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Communication de la Commission des droits de l'homme des Philippines*

Note du Secrétariat

Le secrétariat du Conseil des droits de l'homme fait tenir ci-joint la communication soumise par la Commission des droits de l'homme des Philippines**, reproduite ci-après conformément à l'article 7 b) du Règlement intérieur figurant dans l'annexe de la résolution 5/1 du Conseil, qui dispose que la participation des institutions nationales des droits de l'homme s'exerce selon les modalités et les pratiques convenues par la Commission des droits de l'homme, notamment la résolution 2005/74 du 20 avril 2005.

* Institution nationale des droits de l'homme à laquelle l'Alliance globale des institutions nationales des droits de l'homme a accordé le statut d'accréditation « A ».

** La communication est reproduite en annexe telle qu'elle a été reçue, dans la langue de l'original seulement.



Annexe

Submission by the Philippines: Commission on Human Rights

Written Statement of the Commission on Human Rights of the Philippines to the Update of the United Nations High Commissioner for Human Rights on COVID-19

The Commission on Human Rights of the Philippines (CHRP) submits this written statement to the 45th Session of the UN Human Rights Council in response to the update of the UN High Commissioner for Human Rights on COVID-19. In this submission, we will focus on older persons and how COVID-19 has affected their enjoyment of their human rights, particularly in the Philippines, and how national human rights institutions, in coordination with the government, civil society, and the older persons sector, can contribute in responding to this human rights crisis. The recommendations submitted herein are taken from the document by the GANHRI Working Group on Ageing, entitled “Recommendations for National Human Rights Institutions in Protecting and Promoting the Human Rights of Older Persons Amid the COVID-19 Pandemic,” which was the outcome of the GANHRI webinar on June 22, 2020.

The World Health Organization (WHO) has identified older persons (or those 60 years old and above) as among the sectors who appear to be more vulnerable to becoming severely ill with the novel coronavirus. The data and trends are rapidly evolving as the infection spreads in more countries, as testing capacities in most countries increase, and as preventive and corrective response measures are implemented. In the Philippines, while infection rates across age groups are higher among younger populations, death rates are higher among older age groups, as seen in the figure below:



Source: Nationwide Cases Data as of September 6, 2020 by the Department of Health, Republic of the Philippines published online at <https://www.doh.gov.ph/covid19tracker>

Some older persons are more vulnerable to the COVID-19 because of physical reasons. For one, they don’t have as strong an immune system so they are more vulnerable to infectious disease.¹ They are also more likely to have conditions such as heart disease, lung disease,

¹ Kate Whiting of the World Economic Forum, An Expert Explains: How to Help Older People Through the COVID-19 Pandemic, Mar. 12, 2020, available at

diabetes or kidney disease, which weaken their body's ability to fight infectious disease.² In the country, a survey shows that older persons have a positive assessment of their health whilst growing up, with 68% claiming to have been very healthy, and 23% healthier than average.³ However, the prevalence of diagnosed illnesses is relatively high – hypertension has the highest prevalence at 46%, and diabetes, angina or myocardial infarction, and renal or urinary ailments are the next highest, although at much lower levels with all below 13%.⁴ In all, more than half (58%) of older Filipinos have at least one of the risky comorbidities for COVID-19.⁵

The vulnerability of some older persons to the COVID-19 is not entirely inherent to the consequences of an ageing body. Some older persons are also more vulnerable because of social and economic reasons. This includes an older person's socioeconomic status and source of income, living arrangements, dependency on daily support, and access to basic needs, health care, and useful information, among others. And because older persons are a heterogeneous group, the disease disproportionately affects the older poor, women, indigenous peoples, and persons with disabilities, among others.

Even without the current pandemic, some older Filipinos are economically vulnerable. According to official poverty estimates, 16% of older Filipinos are poor and a much larger proportion of older Filipinos live in a situation of economic insecurity just above the poverty line.⁶ Pension is not a source of economic viability for most older persons as more than a third receive no pension at all.⁷ Out of necessity, a number of older persons continue to engage in informal work (such as street vendors or tricycle drivers). Even among older persons aged 80 years and above, 7% continue to rely on earnings from work, mainly informal work, as a source of income.⁸ Older persons who rely on income from informal work are particularly vulnerable during these times because of the community quarantine, which has been imposed in the country's capital (Metro Manila) for more than five months now, physical distancing, and closure of businesses and transportation. Without income and without adequate support from the government, their right to be free from hunger, among other human rights, is in danger of being infringed.

Some older persons also have isolation and mobility challenges.⁹ In the Philippines, a survey shows that a considerable proportion of older persons (13%) live alone.¹⁰ The same survey shows that more than a fifth of older persons have difficulty performing at least one of the seven activities of daily living (or ADL which cover bathing and/or showering, dressing, eating, standing up from a bed or chair or sitting down on a chair, walking around

<https://www.weforum.org/agenda/2020/03/coronavirus-covid-19-elderly-older-people-health-risk/> (last accessed Mar. 27, 2020).

² *Id.*

³ Josefina N. Natividad, Chapter 4: Health Status, *in* Ageing and Health in the Philippines, at 48, available at <https://www.eria.org/publications/ageing-and-health-in-the-philippines/> (last accessed Mar. 27, 2020).

⁴ *Id.* at 50.

⁵ University of the Philippines Population Institution, Beyond the Numbers: COVID-19 and the Philippine Population (Research Brief No. 1, 26 March 2020), "COVID-19 and the Older Filipino Population: How many are at risk?", available at <https://www.uppi.upd.edu.ph/research/covid-19/rb1> (last accessed Apr. 6, 2020).

⁶ Philippine Statistics Authority.

⁷ Coalition of Services of the Elderly, Inc., The Feasibility of a Universal Social Pension in the Philippines, Janaury 2017, available at <http://cose.org.ph/uploads/files/4a03ff6ec1f67086b191894558b8471b.pdf> (last accessed Mar. 27, 2020).

⁸ Christian Joy P. Cruz, Chapter 7: Economic Well-Being, Ageing and Health in the Philippines, at 108, available at <https://www.eria.org/publications/ageing-and-health-in-the-philippines/> (last accessed Mar. 27, 2020).

⁹ Kate Whiting, *supra*.

¹⁰ Christian Joy P. Cruz and Grace T. Cruz, Chapter 3: Filipinos Older Persons, *in* Ageing and Health in the Philippines, at 36, available at <https://www.eria.org/publications/ageing-and-health-in-the-philippines/> (last accessed Mar. 27, 2020).

the house, going outside or leaving the house, and using the toilet).¹¹ With the suspension of mass transport, mobility to procure food and medicines or to visit the hospital for regular checkups for these older persons become especially challenging. Also, older persons who live alone may not receive updated information on what to do and how to protect themselves against the disease.

The imposition of strict 24-hour mandatory quarantine for older persons is also a challenge especially for older persons who head the households. With the changing family dynamics brought by increasing labor mobility, some grandparents are left as guardians and caregivers to their grandchildren, whose parents work far from home. Older persons who rely on daily income from work that necessitate going out of the house (such as a market vendor) and older persons who live with children who can't be entrusted to go outside unsupervised, face greater vulnerability to losing the ability to procure basic needs. In the Philippines, the policy imposing a 24-hour mandatory quarantine of older persons was immediately repealed after being called out as ageist and discriminatory.¹² Despite its repeal, implementation of the new policy which is less restrictive and that acknowledges older persons' need to go outside their residences for basic needs and for essential work and activities remains inconsistent. This led to the adoption by the Department of the Interior and Local Government of the Philippines of a policy (Memorandum Circular No. 2020-110) which mandated all local government units and peace and order frontliners to respect the freedom of movement of older persons while balancing the need to protect everyone against the disease while respecting the various circumstances that different older persons are in.¹³

With reports claiming incidence of domestic violence and neglect increasing during quarantine periods,¹⁴ a vast number of at-risk older persons – particularly those with advanced ages, disability, and who are care-dependent – will be imperiled. Around the world, there is emerging evidence that violence, abuse, and neglect of older persons increased due to the COVID-19 outbreak. In the country, we are still unaware of their actual situation within homes, institutions, and communities. However, news reports and reliable social media posts show how the vulnerability of many sectors has increased. The situation of older persons, who are vulnerable to violence, abuse, and neglect, is no different. Community quarantine measures forced vulnerable older persons to be isolated with potential abusers for a very long period of time. The stress, anxiety, and financial problems that the health crisis has brought to quarantined households further add to the risk of abuse. Police intervention, health and psychosocial services, and justice institutions that victims of abuse may avail of or resort to are either reduced or non-operational in some parts of the country. Older persons may also be isolated from social contacts, and may have difficulty accessing services which have migrated to digital platforms as they adjusted to the quarantine measures.

What can NHRIs do? Utilize the National Preventive Mechanism to monitor at-risk older persons inside residential care facilities. NHRIs who concurrently act as the National Preventive Mechanism need to strengthen its capacity to monitor older persons

¹¹ Grace T. Cruz and Sakuhiko Saito, Chapter 5: Functional Health, *in* Ageing and Health in the Philippines, at 78, available at <https://www.eria.org/publications/ageing-and-health-in-the-philippines/> (last accessed Mar. 27, 2020).

¹² Press Statement: Commissioner Karen S. Gomez-Dumpit, (Focal Commissioner on Aging and the Rights of Older Persons,) on the Simple Application of Chronological Age as Basis for Policy Response Against COVID-19, available at <http://chr.gov.ph/commissioner-karen-s-gomez-dumpit-focal-commissioner-on-aging-and-the-rights-of-older-persons-on-the-simple-application-of-chronological-age-as-basis-for-policy-response-against-covid-19/>.

¹³ Press Statement: Statement of Commissioner Karen S. Gomez Dumpit, Focal Commissioner on the Human Rights of Older Persons, on the Issuance of the DILG Memorandum Circular on the Mobility of Older Persons in Quarantine Situations, available at <http://chr.gov.ph/statement-of-commissioner-karen-s-gomez-dumpit-focal-commissioner-on-the-human-rights-of-older-persons-on-the-issuance-of-the-dilg-memorandum-circular-on-the-mobility-of-older-persons-in-quarantine/>.

¹⁴ Sonia Sambih, Covid-19 and the increase in domestic violence in Asia Pacific available at <https://www.eco-business.com/news/covid-19-and-the-increase-in-domestic-violence-in-asia-pacific/> (last accessed Apr. 3, 2020).

inside residential care facilities and nursing homes. Reports on the deplorable conditions inside these facilities amid the pandemic constitute inhuman and degrading treatment that have endangered the lives of many older people around the world. There is a need to utilize the mechanism to monitor the treatment of older persons within care facilities and make recommendations to State authorities, if needed, to ensure that health and safety measures are being implemented, essential supplies and support personnel are available, care workers have enough protective equipment and are not overburdened, and visitor policies balance the protection from health hazards with the need for social connection. *(From the GANHRI Working Group on Ageing 10-point recommendations)*

In addition to the physical, social, and economic reasons, the vulnerability of different older persons is also dependent, in part, to policy and institutional gaps, as well as, negative societal perceptions on the ageing sector.

Despite the clear heightened risk that this health situation poses on older persons, to date, existing guidance largely ignores this issue¹⁵ and lacks explicit standards on the management and mitigation of the risks and challenges faced by older persons.¹⁶ When Republic Act No. 11350 or the “National Commission of Senior Citizens (NCSC) Act” was enacted, the government instrumentality which it created was supposed to cover these policy gaps as the law mandates the NCSC to “formulate policies for the promotion and protection of the rights and well-being of senior citizens.”¹⁷ It is regretful that after the law’s enactment on July 25, 2019, the NCSC is still not yet fully organized and thus, cannot function as mandated.

*What can NHRIs do? **Ensure human rights principles and standards are translated and built into concrete policy language.*** NHRIs need to take the lead in ensuring policies and crisis response measures by Governments apply human rights principles and standards. In doing this, the language of human rights, in all its universal and generic formulation, must be translated into concrete and workable policy language that takes into account the pragmatic considerations of a country or locality. In making human rights-based recommendations to their Governments, NHRIs, as the bridge between international and national human rights laws, need to use a language that focuses on action, and that clearly identifies the responsible Government institution for and the target beneficiary of the action, the timeline within which the action shall be implemented, and the target outputs and outcomes of the action. *(From the GANHRI Working Group on Ageing 10-point recommendations)*

Enable the meaningful participation of older persons in all decision-making processes. Much like civil society, NHRIs play a critical role in bridging sectoral concerns to the decision-makers of the State. But unlike civil society, an NHRI, as a peer government institution, receives a certain degree of regard from officials of the Government. NHRIs should take advantage of this position and use it for the benefit of older persons who are often at the sidelines of governments’ agenda. Consulting older persons and conveying their concerns to the government is one thing, but enabling older persons themselves to have a meaningful participation in critical decision-making processes is another in areas of general concern and especially in areas that directly affect them. NHRIs may host dialogues between older persons representatives and key government institutions. Directly contacting government institutions to encourage them to include representatives from the sector in Task Forces and ad-hoc committees to combat COVID-19 may also be done. *(From the GANHRI Working Group on Ageing 10-point recommendations)*

Work together with NGOs and networks on the national, regional, and international level to make human rights a priority in the different areas of concern. Civil society,

¹⁵ Peter Lloyd-Sherlock, et. al., Bearing the Brunt of COVID-19: Older People in Low and Middle Income Countries, Mar. 13, 2020, *available at* <https://www.bmj.com/content/368/bmj.m1052> (last accessed Mar. 27, 2020).

¹⁶ Age International and HelpAge International, Older People and COVID-19 in Low- and Middle-Income Countries and Humanitarian Settings, Mar. 18, 2020 (on file with author).

¹⁷ An Act Creating the National Commission of Senior Citizens, Providing for its Functions, Abolishing the National Coordinating and Monitoring Board, Amending for the Purpose Republic Act No. 7432, as Amended, and Appropriating Funds Therefor, Republic Act No. 11350 (2019).

including NGOs and older persons' organizations and associations, has an important role to play in combating the global pandemic and in implementing recovery measures. Globally, there has been reported shrinking of civil society spaces which was exposed and worsened by the pandemic particularly in countries with autocratic regimes. NHRIs should ensure constructive support and alternative forms of civic engagement (e.g. digital civic engagement) to enhance the role of civil society in representation and advocacy, as a democratic watchdog, and as an essential link between the government and the citizens. This may be done by encouraging government institutions to include civil society participants in its meetings and activities and to give the latter space to voice out their concerns and recommendations. To address digital exclusion, especially in areas where community quarantine and lockdowns are still in place, NHRIs may use its own resources by physically reaching out to relevant groups and persons who have no ICT resources of their own. *(From the GANHRI Working Group on Ageing 10-point recommendations)*

In some jurisdictions, particularly in Europe, the pandemic has given rise to the proliferation of derogatory remarks and hate speech targeting older persons on social media.¹⁸ In others, misleading messaging that only older people are affected by the virus has led younger people to act recklessly and brush off government calls to practice physical distancing¹⁹ which in turn endangered the whole population in general, but more particularly, the at-risk sectors. These negative sentiments become more dangerous when applied in triage policies, where a society may collectively decide to deprioritize, or even exclude older patients from receiving appropriate health care and medical responses, especially in contexts where the health system of the country has been severely depleted and incapacitated.

In explaining the different risks faced by older people in this current health crisis, we emphasize that old age, in itself, does not necessarily equal vulnerability, and that the risks faced by different older persons are due, in part, to multiple, sometimes, compounded, factors. As such, we reiterate that crisis responses should take into consideration the differential needs and challenges faced by them as a “one-size-fits-all” response tends to overlook the specific, yet wide-ranging, risks faced by older people in emergency contexts. It should take into consideration data and information on the experiences of older persons in different contexts to enable evidence-based and human rights-based policy-making and implementation.

What can NHRIs do? Ensure high quality, accessible, open, timely and reliable disaggregated data and advocate for the mainstreaming of the rights of older persons among statistical bodies and institutions. Older people have the right to be visible and must not be excluded from data sets. However, data available usually lump people over 60 or 65 years of age together as a single homogeneous group. Disaggregated data will identify and characterize the population that are most vulnerable and provide a full picture of the impact of COVID-19 to older persons. NHRIs should promote standardization of data disaggregation to enable comparison and monitoring among relevant government institutions. NHRIs should advocate on: the use of five-year age band and removal of upper age cut-off in the disaggregation protocols; the disaggregation of data, at least, by age, sex and disability, and other critical dimensions such as co-morbidities, ethnicity, socio-economic status, household/family compositions and type of living quarters, for data driven decision making; and the promotion of the participation of older persons by having their representatives collect and interpret data. NHRIs should also advocate for the careful interpretation and reporting of data to ensure the protection of older persons particularly from ageist beliefs. Also, NHRIs should advocate for data on older persons to start from 50 years of age considering that 60+ years as a definition for older persons is arbitrary and

¹⁸ Council of Europe, Older Persons Need More Support than Ever in the Age of the Covid-19 Pandemic, *available at* https://www.coe.int/fr/web/commissioner/view/-/asset_publisher/ugj3i6qSEkhZ/content/older-persons-need-more-support-than-ever-in-the-age-of-the-covid-19-pandemic?_101_INSTANCE_ugj3i6qSEkhZ_languageId=en_GB (last accessed Mar. 27, 2020).

¹⁹ Michelle Fay Cortez, et. al., Bloomberg, Yes, Young People are Falling Seriously Ill from COVID-19, Mar. 19, 2020, *available at* <https://www.bloomberg.com/news/articles/2020-03-19/coronavirus-in-young-people-is-it-dangerous-data-show-it-can-be> (last accessed Mar. 27, 2020).

arguably discriminatory as it excludes people below that age who may also be subjected to ageism or discrimination on the basis of age. These protocols should also be practiced by NHRIs in their own data management mechanisms. In mainstreaming the rights of older persons in different areas of governance and public policy, NHRIs may also advocate for this among statistical bodies and institutions such as statistical commissions in the national level and in the UN, in the processes of the Titchfield City Group, and the various UN agencies that work on issues of disaggregating data in five-year cohorts and the like. *(From the GANHRI Working Group on Ageing 10-point recommendations)*

Apply intersectional analysis to acknowledge and address multiple grounds of discrimination. Certain groups of older persons face particular barriers arising from the intersection of age with gender, sexual orientation, race, ethnicity, religion, disability, culture, language, and socio-economic status. An intersectional approach acknowledges the complexity of discrimination older persons experience and takes into account the multiple and compounded disadvantages and inequalities they have experienced over their life course. As the pandemic affects older persons differently, this approach identifies who are most at risk and prevents blanket measures that are harmful and discriminatory. Interventions seeking to promote the welfare of older persons should be mindful of their heterogeneity and carefully take these differential conditions into account when designing programs or policies for them. NHRIs should ensure that they apply an intersectional approach in their work on the protection and promotion of the rights of older persons. *(From the GANHRI Working Group on Ageing 10-point recommendations)*

Make data on the rights of older persons visible such as in reporting on the gains and challenges towards attaining the Sustainable Development Goals. NHRIs should work towards ensuring the rights of older persons are taken into account by policy-makers, not only in relation to their right to health and right to social protection but also on rights affecting all aspects of their lives - including access to justice, poverty alleviation, food security, gender equality, and inclusive education, among others. This can be done by ensuring in advocating or reporting to relevant government institutions, the numbers representing the experiences of older persons are included and made visible, regardless of the proportion to the whole population. Also, with the SDGs as providing a holistic approach to achieving sustainable development for all, NHRIs should ensure that data and information on the rights of older persons are included in all reports on all goals. *(From the GANHRI Working Group on Ageing 10-point recommendations)*

The COVID-19 pandemic has brought to light how the rights of older persons are at risk of being violated whether in the context of a pandemic or on a regular basis. It has shown how the existing human rights frameworks have failed to fully consider the nuances of older age and how societies have remained complacent to the invisibility of older persons in the mechanisms for the protection and promotion of human rights. If there is anything positive that can be gained from this global crisis, it should be for States and inter-governmental bodies to give greater attention to the experiences, the situations, and the difficulties that older persons around the world, in different circumstances face on a daily basis. This can be facilitated most effectively by a UN convention that will provide a clear baseline to guide better policies, laws, services,²⁰ and monitoring and accountability mechanisms in the future.

²⁰ “Time for a UN Convention on the Rights of Older Persons: How the COVID-19 Pandemic Has Shown the Need to Protect Our Rights in Older Age” (August 2020) by Bridget Sleaf (principal author), Robin Allen, Andrew Byrnes, Israel Doron, Nena Georgantzi, and Bill Mitchell (co-authors).