



# Генеральная Ассамблея

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## Совет по правам человека

### Сорок шестая сессия

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Ежегодный доклад Верховного комиссара

Организации Объединенных Наций

по правам человека и доклады

Управления Верховного комиссара

и Генерального секретаря

## Письменное представление Комиссии по правам человека\* Филиппин

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\* Национальное правозащитное учреждение с аккредитационным статусом категории «А», присвоенным Глобальным альянсом национальных учреждений, занимающихся поощрением и защитой прав человека.

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## Statement of the Commission on Human Rights of the Philippines in relation to the Updates of the UN High Commissioner for Human Rights on the Impacts of the COVID-19 Pandemic to Human Rights

1. The Commission on Human Rights of the Philippines (CHRP) submits this written statement to the 46th Session of the UN Human Rights Council in response to the update of the UN High Commissioner for Human Rights on COVID-19. In a Written Statement submitted for the 45th Regular Session of the Human Rights Council in 2020, the CHRP highlighted the need to have a legally binding treaty in the UN Human Rights System that responds to the particular situation and context of older persons. Such binding treaty is envisioned to provide a clear baseline to guide better policies, laws, services,<sup>1</sup> and monitoring and accountability mechanisms in the future. In this submission, we will focus on the need to address the normative gaps pertaining to the human rights older persons, as highlighted by the COVID-19 pandemic, with a legally binding instrument
2. The COVID-19 pandemic highlighted the already existing vulnerabilities of older persons. Apart from the higher risk to their lives should they contract the coronavirus, social inequalities contribute to the disproportionate impact of the pandemic to older persons. As aptly identified by the High Commissioner, “the lack of social protection, access to health services, autonomy and participation in decision-making, as well as freedom from violence, abuse and neglect” remain to be critical gaps in human rights protection.<sup>2</sup> Stereotyping of older persons is another factor that negatively affects them.
3. Ageism, existing social structures, and societal practices contribute to the discrimination experienced by older persons and have led to or exacerbated violations of older persons’ rights during the pandemic.<sup>3</sup> This is true even in the Philippines, a country with a relatively young population where respect and care for older persons are ingrained in the culture.
4. Older persons are often stereotyped in terms of their physical capabilities – that all of them are weak, sickly, frail, and unproductive members of society. Even before the pandemic, these negative stereotypes have affected older persons’ access to work and employment opportunities. This affects their ability to sustain an adequate standard of living.
5. This was highlighted in the Philippine government’s COVID-10 response. In the early days of the COVID-19 pandemic, these same stereotypes found their way in the country’s national lockdown policies. Under the guise of protecting older persons from the COVID-19, the national government imposed a sweeping restriction on their mobility and their autonomy to decide for themselves. Senior citizens, along with minors, were prohibited from going outside their residences without exceptions, regardless of their health status, socio-economic conditions, or housing arrangements.<sup>4</sup> Even though this policy was subsequently revised to a less discriminatory and less restrictive one, where older persons were allowed to leave their homes for essential activities, local governments, law enforcement officers, and private establishments continued to implement the discriminatory policy. Older persons were also banned from some forms of public transportation to discourage them from going outside

<sup>1</sup> “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 Slep (principal author), Robin Allen, Andrew Byrnes, Israel Doron, Nena Georgantzi, and Bill Mitchell (co-authors).

<sup>2</sup> UN General Assembly, Impact of the coronavirus disease (COVID-19) pandemic on the enjoyment of human rights around the world, including good practices and areas of concern – Report of the United Nations High Commissioner on Human Rights, U.N. Doc. A/HRC/46/19, 18 January 2021, 38.

<sup>3</sup> Commission on Human Rights, Advisory On The Human Rights Of Older Filipinos Amid The Coronavirus Disease 2019 Pandemic, CHR (V) A2020-007, available at <http://chr.gov.ph/wp-content/uploads/2020/04/Advisory-on-the-Human-Rights-of-Older-Filipinos-amid-the-Coronavirus-Disease-2019-Pandemic-CHR-V-A2020-07.pdf> (last accessed 15 February 2021).

<sup>4</sup> Ibid. citing Philippine Daily Inquirer, 24-Hour Curfew Imposed on Seniors, Students in the Visayas, Mar. 23, 2020, available at <https://newsinfo.inquirer.net/1246787/24-hour-curfew-imposed-on-seniors-students-in-the-visayas> (last accessed 15 February 2021).

their homes. Instead of protecting them, this policy further endangered older persons because the ban left them with fewer transportation options.<sup>5</sup>

6. Poverty and related socio-economic realities also render older persons vulnerable. It bears reiterating from our prior Written Statement that 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.<sup>6</sup> Pension is not a source of economic viability for most older persons as more than a third receive no pension at all.<sup>7</sup> And even when they do, pension from government-run institutions alone is not enough to sustain their daily needs. Out of necessity, a number of older persons continue to engage in informal work. And due to the mobility restrictions brought about by the pandemic, many were not able to earn a living. Due to lockdown measures, the economic vulnerability of older persons working in the informal economy have worsened.

7. In other countries, older persons were vilified, became targets of hate speech, and blamed for the halting of economic activities. Lockdown measures have put older persons living at home or inside institutions at more risk of abuse, violence, and neglect. Inside care homes, older residents were neglected which led to countless deaths. In some jurisdictions, older persons were denied access to COVID-19 testing, life-saving measures, and vaccines because they are deemed to be less valuable members of society.

8. These just some human rights issues and concerns of older persons that need to be addressed. The COVID-19 pandemic brought to the fore how the international human rights system, in its current state, is inadequate to protect the rights of older persons.

9. Aging is a natural phenomenon, and ageism need not be a necessary consequence. Unfortunately, ageism is a persistent issue which older persons, of different backgrounds, face on a regular basis. Ageism deprives older persons of their right to live a dignified life. However, international human rights law does not formally define the thresholds that identify the situations in which the dignity of older persons is threatened or violated on account of their age.

10. Although discrimination on the basis of age is implied in the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), these appear to be inadequate to afford older persons the protection they need based on the specific nuances of older age. It is worth noting that many aspects in the life of an older person are compounded by their experiences when they were younger. We have yet to see this life-course perspective in the international human rights framework. We also need to define, in clearer terms, the specific obligations by duty-bearers pertaining to the rights of older persons.

11. International human rights laws play an important role in shaping national laws, policies, systems, processes, programs, services, activities, and attitudes that affect the lives of persons. Inadequate standards at the international level may result in varying and inconsistent implementation at the local level. On the other hand, norms and standards set forth by international instruments, when translated to domestic laws and policies, serve to benefit the populace that they target; in this case, older persons. Although the ICESCR and ICCPR apply to all persons regardless of age, there is a need to focus on the application of these general standards to the experience and realities of older persons around the world and to the ageing process.

<sup>5</sup> Commission on Human Rights, Inputs of the Commission on Human Rights of the Philippines to the Report to the General Assembly of the United Nations Independent Expert on the Enjoyment of All Human Rights by Older Persons, 5 June 2020, *available at* <https://www.ohchr.org/Documents/Issues/OlderPersons/Submissions/COVID-19/Commission-on-Human-Rights-Philippines.docx> (last accessed 15 February 2021).

<sup>6</sup> Philippine Statistics Authority.

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

12. Substantive discussions on the rights of older persons are inhibited by the lack of data and information on the lived experiences of older persons around the world. The lack of data disaggregated by age and other characteristics, such as gender and disability, prevents policy-makers and implementers from obtaining an accurate picture of how older persons enjoy their rights and how these rights are being violated. As a result, policies are not evidence-based and monitoring bodies, such as National Human Rights Institutions (NHRI), are unable to provide effective and more concrete recommendations for action by the State.

13. At present, there is no specific international mechanism that monitors how States are meeting their human rights obligations towards older persons. The UN treaty bodies, in the course of performing their monitoring function, also need to consider the human rights situation of older persons. Unfortunately, there is a dearth in the reporting of the issues and concerns of older persons that relate to the treaties and conventions they monitor.

14. Addressing the normative, implementation, information, and monitoring gaps in the international human rights system with respect to the rights of older persons should be part of the agenda of the international community in building back better from the COVID-19 pandemic. Without addressing these gaps, we will merely return to the status quo, even long after the pandemic is over, where societies are complacent about the invisibility of older persons in the mechanisms for the protection and promotion of human rights.

15. The CHRP is of the position that the best way to address these gaps is through the adoption of a convention within the UN human rights system that defines the specific rights of older persons and the corresponding obligations by duty-bearers, taking into account their lived realities and specific contexts brought about by their advanced age. Such an instrument provides a clear baselines, standards, and norms that serve to guide the crafting of better policies, laws, and services. A treaty also creates monitoring, reporting, and accountability mechanisms at the national and international levels. It facilitates the allocation of budget at the national level and the assignment of specific government agencies or units that will focus on the work to ensure the respect, protection, and fulfilment of the rights of older persons. Finally, a convention also recognizes older persons as rights-holders, and not mere recipients of aid, charity, and welfare. This brings to life the human rights-based approach in dealing with the issues and concerns of older persons. It exacts accountability from duty-bearer, while at the same time making older persons not than mere recipients, but rather stakeholders who are empowered and included in the human development discourse.

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