



COMMISSION ON HUMAN RIGHTS
REPUBLIC OF THE PHILIPPINES

INPUTS OF THE COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES TO THE 11TH SESSION OF
THE UNITED NATIONS GENERAL ASSEMBLY'S OPEN-ENDED WORKING GROUP FOR THE
PURPOSE OF STRENGTHENING THE PROTECTION OF THE HUMAN RIGHTS OF OLDER PERSONS
(NORMATIVE CONTENT)

30 NOVEMBER 2019

The Commission on Human Rights of the Philippines (CHRP),ⁱ as the country's national human rights institution, submits this written inputs to the 11th Session of the United Nations General Assembly's Open-Ended Working Group (OEWG) for the Purpose of Strengthening the Protection of the Human Rights of Older Persons where debates and discussions will focus on the normative content of the right of older persons to education, training, lifelong learning, and capacity-building and the right of older persons to social protection and social security (including social protection floors).

In this submission, the CHRP draws from national laws and policies, data, reports, researches, and studies from external sources (national government agencies, non-government organizations, media, and educational institutions), human rights situation and research reports by CHRP offices, and the responses provided by stakeholders during a consultation-workshop conducted for this purpose.ⁱⁱ

In the Philippines, national laws and policies on the human rights of older persons have strong foundation in the fundamental law. The 1987 Constitution of the Republic of the Philippines mandates the protection and promotion of the rights and welfare of older Filipinos as a sector in the general Philippine population. To fulfill this constitutional promise, a national law that endeavors to promote the welfare of older Filipinos through specific benefits and privileges was enacted. Republic Act No. 9994¹ or the "Expanded Senior Citizens Act of 2010" is, by far, the country's most comprehensive law in terms of specifically recognizing the rights of older persons on several aspects. It provides entitlements for senior citizens and is the source of duties and obligations of several national government agencies to fulfill the objectives of the law.² It covers the provision of government services and government duties on education,³ and social protection and social security,⁴ among others.

By submitting these inputs, the CHRP renews its commitment to support the advocacy for an international binding instrument that will define the normative elements of human rights in older age and outline the duties of States to protect, respect, and fulfill these rights.

ⁱ As the National Human Rights Institution (NHRI) of the Philippines, the CHRP has the mandate vested by the 1987 Philippine Constitution and the Paris Principles to promote and protect the full range of human rights including civil and political rights, and economic, social and cultural rights. It has the responsibility to regularly report and monitor human rights situations and violations, and recommend steps in advancing the realization of human rights and dignity of all. The Commission has "A"-status accreditation from the Sub-Committee for Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI).

ⁱⁱ The Human Rights Policy Advisory Office of the CHRP conducted a consultation-workshop on October 24, 2019 with national government agencies, civil society and older persons' groups, legal/human rights specialists, and focal CHRP offices to solicit information and insights on the guide questions on the four key areas. Participants were representatives from the Department of Social Welfare and Development, Department of Education, Philippine Health Insurance Corporation, Department of Labor and Employment, National Anti-Poverty Commission – Senior Citizens Sectoral Representative, Government Service Insurance System, Commission on Higher Education, Department of Justice, Social Security System, Philippine Veterans Affairs Office, Department of Foreign Affairs, Coalition of the Services of the Elderly, Inc., Confederation of Older Persons Association of the Philippines, law/human rights professors/specialists, specialist on older persons and ageing, and relevant CHR offices (Legal, Legislative, and Linkages Division; International Obligations Monitoring Division; Research and Knowledge Management Division; Economic, Social, and Cultural Rights Center; Regional Offices; Legal Office; and Visitorial Division).

DEFINITION

1. WHAT ARE THE DEFINITIONS OF THE RIGHTS OF OLDER PERSONS TO EDUCATION, TRAINING, LIFE-LONG LEARNING AND CAPACITY-BUILDING IN THE NATIONAL LEGISLATION IN YOUR COUNTRY? OR HOW SHOULD SUCH A RIGHT BE DEFINED, CONSIDERING EXISTING NATIONAL, REGIONAL AND INTERNATIONAL LEGAL FRAMEWORK?

SCOPE OF THE RIGHT

2. WHAT ARE THE KEY NORMATIVE ELEMENTS OF THE RIGHTS OF OLDER PERSONS TO EDUCATION, TRAINING, LIFE-LONG LEARNING AND CAPACITY-BUILDING, INCLUDING SUCH ELEMENTS AS AVAILABILITY, ACCESSIBILITY, ACCEPTABILITY AND ADAPTABILITY? PLEASE PROVIDE REFERENCES TO EXISTING STANDARDS WHERE APPLICABLE.

STATE OBLIGATIONS

3. WHAT ARE THE MEASURES THAT SHOULD BE UNDERTAKEN BY THE STATE TO RESPECT, PROTECT AND FULFILL THE RIGHTS OF OLDER PERSONS TO EDUCATION, TRAINING, LIFE-LONG LEARNING AND CAPACITY-BUILDING, REGARDING THE NORMATIVE ELEMENTS AS PROVIDED ABOVE?

Responses to nos. 1-3

National Framework. There is no explicit guarantee of the right to education of older persons in the 1987 Constitution nor in any national legislation of the country. However, the Constitution guarantees the right to education of all which implies the inclusion of older persons. The relevant provisions are as follows:

“The State shall protect and promote the right of all citizens to quality education at all levels, and shall take appropriate steps to make such education accessible to all.”⁵

“The State shall: (1) Establish, maintain, and support a complete, adequate, and integrated system of education relevant to the needs of the people and society; (2) Establish and maintain a system of free public education in the elementary and high school levels. Without limiting the natural right of parents to rear their children, elementary education is compulsory for all children of school age; (3) Establish and maintain a system of scholarship grants, student loan programs, subsidies, and other incentives which shall be available to deserving students in both public and private schools, especially to the underprivileged; (4) Encourage non-formal, informal, and indigenous learning systems, as well as self-learning, independent, and out-of-school study programs particularly those that respond to community needs; and (5) Provide adult citizens, the disabled, and out-of-school youth with training in civics, vocational efficiency, and other skills.”⁶

R.A. No. 9994⁷ contains the most relevant provision pertaining exclusively to older persons, although provided as a “privilege” and not as a right. It states:

“Privileges for the Senior Citizens. – The senior citizens shall be entitled to... educational assistance... to pursue post-secondary, tertiary, post tertiary, vocational and technical education, as well as short-term courses for retooling in both public and private schools through provision of scholarships, grants, financial aids, subsidies and other incentives to qualified senior citizens, including support for books, learning materials, and uniform allowances, to the extent feasible: Provided, That senior citizens shall meet minimum admission requirements...”⁸

Proposed Definition, State Duties, Normative Elements. Given this and considering existing regional (particularly the Inter-American Convention on Protecting the Human Rights of Older Persons) and international framework, the right to education of older persons should be defined as and should contain the following:

- Older persons have the right: to education on an equal basis with other sectors of the population and without discrimination; to participate in existing educational programs at all levels and modes; and to share their knowledge and experience with all generations.⁹
- The right to education of older persons shall be directed to enable their sense of dignity and self-worth and to enable them to participate independently and effectively in the society.¹⁰¹¹
- States shall recognize that, with a view to achieving the full realization of this right:
 - Education in early life can play a key role in the ageing trajectory of a person. Nonfulfillment of the right to education in early life must be remedied through a life cycle and sustained approach in lifelong learning.¹²
 - Education must bridge intergenerational gaps in knowledge and skills brought by societal changes, new discoveries, and technological advancements.¹³
- States shall protect and promote the right to education of older persons and shall:
 - Facilitate access for older persons to appropriate educational and training programs that provide access, inter alia, to the different levels of the education cycle, to literacy, post-literacy, technical and professional training, and to continuing education, especially for groups in situations of vulnerability;¹⁴

- Promote the development of accessible and suitable educational programs, materials, and formats for older persons that fit their needs, preferences, skills, motivations, and cultural identities;¹⁵
- Adopt the necessary measures to reduce and progressively eliminate barriers and obstacles to educational goods and services in rural areas;¹⁶
- Promote education and training for older persons in the use of new information and communication technologies (ICTs) in order to bridge the digital, generational, and geographical divide and to increase social and community integration;¹⁷
- Design and implement active policies to eradicate illiteracy among older persons, especially women and groups in situations of vulnerability;¹⁸
- Foster and facilitate the active participation of older persons in both formal and non-formal educational activities;¹⁹ and
- Establish, maintain, and support a system of complete, adequate, and integrated system of education relevant to the needs and suitable to the circumstances of the younger and older members of society.²⁰

SPECIAL CONSIDERATIONS

4. WHAT SPECIAL MEASURES AND SPECIFIC CONSIDERATIONS SHOULD BE CONSIDERED IN DEVELOPING THE NORMATIVE CONTENT OF THE RIGHTS OF OLDER PERSONS TO EDUCATION, TRAINING, LIFE-LONG LEARNING AND CAPACITY-BUILDING?

Special consideration should be given to older persons who experience multiple and compounded layers of vulnerability:

- Older persons living in poverty;
- Older informal workers;
- Older persons who did not receive formal education or, at most, reached or finished primary (or elementary) education only;^{21,22}
- Older persons with disabilities;
- Older women;
- Older members of the LGBT+ community;
- Older persons in geographically isolated and disadvantaged areas;
- Older persons deprived of liberty or recently released from places for the deprivation of liberty;
- Stateless older persons; and
- Older persons in crisis or conflict situations, among others.

Opportunities to educate/for learning should be integrated in programs and services that are directed towards the special needs of these sub-sectors. For example, in the CHRP's Legal Caravan program²³ which seeks to provide free legal and investigative services to clients in rural and remote areas, lectures on basic human rights are also conducted and provided to communities where most clients are senior citizens.

5. HOW SHOULD THE RESPONSIBILITIES OF NON-STATE PARTIES SUCH AS PRIVATE SECTOR BE DEFINED IN THE CONTEXT OF THE RIGHTS OF OLDER PERSONS TO EDUCATION, TRAINING, LIFE-LONG LEARNING AND CAPACITY-BUILDING?

The involvement of non-state actors in the protection and promotion of the right to education, in general, must:

- Not lead to or promote any form of age discrimination; and
- Encourage intergenerational interaction in educational settings, such as by employing measures where younger and older generations can share their knowledge and skills to and learn from each other.

The responsibilities of non-state actors should be further defined through laws, policies, guidelines, and regulations by the State. On education of/for older persons, roles of the State in defining non-state actors' responsibilities must be mainstreamed and specific to older persons. These should also include education for all sectors on ageing and its related concepts (i.e. for all audiences or generations).

IMPLEMENTATION

6. WHAT ARE THE BEST PRACTICES AND MAIN CHALLENGES FACED BY YOUR COUNTRY IN THE ADOPTION AND IMPLEMENTATION OF THE NORMATIVE FRAMEWORK ON EDUCATION, TRAINING, LIFE-LONG LEARNING AND CAPACITY-BUILDING FOR OLDER PERSONS?

The Department of Social Welfare and Development, which is the national government agency currently primarily in charge of the concerns of senior citizens in the country, in its report to the CHRP, stated that:

"While the steps and initiatives endeavor to provide to senior citizens capacity building and other activities according to their preference, there are still key issues and challenges faced by older persons in the Philippines, which include lack of information or awareness on the available and accessible training, educational scholarships, and capacity-building services and lack or inadequate capability-building programs and training designed for senior citizens. Physical

or health limitations on the part of senior citizens/older persons in terms of location/distance to available training and capability-building services also serves as a hindrance for older persons. There are also instances where older persons are plainly disinterested to avail of these activities."²⁴

That physical or health limitations and location/distance of training venues are considered as challenges for older persons may be remedied by ensuring physical accessibility as well as content availability through appropriate programs and services for the service users.

The Pilot Study on Select Rights of Older Filipinos conducted by the CHRP in the first quarter of 2019 reveals that old age is the most cited reason for not accessing education programs. More respondents in the higher age groups cited age as a barrier compared to those in the lower age groups. This finding is related to the findings of the World Bank Group when it studied the effectivity of the Alternative Learning System or ALS Program²⁵ where it is suggested that the ALS is not reaching out to the needs of the elderly population. Using 2017 data, they found that majority of ALS enrollees are between the ages of 15 and 24, suggesting that the program is more appealing to younger people. One of the possible reasons cited was that for enrollees over the age of 26 the benefits of additional education may not fully offset the opportunity cost of participating in the ALS.²⁶

Other barriers in accessing education programs cited in the CHRP Pilot Study include: lack of awareness of education programs, non-availability of the program in the community, and inaccessibility of the training venue or the school.

DEFINITION

1. WHAT IS THE DEFINITION OF THE RIGHT TO SOCIAL SECURITY AND SOCIAL PROTECTION (INCLUDING SOCIAL PROTECTION FLOORS) FOR OLDER PERSONS IN THE NATIONAL LEGISLATION IN YOUR COUNTRY? OR HOW SHOULD SUCH A RIGHT BE DEFINED, CONSIDERING EXISTING NATIONAL, REGIONAL AND INTERNATIONAL LEGAL FRAMEWORK?

SCOPE OF THE RIGHT

2. WHAT ARE THE KEY NORMATIVE ELEMENTS OF THE RIGHT TO SOCIAL PROTECTION AND SOCIAL SECURITY FOR OLDER PERSONS? PLEASE PROVIDE REFERENCES TO EXISTING STANDARDS ON SUCH ELEMENTS AS BELOW, AS WELL AS ANY ADDITIONAL ELEMENTS: (A) AVAILABILITY OF CONTRIBUTORY AND NON-CONTRIBUTORY SCHEMES FOR OLDER PERSONS; (B) ADEQUACY OF BENEFITS TO GUARANTEE OLDER PERSON'S ACCESS TO AN ADEQUATE STANDARD OF LIVING AND ADEQUATE ACCESS TO HEALTH CARE; (C) ACCESSIBILITY, INCLUDING OLDER PERSON'S COVERAGE BY SOCIAL SECURITY SYSTEMS, ELIGIBILITY CRITERIA, AND AFFORDABILITY OF CONTRIBUTIONS; (D) EQUITABLE ACCESS BY OLDER PERSONS TO THE ENJOYMENT OF THE RIGHT TO SOCIAL SECURITY AND SOCIAL PROTECTION, PAYING SPECIAL ATTENTION TO GROUPS IN VULNERABLE SITUATION; (E) PARTICIPATION OF OLDER PERSONS IN THE DESIGN AND ADMINISTRATION OF THE SOCIAL SECURITY SYSTEM.

STATE OBLIGATIONS

3. WHAT ARE THE MEASURES THAT SHOULD BE UNDERTAKEN BY THE STATE TO RESPECT, PROTECT AND FULFILL THE RIGHT OF SOCIAL SECURITY AND SOCIAL PROTECTION FOR OLDER PERSONS, REGARDING THE NORMATIVE ELEMENTS AS PROVIDED ABOVE?

Responses to nos. 1-3

National Framework. The right to social security and social protection of older persons is not explicitly defined in the country's Constitution and national laws. However, there are several legal provisions which seek to protect and promote this right. In the 1987 Constitution, these provisions: pertain to the mandatory ("has the duty") role of the family in caring for its elderly members and the State's directory role ("may also do so") through "just programs of social security."²⁷ But the 1987 Constitution, in another provision, mandate the State to prioritize the needs of specific sectors, including senior citizens, in making health and social services available and affordable²⁸ and to review, from time to time, to upgrade pensions and other benefits due to retirees.²⁹ Various social security and special laws in the Philippines also provide for the responsibilities of State and non-State actors with regard to this right.³⁰

Although the right to social protection and social security is not defined, "social protection" has a technical definition formulated by the country's economic and development agency. The National Economic and Development Authority (NEDA) defined "social protection" as "policies and programs that seek to reduce poverty and vulnerability to risks and enhance the social status and rights of the marginalized by promoting and protecting livelihood and employment, protecting against hazards and sudden loss of income, and improving people's capacity to manage risks"³¹ and which has four components: (a) labor market programs/interventions;³² (b) social insurance;³³ (c) social welfare;³⁴ and (d) social safety nets.³⁵

ASEAN Framework. The "Kuala Lumpur Declaration on Ageing: Empowering Older Persons in ASEAN" is a high-level political commitment of ASEAN leaders to promote the rights and welfare of older persons in the region. It provides several recommendations for concrete actions relating to the right to social security and social protection.³⁶³⁷

Another ASEAN instrument is the ASEAN Declaration on Strengthening Social Protection.³⁸ According to one of its principles: "Everyone, especially those who are... older people..., are entitled to have equitable access to social protection that is a basic human right and based on a rights-based/needs-based, lifecycle approach and covering essential services as needed."³⁹

Proposed Definition, State Duties, Normative Elements. Considering the national, regional (including the Inter-American Convention on Protecting the Human Rights of Older Persons), and international frameworks (foremost is the International Covenant on Economic, Social, and Cultural Rights to which the Philippines is a State Party), the right to social security and social protection of older persons should be defined as and should contain the following:

- Older persons have the right to social security and social protection on an equal basis with other sectors of the population and without discrimination.⁴⁰
- The right to social security and social protection of older persons shall be directed to enable their sense of dignity⁴¹ and self-worth and to enable them to enjoy an adequate standard of living and to participate independently and effectively in the society.
- States shall recognize the right of older persons to social security and social protection and shall:
 - Progressively promote, within available resources, the provision of income to ensure a dignified life for older persons through social security systems and other flexible social protection mechanisms;⁴²

- Allocate adequate fiscal and other resources at the national level for the full implementation of the right;⁴³
- Not adopt any retrogressive measure that will reduce current benefits provided unless duly justified by reference to the totality of the rights in the International Bill of Rights;⁴⁴
- Make available contributory and non-contributory schemes of old age pension;⁴⁵
- Ensure the sustainability of national social security systems by securing an adequate level of income for all people in old age without overstressing the capacities of younger generations;⁴⁶ and
- Review periodically the adequacy of social security benefits due to older persons and take appropriate measures to upgrade them accordingly.⁴⁷

SPECIAL CONSIDERATIONS

4. WHAT SPECIAL MEASURES AND SPECIFIC CONSIDERATIONS SHOULD BE CONSIDERED IN DEVELOPING THE NORMATIVE CONTENT OF THE RIGHT OF OLDER PERSONS TO SOCIAL PROTECTION AND SOCIAL SECURITY?

Special consideration should be given to older persons who experience multiple and compounded layers of vulnerability:

- Older persons living in poverty;
- Older persons who were/are workers in the informal economy;
- Older persons with disabilities;
- Older women;
- Older members of the LGBT+ community;
- Older persons in geographically isolated and disadvantaged areas;
- Older persons deprived of liberty or recently released from places for the deprivation of liberty;
- Stateless older persons; and
- Older persons in crisis or conflict situations, among others.

5. HOW SHOULD THE RESPONSIBILITIES OF NON-STATE PARTIES SUCH AS PRIVATE SECTOR BE DEFINED IN THE CONTEXT OF THE RIGHT OF OLDER PERSONS TO SOCIAL PROTECTION AND SOCIAL SECURITY?

The involvement of non-state actors, in general, in the protection and promotion of the right of older persons to social protection and social security must not lead to or promote any form of age discrimination.

International financial institutions must take into account the right to social security and social protection of older persons in their lending policies, credit agreements, and similar projects so that the enjoyment of this right is promoted and not compromised.⁴⁸

The responsibilities of non-state actors should be further defined through laws, policies, guidelines, and regulations by the State.

Non-state actors in social protection and social security must be encouraged to promote universality of coverage especially in the area of health services as a component of social protection and social security.

IMPLEMENTATION

6. WHAT ARE THE BEST PRACTICES AND MAIN CHALLENGES FACED BY YOUR COUNTRY IN THE ADOPTION AND IMPLEMENTATION OF THE NORMATIVE FRAMEWORK ON SOCIAL SECURITY AND SOCIAL PROTECTION FOR OLDER PERSONS?

Availability of social security schemes. There are various positive initiatives to further increase coverage by the existing contributory pensions in the Philippines, however, based on recent reports, a dramatic increase in coverage in the coming decades is unlikely. For an instance, the Social Security System (SSS)⁴⁹ gradually expanded legal coverage (mandatory and voluntary) and provided access to social security protection to its various sectors, including the workers in the informal economy and the overseas Filipino workers (OFW). However, to date, fewer than a third of senior citizens receive contributory pension, mainly because of the low proportion of workers contributing in SSS.⁵⁰

The introduction of the social pension for indigent senior citizens in 2011⁵¹ has in some way closed the coverage gap.⁵² However, the means-tested nature of the scheme excludes – by design – a large proportion of vulnerable older people who fail to meet the strict eligibility criteria⁵³ for the current social pension program.

Adequacy of benefits. Based on the SSS submission to CHR, the SSS pension fund has already given 22 pension increases from 1980 to 2014. However, despite these increases, the benefit level is still low. A report in 2015 revealed that a third of SSS retirees (34%) receive less than 40USD per month, and half (52%) receive less than 60USD.⁵⁴ In 2017, the President ordered an increase of 40USD in SSS pension benefits in two tranches (with the first tranche released in 2017 and the second tranche in 2020).

The 10USD benefit level for the social pension is widely recognized to be inadequate relative to both national and international benchmarks. The lack of indexation of the benefit to inflation has further eroded its adequacy. In 2017, the real value of the social pension has taken a fall of 22% in real terms.⁵⁵ Thus, the Congress is currently deliberating on several measures to increase the benefit level of the social pension and to automatically increase it based on inflation.

Health care and coverage. In 2014, a law was enacted which mandated the government to automatically cover all senior citizens in the national health insurance program and to subsidize their premium contributions.⁵⁶ From the initial 3.5 million enrolled senior citizen members in 2014, the program expanded and now covers 6.6 million senior citizens. Further, a PhilHealth Circular emphasizes the coverage of senior citizens under the No Balance Billing (NBB) Policy.⁵⁷

¹ An Act Granting Additional Benefits and Privileges to Senior Citizens, Further Amending Republic Act No. 7432, as Amended, Otherwise Known as “An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for other Purposes [EXPANDED SENIOR CITIZENS ACT OF 2010], Republic Act No. 9994 (2010). R.A. No. 9994 is the third version of the Senior Citizens Act. It aims to augment further the existing programs and services being enjoyed by the elderly. This law also seeks to ensure the effective and efficient implementation of the benefits and discount privileges by clarifying the specific roles and functions of the respective implementing government agencies.

² *Id.* at § 2. This provision states that “[c]onsistent with these constitutional principles, this Act shall serve the following objectives: (a) To recognize the rights of senior citizens to take their proper place in society and make it a concern of the family, community, and government; (b) To give full support to the improvement of the total well-being of the elderly and their full participation in society, considering that senior citizens are integral part of Philippine society; (c) To motivate and encourage the senior citizens to contribute to nation building; (d) To encourage their families and the communities they live with to reaffirm the valued Filipino tradition of caring for the senior citizens; (e) To provide a comprehensive health care and rehabilitation system for disabled senior citizens to foster their capacity to attain a more meaningful and productive ageing; and (f) To recognize the important role of the private sector in the improvement of the welfare of senior citizens and to actively seek their partnership.”

³ *Id.* at §§ 4(d), 4(g), 5(b). Section 4(d) states that “[t]he senior citizens shall be entitled to... exemption from training fees for socioeconomic programs...” Also, Section 4(g) entitles “educational assistance to senior citizens to pursue pot [sic] secondary, tertiary, post tertiary, vocational and technical education, as well as short-term courses for retooling in both public and private schools through provision of scholarships, grants, financial aids, subsidies [sic] and other incentives to qualified senior citizens, including support for books, learning materials, and uniform allowances, to the extent feasible: *Provided*, That senior citizens shall meet minimum admission requirements...” Furthermore, Section 5(b) mandates specific government offices on matters pertaining to education of senior citizens. It states that “[t]he Department of Education (DepED), the Technical Education and Skills Development Authority (TESDA) and the Commission on Higher Education (CHED), in consultation with nongovernmental organizations (NGOs) and people’s organizations (POs) for senior citizens, shall institute programs that will ensure access to formal and nonformal education.”

⁴ *Id.* at §§ 4(a), 4(b), 4(c), 4(e), 4(f), 4(h), 4(i), 4(j), 5(d), 5(e), 5(h).

⁵ PHIL. CONST. art. XIV, § 1.

⁶ PHIL. CONST. art. XIV, § 2.

⁷ EXPANDED SENIOR CITIZENS ACT OF 2010.

⁸ *Id.* at § 4(g).

⁹ Inter-American Convention on Protecting the Human Rights of Older Persons, art. 20, ¶ 1, *opened for signature* June 15, 2015.

¹⁰ Based on: Convention on the Rights of Persons with Disabilities, art. 24, ¶¶ 1.a, 1.c, *opened for signature* Mar. 30, 2007.

¹¹ This is also based on the results of the CHRP Pilot Study on Select Rights of Older Filipinos where survey respondents cited reducing the risks of mental ailments, personal development, for independence, for socialization, and self-sufficiency and employment as the benefits of pursuing education in old age.

¹² This is part of the conclusion of the CHRP Pilot Study on Select Rights of Older Filipinos, particularly on the right to education of older persons. In the presentation of CHRP at the 4th ASEM Conference on Global Ageing and the Human Rights of Older Persons in Seoul, Korea on October 1, 2019, we stated that: “Our findings support existing research on successful ageing – that ‘education is independently associated with a high psychosocial-physiological functioning trajectory.’ Using a human rights perspective in analyzing these findings would lead to a conclusion that violations of the right to education will have strong impact later in life and in older age, and thus, must be remedied through a life cycle and sustained approach in lifelong learning. A life cycle approach must firmly consider that education and learning is pursued for different outcomes depending on the situation or milieu of the person. Furthermore, it must include an intergenerational and integrated approach that would enable transmission and acquisition of knowledge and skills across all age groups.”

¹³ In the 4th ASEM Conference on Global Ageing and the Human Rights of Older Persons, lifelong education, up-skilling and reskilling of older workers, and the fourth industrial revolution were among the main focus of the event. There is general acknowledgment that a rapidly transforming society brought by the rise of new technologies presents potential risks and challenges, especially for older persons, who are at risk of being left behind.

¹⁴ Inter-American Convention on Protecting the Human Rights of Older Persons, art. 20, ¶ 2 (a), *supra* note 9.

¹⁵ *Id.* at ¶ (b).

¹⁶ *Id.* at ¶ (c).

¹⁷ *Id.* at ¶ (d).

¹⁸ *Id.* at ¶ (e).

¹⁹ *Id.* at ¶ (f).

²⁰ Based on: PHIL. CONST. art. XIV, § 2(1).

²¹ UP Diliman Information Office, Aging in the Philippines, *available at* <https://upd.edu.ph/aging-in-the-philippines/> (last accessed Nov. 9, 2019). The 2007 Philippine Study on Aging “revealed that older Filipinos have a relatively poor educational profile. Of the 1,305 respondents from Sultan Kudarat, Laguna, Bulacan, Negros Occidental, Iloilo, Eastern Samar and the National Capital Region, two in three received, at most, only an elementary education.”

²² The CHRP Pilot Study on Select Rights of Older Filipinos revealed that respondents with lower educational attainment are less willing to pursue further education.

²³ The CHRP’s Legal Clinic Caravan program is aimed to reach clients in remote and rural areas by providing free legal services on human rights issues and concerns.

²⁴ Letter *from* Luzviminda C. Ilagan, Undersecretary, DSWD *to* Karen S. Gomez-Dumpit, Commissioner, CHRP (30 January 2019) (on file with author).

²⁵ For senior citizens who have not undergone or finished basic education, the Department of Education (DepEd) in 2005 issued DepEd Memorandum No. 138 which seeks to promote and ensure access of senior citizens to the Alternative Learning System (ALS). The ALS is the DepEd’s flagship program offering non-formal education to out-of-school youth and adults who have failed to complete basic education. Successful stories of senior citizens who graduate under the ALS program are published in the DepEd website to highlight the accessibility and significance of the program to them.

²⁶ Takiko Igarashi, World Bank Group, A Second Chance to Develop the Human Capital of Out-of-School Youth and Adults: The Philippines Alternative Learning System, at 4, *available at* <http://documents.worldbank.org/curated/en/539131530792186404/pdf/127978-REVISED-ALS-PolicyNote-May2018-rev5.pdf> (last accessed Jan. 31, 2019).

²⁷ PHIL. CONST. art. XV, § 4. This provision states: “The family has the duty to care for its elderly members but the State may also do so through just programs of social security.”

²⁸

PHIL. CONST. art. XIII, § 11. This provision states: “The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. There shall be priority for the needs of the underprivileged sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers.”

²⁹

PHIL. CONST. art. XVI, § 8. This provision states: “The State shall, from time to time, review to upgrade the pensions and other benefits due to retirees of both the government and the private sectors.”

³⁰ The social security laws in the Philippines are:

- An Act Rationalizing and Expanding the Powers and Duties of the Social Security Commission to Ensure the Long-Term Viability of the Social Security System Repealing for the Purpose Republic Act No. 1161, As Amended by Republic Act No. 8282, otherwise known as the “Social Security Act of 1997” [Social Security Act of 2018], Republic Act No. 11199 (2019)
- An Act Granting Additional Benefits and Privileges to Senior Citizens, Further Amending Republic Act No. 7432, As Amended, otherwise known as “An Act to Maximize the Contribution of Senior Citizens to Nation-Building, Grant Benefits and Special Privileges and for other Purposes” [Expanded Senior Citizens Act of 2010], Republic Act No. 9994 (2010)
- An Act Granting the Social Security System a One-Time Authority to Condone Penalties on Unremitted or Delinquent Contributions by Employers [Social Security Condonation Law of 2009], Republic Act No. 9903 (2010)
- An Act Establishing the Pre-Need Code of the Philippines [Pre-Need Code of the Philippines], Republic Act No. 9829 (2009)
- An Act Amending Presidential Decree No. 1146, as Amended, Expanding and Increasing the Coverage and Benefits of the Government Service Insurance System, Instituting Reforms Therein and for other Purposes [Revised Government Service Insurance Act of 1977], Republic Act No. 8291 (1997)
- An Act Amending Article 287 of Presidential Decree No. 442, as Amended, otherwise known as the Labor Code of the Philippines by Reducing the Retirement Age of Underground Mine Workers from Sixty (60) to Fifty (50), Republic Act No. 8558 (1998)
- An Act Instituting Universal Health Care for All Filipinos, Prescribing Reforms in the Health Care System, and Appropriating Funds Therefor [Universal Health Care Act], Republic Act No. 11223 (2019)
- An Act Providing for the Mandatory PhilHealth Coverage for all Senior Citizens Amending for the Purpose Republic Act No. 7432, as Amended by Republic Act No. 9994, otherwise known as the “Expanded Senior Citizens Act of 2010”, Republic Act No. 10645 (2014)
- An Act Instituting Limited Portability Scheme in the Social Security Insurance Systems by Totalizing the Workers’ Creditable Services or Contributions in each of the Systems, Republic Act No. 7699 (1994)
- An Act Amending Article 287 of Presidential Decree No. 442, as Amended, otherwise known as the Labor Code of the Philippines, by Providing for Retirement Pay to Qualified Private Sector Employees in the Absence of any Retirement Plan in the Establishment, Republic Act No. 7641 (1992)
- An Act Providing Benefits for Early Retirement and Voluntary Separation from the Government Service, as well as Involuntary Separation of Civil Service Officers and Employees Pursuant to Various Executive Orders Authorizing Government Reorganization after the Ratification of the 1987 Constitution, Appropriating Funds Therefor, and for other Purposes, Republic Act No. 6683 (1988)

³¹ National Economic and Development Authority Social Development Committee, Adopting a Philippine Definition of Social Protection, Resolution No. 1 series of 2007 (Feb. 13, 2007).

³² *Id.* Labor market interventions pertain to measures to enhance employment opportunities, and protect the rights and welfare of workers.

³³ *Id.* Social insurance pertains to programs to mitigate income risks.

³⁴ *Id.* Social welfare pertains to preventive and developmental interventions to support the minimum basic needs of the poor.

³⁵ *Id.* Social safety nets pertain to urgent responses and mechanisms that address effects of socio-economic shocks, disasters, and calamities on vulnerable groups.

³⁶ Association of Southeast Asian Nations, Kuala Lumpur Declaration on Ageing: Empowering Older Persons in ASEAN, *available at* <https://www.asean.org/> (last accessed Nov. 8, 2019).

³⁷ *Id.* These are: “WE DO HEREBY DECLARE TO: FOSTER the following concrete actions towards the empowerment of older persons subject to each ASEAN Member State’s national laws, policies, and programmes: ... 1. Promote a shared responsibility approach in preparation for healthy, active and productive ageing by supporting families, care givers/care workers and strengthening communities in delivering care for older persons; ... 3. Promote rights-based/needs-based and life-cycle approach and eliminate all forms of maltreatment on the basis of old age and gender through equitable access of older persons to public services, income generation, health care services, and essential information, as well as preventive measures, legal protection, and effective support system; ... 5. Promote the development of human capital and expertise in gerontology, geriatrics and other related professional and para-professional manpower including care workers to meet the current and future demands for health and social services for older persons; 6. Promote the development of reliable information, evidence-based and gender-disaggregated data on ageing, including improved capacity to bridge the gaps in policy, research and practice; ...”

³⁸ The Association of Southeast Asian Nations (ASEAN), ASEAN Declaration on Strengthening Social Protection: Regional Framework and Action Plan to Implement the ASEAN Declaration on Strengthening Social Protection, *available at* <https://asean.org/storage/2019/01/26.-November-2018-ASEAN-Declaration-on-Strengthening-Social-Protection-1st-Reprint.pdf> (last accessed Nov. 26, 2019).

³⁹ *Id.* at page 3.

⁴⁰ It is important to emphasize the equal and non-discriminatory nature of the right to social protection and social security of older persons to protect them in cases where in scenarios with limited financial resources, social security scheme national managers limit or refuse to increase social security benefits to older persons in favor of other sectors of the population.

⁴¹ That the right to social security of older persons should protect them so that they can live in dignity was taken from: Inter-American Convention on Protecting the Human Rights of Older Persons, art. 17, ¶ 1, *supra* note 9.

⁴² *Id.* at art. 17, ¶ 2.

⁴³ U.N. Committee on Economic, Social, and Cultural Rights (CESCR), *General Comment No. 19: The right to social security (art. 9)*, 4 February 2008, E/C.12/GC/19, *available at* <https://www.refworld.org/docid/47b17b5b39c.html> (last accessed Nov. 8, 2019).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ The International Labor Organization (ILO) sets out some standards in Social Security but unfortunately, not ratified in the country. The following are excerpts and can be considered in the normative content:

- ILO Conventions Nos. 102 and 128 and Recommendation No. 131 – **provision for the payment of pensions in old age, at guaranteed levels, upon completion of a qualifying period, and their regular adjustment to maintain pensioners’ purchasing power;**
- ILO Recommendation No. 202 calls calling for the guarantee of basic income security to all persons in old age, prioritizing those in need and those not covered by existing arrangements. Such a guarantee would act as a safeguard against poverty, vulnerability and social exclusion in old age for people not covered by contributory pension schemes.

ILO also noted: “An important social policy challenge facing ageing societies is to secure an adequate level of income for all people in old age without overstressing the capacities of younger generations. In view of the financing and sustainability challenge faced by social security systems in the context of demographic change, the State has a vital role to play in forecasting the long-term balance between resources and expenditure in order to guarantee that institutions will meet their obligations towards older persons. In lieu of this, it is worth adding in the normative gaps that the “overall and primary responsibility of the State in this respect will undoubtedly play an important role in how future governments are held accountable for the sustainability of national social security systems in view of, among other factors, demographic change” (Social Protection Department – International Labor Office, Social Protection Policy Papers – Paper 17 – Social protection for older persons: Policy trends and statistics 2017-19, *available at* https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---soc_sec/documents/publication/wcms_645692.pdf (last accessed Nov. 26, 2019).

⁴⁷ This is based on: PHIL. CONST. art. XVI, § 8. The provision states: “The State shall, from time to time, review to upgrade the pensions and other benefits due to retirees of both the government and the private sectors.”

⁴⁸ U.N. Committee on Economic, Social, and Cultural Rights (CESCR), *General Comment No. 19: The right to social security (art. 9)*, *supra* note 40.

⁴⁹ The Social Security System (SSS) is the primary contributory social security scheme for members of the private workforce.

⁵⁰ CHARLES KNOX-VYDMANOV, ET. AL., THE FEASIBILITY OF A UNIVERSAL SOCIAL PENSION IN THE PHILIPPINES (2017), *available at* <https://www.helpage.org/silo/files/the-feasibility-of-a-universal-social-pension-in-the-philippines.pdf> (last accessed Nov. 8, 2019).

⁵¹ EXPANDED SENIOR CITIZENS ACT OF 2010, at § 5(h)(1).

⁵² Since the implementation of the Social Pension Program, there has been an increasing number of beneficiaries from 136,000 target beneficiaries in 2011 to 3,000,000 in 2018. CHARLES KNOX-VYDMANOV, *supra* note 26.

⁵³ EXPANDED SENIOR CITIZENS ACT OF 2010, at § 3(h). R.A. No. 9994 provides that only indigent senior citizens shall be entitled to benefit from the social pension program. The law defines “indigent” as “any elderly who is frail, sickly or with disability, and without pension or permanent source of income, compensation or financial assistance from his/her relatives to support his/her basic needs, as determined by the Department of Social Welfare and development (DSWD) in consultation with the National Coordinating and Monitoring Board.” Identification of social pension beneficiaries has been reported to be very subjective and discriminatory which result in uneven implementation of the program.

⁵⁴ CHARLES KNOX-VYDMANOV, *supra* note 46.

⁵⁵ *Id.*

⁵⁶ An Act Providing for the Mandatory PhilHealth Coverage for All Senior Citizens, Amending for the Purpose Republic Act No. 7432, as Amended by Republic Act No. 9994, Otherwise Known as the “Expanded Senior Citizens Act of 2010,” Republic Act No. 10645 (2014).

⁵⁷ Philippine Health Insurance Corporation, Strengthening the Implementation of the No Balance Billing Policy (Revision 1), PhilHealth Circular No. 2017-0006.