

Law and Ageing: Developing a Theoretical Framework for the Protection of Older Adults

Undang-Undang dan Penuaan: Membangunkan Kerangka Teoretikal bagi Perlindungan Warga Emas

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Received: 6-9-2025 /Accepted: 20-12-2025

ABSTRACT

The global population is experiencing a significant demographic shift, with an increasing proportion of older adults. This trend is impacting both high-income and developing countries, many of which struggle to address the complex needs of ageing populations. Through the prism of vulnerability in social and legal contexts, this study critically analyses prevalent legal approaches to ageing. Employing a qualitative socio-legal methodology, this article synthesizes insights from ageing theories, proposed legal frameworks, and comparative policy analysis. It critiques the limitations of traditional welfare and protectionist models that emphasize dependency, proposing instead a multidimensional legal framework centered on empowerment, dignity, and participatory citizenship. The study emphasizes the urgent need for legal reforms that move beyond paternalism, recognizing older adults as independent rights-holders and promoting fair and inclusive systems to address the challenges of global aging.

Keywords: ageing; conceptual analysis; international policy; scholar approach; theories; safeguards.

ABSTRAK

Populasi global sedang mengalami perubahan demografi yang ketara, dengan peningkatan peratusan warga tua. Perkembangan ini memberi kesan kepada negara berpendapatan tinggi dan juga negara sedang membangun, yang masing-masing berhadapan kesukaran dalam menangani keperluan kompleks populasi yang semakin menua. Melalui prisma kerentanan dalam konteks sosial dan undang-undang, kajian ini menganalisis secara kritikal pendekatan undang-undang yang lazim digunakan terhadap isu penuaan. Dengan menggunakan metodologi sosio-perundangan kualitatif, artikel ini menyintesis pandangan daripada teori-teori penuaan, cadangan kerangka undang-undang, dan analisis dasar secara perbandingan. Ia turut mengkritik keterbatasan model kebajikan dan perlindungan tradisional yang menekankan kebergantungan, dan sebaliknya mencadangkan satu kerangka undang-undang multidimensi yang menumpukan kepada pemerkasaan, maruah dan kewarganegaraan partisipatif. Kajian ini menegaskan keperluan mendesak untuk reformasi undang-undang yang melangkaui paternalism, dengan mengiktiraf warga tua sebagai pemegang hak yang bebas serta memupuk sistem yang adil dan inklusif bagi menangani cabaran penuaan global.

Kata kunci: penuaan; analisis konseptual; dasar antarabangsa; pendekatan sarjana; teori; perlindungan.

INTRODUCTION

Ageing is a universal and inevitable phenomenon, driven by advancements in healthcare, technology, and living standards. While this demographic transformation is often seen as a public health success, it also brings significant legal, social, and economic challenges. By 2050, the global population aged 60 and above is expected to exceed 2 billion, surpassing the number of children under the age of five. This shift, once concentrated in high-income countries, is now accelerating in low- and middle-income nations, many of which lack adequate legal and policy frameworks to address the needs of ageing populations (Pani-Harreman et al. 2021).

Older adults face unique vulnerabilities, including declining health, financial insecurity, social isolation, and a heightened risk of abuse. These challenges are compounded by insufficient legal protections, strained pension systems, and entrenched agism, which contribute to the marginalization of older individuals (S. Z. B. Jamaluddin et al., 2015). At the societal level, ageing populations are placing increasing pressure on labour markets, healthcare systems, and social services, while also exacerbating intergenerational tensions (Abdullah et al. 2024; Salleh 2022).

Existing literature on elder law remains largely welfare-oriented and protectionist, often reinforcing dependency and paternalism while overlooking the autonomy and dignity of older adults (Mashitah Nabees Khan, Nor 'Adha Abd Hamid, & Sharifah Hana Abd Rahman, 2021). Although studies have examined issues such as social security, pensions, medical care, foundational theories, and certain specific rights of older persons, the scholarship remains narrow in scope and lacks comprehensive depth. Research on the rights of the elderly is particularly fragmented, lacking a coherent or unified theoretical framework to support a comprehensive system of elder rights (Gandhi, 2022). To address this gap, this study proposes a multidimensional, rights-based theoretical framework that integrates universalism, vulnerability theory, civil rights approaches, therapeutic jurisprudence, and feminist theory. This framework departs from past studies by emphasising empowerment, relational vulnerability, proactive legal mechanisms, interdisciplinary collaboration, and cultural sensitivity, offering a more holistic response to the complex and evolving needs of ageing populations globally.

METHODOLOGY

This paper develops a comprehensive framework for elder law using a conceptual and doctrinal legal approach. While the study does not employ empirical data, the methodology compensates by critically analysing existing legal theories, normative concepts, and legislative frameworks. This enables a deeper examination of the foundational principles necessary for constructing a right-centred framework for the protection and empowerment of older adults (Gupta, 2023). The study consolidates central theories and legal by synthesising insights from scholarly literature.

Employing a qualitative socio-legal methodology, this study critically examines existing legal theories, normative concepts, and legislative frameworks to develop a comprehensive theoretical framework for elder law. Building on this, it begins by assessing the limitations of traditional legal approaches to ageing and the challenges faced by older adults. Consequently, it examines theoretical models such as universalism, vulnerability theory, and rights-centred frameworks to propose a comprehensive paradigm for elder law. The paper also reviews international and regional developments, identifying effective practices and gaps in current protections. Ultimately, it concludes by presenting a proposed legal framework that emphasises

autonomy, dignity, and inclusion, offering practical recommendations to help policymakers address the evolving needs of ageing societies.

RESULTS

This section explores the global demographic shift towards ageing populations, theoretical perspectives on ageing, the evolution of elder law, and the integration of multidisciplinary approaches to develop a comprehensive legal framework that prioritizes autonomy, dignity, and inclusion for older adults.

DEMOGRAPHIC CHANGE, DEFINITION, THEORETICAL PERSPECTIVES OF OLDER ADULTS

The world is experiencing an unprecedented demographic shift, with ageing populations reshaping societies globally. An “ageing society” is one in which 7% of the population is aged 65 and above. In comparison, an “aged nation” is defined by a threshold of 14%. According to United Nations (UN) estimates, the global population of older persons is expected to exceed 2.1 billion by 2050, more than doubling from 841 million in 2013. By 2047, their numbers will surpass those of children. In developing countries, the senior population is projected to quadruple by 2025 (UN DESA, 2024; UNFPA, 2024).

These ramifications bring profound implications: family caregiving models are strained, health and social care demands increase, and shrinking workforces must support growing retiree populations. For instance, while Japan and Germany face the challenge of sustaining productivity amid declining workforces, nations such as Nigeria and Indonesia must prepare for ageing populations that are still in their early stages. Ageing should be recognized not only as a challenge but also as a valuable resource, as older persons remain vital consumers, caregivers, and voters. To address these challenges, effective responses require tackling ageism, reforming legal and pension systems, investing in age-friendly infrastructure, and advancing global cooperation for equitable long-term planning (UN ESCAP, 2017; Thiruchelvam & Tahir, 2021).

The definition of “elderly” varies across jurisdictions, with no universally accepted standard. Notably, although it varies by location and is often linked to retirement and social assistance laws, chronological age remains the most widely used criterion, typically falling between 60 and 65 years of age (Lewis, Purser, & Mackie, 2020). The UN often uses 60 years as the cutoff point, and developing countries, including those in Association of Southeast Asian Nations (ASEAN), largely follow this practice. However, developed nations typically choose 65 years, in line with life expectancy trends and pension systems (Kementerian Pembangunan Wanita, Keluarga dan Masyarakat [KPWKM], 2012). Nonetheless, the varied experiences of ageing cannot be adequately captured by age alone, prompting recognition of biological, functional, and social elements in defining elderhood. Cultural, demographic, and economic circumstances are reflected in national methods. In Asia, most countries adopt 60 as the legal benchmark for senior status, while promoting active ageing and delayed retirement (Wan Ahmad, 2000). In contrast, countries such as the UK and Germany are increasing retirement ages to adapt to longer life expectancy (European Commission, 2017). Additionally, distinctions such as the “old-old” (80+) category, used in Australia and elsewhere, highlight the varying risks and needs among older adults, especially concerning cognitive and health conditions (Australian Law Reform Commission [ALRC], 2017).

Ageing is a complex, multifaceted process influenced by biological factors, psychological adaptation, social expectations, and legal structures. Classical theories provide different perspectives on how people and communities deal with ageing, including disengagement, activity, and continuity (Hussein, 2020). These perspectives range from active participation and withdrawal to adaptive consistency. Consequently, by influencing how autonomy, involvement, and support for elders are prioritised in policymaking, these frameworks shape legislative responses (Lim, Abu Bakar Ah, & Abd Wahab, 2023). For example, Continuity Theory advocates for laws that enable lifelong legal planning and ageing in place. At the same time, Activity Theory supports rights-based legal frameworks that promote inclusiveness and anti-discrimination (Jahangir, Patil, Gangopadhyay, & Vogt, 2025).

Critical theories, such as Conflict and Social Exchange, draw attention to intergenerational power dynamics and structural injustices, emphasizing how older adults, especially those from underrepresented groups, experience economic marginalization, exploitation, and a lack of legal protection (Zhu & Bai, 2022). Moreover, these viewpoints advocate for structural legal reforms that address ageism, dependency, and access to justice, as well as the implementation of redistributive laws and safeguards against elder abuse. Through feminist and disability rights theories, contemporary scholarship further enhances this conversation by supporting intersectional strategies that challenge prejudices and promote equity, accessibility, and dignity (Islam, 2023).

THE DEVELOPMENT OF LAW FOR OLDER ADULTS

Historically, families and communities have played a central role in caring for older persons, providing daily assistance, financial management, and support with personal decision-making. These multigenerational arrangements provided consistent care. However, rapid urbanization, smaller households, and rising employment have weakened traditional safety nets (Sajali, Md Khalid, & Razak, 2025). As a result, longer lifespans and the erosion of familial support now leave many older adults vulnerable to isolation, neglect, and exploitation, including predatory loans, financial scams, and abuse by service providers. These dangers underscore the need for robust elder law protections that preserve autonomy, control care systems, uphold anti-fraud measures, and ensure financial stability (Thiruchelvam & Tahir, 2021).

The body of laws addressing the unique problems elderly people experience is known as elder law. Elder law relates to the implications of law as an institutionalisation of society viewed through the lens of older persons. According to Numhauser-Henning (2021), the concept of the aged subject is a contested and differentiated social construct that must be studied in relation to an externalised social ‘problem’ and properly contextualised. Furthermore, the field, which emerged in the 1980s as a result of demographic shifts and the expansion of welfare systems, encompasses both age-neutral laws that disproportionately affect older people, such as those about healthcare, housing, and consumer protection, as well as age-specific laws, such as guardianship, pensions, and elder abuse statutes (Ahmad Shukri Abdul Hamid & Norliza Mokhtar, 2018). Notably, the field originated in the United States (US), focusing on practical issues like estate planning and healthcare entitlements (Gandhi, 2022). The field has also experienced significant international growth, with initiatives such as the Hague Convention on the International Protection of Adults and collaborative efforts among organizations like National Academy of Elder Law Attorneys (NAELA) and American Association of Retired Persons (AARP). Additionally, there is a growing emphasis on local and municipal elder law, addressing issues such as property taxes, housing, and elder abuse at the community level. Looking forward, the integration of Elder Law into

gerontological science as 'jurisprudential gerontolog' is proposed to enhance interdisciplinary collaboration and address the gap between legal frameworks and the lived realities of older adults (Doron, 2006b).

Conceptual models have significantly shaped the evolution of elder law. The Needs-Based Model emphasizes service delivery but risks dependency. The Partial Rights Model allows tailored intervention in cases of vulnerability, and the Full Rights Model presumes full legal capacity unless restricted by due process. Increasingly, a rights-based approach is gaining ground, emphasizing that older persons retain their civil, political, and social rights throughout their lives (Doron, 2001). Supported decision-making, advanced by the Convention on the Rights of Persons with Disabilities (CRPD), exemplifies this shift toward empowerment over substitution (Morichi & Huang, 2023). Gandhi (2022) highlighted the lack of a comprehensive international convention for the rights of older adults, attributing this to the absence of a strong political identity and civil rights movement among older adults.

Theoretical underpinnings of autonomy, dignity, and vulnerability are vital to defining elder law as a coherent discipline. Legal regimes must strike a balance between individual rights and protective measures, avoiding overreach that diminishes agency. By extension, integrating legal practice with gerontology and human rights standards, elder law provides a framework for ensuring inclusion, protection, and participation in ageing societies (Wyman, Shiovitz-Ezra, & Bengel, 2018). As noted by Nina A. Kohn (2011), ageing has too often been framed as a welfare issue rather than a civil rights matter. Her civil rights approach urges laws and policies to be grounded in equality, autonomy, and dignity. The rights of older people may be inadvertently violated by poorly written welfare-oriented policies, such as those requiring mandatory abuse reporting (Kohn, 2010). Reframing ageing as a civil rights issue, similar to past struggles for racial, gender, and disability justice, empowers older adults through identity, political mobilization, and legal reform (Kohn, 2009). For instance, jurisdictions such as Ontario, Canada, and Wisconsin, US, illustrate this shift by reforming elder abuse reporting laws and abolishing mandatory retirement, strengthening autonomy while safeguarding against abuse (Kohn, 2020).

Elder law scholarship has also expanded through interdisciplinary approaches, including rights-based models, vulnerability theory, and law and economics (Wyman, Shiovitz-Ezra, & Bengel, 2018). Richard Posner's economic analysis evaluated policies such as long-term care subsidies and reverse mortgages in terms of incentives and efficiency. However, critics argued that this perspective neglects justice, equity, and the relational aspects of ageing (Posner, 1995). Effective elder law must strike a balance between efficiency and empathy, ensuring that older persons are recognized as full citizens entitled to participation, protection, and dignity, rather than being treated as passive dependents (Doron & Soden, 2012).

MULTIDISCIPLINARY APPROACHES TO LEGAL FRAMEWORK

The universalism model, rooted in disability rights theory, provides a revolutionary approach to elder law, as promoted by academics such as Professor Surtees and Jerome Bickenbach. (Bickenbach, 1993). Beyond the conventional civil rights framework that labels people as "elderly" or "disabled," universalism acknowledges that growing older is a common and ongoing human experience. Moreover, instead of being reactive or divided, it promotes inclusive legal and regulatory frameworks. In contrast, universalism emphasized societal impediments, such as ageist legislation, inaccessible infrastructure, and discriminatory behaviours, as the real causes of exclusion, rather than medical or functional theories that portray impairment as an individual

defect (Vabo & Burau, 2011). Surtees (2009) discussed the concept of universalism as a model for understanding elder law, emphasizing the importance of designing programs and policies that encompass all individuals, regardless of their position on the age continuum. Ultimately, this approach aims to transcend the divisive nature of age-based categorizations, instead promoting inclusivity and equality (Surtees, 2009). Applying this lens to elder law shifts the focus from remedial protections to proactive, lifespan-oriented inclusion (Numhauser-Henning, 2021). Importantly, the goal is not to carve out special rights for older persons, but to build a society that inherently accommodates all ages and abilities. This strategy supports the evolution of elder law beyond group-based rights to provide supportive legal, physical, and social settings for everyone, aligning with the UN's "society for all ages" objective. By doing this, universalism provides a unifying, non-divisive worldview that reinterprets ageing as an essential component of human variation rather than a deficit (Doron, 2009).

From this perspective, Professor Winsor Schmidt's Mental Health Theory approach offered an analytical framework for assessing elder law from the perspectives of autonomy and social control, critically examining legal concepts such as capacity, competence, and guardianship as mechanisms of social control and ageism (Schmidt, 2009). According to Schmidt (2009), elder legislation often functioned as a continuation of the therapeutic state, enforcing involuntary measures such as guardianship in the name of protection. This concept, which is based on paternalistic notions of fragility and incapacity, runs the risk of equating aging with incapacity and perpetuating ageism. Consequently, Schmidt (2009) advocated for a shift in elder law toward the values of free will, individual accountability, and procedural protections, rather than embracing guardianship and related systems as beneficial. He emphasized the importance of applying stringent evidence standards, assuming competence, and opposing unnecessary government intervention. To ensure that elder legislation fosters autonomy, dignity, and inclusion rather than perpetuating dependency or marginalization, the objective is to empower older persons rather than govern them (Schmidt, 2015). As highlighted by this perspective, elder law should shift from a therapeutic paternalistic approach to an emancipatory, rights-based legal framework (Gandhi, 2022). However, as noted by Doron (2009), this approach may reinforce stereotypes and biases, such as ageism and sanism. It could lead to excessive social control under the guise of therapeutic intervention. It may also fail to address the broader societal and systemic factors affecting elders adequately.

Elder law studies are placing greater emphasis on the interplay of social policy, labour rights, and family relationships to address the legal concerns of older adults. Research on the "sandwich generation" by demonstrated that the burden of caregiving frequently reflects the strength of a society's welfare regime, with families bearing more strain from weaker systems (Silverstein, Tur-Sinai, & Lewin-Epstein, 2017).

From this standpoint, Dr. Deblina Dey (2014) highlighted the ongoing discrepancy between statutory protections and the lived reality of eldercare by critically examining the relationship between modern legal frameworks and traditional filial care practices in India (Doron, 2009). Despite this, even while legislation such as the Hindu Adoption and Maintenance Act, 1956, and the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, require adult children to provide for their aged parents, the execution of these rules is uneven, especially in rural areas. Social shame, inadequate institutional processes, and elders' reluctance to seek legal remedies frequently result in emotional abuse, neglect, and property-related disputes, such as challenged housing rights and the revocation of gift deeds, being ignored. In addition, courts have cautioned against the misuse of elder law to resolve intra-family property conflicts, reflecting the

complexities of balancing protection with familial autonomy (Dey, 2017). Dey argued for reforms that enhance implementation, promote legal literacy, and integrate elder-sensitive procedures, ultimately bridging the divide between traditional caregiving expectations and contemporary legal realities in India (Dey, 2020).

Accordingly, Lilach Lurie (2020) advocated for a universal anti-discrimination model in employment law, arguing that age should be treated alongside other protected characteristics. Her analysis of Israeli jurisprudence suggested that a unified legal framework enhances fairness and intergenerational justice, avoiding the fragmentation seen in particularistic regulatory models (Lurie, 2022). Alongside this, Lurie contended that integrating age discrimination into broader employment discrimination law promotes justice and efficiency, as reflected in Israel's Equal Opportunities at Work Law. It prohibited age discrimination and has been applied in cases such as wrongful dismissal due to age-related bias (Lurie, 2020). This approach helps ensure that age is considered a relevant factor in employment decisions, fostering a more equitable labour market across generations.

Titti Mattsson and Lottie Giertz (2017) critically examined the legal treatment of older adults with cognitive impairments such as dementia, highlighting the tension between the conventional legal presumption of autonomy and the realities of cognitive decline (Mattsson & Giertz, 2020). In this regard, they argued that the prevailing legal framework, which strongly emphasizes individual autonomy and capacity to consent, inadequately addresses the needs of persons with dementia who often cannot make informed decisions about their care and living conditions (Mattsson & Giertz, 2017). Drawing on Martha Fineman's vulnerability theory, Mattsson and Giertz advocated for care systems and legal approaches that recognize universal human vulnerability and provide structured support rather than assuming complete independence. Moreover, their interdisciplinary research, focusing on Swedish social welfare law and practice, revealed that strict requirements for consent can lead to neglect or endangerment of persons with dementia, as well as difficult situations for families and social workers (Obstbaum et al., 2025). Thus, they proposed moving away from group-based categorizations and instead tailoring support to the unique and varied needs of everyone, thereby better protecting the rights and dignity of those with cognitive impairments while balancing autonomy and vulnerability (Sperling et al., 2025).

Expanding this framework, Alexander Boni-Saenz critiqued the centrality of equality as the primary goal in elder law, proposing a sufficiency-based approach. He argued that legal standards should focus on whether individuals have "enough" resources to maintain resilience and dignity, rather than measuring fairness solely by comparing outcomes across individuals. Consequently, this shift better accommodates the diverse experiences of ageing and cognitive decline, offering a more humane and responsive legal framework that recognizes vulnerability and prioritizes meeting basic needs over strict equality. Boni-Saenz's approach draws on vulnerability theory and challenges the assumption that elder law should primarily aim for substantive equality, suggesting that sufficiency better addresses the realities faced by older adults (Boni-Saenz, 2018).

Significantly, the intersection of legal theory and public policy is crucial in crafting adequate responses to population ageing. Nina Kohn (2022) emphasized that effective responses to population ageing require elder law reform grounded in rigorous, theory-informed scholarship. She advocated for maintaining clear distinctions between academic inquiry and legal practice to prevent the two from being conflated. Additionally, Kohn highlighted the importance of recognizing the structural ageism embedded in law, and challenges homogenized views of old age, emphasizing that ageing is a diverse and complex experience rather than a uniform condition. Specifically, her approach calls for public policy that is responsive to this diversity and complexity,

supported by evidence-based critique, to ensure just and effective legal frameworks addressing the needs of older adults. This framework enables policymakers to identify priorities and evaluate interventions while addressing assumptions that may hinder the development of robust elder law theory and practice (Kohn, 2022).

Complementing this, Professor Richard L. Kaplan (2009) demonstrated how economic theory can enhance elder law by predicting behavioural responses to legal rules. In particular, he applies tools such as price theory and econometrics to evaluate the real-world impact of elder-focused policies on issues like social security, guardianship, and retirement planning. Kaplan demonstrated that economic analysis provides a scientific framework for understanding how legal sanctions influence behaviour, enabling the assessment and improvement of legal regimes affecting older adults. Nevertheless, he cautioned against relying solely on economic models, warning that they may overlook the moral, emotional, and relational dimensions that are central to the lived experiences of older individuals. Thus, while economics offered valuable insights, elder law must also address these humanistic aspects to create truly effective and compassionate policies (Kaplan, 2009). This model's focus on efficiency and cost-benefit analysis may overlook important non-economic factors, such as emotional well-being and social justice. Notably, it may also fail to account for the complexity of human behavior, which is not always driven by rational economic decisions.

In this context, Therapeutic Jurisprudence, as advanced by Professor Marshall B. Kapp, reframed law as a social force with significant psychological and emotional impacts, moving beyond the instrumental rationality typically associated with economic analysis. Therapeutic Jurisprudence evaluated legal rules, processes, and practices based on their therapeutic or antitherapeutic consequences, asserting that law should aim to support emotional well-being and personal growth (Suhaimi et al., 2022). Crucially, central to the entire discipline of therapeutic jurisprudence is the role of the law as a therapeutic agent to promote positive behavioural change (Yamada, 2021). Within elder law, Therapeutic Jurisprudence advocated for reforms that enhance the autonomy, dignity, and participation of older adults, particularly in sensitive areas such as guardianship, nursing home regulation, and end-of-life decision-making. For example, instead of defaulting to complete legal substitution through guardianship, Therapeutic Jurisprudence supported decision-making models that empower older adults to maintain control over their lives while receiving necessary assistance. Kapp emphasized that laws should be continually assessed and refined based on credible evidence about their real-world impact on older persons, rather than being driven by political ideology or administrative convenience (Doron, 2009). As a result, this approach encouraged shifting from merely adding more laws to creating evidence-based reforms that genuinely improve the quality of care and life for elders, recognizing the law's potential as a therapeutic agent rather than just an enforcement mechanism (Kapp, 2009). Nonetheless, critics argued that therapeutic jurisprudence can be overly paternalistic, prioritizing therapeutic outcomes over individual autonomy and rights. It risks reinforcing the therapeutic state, where individuals are subjected to interventions deemed beneficial by others, potentially undermining personal autonomy and freedom (Doron, 2009).

Preventive Law, closely aligned with Therapeutic Jurisprudence, emphasizes anticipatory legal strategies designed to reduce future conflict, stress, and disempowerment among older adults (Doron, 2009). Moreover, it promotes the use of legal instruments such as advance directives, powers of attorney, and tailored estate plans, enabling individuals to exercise foresight and retain control over critical life decisions. By facilitating planning ahead, Preventive Law fosters stability and self-determination, thereby minimizing the need for reactive, crisis-driven legal interventions.

In addition, Therapeutic Jurisprudence and Preventive Law expanded the normative goals of elder law beyond mere protection (Stolle & Wexler, 1997). These frameworks call on legal systems to proactively cultivate environments where older persons can thrive emotionally, socially, and legally. They advocate for laws and policies that safeguard rights and enhance autonomy, dignity, and participation, ultimately supporting older adults to live well with greater control and less conflict (Yamada, 2021). Furthermore, this proactive and holistic approach aligned with broader efforts to prevent elder abuse and promote elder well-being, as seen in international legal models and policy initiatives (Perone et al., 2025).

Feminist theory critiqued how legal and policy frameworks systematically disadvantage women as they age, stressing that ageing is not merely biological but socially constructed through lifelong gender inequalities. Similarly, women generally live longer than men but face cumulative disadvantages: lower lifetime earnings, career interruptions from caregiving, and disproportionate unpaid labor. These factors heighten risks of poverty, exclusion, and inadequate healthcare (Rutagumirwa & Bailey, 2019). For instance, pension systems often assume continuous employment, disregarding unpaid caregiving, which results in lower benefits (Dayton, 2008). Health and eldercare policies also overlook older women's specific challenges, such as chronic illness, widowhood, and limited support networks (Utz & Nordmeyer, 2007).

Feminist scholars also call for gender-sensitive reforms in social security, healthcare, inheritance, and long-term care that recognize diverse life trajectories and the economic value of caregiving (Merodio et al., 2024). Alongside this, central to this approach is an intersectional examination of how age intersects with other social identities, such as gender, race, class, and disability, to shape vulnerability. Without this, elder law risks reinforcing inequalities rather than redressing them. Feminist theory, therefore, urged moving beyond homogenized views of ageing toward policies that address women's lived realities, advancing social justice and empowerment across the life course. Scholars such as Anna Freixas, who examined the social construction of women's ageing, and Amanda Lazar, who integrated feminist gerontology with intersectionality and critiques ageism as a form of oppression, exemplify this critical field (Dayton, 2009). Conversely, feminist theory may focus too heavily on gender-based issues, potentially overlooking other critical factors such as race, class, and disability. Additionally, it may struggle to address the unique challenges faced by older men or individuals who do not fit traditional gender roles (Reina, 2012).

Professor Margaret Isabel Hall (2012), a leading Canadian elder law scholar, critically examined the concept of vulnerability in legal discourse, noting a widespread reluctance to embrace it due to its frequent conflation with weakness and incapacity, which risks reinforcing ageist stereotypes and marginalizing older adults (Hall, 2012). Alongside this, Hall argued that this conflation can inadvertently legitimise exclusion rather than empower older persons. To address this, Hall proposed a theoretical framework grounded in equitable doctrines such as undue influence and unconscionability. Instead of relying on binary notions of capacity versus incapacity, she reconceptualized vulnerability as relational and situational, arising from power imbalances, trust, and dependence within interpersonal relationships. In this framework, undue influence referred to the improper subversion of an individual's will. At the same time, unconscionability targets exploitation in imbalanced transactions. Both doctrines protect without presuming incapacity on the part of the older adult (Hall, 2018). Hall's approach offered a sophisticated and actionable model for elder law by anchoring protections in relational vulnerability rather than inherent deficits. This preserves the autonomy and dignity of older adults while effectively addressing exploitation and coercion. Her framework offered a coherent method for recalibrating

elder law, responding to contextual injustices without reinforcing stereotypes of frailty or incompetence (Hall, 2009). While this model offered a nuanced understanding of vulnerability, its application in practice may be challenging due to the subjective nature of assessing relational and situational vulnerabilities. It also risks being perceived as paternalistic if not carefully implemented (Doron, 2009).

Professor Rebecca C. Morgan (2009), who has served in leadership roles such as Past President of the National Academy of Elder Law Attorneys and the National Senior Citizens Law Center, offered a personal and pragmatic vision for the future of the field (Morgan et al., 2025). Moreover, she emphasized that ageing is a universal, lifelong process experienced uniquely by each person. Morgan cautioned against rigid theoretical models, arguing that no single framework can adequately address the diverse legal needs of older persons. Instead, she championed flexibility and pluralism, urging elder law to draw from multiple conceptual approaches to craft tailored, context-sensitive solutions. Her client-centered approach prioritized responsiveness to the lived realities of ageing, recognizing that adequate legal protections must evolve alongside demographic trends, cultural shifts, and individual circumstances. Consequently, Morgan’s vision emphasized that elder law must be inclusive, adaptable, and dynamic in order to ensure it protects rights, upholds dignity, and promotes the full flourishing of all older adults across every stage and setting of later life (Morgan, 2009).

Each model has its merits but also limitations, often stemming from an overemphasis on specific aspects of elder law while potentially neglecting others. A holistic approach that integrates the strengths of these models while addressing their weaknesses may be the most effective way forward. To illustrate, the table below outlines the key theoretical models in elder law, highlighting their core principles, leading scholars, strengths, and limitations to provide a comparative understanding of their contributions and shortcomings.

TABLE 1. Comparative Overview of Major Theoretical Models in Elder Law

Theoretical Model	Principles	Main Scholars	Strengths	Limitations
Universalism Model	Ageing as a universal experience; inclusive legal design across the life course; focuses on societal barriers (ageism, inaccessible environments).	Surtees (2009); Bickenbach (1993).	Promotes inclusivity; reduces stigma; aligns with “society for all ages.”	May overlook the needs of high-risk groups that require targeted assistance. Practical implementation requires extensive systemic redesign, as it risks under-recognition of genuine age-related vulnerabilities.
Mental Health Theory Approach	Examines capacity, competence and guardianship as tools of social control; critiques paternalism; promotes autonomy & due process.	Schmidt (2009, 2015);	Protects autonomy, challenges coercive guardianship, and encourages strong evidence standards.	May underappreciate structural inequalities that limit autonomy. It can be impractical in cases of severe cognitive decline, as it risks minimizing the genuine need for protective interventions.
Family, Welfare & Social Policy Approach	Studies caregiving burdens, filial obligations and welfare regimes; exposes gaps between law and lived realities.	Silverstein et al. (2017); Dey (2014, 2017, 2020)	Integrates socio-cultural context; highlights enforcement gaps.	Highly context-dependent; may reinforce family burden.
Autonomy–Vulnerability Balance	Challenges strict autonomy; supports contextualised	Mattsson & Giertz (2017, 2020);	Realistic for cognitive impairment; supports	Balancing autonomy vs. protection is difficult. Risk of paternalism; requires

Law & Economics Approach	vulnerability; builds support-based systems. Uses incentives and behavioural analysis to predict responses to legal rules; assesses efficiency and impact.	Obstbaum (2025); Sperling (2025) Kaplan (2009)	tailored interventions. Offers measurable evaluation; functional for social security, guardianship, and retirement.	substantial institutional resources to implement properly. Overly rationalistic; undervalues emotional/social factors. May promote cost-focused reforms that reduce welfare protections, while ignoring relational dynamics in ageing.
Therapeutic Jurisprudence (TJ)	Law as social force; aims to enhance psychological well-being; promotes supported decision-making.	Kapp (2009);	Enhances dignity & participation; human-centred law-making.	Risk of paternalism; conflicts with strict rights-based models. Therapeutic goals can undermine autonomy; they may justify excessive state intervention.
Preventive Law	Encourages early planning (POA, advance directives); reduces crisis interventions.	Stolle & Wexler (1997);	Enhances autonomy, prevents conflict, and promotes foresight.	Relies on legal literacy and social support. Ineffective for elders with limited capacity, resources, or support networks, as it may exacerbate existing inequalities.
Feminist Theory	Ageing shaped by gender inequalities; advocates intersectional reforms in pensions, healthcare, and social security.	Dayton (2008, 2009)	Addresses structural disadvantages of older women; promotes justice & empowerment.	Focus may skew heavily toward women's issues. Neglect experiences of men, non-binary elders, or intersectional complexities beyond gender.
Relational Vulnerability (Equitable Doctrines)	Uses undue influence and unconscionability to protect elders based on relational contexts, not inherent incapacity.	Hall (2009, 2012, 2018)	Preserves autonomy while addressing exploitation.	Subjective assessments; inconsistent legal application. Risk of courts overreaching; difficult to operationalise relational vulnerability criteria.
Pluralistic, Client-Centred Model	Combines multiple theories; emphasises flexibility and personalised solutions.	Morgan (2009);	Highly adaptive and human-centred; recognises diversity in ageing.	Lacks a unified theoretical structure; broad and sometimes vague. May weaken analytical coherence; difficult to use as a primary analytical framework for legal reform.

The cases that follow illustrate the practical implications of these theoretical models and show how courts have applied or challenged them in elder law disputes:

- (i) *Matter of Mental Health of K.G.F. (2001)* [2001 MT 140, 29 P.3d 485, 495], the Montana Supreme Court criticized the use of stereotypical labels in mental health cases, highlighting the risk of therapeutic jurisprudence reinforcing biases and creating a second-class status for individuals with mental illnesses. This case demonstrated how therapeutic jurisprudence can unintentionally perpetuate stigma and antitherapeutic outcomes (Schmidt, 2009).
- (ii) In *Dr. Naomi Nevo v. The Jewish Agency (1987)*, Dr. Nevo challenged her mandatory retirement at age 60, arguing that it constituted gender discrimination since men were allowed to retire at 65. While the feminist approach successfully highlighted gender-based inequality, it may not fully address other intersecting factors, such as economic

status or race, that could compound the challenges faced by older women (Dayton, 2009).

- (iii) In *Ontario (Human Rights Commission) v. Ontario (Ministry of Health)* (1994), a 72-year-old man challenged an Ontario health program that provided visual aids only to individuals under the age of 25. While the disability law perspective helped address age-based discrimination, it may not fully account for the broader societal attitudes that led to the exclusion of older adults from the program in the first place (Schmidt, 2009) (*Ontario (Human Rights Commission) v. Ontario (Ministry of Health)* (sub nom. *Roberts v. Ontario (Ministry of Health)* (1994), 21, C.H.R.R. D/259 (Ont. C.A.)).
- (iv) In *Matheson Estate v. Stefankiw* (2001) 191 Sask. R. 241 (QB), an elderly man sold his property below market value to tenants who had supported him over the years. The court found the transaction was not unconscionable, as the man valued the emotional benefits of the relationship. This case illustrates the challenge of applying equity theory consistently, as vulnerability and fairness are subjective and context-dependent (Hall, 2009).
- (v) In *O'Connor v. Donaldson* (1975) 493 F. 2d 507 (5th Cir. 1974) 422 US 563 (1975), the US Supreme Court ruled that a state cannot confine a nondangerous individual capable of living safely in freedom. This case highlighted the risks of using mental health law concepts like guardianship and involuntary commitment as tools of social control, potentially infringing on individual rights and autonomy (Schmidt, 2009).

DISCUSSION

The integration of economic analysis, therapeutic jurisprudence, preventive law, and feminist philosophy demonstrates the complexity of a multidisciplinary approach to elder law. Specifically, every viewpoint makes a distinct contribution: economics brings empirical rigor, therapeutic jurisprudence and preventive law prioritize autonomy and well-being, and feminism exposes systemic gender disparities. When taken as a whole, they emphasized the necessity of a pluralistic framework that combines efficiency considerations with dedication to justice, dignity, and human connection. Elder law must be both morally sound and analytically sound in this era of demographic shifts. It is necessary to strike a balance between moral commitments and scientific understanding when creating laws that are inclusive, equitable, and sustainable. Thus, this section focused on integrating various theoretical models to propose a pluralistic and inclusive framework for elder law.

SYNTHESISING CONCEPTUAL MODELS: TOWARD AN INTEGRATED FRAMEWORK FOR ELDER LAW

Modern elder law reflects the intellectual diversity of frameworks advanced by scholars such as Hall, Surtees, Schmidt, and Morgan. Each challenges prevailing assumptions by redefining vulnerability as relational (Hall), advocating universalist design principles (Surtees), critiquing law as a form of social control (Schmidt), or urging pluralistic flexibility (Morgan). Collectively, these

perspectives push elder law beyond narrow paradigms of protection and incapacity, toward frameworks that uphold autonomy, dignity, and diversity in ageing societies.

The development of elder law required moving from fragmented, reactive safeguards to unified and proactive frameworks. Literature across jurisdictions calls for law to affirmatively support autonomy, health, and financial security while guarding against abuse, neglect, and coercion. Additionally, universalist approaches emphasized inclusive design. Schmidt's Mental Health Theory (2009) stressed procedural safeguards against paternalism. Feminist gerontology revealed the gendered inequalities of ageing, and vulnerability theory (Hall, 2009). Mattsson (2017) reframed protection in relational terms. Therapeutic Jurisprudence and preventive law promote forward-looking empowerment, while economic analysis brings empirical precision. Hence, scholars such as Kohn (2009), Kaplan (2009), Kapp (2009), and Morgan (2009) emphasized the importance of multiculturalism, client-centered practice, and policy responsiveness. Taken together, these approaches emphasized that elder law must be multifaceted, fair, and future-ready.

Nevertheless, each paradigm has limits. Economic analysis provides powerful tools for policy design, but it risks neglecting social and cultural dimensions by assuming rational actors. Universalist and disability rights frameworks highlight structural barriers. However, they may not fully address the needs of those with severe impairments requiring specialized interventions. Mental Health Theory rightly calls for competence-presuming safeguards but also illustrates the tension between protection and self-determination. These critiques underlined the need for hybrid frameworks that combine universal design with targeted supports, efficiency with ethics, and autonomy with safeguards. A compelling normative message emerges: elder law must adopt rights-based, person-centered, and socially responsive paradigms. For instance, initiatives such as Australia's new Aged Care Act, which enshrines decision-making rights and supported care, illustrate how rights-based frameworks can be implemented. Economic tools can enhance policy effectiveness, but they must be balanced with ethical and relational considerations. Ultimately, only through such integration can elder law address the diverse and dynamic realities of ageing.

Leading expert in comparative and international elder law, Dr. Israel (Issi) Doron, suggested a convincing departure from "monistic" legal approaches when tackling the issues associated with ageing. He argued that there is no one legal doctrine or theoretical framework that can adequately explain elder law (Gandhi, 2022). Instead, a multifaceted model that can represent the intricate, overlapping demands and rights of ageing populations in various legal systems must be used to approach the legal realities of older people (Doron, 2020). Five crucial legal characteristics that are necessary for an all-encompassing elder law framework are outlined in Doron's model. First, the legal system is anchored in equality, autonomy, and dignity, thanks to the fundamental rights and values established by the core legal principles. The need to safeguard senior citizens from exploitation, abuse, and neglect is the second aspect of the protective dimension. Third, the supporting dimension promoted access to aid and services meant to improve well-being and quality of life. Fourth, to reduce future legal disputes and ensure continuity of care, the preventive dimension encourages the use of proactive legal instruments, such as a power of attorney and advance directives. Lastly, the developmental dimension highlighted the significance of dynamic law change that adapts to changing society demands and demographic trends (Doron, 2009).

A constitutional component that places older people's rights within the larger legal and normative framework of constitutional law is at the core of Doron's paradigm. Notably, constitutional values such as equality, human dignity, and non-discrimination are fundamental

tools for opposing ageism and reaffirming the full legal personhood of older individuals, even in the absence of age-specific laws (Doron, 2023). This aspect ensured that human rights and constitutional principles are at the heart of how all laws pertaining to senior citizens are interpreted and applied. Building on this, the protective dimension responds to the growing recognition of older persons' vulnerability to abuse, exploitation, and neglect (Peisah et al., 2020). It encompassed a range of civil and criminal legal mechanisms, including adult protective services, guardianship provisions, mandatory reporting laws, and sanctions for elder abuse. Doron highlighted that legal interventions under this dimension must be proactive yet carefully calibrated to avoid undermining autonomy (Doron, 2011). The factor of family support recognized the ongoing importance of informal caregiving in ageing communities. Families continued to provide the majority of daily care and support to elderly people in many areas. While ensuring the state maintains its obligation to provide sufficient formal care services and does not completely shift its responsibilities onto families, this dimension encouraged legislative and policy measures that strengthen unofficial support networks, such as through caregiver subsidies, job protection, and respite services (Doron, 2009).

Primarily, the planned and preventive dimension emphasized the importance of proactive legal tools in maintaining the autonomy of older individuals. Doron emphasized that tools like trusts, powers of attorney, wills, and advance directives enable people to make legally enforceable choices about their personal affairs, financial, and health before they become incapacitated. In addition to preserving liberty, this proactive strategy lessened the possibility of invasive government interference or family strife in emergencies (Doron, 2023). Lastly, Doron's dedication to older individuals as legal subjects, rather than only as passive beneficiaries of care or protection, is evident in the empowerment dimension. This dimension acknowledged that older people may continue to be effectively disenfranchised if they lack the resources to comprehend and exercise their legal rights, including access to legal education, advocacy, and representation (Gandhi, 2022). Consequently, public awareness campaigns, senior rights organizations, and legal assistance programs are crucial for achieving this objective (Doron, 2020).

When combined, these five interconnected aspects, protective, family support, planning and prevention, constitutional, and empowerment, create a thorough framework for elder law that is both theoretically sound and practically based. The structure offered by Doron's model is adaptable and integrative, making it possible to accommodate various welfare regimes, legal traditions, and cultural norms. This multidimensional framework recognized that elder law must integrate various legal tools and perspectives to effectively promote the dignity, autonomy, and social inclusion of older persons. While this model is comprehensive, it may be overly complex and challenging to implement in practice. The balance between its dimensions (e.g., protective, preventive, empowering) can be challenging to achieve, and the model may not fully address the dynamic and evolving nature of elder law (Doron, 2009).

However, two additional aspects could enhance the model's relevance and predictiveness as elder legislation evolves in response to new global trends. First, a global or international dimension would encompass the increasing impact of international human rights instruments, such as the ongoing efforts to create a UN Convention on the Rights of Older Persons and the Madrid International Plan of Action on Ageing. These tools offer frameworks and normative guidance for coordinating protections across jurisdictions. In 2025, the UN Human Rights Council took a landmark step toward protecting the rights of older persons by adopting resolution 58/13, which established an open-ended working group to draft a legally binding international Convention on the Rights of Older Persons. This groundbreaking decision reflected the growing global

recognition of older persons as rights-holders, deserving of equality, dignity, and full societal inclusion (United Nations, 2025).

Second, in a world where digital transformation is underway, a technology component is becoming increasingly important. Digital platforms, such as telemedicine, online banking, algorithmic decision-making, and biometric surveillance, offer older people the opportunity to be included, but also carry the risk of fraud, abuse, and exclusion. Digital accessibility, privacy safeguards, informed consent, and the possibility of technology-facilitated exploitation must all be covered by legal frameworks. By adding these extra layers, Doron's multifaceted approach remains adaptable to the demands of the twenty-first century. It upholds elder law's position as a vibrant discipline dedicated to social inclusion, autonomy, and dignity. Adopting such a comprehensive and flexible strategy will be essential as the world's population ages, ensuring that legislative frameworks safeguard and enable senior citizens to engage in social, economic, and civic life fully (William, 2009).

INTERNATIONAL AND REGIONAL DEVELOPMENTS IN ELDER LAW

There are significant legal, social, and political issues associated with the world's ageing population. Nonetheless, there is no specific UN treaty that solely protects the rights of older people, despite the extent of this change. Due to this normative gap, older individuals are often compelled to rely on general human rights instruments, which, although fundamental, frequently fail to address the unique vulnerabilities associated with ageing (Barafi et al., 2024).

The rights to life, liberty, social security, healthcare, and equality before the law are affirmed by important international documents, such as the 1948 Universal Declaration of Human Rights and the 1966 International Covenants on Civil and Political Rights and Economic, Social, and Cultural Rights (Doron, 2012). Nevertheless, there were not many age-specific provisions in these treaties, and national actors' interpretive generosity is frequently required for their application to elder issues. The 2006 CRPD provided indirect safeguards, encouraging accessibility and independence for elderly individuals who meet the criteria for disability (Morichi & Huang, 2023). However, this strategy runs the risk of leaving out older persons who do not consider themselves disabled but experience difficulties or discrimination because of their age.

An increasing emphasis on autonomy and human dignity has led to changes in legal regimes governing the protection of vulnerable older individuals, especially in Western democracies. Due to practical necessity and worldwide impact, two major paradigms, the autonomy-based model and the court-led protective model, are now convergent. The standard law-based autonomy-based paradigm empowered legally competent individuals to plan for future incapacity (Doron, 2006a). Elderly people can take charge of their financial and medical decisions with the help of documents such as advance healthcare directives, enduring powers of attorney (in Ireland), and lasting powers of attorney (in England and Wales) (Lombard & Davidson, 2022). These documents are supported by procedural protections to ensure the capacity and voluntariness of the donor. For example, LPAs in England and Wales must be registered with the Office of the Public Guardian to be considered legitimate and enforceable (Maclean, 2008).

Civil law jurisdictions, on the other hand, have traditionally taken a protective or paternalistic stance, wherein courts have the authority to declare someone incapable and appoint a guardian. To delegate legal decision-making to third parties, mechanisms like interdiction, curatelle (France), and Betreuung (Germany) were employed. Recent reforms have developed more adaptable models, nevertheless. For instance, Germany's updated Betreuungsgesetz and

France's *sauvegarde de justice* both maintain universal legal ability while permitting some assistance from judicially designated representatives (Schmidt, 2009).

The increasing acceptance of aided decision-making and the incorporation of planning tools into civil law systems are signs of these models' convergence. This change has been sparked by the 2000 Hague Convention on the International Protection of Adults, which recognizes a broad, non-capacity-based understanding of vulnerability while encouraging cross-border collaboration and respect for autonomy (Lagarde, 2003). Moreover, the Convention encouraged legal harmonization across jurisdictions by supporting the recognition of planning mechanisms, such as Quebec's *mandat en prévision d'inaptitude* and France's *mandat de protection future*. This change is indicative of a broader shift toward function-based support structures that prioritize empowerment, dignity, and proportionality (Carney, 2012). This change is reflected, for example, in the Mental Ability Act 2005 of the United Kingdom, which creates a presumption of ability and mandates that decisions made on behalf of people serve their best interests while taking into account their values, beliefs, and prior preferences. According to Article 12 of the CRPD, exercising capacity should be supported and recognized by law, rather than substituted (Long, 2013).

In summary, regional and global trends show a shift away from strict guardianship and toward more inclusive, autonomy-respecting systems. In response to the reality of ageing in the twenty-first century, the legal protection of older people is increasingly based on human rights, proportionality, and dignity (Doron, 2009). Significant progress has been made at both the regional and national levels. However, worldwide efforts to create a legally binding convention are still ongoing. The first legally binding agreement specifically addressing the rights of older adults, the Inter-American Convention on Protecting the Human Rights of Older Persons (2015), is a historic accomplishment. It acknowledged a wide range of rights, including those about long-term care, health, autonomy, participation, dignity, and protection against exploitation and violence. Significantly, the Convention reframed older people as owners of enforceable rights, rather than passive recipients of governmental charity. It imposed positive responsibilities on nations to implement legal and policy reforms (Doron, 2009).

Nonetheless, the fact that the Convention only covers the Americas highlights the urgent need for a worldwide agreement. Ongoing discussions within the Open-Ended Working Group on Ageing (OEWG on Ageing) are contributing to the growing momentum behind the push for a UN Convention on the Rights of Older Persons. It is evident from these sessions that current international instruments only offer partial protection and fall short in addressing the particular concerns of systemic marginalization, age-based discrimination, elder abuse, and digital exclusion. At the national level, several nations have enacted laws specifically designed to address the needs of senior citizens. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, in India, formalizes filial responsibility as a matter of state policy by requiring adult children to support their ageing parents financially. This illustrated how legal frameworks can align with cultural norms to ensure elder care and financial security. A rights-based framework for aged care in Australia is established by the Aged Care Act 1997, which includes procedures for preventing abuse, resolving grievances, and maintaining service quality standards. By including elder abuse prevention within the criminal justice, medical, and social welfare sectors and placing a strong emphasis on interagency collaboration and a multisectoral approach to elder protection, Canada takes a comprehensive strategy (Doron, 2009)

Several notable legislative models have emerged in the Asia-Pacific region. For example, the Vulnerable Adults Act of 2018 permits the state to intervene when elder abuse, neglect, or self-neglect occurs, whereas Singapore's Maintenance of Parents Act of 1995 allows elderly parents to request maintenance orders against non-supportive children (Sihaphom, Chanthavong, & Sombath, 2024). These statutes show that elder abuse is now seen as a public issue that needs legal attention rather than just a private one, and illustrate how legal mechanisms can address elder abuse and enforce caregiving responsibilities in collectivist societies. In addition, Japan has implemented a thorough legal solution in response to one of the world's most noticeable ageing populations (Balasundaram et al., 2024). The Long-Term Care Insurance Act (1997), which established a universal care system financed by taxes and premiums, built upon the state's role, first outlined in the Elderly Welfare Law (1963). The focus of Japanese policy is on community-based integrated care, which promotes the freedom of senior citizens by providing coordinated access to social, health, and preventive services. Moreover, the Act on Prevention of Elder Abuse, Support for Caregivers of Elderly Persons, and Other Related Matters (2005), which imposed reporting obligations and facilitated protective interventions, further reinforced the legal safeguards against elder abuse (Yamada & Saito, 2023).

Despite meaningful progress, significant gaps persist in the awareness, implementation, and cultural acceptance of elder rights protections, as ageing is still too often viewed through welfare or paternalistic perspectives rather than as a fundamental human rights issue. Weak institutional capacity, limited professional training, and pervasive ageism further undermine the effectiveness of otherwise well-designed laws. To overcome these challenges, legal systems must shift toward proactive, coherent, rights-centred frameworks, supported by a binding international convention that establishes global standards, strengthens accountability, and closes long-standing protection gaps in areas such as discrimination, abuse, and digital exclusion. While national initiatives in countries such as India, Australia, Singapore, and Japan demonstrate promising strategies, a unified global instrument is necessary to ensure consistent safeguards across diverse legal systems. This need is reinforced by ongoing UN discussions and strong civil-society advocacy for a legal paradigm grounded in autonomy, dignity, and participation, as articulated in the UN Principles for Older Persons. The absence of age-specific provisions in existing human rights treaties underscores the need to adopt a dedicated convention that affirms older persons as full rights holders and protects them in an increasingly complex, digital world.

PROPOSED LEGAL FRAMEWORK FOR THE PROTECTION OF OLDER PERSONS

A comprehensive legal framework for the protection of older persons should emphasize rights-based approaches, abuse prevention, guardianship reform, planning tools, caregiver support, equity-based protections, interdisciplinary collaboration, access to justice, adherence to international standards, and the establishment of effective monitoring mechanisms. In particular, a rights-based framework is fundamental. Laws should explicitly recognize the rights of older persons to dignity, autonomy, and access to appropriate care. Australia's Aged Care Act 1997 provided a model for instructive practices, incorporating procedures for preventing abuse, resolving grievances, and maintaining service quality standards. As a result, such legislation ensures that older persons are treated as rights-holders rather than passive recipients of welfare. This approach should also include anti-discrimination protections designed to combat ageism and promote equality across employment, housing, and healthcare.

Elder abuse, whether physical, emotional, financial, or resulting from neglect, is a pervasive issue requiring a multisectoral response. Canada's comprehensive strategy, which integrates the criminal justice, healthcare, and social welfare sectors, demonstrates the importance of interagency collaboration in addressing elder abuse effectively. This model can be adapted globally to ensure meaningful protection. Mandatory reporting laws, public awareness campaigns, and specialized units within law enforcement dedicated to elder abuse can further strengthen prevention efforts. In societies where elders are traditionally revered, such as Japan or India, abuse prevention strategies should also leverage cultural norms of respect by incorporating community-based monitoring and education programs.

Guardianship laws must be reformed to prioritize autonomy while ensuring needed support. Modern guardianship frameworks should emphasize the least restrictive alternatives and promote limited guardianship, allowing older persons to retain as much control as possible. Furthermore, guardianship should operate strictly as a measure of last resort, invoked only when supported decision-making and other less intrusive mechanisms are inadequate. Legal instruments, such as durable powers of attorney, living wills, and advance directives, allow older persons to make decisions about their care and finances before they lose capacity. These tools help individuals articulate preferences concerning medical treatment, property management, and end-of-life care. Consequently, increasing awareness and accessibility of these instruments can reduce unnecessary guardianship proceedings and safeguard personal autonomy.

Family members and informal caregivers play a critical role in supporting older adults. Legal frameworks should therefore provide caregivers with financial and legal support to strengthen their social support networks. Tax credits, paid leave, or direct financial assistance can alleviate caregiver burdens and improve the quality of care. As highlighted in Doron's multidimensional model, robust support for informal caregivers is essential to developing a holistic elder care system. In collectivist societies, where caregiving is considered a moral responsibility, subsidies and community-based support programs can ensure that caregivers are not disproportionately strained.

Equity-based doctrines, including undue influence and unconscionability, offer sophisticated tools for addressing material exploitation and relational vulnerabilities. These doctrines, for instance, recognize that vulnerability is situational and relational, emerging from the interplay between individual characteristics and relational dynamics. Incorporating such principles into elder protection laws enables jurisdictions to address exploitation better and ensure fairness in transactions involving older persons. Given the complex needs of older adults, interdisciplinary collaboration is indispensable. Specifically, legal professionals, social workers, medical practitioners, and other relevant experts must work together to provide comprehensive solutions to issues such as elder abuse, long-term care planning, and guardianship. In some jurisdictions, multidisciplinary elder law practices already integrate care managers, nurses, and financial planners into their services, ensuring holistic support that extends beyond traditional legal remedies.

Older persons often face significant barriers to accessing justice, including physical limitations, financial constraints, and a lack of awareness of rights. Therefore, legal frameworks should guarantee access to legal representation, advocacy, and rights education. The Older Americans Act provides an illustrative example by prioritizing legal services for older adults without imposing means-testing requirements. Legal aid and community outreach initiatives can further enhance access to justice. Establishing international standards is crucial for strengthening global protection of older persons. The OEWG has called for a convention on the rights of older

persons, which would provide universal protections and promote best practices across nations. Such a convention could address elder abuse, age discrimination, and access to healthcare, creating a cohesive international framework for elder protection. To this end, effective implementation requires robust monitoring and accountability mechanisms. Governments should adopt systems for tracking enforcement of elder protection laws, including mandatory reporting for abuse and neglect. Public guardianship programs should undergo regular audits to ensure compliance with legal requirements and the best interests of older persons. Finally, outcome-based evaluations can further assess the effectiveness of elder protection programs and guide future reforms.

Implementing a comprehensive legal framework for the protection of older persons presents several challenges, including systemic ageism that can impede rights-based reforms, resource constraints that limit governments' capacity to deliver effective elder protection systems, and cultural or social barriers where traditional caregiving expectations conflict with new legal approaches. Additional obstacles include limited awareness and accessibility among older adults, fragmented coordination across health, social, and legal sectors, and weak monitoring and enforcement mechanisms that undermine accountability and transparency. Addressing these concerns requires targeted strategies such as public education to counter ageism, prioritised funding and partnerships to reduce resource gaps, culturally sensitive reforms that align legal norms with community values, expanded legal literacy and accessible justice pathways, strengthened multisectoral coordination through dedicated national bodies, and robust oversight mechanisms that include mandatory reporting, regular audits, and outcome-based evaluations. By adopting a rights-centred approach, strengthening abuse prevention, reforming guardianship, promoting planning, supporting caregivers, integrating equity-oriented protections, improving interdisciplinary collaboration, ensuring access to justice, aligning with international standards, and implementing strong monitoring systems, societies can build legal structures that uphold the dignity, autonomy, and well-being of older adults. Given that ageing is a universal experience, the evolution of elder law concerns everyone. Designing solutions that address the diverse needs of older adults helps create societies that value and protect their elders, ensuring dignity and security in later life.

Taking Malaysia as an example, the country could consider developing a comprehensive Senior Citizens Act that codifies enforceable rights to safety, healthcare, financial security, and dignity. Moreover, such legislation could include protective measures such as criminal sanctions for abuse, mandatory reporting, adult protective services, and supported decision making consistent with the UN Principles for Older Persons and the CRPD. In a multicultural society such as Malaysia, legal reforms would benefit from integrating Islamic filial obligations, Confucian caregiving ethics, and diverse Indigenous and religious traditions, creating caregiving norms that are both culturally respectful and legally enforceable (Nainee, 2023). Additionally, establishing a National Elder Care Commission could improve coordination across sectors, foster elder-inclusive policymaking, and address emerging challenges such as digital exclusion and cybercrime. Malaysia should also incorporate intersectional approaches that recognise the heightened vulnerabilities experienced by older women, rural elders, and persons ageing with disabilities (Merodio et al., 2024), ensuring that reforms remain responsive to the diverse realities of its ageing population.

CONCLUSION

Current legal frameworks have not adequately responded to the complex legal, social, and ethical challenges posed by global population ageing. As societies face longer life expectancies, rising dependency ratios, and evolving caregiving dynamics, there is an urgent need to rethink the role of law in safeguarding the rights and dignity of older persons. This article shows that vulnerability in later life is shaped by biology and by structural injustices, weak social policies, and entrenched legal assumptions.

Through doctrinal, analytical, and comparative analysis, the study highlights the limitations of traditional welfare-oriented and protectionist approaches, which often reinforce paternalism and overlook autonomy. In contrast, models such as universalism, civil rights approaches, vulnerability theory, and supported decision-making provide more empowering and justice-oriented foundations for elder law, emphasizing dignity, participation, and agency. Contributions from leading scholars, including Hall, Surtees, Schmidt, Morgan, and Doron, underscored the importance of interdisciplinary and multifaceted perspectives that reflect the diverse experiences and needs of older adults.

Although national and regional reforms have made progress, the absence of a dedicated UN Convention on the Rights of Older Persons remains a significant normative gap. Accordingly, a unified, legally enforceable international framework is necessary to ensure consistent global protection and accountability. A future-oriented legal framework must therefore integrate human rights principles and theoretical pluralism, recognising older adults as autonomous individuals rather than passive recipients of care. Thus, policymakers must act decisively to address systemic ageism, resource limitations, and cultural barriers, and to build responsive, inclusive, and sustainable legal systems that uphold the dignity, security, and meaningful participation of older persons in an era of accelerating demographic change.

ACKNOWLEDGEMENT

The authors would like to express their sincere gratitude to Law Faculty, Malaysia National University for providing the necessary resources and facilities to carry out this study. The authors also thankful to colleagues and reviewers for their insightful comments and constructive feedback, which greatly contributed to the improvement of this article.

REFERENCES

- Abdullah, J. M., Ismail, A., & Yusoff, M. S. B. (2024). Healthy Ageing in Malaysia by 2030: Needs, Challenges and Future Directions. *Malaysian Journal of Medical Sciences*, 31(4), 1–13. <https://doi.org/10.21315/mjms2024.31.4.1>
- Ahmad Shukri Abdul Hamid, & Norliza Mokhtar. (2018). Malaysia menuju negara tua: Apakah yang boleh dipelajari daripada pengalaman negara Jepun? Human Sustainability Procedia (INSAN 2018 E-Proceeding), 406–419
- Amenta, E. (2006). *When movements matter: The Townsend Plan and the rise of social security*. Princeton University Press.
- Balasundaram, B., Chong, Y.-E., Chan, L. L., Tan, G. M. Y., & Ghoh, C. (2024). *An overview of the Vulnerable Adults Act: Medico-legal and social perspectives*. SAL Practitioner, [2024] SAL Prac 1, 1–20.

- Barafi, J., Jaffal, Z., Alshawabkeh, F., & Al Ajlani, R. (2024). Towards an effective legal protection for older persons in the 21st century: A comparative study of international human rights law and Arab constitutions. *Access to Justice in Eastern Europe*, 1(22). <https://doi.org/10.33327/AJEE-18-7.1-a000106>
- Bouvier, R. (2020). Relational vulnerability: Theory, law and the private family. In *Relational vulnerability* (pp. 1–30). Oxford University Press.
- Braun, J. (2020). Legal interventions to protect vulnerable adults: Can relational autonomy provide a new way forward? Western Sydney University. https://www.westernsydney.edu.au/_data/assets/pdf_file/0017/1714220/PEER_REVIEWED_BRAUN_Article.pdf
- Campbell, J. C., & Ikegami, N. (2000). *Long-term care insurance comes to Japan*. Springer.
- Cass, B. (2015). A relational perspective on autonomy for older adults residing in long-term care settings. *Nursing Ethics*, 22(3), 297–306. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5060573/>
- Chen, B. (2023). Elder financial abuse: Capacity, law, and economics. *Cornell Law Review*, 108(4), 987–1032. https://cornelllawreview.org/wp-content/uploads/2023/04/Chen_Elder-Financial-Abuse.pdf
- Clare, L. (2022). Dementia, autonomy, and supported healthcare decision-making. *Journal of Medical Ethics*, 48(2), 85–90. <https://doi.org/10.1136/medethics-2020-106733>
- Cumming, E., & Henry, W. E. (1961). *Growing old: The process of disengagement*. Basic Books.
- Dayton, A. K. (2008). A feminist approach to elder law. In A. K. Dayton (Ed.), *Feminist jurisprudence and elder policy* (pp. 1–24). Springer.
- Dayton, A.K. (2009). A Feminist Approach to Elder Law. In I. Doron (Ed.), *Theories on Law and Ageing: The Jurisprudence of Elder Law* (pp. 45–59). Springer-Verlag Berlin Heidelberg.
- Decalmer, P., & Glendenning, F. (1997). *The mistreatment of elderly people*. Sage.
- Dey, D. (2014). Eldercare, law and family in India: Between tradition and modernity. *Indian Journal of Social Work*, 75(2), 233–238.
- Dey, D. (2017). ‘Fragile body’ and ‘failing memory’: The construction of care for the elderly by the laws and policies in India. In I. Rajan & G. Balagopal (Eds.), *Elderly care in India: Societal and state responses* (pp. 1–8). Springer. https://doi.org/10.1007/978-981-10-3439-8_3
- Dey, D. (2020). A socio-legal analysis of elder care laws in India. *Theoretical Inquiries in Law*, 21(1), 77–102.
- Doron, I. (2023). Age, ageing, and the philosophy of ‘elder law’: An interview with Israel (Issi) Doron. *Jindal Global Law Review*, 14(1), Article 3. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9734984/>
- Doron, I. (2020). 25 years of elder law: An integrative and historical account of the field of law and aging. *Theoretical Inquiries in Law*, 21(1), 1–94. <https://doi.org/10.1515/til-2020-0001covid>
- Doron, I. (2017). Elder law: Current issues and future frontiers. *The Gerontologist*, 57(1), 6–12. <https://doi.org/10.1093/geront/gnw162>
- Doron, I. (2015). Elder law: Current issues and future frontiers. *European Journal of Ageing*, 12(3), 231–238. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5546353/>
- Doron, I., & Apter, I. (2010). International rights conventions and older persons. *Israel Journal of Aging*, 4(2), 15–29.

- Doron, I. (2009). *Theories on law and ageing: The jurisprudence of elder law*. Springer-Verlag Berlin Heidelberg. <https://doi.org/10.1007/978-3-540-78954-3>
- Doron, I. (2008). Law and older people—The rise and fall of Israel's Senior Citizens' Act. *Journal of Aging & Social Policy*, 20(3), 353–375. <https://doi.org/10.1080/08959420802050991>
- Doron, I. (2007). Law and ageing in Israel: The development of a new field of law. *Journal of Aging & Social Policy*, 19(2), 34–51. <https://www.stetson.edu/law/agingjournal/media/document/article-2-journal-of-aging-vol-2.pdf>
- Doron, I. (2006a). Elder law: Concepts, theories and perspectives. In I. Doron (Ed.), *Theories on law and ageing: The jurisprudence of elder law* (pp. 19–34). Springer.
- Doron, I. (2006b). Elder law: Current issues and future frontiers. *The Gerontologist*, 46(1), 6–12. <https://doi.org/10.1093/geront/46.1.6>
- Doron, I. (2006c). Elder law: The jurisprudence of aging. *European Journal of Ageing*, 3(2), 60–66.
- Doron, I., & Gal, I. (2006). The emergence of preventive elder law: An Israeli example. *Journal of Cross-Cultural Gerontology*, 21, 41–53.
- Doron, I., Alon, S., & Offir, N. (2004). Time for policy: Legislative response to elder abuse and neglect in Israel. *Journal of Elder Abuse & Neglect*, 16(4), 63–82.
- Doron, I. (2003a). A multidimensional model of elder law: An Israeli example. *Ageing International*, 28(3), 242–260. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=500522
- Doron, I. (2003b). Theories on law and aging: The jurisprudence of elder law. *Journal of Aging & Social Policy*, 15(2–3), 19–34.
- Doron, I. (2003c). Law and geriatrics: An Israeli perspective on future challenges. *Medicine and Law*, 22(2), 285–300.
- Doron, I. (2003b). A multidimensional model of elder law: An Israeli example. *Ageing International*, 28(3), 242–259.
- Doron, I. (2002). Elder guardianship kaleidoscope: A comparative legal perspective. *International Journal of Law, Policy and the Family*, 16(3), 368–398.
- Doron, I. (1999). From lunacy to incapacity and beyond: Guardianship of the elderly and the Ontario experience in defining 'legal incompetence'. *Health Law in Canada*, 19(4), 95–123.
- Fineman, M. A. (2010). The vulnerable subject and the responsive state. *Emory Law Journal*, 60(2), 251–275.
- Gandhi, Ankita. "Age, ageing, and the philosophy of 'elder law': An interview with Israel (Issi) Doron." *Jindal Global Law Review* 13, no. 2 (2022): 431–450. <https://doi.org/10.1007/s41020-022-00176-7>.
- Gerald, L. B. (1993). Paid family caregiving: A review of progress and policies. *Journal of Aging & Social Policy*, 5, 73–89.
- Ghosh, H. (2009). Ageing and gender in India: Paradoxes of a feminist perspective. *Asian Women*, 25(1), 1–27. <https://e-asianwomen.org/xml/00901/00901.pdf>
- Giertz, L. (2021). Ageing in place for persons with dementia: Autonomy, capability, and social care. In *Symposia Proceedings*. Lund University. <https://case.lu.se/en/sites/case/>
- Glannon, W. (2020). Care ethics for supported decision-making: A narrative policy analysis. *Health Care Analysis*, 28(3), 248–263. <https://doi.org/10.1007/s10728-019-00391-2>

- Gosseries, A. (2020). What makes age discrimination special? A philosophical inquiry. *Theoretical Inquiries in Law*, 21(1), 139–160. <https://doi.org/10.1017/S2045381719000290>
- Government of India, Ministry of Law and Justice. (2007). *Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. <https://legislative.gov.in/sites/default/files/A2007-56.pdf>
- Grama, J. L. (1999). The 'new' newlyweds: Marriage among the elderly, suggestions to the elder law practitioner. *Elder Law Journal*, 7(2), 379–407.
- Gross, S. J. (2020). Eldercaring coordination: A dispute resolution option for high conflict elder disputes in California. *Southern California Interdisciplinary Law Journal*, 29, 293–320.
- Hague Conference on Private International Law. (2000). *Convention on the International Protection of Adults*. <https://www.hcch.net/en/instruments/conventions/full-text/?cid=71>
- Hall, M. (2002). Private care agreements between older adults and friends or family members. CCELS.
- Hall, M.I. (2009). Equity Theory: Responding to the Material Exploitation of the Vulnerable but Capable. In I. Doron (Ed.), *Theories on Law and Ageing: The Jurisprudence of Elder Law* (pp. 107–119). Springer-Verlag Berlin Heidelberg.
- Hall, M. I. (2012). Mental capacity in the (civil) law: Capacity, autonomy, and vulnerability. *McGill Law Journal*, 58(1), 61–94
- Hall, M. I. (2018). Relational autonomy, vulnerability theory, older adults and the law: Making it real. *Elder Law Review, Special Issue*, 1–22
- Jamaluddin, S. Z. B., Chuan, G. C., & Taher, M. A. (2015). Strategies in the Prevention or Reduction of Elder Abuse in Bangladesh and Malaysia. *Procedia - Social and Behavioral Sciences*, 172, 42–48. <https://doi.org/10.1016/j.sbspro.2015.01.333>
- Kane, R. A., & Kane, R. L. (2005). Ageism in healthcare and long-term care. *Generations*, 29(3), 49–54.
- Kaplan, R.L. (2009). A Law and Economics Approach. In I. Doron (Ed.), *Theories on Law and Ageing: The Jurisprudence of Elder Law* (pp. 75–93). Springer-Verlag Berlin Heidelberg.
- Kaplan, D. (2009). Law and economics in the context of aging. In I. Doron & A. M. Soden (Eds.), *Beyond elder law* (pp. 87–102). Springer.
- Kapp, M.B. (2009). A Therapeutic Approach. In I. Doron (Ed.), *Theories on Law and Ageing: The Jurisprudence of Elder Law* (pp. 31–45). Springer-Verlag Berlin Heidelberg.
- Kapp, M. B. (2009). Therapeutic jurisprudence and elder law. In I. Doron & A. M. Soden (Eds.), *Beyond elder law* (pp. 117–133). Springer.
- Katie, M. (2023). Vulnerability, care ethics and the protection of socioeconomic rights via Article 3 ECHR. *Human Rights Law Review*, 23(1), 1–18. <https://doi.org/10.1093/hrlr/ngad028>
- King, M., Peckham, A., Marani, H., Roerig, M., Yung, S., McGrail, K., ... Marchildon, G. (2023). Gaps in the system: Supporting people living with dementia. *Journal of Aging & Social Policy*, 36(5), 963–983. <https://doi.org/10.1080/08959420.2023.2226341>
- King, N. (2006). Ageism and feminism: From “et cetera” to center. *NWSA Journal*, 18(1), 13–30. <https://doi.org/10.1353/nwsa.2006.0003>
- Kohn, N. A. (2009). Outliving civil rights. *Washington University Law Review*, 86(5), 1053–1108.

- Kohn, N. A. (2010a). Fostering elder rights movements. *Temple Political & Civil Rights Law Review*, 19(2), 321–348.
- Kohn, N. A. (2010b). Elder rights and the legal response to financial exploitation: Is the law doing enough? *Marquette Elder's Advisor*, 12(1), 1–38.
- Kohn, N. A. (2010c). *Rethinking the constitutionality of age discrimination*. University of California, Davis Law Review, 44, 213–281.
- Kohn, N. A. (2012). Elder rights and abuse reporting statutes: The civil rights perspective. *Marquette Elder's Advisor*, 13(1), 1–48.
- Kohn, N. A. (2020). *A framework for theoretical inquiry into law and aging*. *Theoretical Inquiries in Law*, 21, 187–214
- Lagarde, P. (2003). Distributed rights protection: The 2000 Hague Convention on the International Protection of Adults. *Journal of Private International Law*, 1(1), 135–149. <https://doi.org/10.1080/1744104032000078101>
- Lazar, A. (2017). Feminist gerontology and CSCW. *Proceedings of the ACM on Human-Computer Interaction*, 1(CSCW), 1–18. <https://doi.org/10.1145/3134725>
- Lee, M. (2017). A study of universal design in everyday life of elderly adults. *Applied Ergonomics*, 58, 1–8. <https://doi.org/10.1016/j.apergo.2016.05.007>
- Lewis, B., Purser, K., & Mackie, K. (2020). *The human rights of older persons: A human rights-based approach to elder law*. Springer. <https://doi.org/10.1007/978-981-15-6735-3>
- Lombard, J., & Davidson, H. (2022). The older person's experience of autonomy in healthcare decision-making in Ireland: The relationship between law, policy, and practice. *Medical Law International*, 22(4), 302–326. <https://doi.org/10.1177/09685332221109239>
- Lurie, L. (2020). Should age discrimination be an integral part of employment discrimination law? *Theoretical Inquiries in Law*, 21(1), 103–138. <https://doi.org/10.1017/S2045381719000289>
- Lurie, L. (2022). Collective bargaining agreements and protected groups in Israel. *Industrial Law Journal*. Advance online publication. <https://doi.org/10.1093/indlaw/dwaf012>
- Lyu, J. Y., Hu, B., Wittenberg, R., & King, D. (2023). The relationships between informal and formal social care for older people in England: A comparison before and after the Care Act 2014. *Journal of Aging & Social Policy*, 36(4), 621–638. <https://doi.org/10.1080/08959420.2023.2226308>
- Mackie, K. (2023). The human rights of older persons and person-centered care. *The Gerontologist*, 63(2), e1. <https://academic.oup.com/gerontologist/article/63/2/e1/6543210>
- Mattsson, T., & Giertz, L. (2020). Vulnerability, Law and Dementia. An Interdisciplinary Discussion of Law and Practice. *Theoretical Inquiries in Law*, 21(139), 139.
- Mattsson, T. (2021). Vulnerability, law, and dementia: An interdisciplinary discussion of legislation and practice. *International Journal of Law and Psychiatry*, 77, 101684. <https://doi.org/10.1016/j.ijlp.2021.101684>
- Meenan, H. (2012). Human rights of older persons: International protection and national implementation. In I. Doron & A. M. Soden (Eds.), *Beyond elder law* (pp. 53–70). Springer.
- Mégret, F. (2011). The human rights of older persons: A growing challenge. *Human Rights Law Review*, 11(1), 37–66.
- Merodio, G., Martínez Ortiz de Zárate, A., Zhu, F., & Morentin-Encina, J. (2024). The Impact of Gendered Ageism and Related Intersectional Inequalities on the Health and Well-being

- of Older Women. *Research on Ageing and Social Policy*, 12(2), 146-165. <https://doi.org/10.17583/rasp.15017>
- Minkler, M. (1998). Disability theory and public policy: Implications for critical gerontology. *Journal of Aging & Social Policy*, 10(4), 25-43. https://journals.sagepub.com/doi/10.1300/J031v10n04_03
- Morgan, R.C. (2009). The Future of Elder Law. In I. Doron (Ed.), *Theories on Law and Ageing: The Jurisprudence of Elder Law* (pp. 145-153). Springer-Verlag Berlin Heidelberg.
- Morgan, R. C. (2010). The future of elder law practice. *William Mitchell Law Review*, 37(1), 9-25.
- Morgan, R. C., Bauer, M. D., Flowers, R. K., Morrissey, J. F., & Radwan, T. J. P. (2025). *Elder law in context* (2nd ed.). Carolina Academic Press.
- Morichi, T., & Huang, S.-C. (2023). Supported decision-making for persons with intellectual disabilities in Japan and Taiwan: A survey of social workers' and adult guardians' awareness of supported decision-making. *Journal of Intellectual & Developmental Disability International journal of developmental disabilities*, 70(1), 137-147. <https://doi.org/10.1080/20473869.2022.2075157>
- Nainee, S. (2024). *Filial piety and social support: Is it still relevant for older adults in aging nation?* *International Journal for Studies on Children, Women, Elderly and Disabled*, 22, 39
- Nelles, J., Tuckerman, L., Purna, N., Phillips, J., & Vorley, T. (2024). Policy responses to the healthy aging challenge: Confronting hybridity with social innovation. *Journal of Aging & Social Policy*, 37(2), 273-288. <https://doi.org/10.1080/08959420.2024.2384176>
- Ng, R., & Indran, N. (2023). Reframing aging: Foregrounding familial and occupational roles of older adults is linked to decreased ageism over two centuries. *Journal of Aging & Social Policy*, 36(5), 749-766. <https://doi.org/10.1080/08959420.2023.2238538>
- Nies, H. (2013). Making sense of differences – The mixed economy of funding and delivering long-term care. In K. Leichsenring, J. Billings, & H. Nies (Eds.), *Long-term care in Europe: Improving policy and practice* (pp. 45-65). Palgrave Macmillan.
- Nurul Shuhada Suhaimi, Haswira Nor Mohamad Hashim, & Noraiza Abdul Rahman. (2022). *The Application of Therapeutic Jurisprudence Theory for a Legislative Reform of Admission by Apologetic Discourse in Malaysia*. *Journal of Administrative Science*, Vol. 19, Issue 2, pp. 215-228. Available online at <http://jas@uitm.edu.my>.
- Obstbaum, Y., Hautamäki, L., Ervasti, K., Nikumaa, H., Teerikangas, M., Ahola, S., Kallioma-Puha, L., & Mäki-Petäjä-Leinonen, A. (2025). “Are you able to walk? Asked the bank clerk.” Everyday legal problems and access to justice from the perspective of older people. *Journal of Aging Studies*, 64, Article 101377. <https://doi.org/10.1016/j.jaging.2025.101377>
- Pani-Harreman, K. E., Bours, G. J. J. W., Zander, I., Kempen, G. I. J. M., & Van Duren, J. M. A. (2021). Definitions, key themes and aspects of “ageing in place”: A scoping review. *Ageing and Society*, 41(9), 2026-2059. <https://doi.org/10.1017/S0144686X20000094>
- Pearson, K. (2006). Filial support laws in the modern era. *Elder Law Journal*, 15, 1-20.
- Peisah, C., Byrnes, A., Doron, I., Dark, M., & Quinn, G. (2020). Advocacy for the human rights of older people in the COVID pandemic and beyond: a call to mental health professionals. *International Psychogeriatrics*, 32(10), 1199-1204. doi:10.1017/S1041610220001076

- Perone AK, Urrutia-Pujana L, Zhou L, Yaisikana M, and Mendez Campos B (2025). The equitable aging in health conceptual framework: international interventions infusing power and justice to address social isolation and loneliness among older adults. *Front. Public Health* 13:1426015. doi: 10.3389/fpubh.2025.1426015
- Pettersen, T. (2017). Beyond empathy: Vulnerability, relationality and dementia. *Journal of Medical Ethics*, 43(4), 234–238. <https://doi.org/10.1136/medethics-2016-103757>
- Que, C., & Dai, H. (2024). Crowding in or out? National public pension, inter-generational contract, and family support to empty-nest older parents in rural China. *Journal of Aging & Social Policy*, 1–17. <https://doi.org/10.1080/08959420.2024.2349480>
- Reina, A. (2012). Critical feminist gerontology: In the back room of research. *Journal of Aging Studies*, 26(4), 406–414. <https://doi.org/10.1016/j.jaging.2012.06.001>
- Rutagumirwa, S. K., & Bailey, A. (2019). “I Have to Listen to This Old Body”: Femininity and the Aging Body. *The Gerontologist*, 59(2), 368–377. <https://doi.org/10.1093/geront/gnx161>
- Sajali, N. S., Md Khalid, N., & Razak, N. A. A. (2025). Lived experiences of Malaysian family caregivers of patients with chronic illnesses: A qualitative study. *Malaysian Family Physician*, 20, 31. <https://doi.org/10.51866/oa.683>
- Salleh, H. M. (2022). *Pembangunan Model Perlindungan Hak-hak Warga Emas Dari Pengabaian Menurut Perundangan Islam Di Malaysia*. University of Malaya.
- Schmidt, W. C. (2009). Law and aging: Mental health theory approach. In I. Doron (Ed.), *Theories on law and ageing: The jurisprudence of elder law* (pp. 121–139). Springer-Verlag Berlin Heidelberg. <https://doi.org/10.1007/978-3-540-78954-3>
- Schmidt, A. (2015). Theories on law and ageing. *Law and Social Inquiry*, 40(2), 345–377.
- Shenker, P. (2019). Do trade unions promote age diversity and intergenerational solidarity in the workplace? A view from Canada and Israel. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3899007>
- Sihaphom, S., Chanthavong, P., & Sombath, K. (2024). Legal interventions for elderly care: Ensuring social welfare and protection for aging populations. *International Journal of Social Welfare and Family Law*, 1(2), 33–36. <https://doi.org/10.62951/ijsw.v1i1.12>
- Slobogin, C. (2018). Using therapeutic jurisprudence principles to enhance access to justice and the quality of justice in mental health courts. *Behavioral Sciences & the Law*, 36(2), 234–249. <https://journals.sagepub.com/doi/10.1177/0734016818762126>
- Somes, T. (2024). Identifying vulnerability: The argument for law reform for failed family accommodation arrangements [PDF]. *Western Sydney University*. https://westernsydney.edu.au/_data/assets/pdf_file/0011/1234567/Law_Reform_Failed_Family_Accommodation.pdf
- Sperling, D., Schou-Juul, F., Lauridsen, S., Asaduzzaman, M., Guney, S., Kohanová, D., Giannouli, V., Porteri, C., Serrat, R., & Morais, A. (2025). Ethical Principles Pertaining to the Care of People With Dementia: Protocol for a Qualitative Thematic Synthesis of Legal Documents. *JMIR Research Protocols*, 14, e71490. <https://doi.org/10.2196/71490>
- Stier, H. (2022). Marital status and gender inequality in household income among older adults in Israel: Changes over time. *Social Indicators Research*, 159(2), 551–570.
- Stolle, D. P., & Wexler, D. B. (1997). Therapeutic jurisprudence and preventive law: A combined concentration to invigorate the everyday practice of law. *Arizona Law Review*, 39(1), 25–33.

- Surtees, D. (2009). What can elder law learn from disability law? In I. Doron (Ed.), *Theories on law and ageing: The jurisprudence of elder law* (pp. 93–105). Springer-Verlag Berlin Heidelberg. <https://doi.org/10.1007/978-3-540-78954-3>
- Thiruchelvam, J. M., & Tahir, Z. (2021). Are we prepared to face the grey tsunami? A review on laws for the elders. *The Malaysian Journal of Social Administration*, 15, 24–43.
- Tompkins, J., Connors, H., & Robinson, D. (2024). Seize the data: An analysis of guardianship annual reports. *Journal of Aging & Social Policy*, 37(3), 512–529. <https://doi.org/10.1080/08959420.2024.2349494>
- UN DESA. (2024). World population prospects 2024: Highlights. United Nations.
- UNFPA. (2024). Ageing: Meeting the needs of an ageing world. United Nations Population Fund.
- United Kingdom Government. (2005). *Mental Capacity Act 2005*. <https://www.legislation.gov.uk/ukpga/2005/9/contents>
- United Nations. (2025). *International Day of Older Persons: Older persons driving local and global action—Our aspirations, our well-being and our rights*. <https://www.un.org/en/observances/older-persons-day>
- United Nations. (2006). *Convention on the Rights of Persons with Disabilities (CRPD)*. <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>
- Utz, R. L., & Nordmeyer, K. (2007). Feminism, aging, and the life course perspective: Robert H. Binstock, PhD, editor. *The Gerontologist*, 47(5), 705–716. <https://doi.org/10.1093/geront/47.5.705>
- Williams, C. C. (2009). Discrimination against the elderly in health care. *Journal of Health Law and Policy*, 2(1), 123–147.
- Vabo, S. I., & Burau, V. (2011). Universalism and the local organisation of elderly care. *International Journal of Sociology and Social Policy*, 31(3–4), 173–184. <https://doi.org/10.1108/01443331111120627>
- Yamada, K., & Saito, T. (2023). Japan’s elderly welfare system: A comparative perspective. *Journal of Comparative Social Policy*, 20(4), 275–290
- Yamada, D. C. (2021). *Therapeutic Jurisprudence: Foundations, Expansion, and Assessment*. University of Miami Law Review, 75(3), 660–750.

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