

Philippines' Response related to the OEWGA Guiding Questions

Department of Social Welfare and Development

Equality and non-discrimination

1. Constitutional and legislative guarantee

Does your country's constitution and/or legislation a) guarantee equality explicitly for older persons or people of all ages and b) forbid discrimination explicitly on the basis of age? If so, how is the right to equality and non-discrimination defined?

- There is no specific provision that guarantees equality specifically for older persons or people of all ages. Nevertheless, specific provisions in the Philippine Constitution for the elderly are enunciated under Article XIII, Section II. Health - "There shall be priority for the needs of the underprivileged sick, elderly, disabled, women and children"; and Article XV, Section IV. Family - "It is the duty of the family to take care of its older person members while the State may design program of social security for them."

The Philippine government, however, have taken special measures and enacted the following laws to promote substantive equality for older persons and prohibit discrimination against them.

- a. **Republic Act (RA) 10911 or the Anti-Age Discrimination Act of 2016** was passed to guarantee equality and prohibit age discrimination in employment for all older persons. Among others, it prohibits employers from forcibly laying off and imposing early retirement on employees because of old age.
- b. **RA 10868 or Centenarians Act of 2016** honors Filipinos who have reached 100 years old with a Letter of Felicitation from the Philippine President and a Centenarian Gift in the amount of PhP100,000.00.
- c. **RA 10645 (enacted in 2014), or An Act Providing for the Mandatory PhilHealth Coverage for All Senior Citizens**, Amending for the Purpose Republic Act No. 7473, As Amended by Republic Act No. 9994, Otherwise Known as the "Expanded Senior Citizens Act of 2010", mandates PhilHealth, the national health insurance program, to cover all senior citizens, removing the provision that a senior citizen must be indigent to qualify for coverage.
- d. **RA 9994 or the "Expanded Senior Citizens Act of 2010"** broadens the coverage of government assistance to senior citizens in the areas of employment, education, health, social services, access to public transport, and incentives to individuals and non-governmental organizations that own and manage institutions caring for senior citizens; and have set up residential communities and retirement villages solely for senior citizens. Among the additional entitlements of senior citizens are the following: a) social pension for indigent senior citizens amounting to P500.00 monthly; b) mandatory coverage by PhilHealth, and c) social safety nets in the form of food,

medicine, and financial assistance, to help cushion the adverse effects of economic crisis, disasters and calamities.

- e. **RA 9710 or the Magna Carta of Women of 2009** contains a specific section on the protection of women senior citizens. Section 27 provides for social protection for women senior citizens while Section 33 guarantees that: "The State shall protect women senior citizens from neglect, abandonment, domestic violence, abuse, exploitation, and discrimination."
- f. **RA 7432 (enacted in 1992), or An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes**, provides for the encouragement of a) senior citizens to participate in nation-building, and b) families and communities to care for senior citizens. It also specifies the establishment of an Office of Senior Citizens Affairs (OSCA) in the Office of the Mayor which may award or grant privileges to senior citizens. OSCA is authorized to issue an identification card to senior citizens which is valid anywhere in the archipelago. It lists the privileges to be enjoyed by senior citizens such as a 20 per cent discount for the purchase of medicine, and the use of services and facilities from all establishments providing food, accommodation, transport services, and recreational facilities.

2. Forms of discrimination against older persons

Does your country produce information about discrimination against older persons in the following or other areas? If so, what are the main findings?

- Employment

Recently, the Philippine has passed a law (RA 10911) prohibiting age discrimination on employment. However, Philippine labor laws, Labor Code (for the private sector) and Civil Service Rules (for the government service), both provide for a mandatory retirement age of 65 years old. Data shows that older Filipinos are significantly less likely to be in employment than people of younger ages. Based on data from the Labor Force Survey (LFS) (2012), employment are lower at more advanced ages. On average one half of older men (55 per cent) over the age of 60 and a third of older women (35 per cent) are employed. The figure, nevertheless, highlights significant diversity amongst older people. While two thirds of men and one half of women are in employment in their early 60s, by their early 70s less than a half of men and a third of women are employed. Data from the LFS (2012) also shows that those individuals working at more advanced ages work fewer hours than their younger counterparts. Two thirds of employed people aged 15-59 (65 per cent) work more than 40 hours per week, but this applies to just half (48 per cent) of over 60s, and a third of over 75s (36 per cent).¹

- Access to goods and services

¹ Authors' calculations based on LFS 2012, Knox-Vydmannov, C., Horn, D., Sevilla, A. (2017) Feasibility of a Universal Social Pension in the Philippines

RA 9994 mandates the following: a) 20% discount and value added tax (VAT) exemptions on medicines, professional fees, diagnostic and laboratory fees, certain goods, transportation fare, restaurant and recreational centers, hotels and similar lodging, admission fees to amusement and leisure centers, and funeral and burial services, and 5% discount for the senior citizens' monthly utilization of water and electricity. However, evidence shows a drastic difference in the implementation of these government programmes across the country with those older people residing in richer Local Government Units (LGUs) having a better chance of accessing privileges than those residing in poorer LGUs. The evidence shows that those older people who are better educated and have a higher income benefit from these programmes more than those in lower income brackets.²

- Social protection

The government also has both contributory and non-contributory pension for older persons. However, recent data shows that most Filipinos cannot currently expect to receive a pension in their old age. Slightly over a quarter of senior citizens (29 per cent) receive pensions based on their previous working history (Social Security System, Government Social Insurance System and others) with an additional 17 per cent of older people (1.4 million) expected to receive the social pension in 2016. In 2017, the new administration has allocated budget to cover 34 per cent of the older people (2.8 million). When the coverage of these schemes is combined and followed, around 40 per cent of Filipino older people are left with no pension at all.³ Meanwhile, for many of those receiving a pension, benefits can be low – and this is not only limited to social pensioners. A third of SSS retirees (34 per cent) receive less than PhP 2,000 per month, and half (52 per cent) receive less than PhP 3,000.⁴

- Health care

One of the most important provisions on healthcare for the elderly was mandated by no less than Article XIII, Section 11 of the 1987 Constitution. RA 9994, the Expanded Senior Citizens Act of 2010 also provides that “The DOH, in coordination with LGUs, NGOs, and POs for senior citizens, shall institute a national health program and shall provide an integrated health service for senior citizens. RA 9994 Section 5 (c) 2nd paragraph likewise directs the establishment of senior citizens wards on all government hospitals which shall be for the exclusive use of senior citizens in need of hospital confinement. An amendment to RA 9994 under RA 10645 now expands the mandatory PhilHealth (National Health Insurance) coverage to ALL senior citizens, regardless of whether they are indigent or not.

A study was conducted to measure other dimension of health of senior citizens. This is their functional ability which can be measured through the Activities of Daily Living (ADL). This is one of the most widely used measures in the study of disability among older population. Results would show that at least 15% reported difficulty in performing at least one ADL.⁵

² Theresa W Devasahayam (Ed.) *Gender and Ageing South East Asian Perspective*, 2014, page 290

³ Given that some older people may be in receipt of more than one pension, total coverage may be lower in reality.

⁴ Knox-Vydmanov, C., Horn, D., Sevilla, A. (2017) Feasibility of a Universal Social Pension in the Philippines

⁵ Cruz, G.; Abalos, J.; Lavares, M.; Natividad, J.; & Saito, Y.; (2009). Changing social structures and well-being of the older Filipinos. *Transactions of the National Academy of Science and Technology (Philippines)* , 31(2), 197-222, cited by Cruz, G., UP Institute of Population

Philippine data shows that female senior citizens have an advantage in terms of the number of years lived, but they experience greater disability than the male senior citizens. They found clear gender differentials, with the female experiencing fairly longer lives than males but with greater proportion of their remaining lives experiencing disability.⁶

- Social care

As part of the Republic of Korea-ASEAN home care initiative a home care policy (DSWD Administrative Order 04, series of 2010) has been piloted in 3 municipalities. The policy has yet to be adopted and replicated as a government programme across country in all Local Government Units (LGUs). One of the reasons for this is the lack of capacity and support services within the LGU to implement the policy.

3.) Access to services

Is there information available about inequality of opportunities or outcomes experienced by older persons in the following areas? (a) availability of, access to and quality of health care services and (b) financial services

- While all senior citizens are guaranteed access to health care services under the government's PhilHealth program, in the private sector, some Health Management Organizations (HMOs) discriminate against older persons by imposing an age limit for enrolment in the health services they provide. Only very few HMOs cover geriatric care because they still function as business organizations that assume risks based on their risk-based capitalization, and geriatric care is considered a high-risk venture.
- In a study entitled "Launch Quality Standards and a Workforce Masterplan for Dementia Care" conducted by Dr. Shelly F. Dela Verga and Ms. Cynthia P. Cordero, 26 facilities in Luzon, Visayas and Mindanao participated. They studied 4 settings of care: 1) government tertiary hospital 2) private tertiary hospital 3) government-operated "homes for the elderly" 4) privately-operated "nursing homes" for the elderly. The results of said study are quoted below:

"Of the 26 facilities, only one (1) private hospital and one (1) private nursing home provided specialized dementia services. Nine facilities had partial dementia care services (34.6%). Most facilities (15, 57.7%) had integrated care, without dementia specific services.

Only 3 out of 5 government homes for the aged had physicians and none of them were geriatric specialists.

Further, only three (3) out of the fifteen (15) government facilities offered a Comprehensive Geriatric Assessment (CGA). This may be a reflection of the lack

⁶ Cruz, G.T. (1995) Health Transitions among older Filipino people. (unpublished Doctoral dissertation) University of the Philippines, Diliman Quezon City

of available Geriatricians in the country. The provision of long-term care was present in public and private nursing homes. Daycare programs, where families can bring patients for a few hours of memory enhancing therapy, physical activities, and socialization, were almost never available". (Dementia Policy Notes 28 June 2014)

While all older persons are covered by PhilHealth or the government's National Health Insurance Program, some of their benefit packages explicitly disqualify some age groups. For example, under the Implementing Rules and Regulations of Z Benefit Package⁷, older persons aged 70 years old and above are not qualified to avail the said benefit package.

- Financial services

Members of Social Security System are entitled for a salary loan, a cash loan granted to an employed, currently- paying self-employed or voluntary member. It is intended to meet the member's short-term credit needs. However, to be eligible, the guidelines requires "the member-borrower must be under sixty-five (65) years of age at the time of application".

4.) Special measures and differential treatment

Are there any areas where differential treatment based on old age is explicitly justified? (for example: access to goods; mandatory age of retirement; age limits in financial services and products; and age-based benefits)?

- Access to goods

In recognition of the rights of senior citizens and to give support to the improvement of their well-being and full participation in society, the Expanded Senior Citizens Act (RA 9994) was enacted in 2010. The law expands the benefits and services for senior citizens and secures the roles and functions of the implementing agencies. Moreover, DTI-DA Administrative Order No.1—12 series of 2010, Administrative Order No. 12-02, series of 2012 and Joint DTI-DA-DOE Administrative Order No. 17-02, series of 2017 provide 5% discount for purchase of basic necessities and prime commodities.

- Mandatory age of retirement

⁷ A new case type Z under the PhilHealth classification of illnesses covers for a unique set of catastrophic illnesses defined in PhilHealth Circular No. 29 s. 2012; and a con-responding benefit package called the Z Benefit Package was developed (Phil.Health Circular No. 30 s.2012)

As mentioned above, Philippine labor laws, Labor Code (for the private sector) and Civil Service Rules (for the government service), both provide for a mandatory retirement age of 65 years old.

Under Article 287 of the Labor Code, an employee may be retired upon reaching the retirement age established in the collective bargaining agreement (CBA) or other applicable employment contract. In the absence of such agreement, the employee may retire upon reaching the age of 60 or more, but not more than 65, provided he has served at least 5 years or more in the same establishment. The age 60 or more, but below 65, is considered as the voluntary retirement age. Sixty-five is considered as the compulsory retirement age.

Meanwhile, under Civil Service law and the GSIS Law of 1997, otherwise known as RA 8291 -An Act Amending PD 1146, as Amended, , Section 13(b) unless the service is extended by appropriate authorities, retirement shall be compulsory for an employee at sixty-five years of age with at least fifteen years of service. If an employee has less than fifteen years of service, he may be allowed to continue in the service in accordance with existing civil service rules and regulations. Under RA 6975 - An Act Establishing the Philippine National Police Under a Reorganized Department of Interior and Local Government and for Other Purposes, particularly Section 39", it is explicitly provided that the compulsory retirement for officers and non-officers in the Philippine National Police is upon the attainment of age fifty-six. An officer with the rank of chief superintendent, director or deputy director general may however be retained in the service for an unextendible period of one year

In fact, except for certain professions and occupations like Supreme Court justices and lower court judges (70 years old), and police and military personnel (55 years old) whose functions and nature of work allow them to retire at a different age range, most people in the workforce retire at 65 years old, or at the optional retirement age of 60 years old.

However, it must be clarified that just because there is a prescribed retirement age for all workers, it doesn't mean senior citizens can no longer be hired or employed. They may still be hired beyond retirement age, but not for regular, "plantilla" positions where the mandatory withholding taxes and social security benefits are required to be paid by the employer-company. Senior citizens may be hired as a "consultants" or as "contractual" workers where taxes and other benefits are treated differently.

- Age-based benefits

Social Pension Program for Indigent Senior Citizens (SPISC), is a government social protection program that gives Php500.00 monthly stipend to 65 years old and above indigent senior citizens, who are frail, sickly, or have disabilities; are not receiving pension and do not have a permanent source of income or regular support from relatives.

The Centenarians Act of 2016 honors all Filipinos who have reached 100 years old with a letter of felicitation from the President of the Philippines and a cash gift of one hundred thousand pesos in recognition of their longevity. The Senate recognized that living to a hundred years old is still a rarity and a challenge

considering the modern lifestyle and ways of many Filipinos. Thus, government should lead the country in paying respect to centenarians and according them the necessary assistance they need.

Neglect, violence and abuse

1) In your country, are there specific studies or surveys on violence and abuse against older persons?

- DSWD's pilot project named Reporting System and Prevention Program for Elderly Abuse Cases (ReSPPEC) aims to develop a holistic system that will put in place mechanisms and necessary procedures and protocols to formally report, investigate, intervene, document, monitor and provide follow-up services to victims of elderly abuse in the community. The project wishes to gather data and provide needed information on elder abuse in the target LGUs and communities thru the ReSPPEC Database. The ReSPPEC database systematizes data collection, produce reports on the situation, trends, needs and services provided to victims - survivors of elder abuse, as well as profile of the perpetrators.

As of January 29, 2018, there are 59 cases [42 males and 17 females: NCR-M (24) F (11); Region I – M (8), F (4); Region VI – M (3), F (1); Region XI – M (7), F (1). Majority of the cases are neglect. These cases were provided with appropriate interventions and services.

- In a study conducted for the Coalition of Services of the Elderly (COSE) in 2005 among urban poor communities, a surprising 26.7% in the 56-60 age bracket and a further 26.7% in the 61-65 age bracket knew personally of abuse committed against older people. A further 40.6% personally experienced abuse and listed their own children and family as the perpetrators of the abuse.
- A 1999 study conducted by Clarita R. Carlos, PhD, tackles the issue of domestic abuse and abuse in institutions of the elderly.

2.) (a) What forms of violence, abuse and neglect (e.g. physical, psychological, sexual, financial or other) are registered? What is the setting in which they occur (i.e. residential and non-residential)? Is there information about the type of perpetrators? (b) Does violence, abuse and neglect particularly affect specific groups of older persons? If so, which groups and how?

- In the COSE study, the types of abuse known personally to the respondents were verbal abuse, negligence, physical and sexual (in descending order).
- Dr. Carlos' study meanwhile cites that most of the perpetrators in the domestic setting are the children themselves who live with their parents. Financial and physical abuses are the most commonly committed abuse. Abuse is prevalent even in institutions such as residential facilities that are supposed to provide care

and support for the abandoned elderly. Cited was a study made by Aged Care Extended Services in St. Luke's Medical Hospital in one of the country's residential facility. It was found out that age, civil status, educational background, health and economic status are among the risk factors that contribute to elderly abuse. In their study, active negligence has the highest incidence followed by psychological abuse, exploitation, violation of rights, and physical abuse.

(b) Does violence, abuse and neglect particularly affect specific groups of older persons? If so, which groups and how?

- According to Philippine Commission on Women (PCW) , the most disadvantaged and marginalized senior citizens are senior women from urban slums, rural areas, IP communities, and Muslim communities; senior women in detention; senior women who live alone; and senior gay men, lesbians, and transgender persons who live alone. (Philippine Commission on Women, *Women's Empowerment, Development and Gender Equality Plan 2013 - 2016*, page 135)

3.) Does your country's legislation explicitly address issues of violence, abuse and neglect against older persons? If not, what legislation applies to such issues in the context of older persons? Does this legislation sufficiently address the full range of violence against older persons?

- There is a pending House Bill entitled "An Act Defining and Prohibiting Elder Abuse, Providing Penalties Therefore, and For Other Purposes. The purpose of the bill is more than just clearly defining elder abuse as a specific offense with a corresponding penalty. It seeks to bring to light the special context of Elder Abuse, of the particular "vulnerability" advance age has and which is taken advantage of by offender-perpetrators. More importantly, the most significant intervention is the requirement for clear and concrete Affirmative Acts that will raise public awareness and prevent the incidence of elder abuse.

4.) What legislation exists to protect older persons specifically against financial abuse, including inheritance abuse? –

- Proposed legislation on the issue is pending in the 17th Congress. Financial or material abuse is one of the prohibited acts in the bill.