is hard to prosecute.
Domestic Violence Act 1994 (Act 521)	Provides protection orders and legal remedies for victims of domestic violence, including “incapacitated adults” (e.g., infirm parents) abused by family. Emotional abuse and neglect can be grounds.	Primarily restrains active abuse; does not mandate positive caregiving. Relies on victim to seek help. Not widely used by elders against children. No direct punishment for simply failing to provide care if no abuse.
Islamic Family Law Enactments (e.g., IFLA 1984)	Imposes duty on Muslim children to maintain (financially support) their parents if the parents are unable to maintain themselves. Syariah courts can order maintenance from capable children to needy parents (e.g., Section 61, IFLA FT 1984).	Applies to Muslims only – no effect for non-Muslim families. Used infrequently due to social reluctance. Covers financial support but not explicitly other forms of care. Enforcement can be difficult if relations are poor.
Destitute Persons Act 1977 (Act 183)	Allows authorities to rescue and care for “destitute persons” (including abandoned elderly) by placing them in welfare homes. Ensures the state can step in to provide basic needs when family support fails entirely.	Does not assign liability to the neglecting family members; purely a welfare measure. Involves institutionalizing the elder, which may not be desirable long-term. Reactive rather than preventive – intervenes after neglect has already happened.
No Dedicated Elderly Protection Law	<i>(Nota bene: There is currently no specific Malaysian statute focused on prevention of elder abuse/neglect or mandating adult children’s duties, unlike laws for child protection.)</i>	This itself is a gap – issues of elder neglect fall through the cracks of existing laws, which only address parts of the problem.

DISCUSSION

The discussion identifies a legal lacuna in Malaysia’s protection of elderly parents from neglect by their adult children: the current framework is fragmented and does not impose a clear, enforceable duty on adult children to support or care for ageing parents. While elder care was long assumed to be handled informally within families, the discussion argues that rising neglect and abandonment trends show this assumption is increasingly unreliable, creating an urgent need for stronger legal protection.

To explain why the present framework “fails to adequately address” elder neglect, the discussion highlights weaknesses across criminal law, the DVA, and family-law mechanisms. First, criminal law is said to make elder neglect “largely invisible”: unless neglect can be reframed into a conventional offence (such as causing hurt), adult children who refuse to provide expenses or medical care, fail to visit, or abandon parents at public facilities face no direct prosecution route. Second, the Domestic Violence Act 1994 (DVA) is described as “progressive in theory” because it covers “incapacitated adults,” but is not fully effective for elder neglect in practice, since it is not designed to enforce ongoing positive caregiving duties (e.g., ensuring food, medicine, and day-to-day care) and because many elders are unaware of the law or unwilling to take action due to “saving face” and family stigma. Third, Islamic family law maintenance provisions do reflect cultural and religious expectations of filial responsibility, yet they face structural limits: non-Muslim parents are excluded, creating a

justice gap that supports a parallel civil mechanism for universal protection (Nabees Khan et al., 2021). Even for Muslim parents, Syariah orders may secure money but cannot guarantee emotional support, companionship, or hands-on caregiving, and some parents still hesitate to sue their children (Alavi et al., 2011). Finally, when families fail, the burden shifts to the state: the Department of Social Welfare (JKM) is described as acting as the “caregiver of last resort,” yet state intervention often occurs only after serious harm has already materialised (Mat Salleh et al., 2022).

The consequences of these gaps are portrayed as concrete and escalating. Neglected elders may not know where to turn, may suffer in silence, and may feel ashamed to report their children, driving under-reporting. The discussion cites earlier-reported figures that only 23 cases were officially reported over a three-year period, implying that most neglect remains hidden (Abdul Wahab, 2024). It further illustrates severity through hospital abandonment outcomes: Figure 2 reports that from 2018 to June 2022, over 2,100 seniors were identified as abandoned in Malaysian hospitals; about 43% were reunited with families while 57% were placed in government or private welfare homes (Abdul Wahab, 2024; CodeBlue, 2023). These outcomes reinforce the paper’s claim that existing laws intervene too late and that welfare institutions are being forced to absorb the failure of family caregiving.

Against this backdrop, the discussion outlines a reform agenda centred on clearer duties with workable enforcement. It notes a growing public and expert consensus for a dedicated law, often analogised to Singapore’s Maintenance of Parents Act to compel adult children to support ageing parents (Aziz & Khoo, 2025; CodeBlue, 2023). Malaysia’s government is also cited as planning a Senior Citizens Bill aimed at protecting seniors’ welfare and rights and potentially holding “irresponsible children” accountable, including proposals such as salary deductions (Aiman Athirah, as cited in CodeBlue, 2023). The central proposal is a Malaysian Maintenance of Aged Parents Act implemented through a dedicated tribunal that is less formal and less adversarial than ordinary courts, able to apportion contributions among children according to ability (Aziz & Khoo, 2025). The discussion stresses safeguards so the law targets those who can but will not support parents, and it cites stakeholder concerns (including Agecope) that reforms should include defences for genuine inability to pay and should prioritise conciliation over punishment. It also suggests incremental improvements to existing law such as clearer recognition of elder neglect within current statutes and, where appropriate, narrowly tailored criminal provisions for extreme abandonment while being mindful of Malaysia’s dual system and jurisdictional boundaries.

Finally, the discussion emphasizes that law is not a panacea. Because elders may still hesitate to sue due to stigma, reforms should be paired with public education, accessible services, counselling, and mediation (Aziz & Khoo, 2025; Abdul Wahab, 2024). Mediation is specifically recommended as a less adversarial step, including through the Malaysian Bar’s Aging Rights Committee (Abdul Wahab, 2024). The discussion also frames caregiver and community supports respite services, affordable day-care, and programmes for stressed “sandwich generation” families as essential complements that reduce neglect driven by burnout (CodeBlue, 2023). Any reform, it concludes, should protect elder autonomy and dignity in line with international rights-based principles (UNHRC, 2016).

CONCLUSION

Malaysia stands at a crossroads as it confronts the realities of an ageing society. The neglect and abandonment of elderly, incapacitated parents by adult children reveal a painful breakdown of familial support, one that Malaysia's current laws and policies have not adequately addressed. Although Malaysian culture and religious teachings strongly promote filial responsibility, the legal framework has not kept pace in enforcing, or even clearly articulating, that duty. Existing laws such as the Penal Code and the Domestic Violence Act 1994 primarily respond to active abuse, but remain largely silent on neglect. Islamic family law offers an important safeguard for Muslim families by imposing maintenance obligations toward parents, yet its scope is limited and is not equivalently reflected in civil law for non-Muslims. The result is a significant legal lacuna: many vulnerable elderly parents are left dependent on moral persuasion or the goodwill of others, and when those fail, on the state's welfare system.

To move forward, comprehensive reform is necessary. First, Malaysia should enact a Senior Citizens Act or a Maintenance of Parents Act to clearly establish the duty of adult children where they have the means to maintain dependent elderly parents. Such legislation should include accessible, user-friendly mechanisms for elderly parents to seek support, such as a tribunal or simplified court process. Remedies may include periodic financial maintenance and, where appropriate, structured care arrangements tailored to the elder's needs and the children's capacity. Fairness safeguards must also be built in, including mediation options and consideration of relevant circumstances such as any history of abuse by the parent.

Second, existing statutes should be amended to strengthen protection. The Domestic Violence Act could be expanded to expressly include elder neglect and provide clearer authority for intervention in severe cases. The Penal Code could introduce a specific offence for willful abandonment of a dependent elderly person, limited to egregious situations where neglect is deliberate and harmful. These reforms would not only deter neglect but also affirm social condemnation of abandoning one's parents.

Third, Malaysia should leverage existing Syariah provisions while ensuring equal protection for all citizens. The underlying principle found in Islamic family law such as the duty to maintain parents should be extended through civil law so that elderly parents across religions have equivalent rights and remedies. Practical coordination between Syariah courts and any new tribunal or civil process will be crucial to ensure outcomes are equitable, consistent, and efficient for both Muslim and non-Muslim families.

Fourth, legal duties must be matched with robust support systems. The government should continue strengthening financial assistance programmes for elderly persons and caregivers, expand the capacity of public eldercare centres, and encourage private sector and community-based alternatives such as daycare services, home nursing support, and volunteer visitation programmes. Where family care is unavailable or unsafe, these alternatives must ensure no elderly person is left without protection.

Fifth, law reform must be accompanied by awareness and cultural reinforcement. Public campaigns should educate adult children about new expectations and possible legal consequences, while also informing elderly parents of their rights and available avenues for assistance. Schools, religious institutions, and community leaders can help strengthen the social norm that caring for ageing parents is not only a moral duty but also a legal responsibility.

Finally, enforcement should be compassionate and guided by clear protocols for police, welfare officers, and the courts. The objective should not be to criminalise poverty or rupture families unnecessarily, but to prevent elders from being abandoned. Enforcement should prioritise restoring support through reconciliation where possible, realistic payment plans, and supervised caregiving arrangements, with punitive measures reserved for serious and persistent neglect. The true measure of success will not be the number of prosecutions, but a tangible reduction in elder neglect and abandonment.

In sum, addressing the neglect of incapacitated elderly parents requires a holistic approach in which the law becomes a key instrument for change. By closing legal gaps through targeted legislation and amendments, Malaysia can build a stronger safety net of rights and responsibilities that protects vulnerable elders while reflecting core societal values that honour senior citizens. As Malaysia approaches aged-nation status by 2030, these reforms are timely, necessary, and foundational to justice and dignity across generations.

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