

Coalition of Services of the Elderly (COSE) Submission on Violence, Abuse and Neglect

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Introduction

Human rights are universal and older people should enjoy their human rights on an equal basis with others in society. The Philippines has ratified nine international human rights treaties and all of these, with the exception of the Convention on the Rights of the Child, apply to older people as much as they apply to others. Older people's human rights do not change in older age. They still have the same rights as everybody else.

Despite this, more often than not we see older Filipinos with less chances of employment and less and unequal access to adequate healthcare and finance. They become subject of discrimination, ridicule and even abuse. Some consider them merely as objects of charity and not individuals with inherent, equal and universal rights as other members of the society.

The data from this submission are mainly drawn from the National Human Rights Situation of Older Persons (2015) drafted by COSE, Commission on Human Rights of the Philippines (CHRP) and Department of Social Welfare and Development (DSWD) with inputs from government agencies, multi-stakeholder dialogues and existing studies.

COSE joins the global network of HelpAge International in calling for the UN Convention on the Rights of the Elderly. This paper aims to aid in identifying key elements for a comprehensive normative and policy framework for the protection of the rights of older people, including the respective roles of all stakeholders.

1) Current survey

A key issue is the invisibility of elder abuse. This is compounded by the lack of data and awareness that it is happening. A study in 2004 found that 40% of respondents had personal experience of elder abuse, the most common type experienced being verbal abuse and the most common perpetrators being children followed by other family members. The types of abuse range from physical and verbal abuse, ridicule and discrimination, dependency of families to elder people and even negligence. Of those who experienced abuse only 2% reported it to the authorities which clearly suggests that abuse is being perpetrated with impunity. 11% of victims turned to family for support but 21% sought no support or refuge.¹

More recently the Philippine Commission on Women recommended that attention must be given to violence and abuse against senior women. They stated that it is not uncommon in the Philippines to find elderly women experiencing abuse and violence from family members, including being abandoned and forced to live on the streets. The Magna Carta for Women mandates the reporting of all suspected cases of abuse or neglect of elderly women, in accordance with the law. For the period 2006–2010, DSWD recorded 4,332 cases of elderly women in need of special protection. Of them, almost three-fourths (or 3,174) were served in the seventeen crisis intervention units of DSWD.²

2) Country legislation

Currently, there is no specific or dedicated legislation on the prevention of elder abuse nor on the provision of support services and access to redress for victims. Elderly women in family environments and intimate relationships, can be protected under RA 9262 or the Anti-Violence against Women and Children Act of 2003. However, such protection is more explicit under RA 9710 (Magna Carta of Women). SECTION 33 of RA 9710 on the Protection of Senior Citizens clearly states: "The State shall protect women senior citizens from neglect, abandonment, domestic violence, abuse, exploitation and discrimination. Towards this end the State shall ensure special protective mechanisms and support services against violence sexual abuse exploitation and discrimination of older women."³

These are not sufficient to address the full range of violence against older persons. Other measures need to be taken including public campaigns to raise awareness and change harmful attitudes and behaviour, carrying out awareness programmes among health and other service providers, provision of adult protection services to provide support for those subjected to elder abuse and data collection. To date there has been no national survey on the extent of elder abuse, public campaigns, professional awareness programmes nor provision of adult protective services

3) Legislation on Financial abuse

¹ *The Case of the Philippine Older Persons: Finding a Place in the Human Rights Domain*, presentation by Dr. Edna E. A. Co, 17 June 2014

² Philippine Commission on Women, *Women's Empowerment, Development and Gender Equality Plan 2013 - 2016*, page 138

³ Magna Carta for Women, RA9710, 2009

Revised Penal Code of the Philippines protect people of all ages against financial abuse such as robbery, theft and swindling (estafa). However, there's no criminal liability, but only civil liability if the commission of theft, robbery, swindling, or malicious mischief committed by the following persons:

- Spouses, ascendants and descendants, or relatives by affinity in the same line;
- The widowed spouse with respect to the property which belonged to the deceased spouse before the same shall passed into the possession of another;
- Brothers and sisters and brothers-in-law and sisters-in-law, if living together. The exemption established by this article shall not be applicable to strangers participating in the commission of the crime.

Having such exemptions leaves older persons who are victims of these crimes no protection if the perpetrator are their family members. Family members are commonly reported as the perpetrators of financial abuse.

Normative framework for the right to freedom from violence, abuse and neglect

Older women's experience of violence, abuse and neglect reported in this consultation has the following implications for the normative framework for this right:

All forms of violence, abuse and neglect

- The right to freedom from violence, abuse and neglect in older age should include all forms of violence, abuse and neglect against older persons.

Public and private spheres

- The right should apply to violence, abuse and neglect in private and public settings.
- Acts perpetrated by both private and public actors should fall under the right.
- States may be responsible for private acts of violence, abuse and neglect against older persons if they fail to act with due diligence to prevent, protect, prosecute, punish and provide redress for the harm suffered.

Prevention

- States should have an obligation to take steps to prevent violence, abuse and neglect in older age in relation to, inter alia, legislation and its effective implementation; training of care providers, health care and social workers, the judiciary and law enforcement; appropriate needs assessments, regulation and monitoring of situations of care and support provision; public prevention campaigns; and research into the intersectional drivers of violence.

Support services

- The right should provide for access to a range of support services for survivors of violence, abuse and neglect, including but not limited to a full range of medical, psychosocial, rehabilitative and legal services; access to information about available support and services; access to appropriate victims support services; and access to effective remedies and redress.

Remedies and redress

- The right should provide an obligation on states to assist survivors with making complaints.
- The right should provide an obligation on states to investigate and lay criminal charges.
- The state should begin with the assumption that the individual is best placed to judge his or her own well-being and observe self-determination of the survivor.
- Criminal justice responses, criminal offences and sentencing practices should reflect the aggravated nature of offenses against older persons.
- Older age should not limit compensatory damages or access to survivor services.

Data and statistics

- The right should provide an obligation on states to collect, disaggregate, analyze, utilise and make public at regular intervals appropriate information and statistical data on all forms of violence, abuse and neglect.
- This should include prevalence and trends, risk factors, perpetrators, access to support services and effective remedies and redress.
- All information gathering and research should comply with internationally accepted norms and ethical principles in the collection and use of statistics and legally.