



COMMISSION ON HUMAN RIGHTS
REPUBLIC OF THE PHILIPPINES

Inputs of the Commission on Human Rights of the Philippines on violence, abuse, and neglect of older persons to inform the forthcoming report of the Independent Expert on the human rights of older persons, Ms. Claudia Mahler, to the 54th session of the United Nations Human Rights Council

14 April 2023

Introduction

1. The Commission on Human Rights of the Philippines (hereinafter “CHRP”)¹ submits its written inputs to the Independent Expert on the human rights of older persons, Ms. Claudia Mahler, for her report on violence, abuse and neglect of older persons, which will be presented to the 54th regular session of the United Nations Human Rights Council.
2. The inputs from CHRP took into consideration reports from government, civil society, the media, the academe, and non-governmental organizations. This submission also utilized the CHRP reports and documentation of independent monitoring activities and statements, which were subjected to the internal deliberations of the CHRP Commission *en banc*.

Legal, Policy and Institutional Frameworks²

3. There is currently no legislation that specifically and explicitly addresses violence against older persons in general as described in Human Rights Council Resolution 33/5.³ Thus, there is a lack of a specific protective mechanism to prevent violence against older persons and targeted redress mechanisms for victims of such acts. There is also no systematic reporting and monitoring mechanism at the national level for acts of violence against older persons. To address this legislative gap, several bills that seek to protect older persons

¹ As the National Human Rights Institution (NHRI) of the Philippines, the Commission on Human Rights of the Philippines (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 CHRP has “A”-status accreditation from the Global Alliance of National Human Rights Institutions (GANHRI).

² Is there a non-discrimination law that prohibits discrimination based on age? Is there legislation on violence against persons and/or domestic violence that includes violence, abuse and/or neglect of older persons? Does the law establish a specialized independent body receiving complaints of discrimination based on age? Is there a national plan, policy or strategy to address violence against older persons, that is overseen by a national mechanism to monitor and implement it? Please provide detailed information and relevant documents, if applicable.

³ U.N. Human Rights Council, *Resolution adopted by the Human Rights Council on 29 September 2016*, para. 3, p. 2, U.N. Doc. A/HRC/RES/33/5 (2016), available at https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/33/5 (last accessed Mar. 28, 2023).

against violence, abuse, and neglect have been filed in both Houses of Congress (Senate⁴ and House of Representatives⁵). The CHRP has included the enactment of these bills in the list of priority legislative measures in its Human Rights Legislative Agenda for the past 17th and 18th Congresses and the present 19th Congress. Broadly, the anti-elder abuse bills pending in Congress seek to address all forms of violence, abuse, neglect, exploitation, and coercion, especially acts deleterious to the personal safety, security, and dignity of senior citizens in the Philippines, or any discriminatory act committed against them.⁶ The bills will define “elder abuse” and the consequent penalties for the commission thereof, mandate government agencies to provide mandatory programs and services to victims of elder abuse, and create a mechanism for redress which includes the provision of special protection units and the process for securing protection orders.⁷

4. In terms of discrimination on the basis of age, such is only explicitly prohibited by law in the area of employment, as provided in the Anti-Age Discrimination in Employment Act.⁸ Human rights advocates, including the CHRP, are pushing for the enactment of a comprehensive anti-discrimination legislation, which will prohibit discrimination on the basis of the protected attributes in international human rights law including age, as well as establish mechanisms to promote equality and prevent and protect persons from discrimination.⁹
5. There are, however, other laws that may cover violence against older persons although not explicitly and not in a comprehensive manner. These laws include the Magna Carta of Women,¹⁰ the Anti-Violence Against Women and Children Act,¹¹ and the Revised Penal Code.¹²
6. Specific to older women, the Magna Carta of Women has an explicit provision mandating the State to “protect women senior citizens from neglect, abandonment, domestic violence, abuse, exploitation, and discrimination”¹³ and to “ensure special protective mechanisms and support services against violence, sexual abuse, exploitation, and discrimination of older women.”¹⁴

⁴ There are five (5) Senate Bills on elder abuse in the 19th Congress available at https://legacy.senate.gov.ph/lis/leg_sys.aspx?congress=19&type=bill (last accessed Apr. 3, 2023).

⁵ There are 11 House Bills on elder abuse in the 19th Congress, available at <https://www.congress.gov.ph/legisdocs/?v=bills> (last accessed Apr. 3, 2023).

⁶ Commission on Human Rights, Position Paper on the Anti-Elder Abuse Bill, p.2 (Jun. 27, 2017), available at <https://chr.gov.ph/wp-content/uploads/2018/02/Position-Paper-on-the-Anti-Elder-Abuse-Bill.pdf> (last accessed Apr. 3, 2023).

⁷ *Id.*

⁸ 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), available at <https://www.officialgazette.gov.ph/2016/07/21/republic-act-no-10911/> (last accessed Feb. 21, 2023).

⁹ Commission on Human Rights, Position Paper on the Comprehensive Anti-Discrimination Bill at the House of Representatives, 18th Congress (Oct. 19, 2020), available at https://chr.gov.ph/wp-content/uploads/2020/11/SIGNED-Position-Paper_CADB_House-copy.pdf (last accessed Mar. 28, 2023).

¹⁰ An Act Providing for the Magna Carta of Women [Magna Carta of Women], Republic Act No. 9710 (2009), available at <https://www.officialgazette.gov.ph/2009/08/14/republic-act-no-9710/> (last accessed Mar. 28, 2023).

¹¹ An Act Defining Violence against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for other Purposes [Anti-Violence Against Women and Their Children Act of 2004], Republic Act No. 9262 (2004), available at <https://www.officialgazette.gov.ph/2004/03/08/republic-act-no-9262-s-2004/> (last accessed Mar. 30, 2023).

¹² An Act Revising the Penal Code and Other Penal Laws [Revised Penal Code], Act No. 3815 (1930), available at <https://www.officialgazette.gov.ph/1930/12/08/act-no-3815-s-1930/> (last accessed Mar. 28, 2023).

¹³ Magna Carta of Women, sec. 33.

¹⁴ *Id.*

7. Older women, although not explicitly, are also protected and can seek redress under the Anti-Violence against Women and Children Act. However, this law only applies to violence in the context of family environment and intimate partnerships as it defines “violence against women and their children” as “any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty.”¹⁵
8. The Inter-Agency Council on Violence Against Women and their Children (IACVAWC) was established to ensure the effective implementation of the Anti-Violence against Women and Children Act. It is an inter-agency body that leads the coordination and monitoring of activities under the law.¹⁶
9. The Revised Penal Code penalizes the commission of crimes against persons (i.e., parricide,¹⁷ murder,¹⁸ homicide,¹⁹ physical injuries,²⁰ and rape²¹), liberty (i.e., illegal detention,²² and slavery and servitude²³), security (i.e., threats and coercion²⁴), and property (i.e., robbery,²⁵ theft,²⁶ swindling and other deceits²⁷), which apply to all persons in the Philippines regardless of age. Acts of violence against older persons may be considered criminal acts under the Revised Penal Code. In this sense, older person victims of acts of violence may be placed under the protective mantle of the Philippine criminal justice system, including law enforcement, prosecution, judiciary, and penology.

Manifestations of Violence,²⁸ Intersectionality,²⁹ and Data³⁰

10. The abuse, violence and neglect faced by older people is an invisible issue. There is little data available on elder abuse due to underreporting and a dearth of research on the issue.

¹⁵ Anti-Violence Against Women and Their Children Act of 2004, sec. 3(a).

¹⁶ Philippine Commission on Women, Inter-Agency Council on Violence Against Women and their Children, *available at* <https://pcw.gov.ph/inter-agency-council-on-violence-against-women-and-their-children/> (last accessed Apr. 3, 2023).

¹⁷ Revised Penal Code, art. 246.

¹⁸ Revised Penal Code, art. 248.

¹⁹ Revised Penal Code, art. 249.

²⁰ Revised Penal Code, arts. 262-266.

²¹ Revised Penal Code, arts. 266-A - 266-D.

²² Revised Penal Code, arts. 267-268.

²³ Revised Penal Code, arts. 272 & 274.

²⁴ Revised Penal Code, arts. 282-289.

²⁵ Revised Penal Code, arts. 293-305.

²⁶ Revised Penal Code, arts. 308-311.

²⁷ Revised Penal Code, arts. 315-316 & 318.

²⁸ What forms of violence, abuse and neglect are older persons facing? In which settings does it happen? Please provide detailed information.

²⁹ How does violence, abuse and neglect affect specific groups of older persons (e.g. older women, older LGBTBI persons, older persons belonging to ethnic and indigenous groups, older refugees and internally displaced persons, older persons with disabilities, etc.) Please provide detailed information.

³⁰ Are data available at national and local level about violence, abuse and neglect of older persons? Are national surveys about violence including experiences of older persons? If available, please provide figures and data.

11. The invisibility of elder abuse does not mean that it is not taking place. One study conducted among urban poor communities in 2004 found that around 40% of older persons respondents have personally experienced abuse ranging from physical and verbal abuse, ridicule and discrimination, and negligence, with verbal abuse ranking as the most common type of abuse faced by older persons.³¹ Perpetrators of elder abuse are most often the children and other family members of older persons. Of those who experienced abuse, only 2% reported the incident to the authorities; 11% of victims turned to their families for support; and 21% sought no support or refuge.³² Research on elder abuse should be updated and specifically include their situations during the lockdowns at the height of the COVID-19 pandemic.

12. In an orientation-consultation on elder abuse in January 2021 organized by CHRP for internal staff, the resource person from the Coalition of Services of the Elderly, Inc. (COSE), a non-governmental organization specifically focused on the rights and welfare of older Filipinos, shared that elder abuse includes physical abuse, psychological abuse, financial or material abuse, sexual abuse, and neglect or abandonment, as per the definition by the World Health Organization.³³ It was noted that psychological abuse was the most common type of abuse in the Philippines, and often the most overlooked, and that financial or material abuse was also very common, especially for older Filipinos who receive social pension.³⁴ The following were also shared by the resource person from COSE:

- Risk factors are found in different levels: individual, relationship, community, and socio-cultural.
- Sometimes, those who have been abused before are more prone to be abused again. Cognitive problems are a factor as well, especially if the family does not know how to handle that problem. Low life satisfaction is another. Sometimes, older persons who generally do not feel satisfied with their lives are more abused. For ethnic minorities, their knowledge may at times be limited, making them susceptible to abuse. Other factors include substance abuse, being unmarried, or sharing living spaces with extended family.
- On the side of the perpetrator, the following usually get involved: people with mental or neurological disorder, those with caregiving burden, those with low education, males, those with history of violence perpetration, substance abusers, and those with low self-esteem.
- The risk factors on the relationship level is more commonly reported. These include low social support, especially if the older person is alone or only with one family member. Large size of the family and living with others or family also affect abuse. Last is the abuser's dependence on the older persons. Sometimes, those who need the older person are the very ones abusing him or her, especially with regard to financial or material resources.

³¹ Dr. Edna E. A. Co, *The Case of the Philippine Older Persons: Finding a Place in the Human Rights Domain* (June 17, 2014).

³² *Id.*

³³ Documentation Report by Human Rights Policy Advisory Office, Commission on Human Rights, *CHR Orientation-Consultation on Elder Abuse* (Jan. 27, 2021) (on file with author).

³⁴ *Id.*

- On the community level, risk factors involve urban residence, social isolation of caregivers and older persons especially if the older person is already bedridden, and lack of social support. This is why older persons' organizations are important.
- The media has reported examples of various forms of elder abuse, e.g., a woman physically abusing and beating an older man who suffered stroke; a caregiver roughly feeding an older woman; an older woman chained by her family; an older woman living in the streets alone; an older person being mistreated while being fed; an older woman getting beaten in a bus terminal; an older woman caged and being hit with a broom; and other abuse suffered by older persons during the COVID-19 lockdown.³⁵

13. Compounding the issue of underreporting, there is generally a lack of consensus on the definition of elder abuse which contributes to the lack of data for policy-makers to draw from.³⁶ To illustrate, the CHR has documented a total of 1,546 cases nationwide from January 2009 to May 2017 where the victim is 60 years old and above.³⁷ At first glance, this piece of data seems telling of the situation of older Filipinos, but this number does not actually provide for elder abuse alone (as contemplated in the various anti-elder abuse bills). Since there is no specific offense or definition of elder abuse, the case type documentation of CHR includes discrimination, developmental aggression, arbitrary deprivation of property, requests for financial assistance, domestic abuse, negligence, grave threats, harassment, physical injuries, torture, and killings where the circumstance of old age is not necessarily the attendant circumstance to the act of violence.³⁸

14. In a press statement on the occasion of the 2021 World Elder Abuse Awareness Day, the CHR noted that the invisibility of older persons in the justice system manifests in the lack of awareness of their legal rights, fear to report abuses, and the lack of legal remedies, among others.³⁹ In the case of many countries, including the Philippines, the absence of a law squarely addressing elder abuse, neglect, and exploitation adds to this invisibility.⁴⁰ There are also persisting barriers such as accessibility, affordability, reasonable accommodation, excessive delays and backlogs in judicial processes, impact of digitalization, cultural norms, gender bias, discrimination, and entrenched ageism in policy, norms and practices that further render justice to be elusive to older persons.⁴¹

15. Older women, in particular, are vulnerable to violence and abuse. They experience abuse and violence from family members, including being abandoned and forced to live on the streets. The Department of Social Welfare and Development (DSWD), in accordance with the Magna Carta of Women, recorded 4,332 cases of older women in need of special

³⁵ *Id.*

³⁶ CHR, Position Paper on the Anti-Elder Abuse Bill, at p.3.

³⁷ *Id.*

³⁸ *Id.*

³⁹ Statement by Commissioner Karen S. Gomez-Dumpit, Focal Commissioner on Ageing and the Human Rights of Older Persons, Commission on Human Rights, *On the Occasion of the 2021 World Elder Abuse Awareness Day* (June 15, 2021), available at <https://chr.gov.ph/statement-of-commissioner-karen-s-gomez-dumpit-focal-commissioner-on-ageing-and-the-human-rights-of-older-persons-on-the-occasion-of-the-2021-world-elder-abuse-awareness-day/> (last accessed Apr. 3, 2023).

⁴⁰ *Id.*

⁴¹ *Id.*

protection between the period of 2006–2010.⁴² Three-fourths of these cases (or 3,174) were served in the seventeen crisis intervention units of DSWD.⁴³ The DSWD is working on improving its accreditation requirements for facilities and institutions that cater to older persons who have experienced abuse.

16. The COVID-19 pandemic has exacerbated the experience by older persons of various acts of violence. In a consultation in October 2020 by HelpAge International on unequal treatment experienced by older persons in the Philippines during the COVID-19 pandemic, participants noted that government responses to restrict the mobility and access to public transportation specifically by older persons has had a significant impact on them⁴⁴ and that the “pandemic has exposed the inadequacy of many services, as well as the inequality of access to services among older people and the discrimination they can be subjected to,”⁴⁵

Access to Justice,⁴⁶ Access to Information,⁴⁷ and examples of good practices for preventing, monitoring and addressing violence and abuse against older persons

17. Addressing elder abuse was one of the priority areas under the Philippine Plan of Action for Senior Citizens (2012-2016), which stated that there is a “need to establish a reporting system and intervention to address the issue”. In line with this, in 2016, the DSWD pilot-tested a project dubbed as Reporting System and Prevention Program for Elder Abuse Cases (ReSPPEC) which aims to “protect the rights of older persons against all forms of abuse through the establishment of local reporting mechanisms and access to necessary services for their full rehabilitation and recovery”. Three local government units (LGUs) were recognized as partners for the pilot, namely: San Carlos City, Pangasinan in Region I; Lambunao, Iloilo in Region VI; Maco, Compostela Valley in Region XI; and Valenzuela City in the National Capital Region. According to DSWD, “ReSPPEC is a community-based project which strengthens partnership and networks between and among the senior citizens sector, stakeholders and partners to ensure holistic and efficient delivery of services to respond to elderly abuse cases in communities. The project aims to protect the rights of the elderly against all forms of abuse by capacitating implementers in detecting elder abuse and ways of preventing it, as well as the establishment of local reporting mechanisms in order to provide services for their full rehabilitation/recovery.”⁴⁸

⁴² Philippine Commission on Women, Women’s Empowerment, Development and Gender Equality Plan 2013-2016, p. 138, available at <https://library.pcw.gov.ph/womens-empowerment-development-and-gender-equality-edge-plan-2013-2016/> (last accessed Apr. 3, 2016).

⁴³ *Id.*

⁴⁴ HelpAge International, Unequal Treatment: What Older People Say About their Rights during the COVID-19 Pandemic - Country profile: The Philippines, p.1, available at <https://www.helpage.org/download/6040ada38832c/> (last accessed Apr. 3, 2023).

⁴⁵ *Id.*, at p. 2.

⁴⁶ How does the State fulfill its obligations to ensure older persons’ access justice, and to obtain remedies and reparations, when their human rights have been violated as a result of violence, abuse and neglect?

⁴⁷ How do you raise awareness about violence against older persons in the public? How does information about access to essential services (e.g. healthcare, legal assistance, social services, access to shelters) is made accessible and available for older persons?

⁴⁸ Letter from Helen Y. Suzara, Officer-In-Charge, Social Technology Bureau, Department of Social Welfare and Technology to Gemma F. Parojinog, Director, Human Rights Policy Advisory Office, Commission on Human Rights (Jan. 20, 2021) (on file with author).

18. During the orientation-consultation on elder abuse in January 2021 organized by CHRP for internal staff, the resource person from DSWD shared the following updates and the results of the pilot testing of ReSPPEC from 2016 to 2018:

- From 2016 to 2018, the DSWD pilot-tested the ReSPPEC. A handbook was created in 2015 as a guide for DSWD's pilot implementation.
- ReSPPEC focused on older persons suspected as or actual abuse victims; older persons at risk (those with degenerative diseases, left to care for grandchildren, or live alone); family members (if they need to be prosecuted or if simply support in caregiving); and suspected perpetrators or offenders. The pilot areas were selected based on the number of older persons residing there and those with cooperative LGUs.
- ReSPPEC is community-based. The needs of older persons are comprehensive so different stakeholders, and not only the family, were engaged.
- Its general objective is to protect the rights of the elderly against all forms of abuse by having the knowledge in detecting elder abuse and ways of preventing it, and the establishment of local reporting mechanisms and referral system in order to provide services for their full rehabilitation or recovery. The four important elements in the objective include: protection, detection (only a few know the warning signs), prevention, and reporting (many fear the repercussions in reporting).
- Its specific objectives are: to establish local reporting mechanisms in the management of elder abuse cases; to develop data banking system on elder abuse cases; to capacitate the people in the communities on how to recognize and report elder abuse; to provide support services not limited to psycho-social, economic, medical, and legal to the elder abuse victim-survivor and their families; to provide rehabilitation and support services for suspected abusers/offender to mitigate the effects of violence; and to intensify public awareness on elder abuse through advocacy activities.
- Data banking helps in profiling the older persons and monitoring the cases and results. A challenge faced by the DSWD was the indifference of the community so public awareness was a big part of its specific objectives.
- The project had several components, which include: creation of Protective Committee for Elders (PCSC); establishment of Barangay Elders' Information and Reporting or Elderly Help Desk; development of reporting mechanism for elder abuse; case management; elder abuse awareness and advocacy program; database system and documentation; referral network; capacity-building; monitoring; and technical assistance and evaluation.
- In 2015, the DSWD conducted its social preparation through meetings. The output of this step became the face of the program. Once the LGUs accepted the partnership, they held a signing of a Memorandum of Agreement and orientation. They held a planning workshop and identified the members of the Protective Committee for Senior Citizens (PCSC) on the barangay and municipal levels and civil society. Elderly help desks were also established. Senior citizen organizations were trained and encouraged to visit the other older persons to profile those at risk or abused.
- The DSWD also produced a handbook containing the reporting pathway to guide the protective committee. The reporting mechanism includes assessment, planning, delivery of services, monitoring of elder abuse cases, and documentation.

- Partner LGUs allocated funds as well for livelihood assistance and food assistance. They were also encouraged to have “Dalaw Kalinga” where doctors visit bedridden patients. Legal assistance was also provided to prosecute perpetrators of elder abuse.
- They found that some barangays refuse to record cases of elder abuse so the barangay would not be tagged with abuse cases. They instead categorized these older persons as elders at risk. As such, awareness was a large part of the program and done through forums, seminars, and IEC materials.
- It is vital to secure many agencies and support systems to end elder abuse. Sometimes, the caregivers only need to know that they are not alone, and that they can seek help. ReSPPEC also provided capability building to ensure that authorities can properly address elder abuse in their community. It included a home care project to teach family members and volunteers in taking care of bedridden or frail older persons.
- They found out that the creation of a PCSC is very important. Members of the PCSC even shared that it is a life-changing experience and that they connected more with their senior family members. They realized that older persons’ needs go further than their pension.
- The biggest challenge faced by the DSWD in pilot testing the project was the lack of a law on elder abuse. Some LGUs ask for legislative references to be able to allocate resources. Other challenges were breaking the silence or getting through to the older persons and their families, and the allocation of funds.
- Since 2019, DSWD has been promoting the adoption of the program in other LGUs. There were 20 additional LGUs that issued resolutions adopting the program in their localities.⁴⁹

19. In general, there are established mechanisms to enhance access to justice and access to information by older persons. This includes the mechanism under the Expanded Senior Citizens Act of 2010,⁵⁰ the Department of Justice, and alternative dispute resolution mechanisms.

20. The Expanded Senior Citizens Act of 2010 mandated the establishment of Office for Senior Citizens Affairs (OSCA) in all cities and municipalities. The OSCA is mandated to “assist senior citizens in filing complaints or charges against any individual, establishments, business entity, institution, or agency refusing to comply” with the Act.⁵¹ However, during a consultation organized by CHRP, representatives of civil society reported that there are several experiences of OSCAs that did not perform their legally mandated functions, with some that did not recognize the needs expressed by senior citizen groups.⁵²

⁴⁹ Documentation Report, *CHR Orientation-Consultation on Elder Abuse*, *supra* note 33.

⁵⁰ 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), available at <https://www.officialgazette.gov.ph/2010/02/15/republic-act-no-9994/> (last accessed Apr. 3, 2023).

⁵¹ *Id.*, at sec. 6(g).

⁵² Responses *by* participants *during the* “Consultation with Civil Society for the 13th Session of the United Nations Open-Ended Working Group on Ageing,” *through* Zoom (Feb. 7, 2023).

21. The Department of Justice maintains Action Centers in all regions of the country. These Centers act on complaints, requests for legal assistance, and queries of walk-in clients and callers, regardless of age.⁵³

22. Alternative dispute resolution (ADR) mechanisms are in place at all levels of the government. Every person, regardless of age, has access to the different ADR programs of the government, which include barangay justice (in the smallest political unit of the country), judicial ADR, and mediation and conciliation programs provided by different government agencies in different areas.

⁵³ Department of Justice, DOJ Action Centers (DOJAC), available at <https://www.doj.gov.ph/doj-action-center-dojac.html> (last accessed Feb. 16, 2023).