



**COMMISSION ON HUMAN RIGHTS**  
**REPUBLIC OF THE PHILIPPINES**

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INPUTS OF THE COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES TO THE 11<sup>TH</sup> 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  
(SUBSTANTIVE FOCUS AREAS)

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30 NOVEMBER 2019

The Commission on Human Rights of the Philippines (CHRP),<sup>i</sup> as the country's national human rights institution, submits this written inputs to the 11<sup>th</sup> 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 two substantive focus areas requiring further attention: the right to work and access to the labor market of older persons; and the right to access to justice of older persons.

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.<sup>ii</sup>

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. 9994<sup>1</sup> 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.<sup>2</sup> It covers the provision of government services and government duties on employment and access to redress mechanisms of older Filipinos.

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.

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<sup>i</sup> 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).

<sup>ii</sup> 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).

1. WHAT ARE THE LEGAL PROVISIONS AND POLICY FRAMEWORKS IN YOUR COUNTRY THAT RECOGNIZE THE RIGHT TO WORK AND ACCESS TO THE LABOR MARKET BY OLDER PERSONS?

R.A. No. 9994 implies a guarantee of the right to work and access to the labor market of older persons by setting the responsibilities of the government on this area. The relevant provisions provide:

“Government Assistance. – The government shall provide the following: ... (a) Employment:

Senior citizens who have the capacity and desire to work, or be re-employed, shall be provided information and matching services to enable them to be productive members of society. Terms of employment shall conform with the provisions of the Labor Code, as amended, and other laws, rules and regulations.

Private entities that will employ senior citizens as employees, upon the effectivity of this Act, shall be entitled to an additional deduction from their gross income, equivalent to fifteen percent (15%) of the total amount paid as salaries and wages to senior citizens, subject to the provision of Section 34 of the NIRC, as amended: Provided, however, That such employment shall continue for a period of at least six (6) months: Provided, further, That the annual income of the senior citizen does not exceed the latest poverty threshold as determined by the National Statistical Coordination Board (NSCB) of the National Economic and Development Authority (NEDA) for that year.

The Department of Labor and Employment (DOLE), in coordination with other government agencies such as, but not limited to, the Technology and Livelihood Resource Center (TLRC) and the Department of Trade and Industry (DTI), shall assess, design and implement training programs that will provide skills and welfare or livelihood support for senior citizens.”<sup>3</sup>

2. WHAT ARE THE CHALLENGES FACED BY OLDER PERSONS FOR THE REALIZATION OF THEIR RIGHT TO WORK AND ACCESS TO THE LABOR MARKET IN YOUR COUNTRY?

*Legal limitations.* The provision in the *Expanded Senior Citizens Act* quoted above must be applied and interpreted in accordance with the Philippine labor laws which are generally governed by the Labor Code (private sector)<sup>4</sup> and the Civil Service Law (public sector).<sup>5</sup> Both laws provide for a mandatory retirement age of 65 years old. Despite the mandatory retirement age, senior citizens can still be hired or employed but not as regular employees (with corresponding mandatory withholding taxes and social security benefits) but as consultants or “contractuals” where taxes and benefits are treated differently.

*Ageism.* Despite traditions of respect for elders, ageism is evident across Filipino society. Many visual and graphic portrayals of the elderly show them as weak, sickly or frail, physically impaired, and slow moving individuals with limited mobility. This depiction reinforces the idea that older people are no longer healthy, active or productive. The general attitude towards older people is negative and discriminatory, limiting their employment opportunities, access to health care, as well as loans or financial services for livelihood capital.

*Gender inequality.* Older Filipinas face specific challenges due to gender inequalities over the life course which have accumulated effects in old age.<sup>6</sup> Because women were less likely to be employed than men, were more burdened by domestic and care duties, were more likely to hold lower or vulnerable employment, were more likely to be discriminated in the labor market, and were more likely to receive lower wages in their younger years, they are less financially secure in old age.<sup>7</sup> These challenges continue in old age.

*Others.* Other challenges faced by older Filipinos are:<sup>8</sup>

- Lack of employment and livelihood opportunities that are compatible with: educational attainment, knowledge and skills, physical capability, domestic responsibilities (especially for older women who are tied to the house and take care of other members of the family), and health of the older person, among other factors;
- Lack of awareness on existing programs and services from the national government, local government units, non-government organizations, and the private sector;
- Less access to loans from banks; and
- Membership to cooperatives are often only open to younger people.
- What data, statistics and research are available regarding older persons engaged in informal work, particularly older women, including conditions of their work and economic value?

*Philippine Statistics Authority.* Data from the 2015 Census of Population<sup>9</sup> reveal that senior citizens comprise 7.5% of the Philippine population (or 7.5 million). Almost half of all senior citizens (or 42.1%) are gainful workers, while the rest are pensioners, retired, and disabled (22.3%), housekeepers (20.8%), and students and dependents (14.8%). Among the gainful workers, most are involved in agriculture, forestry, and fishery works (37.7% or 1.19 million senior citizens), while the rest are engaged in elementary occupations, managers, service and sales workers, and others.<sup>10</sup>

Current Labor Statistics<sup>11</sup> in 2015 reveal that the senior citizens sector has the second lowest poverty incidence (at 13.2) among all basic sectors in the country.<sup>12</sup> Farmers and fishermen, on the other hand, have the highest poverty incidence (at 34.3 and 34.0, respectively).<sup>13</sup> Tying these two sets of statistics together, it can be said that while senior citizens in general have low poverty incidence, most of the sector who are engaged in gainful work (older farmers and fisherfolk) may be living in poverty.

*University of the Philippines Population Institute.* The University of the Philippines Population Institute conducts national surveys on the various aspects of the conditions of older Filipinos including economic well-being, among others. Data from its 2007 Philippine Study on Aging (2<sup>nd</sup> national survey)<sup>14</sup> reveal that older persons in the country are generally not materially well-off as shown by their low incomes and low assets.<sup>15</sup> Furthermore, calculations of wealth index show that significant age, gender, and education differentials in wealth inequality are evident, with a higher proportion of the males, those in their 70s, and the least educated in the poorest quintile.<sup>16</sup>

While generally older persons continue to be economically productive, only a third or 33% of older women are working compared with nearly half or 47% of older men.<sup>17</sup> Older women are more likely than men to be more in informal and vulnerable work with lower or no incomes.<sup>18</sup> Data from this study also reveal that older women are more likely to be blue collar workers (69.2%) than in white collar jobs which usually have a formal retirement age.<sup>19</sup>

*Research on older women in Southeast Asia.* In 2018, the Asia Women's Foundation and other non-government organizations published a report on the financial security of older women in Southeast Asia. Utilizing government and NGO data, it provides information overview of older women's financial security in the region and suggests effective strategies and best practices to secure the financial future of older women. Specific to older women in the Philippines, the report looked at national poverty rates, national statistics on work, employment, and wealth disaggregated by age, sex, etc., and data on pensions received, among others, and made conclusions on the specific vulnerability of women across their lifespan.<sup>20</sup>

Citing data from the Labor Force Survey:

- On average a third of older women (35%) and one-half of older men (55%) are employed;
- Levels of employment for older women remain lower across age groups;
- Most older persons in the labor force reported ill health as the reason for not working (particular to older women, most of the women are not working because of family responsibilities);
- More older men (22%) are employed in the private sector compared with only 12.33% of older women;
- While self-employment is high for both sexes, older women are far more likely to be in informal earning groups such as private household and unpaid family workers or those who worked without pay on own family-operated farm or business; and
- 15.29% of older women are unpaid family workers compared to only 3.12% of older men.<sup>21</sup>

#### AVAILABILITY, ACCESSIBILITY, ACCEPTABILITY, AND QUALITY

3. WHAT STEPS HAVE BEEN TAKEN TO ENSURE THE ACCESS OF OLDER PERSONS TO THE LABOR MARKET INCLUDING THROUGH PHYSICAL ACCESSIBILITY, ACCESS TO INFORMATION ABOUT EMPLOYMENT OPPORTUNITIES, TRAINING AND THE PROVISION OF APPROPRIATE WORKPLACE ACCOMMODATIONS?
4. WHAT STEPS HAVE BEEN TAKEN TO ENSURE THE AVAILABILITY OF SPECIALIZED SERVICES TO ASSIST AND SUPPORT OLDER PERSONS TO IDENTIFY AND FIND EMPLOYMENT?
5. WHAT GOOD PRACTICES ARE AVAILABLE IN TERMS OF ENSURING THE OLDER PERSONS' ENJOYMENT OF THEIR RIGHT TO WORK AND THEIR ACCESS TO THE LABOR MARKET?
6. WHAT PROTECTIONS ARE AVAILABLE TO ENSURE OLDER PERSONS ENJOY JUST AND FAVORABLE CONDITIONS OF WORK, INCLUDING FAIR WAGES AND EQUAL REMUNERATION FOR WORK OF EQUAL VALUE, SAFE WORKING CONDITIONS, BOTH IN THE FORMAL AND INFORMAL SECTOR?

#### **Responses to nos. 4-7**

*National government.* Actions taken by Department of Labor and Employment, as the primary government agency tasked to implement the relevant provisions on the right to work of older persons under R.A. No. 9994, include:

- Under the Grassroots Participatory Budgeting (GPB) Program,<sup>22</sup> DOLE regional offices in 2014 awarded sums of money to local government units to fund small livelihood projects proposed by the beneficiaries themselves, including senior citizens, to improve their economic status. The program allows strong participation from the basic sectors so that training and livelihood opportunities which were to receive funding were appropriate to the skills and needs of the beneficiaries.<sup>23</sup>

- The DOLE maintains an internet-based job and applicant matching system which lists special job categories for different sectors including senior citizens.<sup>24,25</sup>
- The DOLE maintains the *Kabuhayan Program* which seeks to reduce the vulnerability to risks of the poor, vulnerable and marginalized workers by providing them access to a grant assistance for capacity-building on livelihood ventures either for individual or group undertakings.<sup>26</sup> The grant includes working capital, trainings, social security, and continuing technical and business advisory services.<sup>27</sup> Among the program's intended beneficiaries are senior citizens.<sup>28</sup>
- Established in all local government units, as provided by law,<sup>29</sup> are Public Employment Service Offices (PESO) which are non-fee charging multi-dimensional employment service facility or entity. The PESO provides prompt and efficient delivery of employment facilitation services as well as timely information on the labor market and DOLE programs to its intended clients which include senior citizens.<sup>30</sup>

*Local government.* Local government units also take initiative through employment of senior citizens as staff members inside city/municipal halls, such as in Quezon City,<sup>31</sup> and forging partnerships with the private sector such as in Manila City where the Mayor forged an agreement with McDonald's for the latter to hire resident senior citizens and persons with disabilities in the city as order presenters, drink drawers, and guest relations staff for four hours per day with a corresponding salary, 13<sup>th</sup> month pay, and insurance.<sup>32</sup>

## EQUALITY AND NON-DISCRIMINATION

### 7. IN YOUR COUNTRY, IS AGE ONE OF THE PROHIBITED GROUNDS FOR DISCRIMINATION IN RELATION TO WORK AND ACCESS TO THE LABOR MARKET, INCLUDING IN OLDER AGE?

In 2016, a law which expressly prohibits discrimination in employment on account of age was enacted. Republic Act No. 10911 (or the "Anti-Age Discrimination in Employment Act")<sup>33</sup> seeks to promote equal opportunities in employment for everyone; encourages employers to hire individuals on the basis of their abilities, knowledge, skills and qualifications, rather than their age; prohibits arbitrary age limitations in employment (declares unlawful specific acts<sup>34</sup> but with exceptions<sup>35</sup>); and advances the rights of all employees and workers, regardless of age, to be treated equally in terms of compensation, benefits, promotion, training, and other employment opportunities.<sup>36</sup>

Specific to older persons, the law explicitly mandates the Department of Labor and Employment to "conduct studies and researches on minimizing impediments to the employment of older persons, and furnish such information to employers, labor groups, and the general public" as part of its education and research programs.<sup>37</sup>

The Anti-Age Discrimination in Employment Act appears to have not amended nor repealed legal provisions on the mandatory retirement age in employment.

## REMEDIES AND REDRESS

### 8. WHAT MECHANISMS ARE NECESSARY, OR ALREADY IN PLACE, FOR OLDER PERSONS TO LODGE COMPLAINTS AND SEEK REDRESS FOR DENIAL OF THEIR RIGHT TO WORK AND ACCESS TO THE LABOR MARKET?

The *Expanded Senior Citizens Act* mandated the establishment of the Office for Senior Citizens Affairs (OSCA) in every city and municipality in the country. The OSCA is mandated, among others, "[t]o assist the senior citizens in filing complaints or charges against any individual, establishments, business entity, institution, or agency refusing to comply with the privileges under [Republic Act No. 9994] before the Department of Justice (DOJ), the Provincial Prosecutor's Office, the regional or the municipal trial court, the municipal trial court in cities, or the municipal circuit trial court."<sup>38</sup> Data and information on the OSCA's capability to effectively refer older persons to the proper forum are not available and have not been monitored by the CHRP.

The Anti-Age Discrimination in Employment Act and its Implementing Rules and Regulations do not provide for a formal mechanism to lodge complaints and seek redress for violations of its provisions. However, the Department of Labor and Employment appears to take cognizance of violations of the law through its existing established mechanisms.<sup>39</sup>

The recent enactment of Republic Act No. 11350<sup>40</sup>, or the creation of the National Commission of Senior Citizens (NCSC), has the role to ensure that rights and welfare of senior citizens in the Philippines are respected, protected, and fulfilled through full implementation of laws, policies, and programs to senior citizens. This Commission will be under the Office of the President with members who should all be at least 60 years of age. The Implementing Rules and Regulations of the law is yet to be adopted as of this writing. Functions, activities, and programs of the Department of Social Welfare and Development (DSWD) for poor, disadvantaged, and marginalized senior citizens will be transferred to NCSC.

1. HOW IS THE ACCESS TO JUSTICE BY OLDER PERSONS GUARANTEED UNDER THE NATIONAL LEGAL AND POLICY FRAMEWORK? WHAT JUDICIAL AND NON-JUDICIAL MECHANISMS ARE IN PLACE FOR ALL OLDER PERSONS TO COMPLAIN AND SEEK REDRESS FOR DENIAL OF THEIR RIGHTS?

The right to access to justice of older persons is guaranteed in provisions of law which apply to everyone without distinction. Provisions that guarantee this right are replete in the 1987 Constitution, particularly under the Bill of Rights,<sup>41</sup> and the substantive and procedural laws of the country. These laws established institutions and mechanisms which can be accessed by everyone (including the Philippine Court System,<sup>42</sup> the Public Attorney's Office,<sup>43</sup> the Barangay Justice System,<sup>44,45,46</sup> and the Alternative Dispute Resolution System<sup>47,48</sup>).

Laws granting privileges and entitlements exclusive to senior citizens of the country, including the social pension program, also mandated the creation of an "Office of Senior Citizens Affairs (OSCA)" in every city and municipality. In the latest version of the law (R.A. No. 9994), the OSCA, which is headed by a senior citizen with the assistance of the city/municipality social welfare and development officer, is mandated to "assist the senior citizens in filing complaints or charges against any individual, establishments, business entity, institution, or agency refusing to comply with the privileges under [R.A. No. 9994] before the Department of Justice (DOJ), the Provincial Prosecutor's Office, the regional or the municipal trial court, the municipal trial court in cities, or the municipal circuit trial court."<sup>49</sup> As of this writing, there is no information available on whether the OSCA provides assistance to senior citizens beyond the scope of R.A. No. 9994.

#### AVAILABILITY

2. WHAT STEPS HAVE BEEN TAKEN TO ENSURE THE AVAILABILITY OF JUDICIAL AND NON-JUDICIAL MECHANISMS FOR OLDER PERSONS IN URBAN, RURAL AND REMOTE AREAS IN YOUR COUNTRY? ARE THERE ALTERNATIVE DISPUTE SETTLEMENT MECHANISMS AVAILABLE?

#### ACCESSIBILITY

3. WHAT STEPS HAVE BEEN TAKEN TO ENSURE THAT ALL JUSTICE SYSTEMS (JUDICIAL AND NON-JUDICIAL) ARE SECURE, AFFORDABLE AND PHYSICALLY ACCESSIBLE FOR OLDER PERSONS AND ADAPTED TO THEIR NEEDS?

#### **Responses to nos. 2-3, 6-7**

- In the 1987 Constitution's Bill of Rights, there is explicit guarantee that "free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty."<sup>50</sup> A national government agency dedicated to implement this constitutional guarantee was created by law.<sup>51</sup> The Public Attorney's Office (PAO) is "the principal law office of the government in extending free legal assistance to indigent persons in criminal, civil, labor, administrative, and other quasi-judicial cases."<sup>52</sup> The PAO has regional and district offices. It provides regular legal services, forensic services, and non-judicial services (legal advice thru telephone, print media, radio programs, email and letter; responses to texts messages; legal counselling for walk-in clients; mediation and conciliation; and 24/7 central office counselling via landline), and conducts outreach activities in barangays and jails/prisons.<sup>53</sup> In 2018, the PAO served 19,365 senior citizens nationwide in judicial mechanisms which is the second highest next to clients on illegal drug-related cases, and 306,007 senior citizens nationwide in non-judicial mechanisms which is the highest among all specific-mandated clients.<sup>54</sup>
- The Barangay Justice System or the *Katarungang Pambarangay*<sup>55</sup> is a system established by law in every barangay (the barangay is the smallest local government unit in the country) to promote amicable settlement of disputes.<sup>56,57</sup> It is the most prominent example of alternative dispute mechanism and is seen as an effective mechanism to meet the justice needs of the disadvantaged and marginalized sectors of the country.<sup>58</sup> Through this system, indigenous justice practices of mediation and conciliation are being formalized and institutionalized.<sup>59</sup>
- The alternative dispute mechanism is an institutionalized form of settling disputes in the public and private sectors. The law<sup>60</sup> provides that the Alternative Dispute Resolution (ADR) System is "any process or procedure used to resolve a dispute or controversy, other than by adjudication of a presiding judge of a court or an officer of a government agency, as defined in this Act, in which a neutral third party participates to assist in the resolution of issues, which includes arbitration, mediation, conciliation, early neutral evaluation, mini-trial, or any combination thereof."<sup>61</sup> ADR is provided by "institutions or persons accredited as mediator, conciliator, arbitrator, neutral evaluator, or any person exercising similar functions."<sup>62</sup> All national government agencies of the country are mandated to have an ADR system in place.<sup>63</sup>



- The Department of Justice (DOJ) maintains an Action Center (DOJAC) in every region of the country which acts on complaints, requests for legal assistance and queries of walk-in clients as well as over the telephone.<sup>64</sup> In 2018, the DOJAC serviced 937 senior citizens.<sup>65</sup>
- The Supreme Court of the Philippines implements the Enhanced Justice on Wheels Program further the reach of access to justice especially to the underserved parts of the country.<sup>66</sup> The program utilizes make-shift court buses to reach far-flung areas. It is implemented to facilitate and expedite the release of prisoners and to assist in the speedy resolution of cases.<sup>67</sup> The program is being implemented for the benefit of the general public, including older persons.
- The Coalition of Services of the Elderly, Inc., a civil society organization, work with local government units in setting up helpdesks for older persons, similar to helpdesks for women and children which are mandated by law.<sup>68</sup>
- The CHRP provides frontline services for the general public, including senior citizens, which include help and action desks all throughout the regional (sub-national) offices that are accessible to all clients including older persons. Complaints received by the CHRP include neglect and abuse which are evaluated and investigated, as well as referred to appropriate agencies such as the DSWD, police, and local government units.

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4. WHAT ARE THE EXISTING PROVISIONS TO GUARANTEE LEGAL ASSISTANCE FOR OLDER PERSONS?

*See response in no. 1*

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5. WHAT ARE SPECIFIC CHALLENGES ENCOUNTERED BY OLDER PERSONS IN ACCESSING JUSTICE AND REMEDY IN YOUR COUNTRY?

One of the primary challenges is the lack of legislation against elder abuse which contributes in hindering elder abuse victims from accessing appropriate legal measures and social welfare services. While some forms of elder abuse are taken as ordinary crimes under the country's penal laws, there is still a need to institutionalize preventive measures and redress mechanisms through appropriate legislation.

Pending enactment of a law to address this, the Department of Social Welfare and Development (DSWD) implements a community-based project that aims to protect senior citizens from all forms of abuse by establishing local reporting mechanisms in barangays and communities.<sup>69</sup> Under the project, the DSWD provides capacity building activities to communities on how to recognize and report elderly abuse; social services for the elder abuse victim and their families not limited to psycho-social, medical, legal and other support; and, rehabilitation and support services for suspected abusers or offenders to mitigate the cycle of violence.<sup>70</sup> It will also intensify public awareness on elder abuse through advocacy activities.<sup>71</sup> The pilot implementation of the project ran from 2016 to 2018 in 4 municipalities/cities. Nationwide adoption of the project is expected this year in 2019.

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6. WHAT GOOD PRACTICES ARE AVAILABLE IN TERMS OF ENSURING EQUAL AND EFFECTIVE ACCESS TO JUSTICE AND REMEDY FOR OLDER PERSONS?

*See response in no. 3*

## EQUALITY AND NON-DISCRIMINATION

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7. WHAT ARE THE PROVISIONS ADOPTED TO ENSURE EFFECTIVE ACCESS TO JUSTICE FOR OLDER PERSONS ON AN EQUAL BASIS WITH OTHERS, INCLUDING AGE-APPROPRIATE PROCEDURES IN ALL ADMINISTRATIVE AND LEGAL PROCEEDINGS?

*See responses in nos. 1 and 3*

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8. PLEASE SPECIFY EXISTING PUBLIC POLICIES AND AWARENESS-RAISING AND CAPACITY BUILDING PROGRAMMES ESTABLISHED FOR ALL JUSTICE SYSTEM PERSONNEL TO ADDRESS THE NEGATIVE IMPACTS OF AGEISM AND AGE DISCRIMINATION IN JUSTICE SYSTEM.

*As of this writing, the CHRP has no information on this area.*

## ACCOUNTABILITY

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9. HOW DO YOU ENSURE JUSTICE SYSTEMS FUNCTION IN ACCORDANCE WITH THE PRINCIPLES OF INDEPENDENCE AND IMPARTIALITY? PLEASE SPECIFY IF THERE IS ANY OVERSIGHT MECHANISM IN PLACE TO ADDRESS ANY DISCRIMINATION AGAINST OLDER PERSONS COMMITTED BY JUSTICE SYSTEM PROFESSIONALS.

There is no express oversight mechanism in place in the country to address age discrimination in the justice system. However, this role can be undertaken by the DOLE in its roles under Republic Act No. 10911, or the "Anti-Age

Discrimination in Employment Act". The DOLE's National Labor Relations Commission (granting the justice system professionals include not only courts but all pillars of the justice system), a quasi-judicial agency, is mandated to adjudicate labor and management disputes involving both local and overseas workers through compulsory arbitration and alternative modes of dispute resolution.<sup>72</sup>

Moreover, the judiciary has the mandate and mechanism to discipline officials of the courts through its Code of Professional Responsibility for the legal profession.

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<sup>1</sup> 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.

<sup>2</sup> *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."

<sup>3</sup> *Id.* at § 5(a).

<sup>4</sup> 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.

<sup>5</sup> Meanwhile, under Civil Service Law and the GSIS Law of 1997 (Republic Act No. 8291 or "An Act Amending Presidential Decree No. 1146, as Amended"), Section 13(b) states that 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 Republic Act No. 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.

<sup>6</sup> Asia Women's Forum on Financial Security, Financial Security of Older Women: Perspectives from Southeast Asia, at 138-181, available at <http://asiawomen.org.sg/news-events/financial-security-of-older-women-perspectives-from-southeast-asia> (last accessed Nov. 8, 2019).

<sup>7</sup> *Id.*

<sup>8</sup> These were the responses gathered during the CHRP Consultation-Workshop held on October 24, 2019.

<sup>9</sup> Philippine Statistics Authority Website, available at <https://psa.gov.ph/> (last accessed Nov. 7, 2019).

<sup>10</sup> Philippine Statistics Authority, Facts on Senior Citizens: Results of the 2015 Census of Population (Population Characteristics), available at [https://psa.gov.ph/system/files/2015%20Fact%20Sheets%20on%20Senior%20Citizen\\_pop.pdf?width=950&height=700&iframe=true](https://psa.gov.ph/system/files/2015%20Fact%20Sheets%20on%20Senior%20Citizen_pop.pdf?width=950&height=700&iframe=true) (last accessed Nov. 7, 2019).

<sup>11</sup>

Philippine Statistics Authority, Current Labor Statistics, available at <http://www.psa.gov.ph/current-labor-statistics> (last accessed Nov. 7, 2019).

<sup>12</sup> *Id.* Poverty incidence of basic sectors in 2015 (from highest to lowest) – farmers (34.3), fishermen (34.0), children (31.4), self-employed and unpaid family workers (25.0), women (22.5), youth (19.4), employed population or working poor (18.0), unemployed population (16.4), migrant and formal sector workers (13.4), senior citizens (13.2), and individuals residing in urban areas (11.5).

<sup>13</sup> *Id.*

<sup>14</sup> The Institute recently conducted its 3<sup>rd</sup> national survey. The results of which were analyzed using a longitudinal approach using the results from the 1<sup>st</sup> and 2<sup>nd</sup> national surveys. The longitudinal research will be disseminated in December 2019.

<sup>15</sup> GRACE T. CRUZ, ET. AL., AGING IN THE PHILIPPINES: FINDINGS FROM THE 2007 PHILIPPINE STUDY ON AGING (2007).

<sup>16</sup> *Id.*

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Asia Women's Forum on Financial Security, Financial Security of Older Women: Perspectives from Southeast Asia, *supra* note 6.

<sup>21</sup> *Id.*

<sup>22</sup> Department of Budget and Management, Guidelines for the Implementation and Monitoring of FY 2013 and FY 2014 Grassroots Participatory Budgeting Process, National Budget Memorandum No. 121 (Mar. 18, 2014), at § 3.1, *available at* <https://www.dbm.gov.ph/wp-content/uploads/Issuances/2014/National%20Budget%20Memorandum/NBM121.pdf> (last accessed Nov. 7, 2019). The GPB is an approach to preparing budget proposals of government agencies that takes into consideration the development needs of cities/municipalities as identified in their local poverty reduction plans and is formulated with strong participation of basic sector organizations.

<sup>23</sup> Department of Labor and Employment, In Hagonoy, Davao Del Sur, DOLE rants P1.8-M in livelihood to senior citizens, *available at* <https://www.dole.gov.ph/news/in-hagonoy-davao-del-sur-dole-grants-p1-8-m-in-livelihood-to-senior-citizens/> (last accessed Nov. 7, 2019).

<sup>24</sup> Department of Labor and Employment, Avail of DOLE's job facilitation services – Bello, *available at* <https://www.dole.gov.ph/news/avail-of-doles-job-facilitation-services-bello/> (last accessed Nov. 7, 2019).

<sup>25</sup> Revy Lontoc, We value our Senior Citizens, Jobs for 60 year old's and up, *available at* <https://blog.philjobnet.gov.ph/2017/03/31/we-value-our-senior-citizens-jobs-for-60-year-olds-and-up/> (last accessed Nov. 7, 2019).

<sup>26</sup> Department of Labor and Employment, Kabuhayan Program Know More, *available at* <https://www.dole.gov.ph/kabuhayan-program2/> (last accessed Nov. 7, 2019).

<sup>27</sup> *Id.*

<sup>28</sup> Department of Labor and Employment, Kabuhayan Program Coverage, *available at* <https://www.dole.gov.ph/kabuhayan-program2/> (last accessed Nov. 7, 2019).

<sup>29</sup> An Act Institutionalizing a National Facilitation Service Network Through the Establishment of a Public Employment Service Office in Every Province, Key City, and Other Strategic Areas Throughout the Country [PUBLIC EMPLOYMENT SERVICE OFFICE ACT OF 1999], Republic Act No. 8759 (2000), as amended by An Act Defining the Role of the Department of Labor and Employment (DOLE), the Local Government Units (LGUs), and Accredited Nongovernment Organizations (NGOs) in the Establishment and Operation of the Public Employment Service Peso (PESO), and the Operation of Job Placement Offices in Educational Institutions (EIs), Amending for the Purpose Sections 3, 5, 6, 7 and 9 of Republic Act No. 8759, Otherwise Known as the "Public Employment Service Office Act of 1999", Republic Act No. 10691 (2015).

<sup>30</sup> Department of Labor and Employment, Public Employment Services Know More, *available at* <https://www.dole.gov.ph/public-employment-services-pes/> (last accessed Nov. 7, 2019).

<sup>31</sup> Shared by a participant during the CHRP Consultation-Workshop held on October 24, 2019.

<sup>32</sup> Sunstar Manila, McDonald's urged to expand senior, PWD hiring program, *available at* <https://www.sunstar.com.ph/article/1821908> (last accessed Nov. 7, 2019).

<sup>33</sup> An Act Prohibiting Discrimination against Any Individual in Employment on Account of Age and Providing Penalties Therefor [ANTI-AGE DISCRIMINATION IN EMPLOYMENT ACT], Republic Act No. 10911 (2016).

<sup>34</sup> *Id.* at § 4. The law declares unlawful the following specific acts: print or publish, or cause to be printed or published, in any form of media, including the internet, any notice of advertisement relating to employment suggesting preferences, limitations, specifications, and discrimination based on age; require the declaration of age or birth date during the application process; decline any employment application because of the individual's age; discriminate against an individual in terms of compensation, terms and conditions or privileges of employment on account of such individual's age; deny any employee's or worker's promotion or opportunity for training because of age; forcibly lay off an employee or worker because of old age; or impose early retirement on the basis of such employee's or worker's age.

<sup>35</sup> *Id.* at § 5. The law provides exceptions in setting age limitation in employment which are: if age is a bona fide occupational qualification reasonably necessary in the normal operation of a particular business or where the differentiation is based on reasonable factors other than age; if the intent is to observe the terms of a bona fide seniority system that is not intended to evade the purpose of the law; if the intent is to observe the terms of a bona fide employee retirement or a voluntary early retirement plan consistent with the purpose of the law; and if the action is duly certified by the Secretary of Labor and Employment.

<sup>36</sup> *Id.* at § 1.

<sup>37</sup> *Id.* at § 8.

<sup>38</sup>

EXPANDED SENIOR CITIZENS ACT OF 2010, § 6.

<sup>39</sup> Lewis Silkin LLP, "Tell us which companies are guilty of age discrimination" Philippines government tells workers, *available at* <http://www.agediscrimination.info/news/2018/6/22/tell-us-which-companies-are-guilty-of-age-discrimination-philippines-government-tells-workers> (last accessed Nov. 7, 2019).



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<sup>40</sup> An Act Creating the National Commission of Senior Citizens, Providing for its Functions, Abolishing the National Coordinating Council and Monitoring Board, Amending for the Purpose Republic Act No. 7432, As Amended, and Appropriating Funds Therefor, Republic Act No. 11350 (2019).

<sup>41</sup>

PHIL. CONST. art. III.

<sup>42</sup> PHIL. CONST. art. VIII, § 1. Judicial power in the Philippines rests with the Supreme Court and the lower courts as established by law. Its duty is to settle actual controversies involving rights which are legally demandable and enforceable.

<sup>43</sup> An Act Reorganizing and Strengthening the Public Attorney's Office (PAO), Amending for the Purpose Pertinent Provisions of Executive Order No. 292, Otherwise Known as the "Administrative Code of 1987", as Amended, Granting Special Allowance to PAO Officials and Lawyers, and Providing Funds Therefor, Republic Act No. 9406 (2007). The PAO is the principal law office of the government in extending free legal assistance to indigent persons in criminal, civil, labor, administrative, and other quasi-judicial cases.

<sup>44</sup> Establishing a System of Amicably Settling Disputes at the Barangay Level, Presidential Decree No. 1508 (1978).

<sup>45</sup> Official Gazette, The Judicial Branch, *available at* <https://www.officialgazette.gov.ph/about/gov/judiciary/> (last accessed Nov. 7, 2019). Presidential Decree No. 1508, or the Katarungang Pambarangay Law, took effect on December 11, 1978, and established a system of amicably settling disputes at the barangay level. This decree and the Local Government Code provided rules and procedures, Title I, Chapter 7, Sections 339-422. This system of amicable settlement of dispute aims to promote the speedy administration of justice by easing the congestion of court dockets. The court does not take cognizance of cases filed if they are not filed first with the Katarungang Pambarangay.

<sup>46</sup> Murphy P. Mohammad & Nicanor C. Caingat, Barangay Justice System In Barangay Matatalaib, Tarlac City: An Evaluation (Abstract), *available at* <https://ideas.repec.org/p/vor/issues/2017-03-21.html> (last accessed Nov. 7, 2019). "The Barangay Justice System or Katarungang Pambarangay is a system for the amicable settlement of disputes at the barangay level. It aims to promote speedy administration of justice and to relieve the courts of conciliable criminal and civil cases. The Barangay Justice System is neither a court of justice nor a judicial tribunal where cases are heard and decided before a judge or a jury. It is an administrative body at the barangay level where community members may reconcile their differences without resorting to judicial process, thus avoiding protracted and expensive settlement of disputes before the court."

<sup>47</sup> An Act to Institutionalize the Use of an Alternative Dispute Resolution System in the Philippines and to Establish the Office for Alternative Dispute Resolution, and for other Purposes, Republic Act No. 9285 (2004).

<sup>48</sup> Official Gazette, The Judicial Branch, *supra* note 40. "Republic Act No. 9285 institutionalized the use of an alternative dispute resolution system, which serves to promote the speedy and impartial administration of justice and unclog the court dockets. This act shall be without prejudice to the adoption of the Supreme Court of any ADR system such as mediation, conciliation, arbitration or any combination thereof."

<sup>49</sup> EXPANDED SENIOR CITIZENS ACT OF 2010, § 6(g).

<sup>50</sup> PHIL. CONST. art. III, § 11.

<sup>51</sup> Republic Act No. 9406.

<sup>52</sup> *Id.* at § 2.

<sup>53</sup> Public Attorney's Office, Services, *available at* <http://www.pao.gov.ph/page.php?id=13> (last accessed Nov. 7, 2019).

<sup>54</sup> Public Attorney's Office, 2018 Accomplishment Report: Clients Served/Cases Handled, *available at* [http://www.pao.gov.ph/UserFiles/Public\\_Attorney's\\_Office/file/Clients%20Served-Cases%20Handled\(1\).pdf](http://www.pao.gov.ph/UserFiles/Public_Attorney's_Office/file/Clients%20Served-Cases%20Handled(1).pdf) (last accessed Nov. 7, 2019).

<sup>55</sup> Translation: Barangay Justice

<sup>56</sup> Presidential Decree No. 1508.

<sup>57</sup> An Act Providing for a Local Government Code of 1991 [Local Government Code of 1991], Republic Act No. 7160, tit. I, ch. 7, §§ 339-422.

<sup>58</sup> Office of the Ombudsman, Primer on Access to Justice, *available at* [http://www.ombudsman.gov.ph/UNDP4/wp-content/uploads/2013/01/Primer\\_Access\\_to\\_justice.pdf](http://www.ombudsman.gov.ph/UNDP4/wp-content/uploads/2013/01/Primer_Access_to_justice.pdf) (last accessed Nov. 7, 2019).

<sup>59</sup> *Id.*

<sup>60</sup> An Act to Institutionalize the Use of an Alternative Dispute Resolution System in the Philippines and to Establish the Office for Alternative Dispute Resolution, and for other Purposes, Republic Act No. 9285 (2004).

<sup>61</sup> *Id.* at § 3(a).

<sup>62</sup> *Id.* at § 3(b).

<sup>63</sup> Office of the President, Revoking Executive Order No. 523 (s. 2006) and Conferring upon the Office for Alternative Dispute Resolution the Management, Development, Coordination, and Oversight of Alternative Dispute Resolution Programs in the Executive Department, and for other Purposes, Executive Order No. 97, s. 2012 (Oct. 18, 2012).

<sup>64</sup>

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<sup>66</sup> Abogado Website, SC to strengthen Enhanced Justice on Wheels (EJOW) – Sereno, *available at* <https://abogado.com.ph/sc-to-strengthen-enhanced-justice-on-wheels-ejow-sereno/> (last accessed Nov. 7, 2019).

<sup>67</sup> Philippine Information Agency, Enhanced Justice on Wheels goes to South Cotabato, *available at* <https://pia.gov.ph/news/articles/1000110> (last accessed Nov. 7, 2019).

<sup>68</sup> Response from the representative of the Coalition of Services of the Elderly, Inc. during the CHRP Consultation-Workshop held on October 24, 2019.

<sup>69</sup> Philippine Information Agency, DSWD hails LGUs for implementing project versus elderly abuse, *available at* <https://pia.gov.ph/news/articles/1003185> (last accessed Nov. 7, 2019).

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> DOLE NLRC, About Us: Mandate, *available at* <http://www.nlrc.dole.gov.ph/> (last access Nov. 30, 2019).