



COMMISSION ON HUMAN RIGHTS

HUMAN RIGHTS POLICY ADVISORY OFFICE

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REPUBLIC OF THE PHILIPPINES
COMMISSION ON HUMAN RIGHTS

POSITION PAPER ON PROPOSED HOUSE BILL NOS. 109, 897, 1917, 2096, 2579, 4297, 4538, 4696, 4818, 5019, 5116, 5444, 6160, 6301, and 6476 ON AN ACT PROTECTING SENIOR CITIZENS FROM ABUSE, DEFINING ABUSE OF SENIOR CITIZENS, AND PRESCRIBING PENALTIES THEREFOR

The Commission on Human Rights of the Philippines, as the national human rights institution of the country with Status "A" compliance with the Paris Principles, issues this Position Paper on the bills proposing to protect senior citizens from abuse, defining abuse of senior citizens¹ and prescribing penalties therefor. The Commission welcomes the opportunity to once again provide its comments on the proposed measure now before the 19th Congress of the House of Representatives. We, likewise, reiterate our full support for the enactment of a law that ensures the welfare of older persons and protects them from abuse and neglect given their status in Filipino society.

I. Background

In 2017, there were 962 million people over 60 years old globally.² According to the World Health Organization,³ in a review of 52 studies in 28 countries from diverse regions in the same year, around 1 in 6 people 60 years and older experienced some form of abuse in community settings. Moreover, rates of abuse of older persons are high in institutions such as nursing homes or long-term care facilities, with 2 in 3 staff reporting they have committed abuse in 2021. Since many countries are experiencing rapidly ageing populations, abuse of older persons is likewise predicted to increase.

In the Philippines, however, evidence of the extent of elder abuse in the whole country remains scant making it an invisible issue.⁴ Data are hardly

¹ In this position paper, we use senior citizens and older persons interchangeably.

² United Nations Department of Economic and Social Affairs, World Population Ageing 2017 Highlights, available at https://www.un.org/en/development/desa/population/publications/pdf/ageing/WPA2017_Highlights.pdf (last accessed 07 June 2023).

³ World Health Organization, Abuse of older people, available at <https://www.who.int/news-room/fact-sheets/detail/abuse-of-older-people>, (last accessed 29 May 2023).

⁴ Clarita R. Carlos, *Concerns of the Elderly in the Philippines*, 56 PHIL. SOC. SCI. REV. 1, 18 (1999). See also Ericson Peñalba, *Pandemic and Social Vulnerability: The Case of the Philippines*, in THE SOCIETAL IMPACTS OF COVID-19: A TRANSNATIONAL PERSPECTIVE (Veysel Bozkurt, et al. eds., 2021) available at [https://www.researchgate.net/profile/Veyssel-Bozkurt/publication/351956446_The_Societal_Impacts_of_Covid-](https://www.researchgate.net/profile/Veyssel-Bozkurt/publication/351956446_The_Societal_Impacts_of_Covid-19_in_the_Philippines)

available due to underreporting and limited research.⁵ Although the Department of Social Welfare and Development (DSWD) has established the Reporting System and Prevention Program for Elderly Abuse Cases (ReSPPEC) where victims or their representatives may report cases of elder abuse, its current implementation is only in selected regions, particularly Regions I, VI, XI, and NCR.⁶ As such, there currently is no program that is national in scope that can monitor the extent of elder abuse in the Philippines.

Moreover, elder abuse is not yet defined in our laws. At most, older persons who are subjected to different kinds of violence may only resort to the provisions of the Revised Penal Code, or if they are in intimate relationships and are women, the provisions of Republic Act (R.A.) No. 9262 or the Anti-Violence Against Women and Their Children Act. Although the acts of violence against them are covered in separate provisions of our laws, they are not enough to address the gravity of the abuse committed when the victim involves older persons.

We emphasize that it is in the culture of Filipinos to treat older persons with respect and deference, as evidenced by the traditional use of “pagmamano” where we obtain a blessing from older persons through putting the hand of an older person to one’s forehead and the use of the words “po” and “opo,” words used to indicate respect. We also avoid using the words “ikaw,” which can be considered a rude way of talking to older persons, and instead, use the word “kayo.” This can be traced back to early Philippine history when age was linked with wisdom, which was “a requirement for the highly respected position of datu or head of the village.”⁷ The datu would also consult a council of elders on matters of governance.⁸ Given the reverence we Filipinos give to older persons, the concept of elder abuse would indeed need appropriate legislation that addresses it specifically, which the proposed bills provide.

II. The Anti-Elder Abuse House Bills

On the definitions

The Commission commends the drafting of the definitions as found under Sec. 3 of the bill, particularly on elder abuse, which is defined as “a single or repeated act, or lack of appropriate action, occurring within any relationship or interaction by any person which causes harm or distress to a senior citizen. It includes any act or series of acts committed by any person against a senior citizen,

19 A Transnational Perspective/[links/60b214a492851cd0d9814654/The-Societal-Impacts-of-Covid-19-A-Transnational-Perspective.pdf#page=215](https://www.philstar.com/headlines/2020/06/15/2021057/invisible-issue-chr-urges-families-communities-report-cases-elder-abuse) (accessed 29 May 2023).

⁵ Gaea Cabico, ‘Invisible issue’: CHR urges families, communities to report cases of elder abuse, PHILSTAR, June 15, 2020, available at <https://www.philstar.com/headlines/2020/06/15/2021057/invisible-issue-chr-urges-families-communities-report-cases-elder-abuse> (last accessed 29 May 2023).

⁶ Department of Social Welfare and Development, ResPPEC: The Reporting and Prevention System Project Program for Elderly Abuse Cases, available at <https://stb.dswd.gov.ph/resppec/> (last accessed 30 May 2023).

⁷ Carmencita Del Villar, Correlations between cultural orientations and successful aging of Filipino elders, 7 (7) J. MEDIA COMMUN. STUD. 122, 126 (2015), available at <https://academicjournals.org/journal/JMCS/article-full-text-pdf/C298D3655357> (last accessed 08 June 2023).

⁸ *Id.*

within or outside the family abode, which result or is likely to result in physical violence, sexual, psychological or emotional, financial or material abuse, domestic violence, and neglect or abandonment” for being thorough, covering all forms of abuse against older persons. However, we wish for this to be expanded further to ensure clarity.

Section 3 on the definition of elder abuse and Section 4 on Acts of Violence

Similar to what is indicated in R.A. No. 9262, Section 3 (a) defining violence against women and their children, we can expand the definition of elder abuse, and avoid limiting the acts on how elder abuse can be committed. We suggest adding “it includes, but is not limited to, the following acts:” after the definition, and enumerating the forms of violence that may be committed.

We may add a definition for each kind of violence, similar to what is in R.A. No. 9262 such as: A. Physical Violence, B. Sexual Violence, C. Psychological or emotional violence, D. Financial or material abuse, E. Domestic Violence, F. Neglect, and D. Abandonment. We can then proceed to define each as follows:

- A. Physical violence refers to acts that include physical harm;
- B. Sexual violence refers to an act that is sexual in nature, committed against a senior citizen. It includes, but is not limited to:
 - a. Rape, sexual harassment, acts of lasciviousness, or forcing the senior citizen to live in the home with the mistress/paramour/lover;
 - b. Acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm, or threat of physical or other harm or coercion;
 - c. Prostituting the senior citizen
- C. Psychological or emotional violence refers to acts that include, but are not limited to shouting, swearing, scaring or humiliating a senior citizen through name-calling, ridicule, constant criticism, accusing, blaming, showing disrespect, ignoring or giving them the silent treatment, which may cause mental or emotional suffering or distress;
- D. Financial or material abuse refers to acts that make or attempt to make a senior citizen financially dependent which include but are not limited to the following:
 - a. withdrawal of financial support or preventing the victim from engaging in any legitimate profession, occupation, business or activity, except in cases of infirmity on the part of the senior citizen;

- b. deprivation or threat of deprivation of financial resources and the right to the use and enjoyment of the property owned by the senior citizen;
 - c. destroying household property belonging to the senior citizen;
 - d. controlling the victims' own money or properties;
- E. Domestic Violence refers to acts or threats of violence on a senior citizen committed by any of the following:
 - a. current or former spouse of the victim;
 - b. a person related by blood or marriage to the victim;
 - c. a person who is cohabiting with or has cohabited with the victim;
 - d. a person with whom the victim shares a child in common; or
 - e. a person who is or has been in a social relationship of romantic or intimate nature with the victim;
- F. For neglect, kindly see the proposed definition below; and
- G. Abandonment refers to leaving a senior citizen unattended at a place for a considerable length of time, as it may likely endanger the health and welfare of a senior citizen, by an individual who has assumed responsibility for providing care for the senior citizen, or by a person with custody of the senior citizen.

Defining neglect

We also wish to recommend defining neglect or abandonment to establish when there is such being committed against older persons. We can refer to the definition of neglect under R.A. No. 9523 where a neglected child is considered such when their “basic needs have been deliberately unattended or inadequately attended within three (3) continuous months.” However, since this considers adoption, further consideration can be made under Presidential Decree (P.D.) No. 603, which omits the period of three months in its definition of neglect, to wit: “one whose basic needs have been deliberately unattended or inadequately attended.” Furthermore, both laws consider neglect in two ways: “(a) There is physical neglect when the child is malnourished, ill-clad, and without proper shelter. A child is unattended when left by himself/herself without proper provisions and/or without proper supervision. (b) There is emotional neglect when the child is maltreated, raped, seduced, exploited, overworked, or made to work under conditions not conducive to good health; or is made to beg in the streets or public places; or when children are in moral danger, or exposed to gambling, prostitution, and other vices.”

Given the abovementioned, we recommend the following phrasing: “Neglect refers to when the basic needs of a senior citizen have been deliberately unattended or inadequately attended such that there are adverse effects on their health.” We propose to omit the two ways where neglect can occur as there are many things to consider when it comes to older persons, given that they have the right to

autonomy and independence. The circumstances of the older person need to be considered, particularly their capacity to act. As such, we have replaced the two instances with “adverse effects on their health.” Read in conjunction with the definition of elder abuse, the adverse effect may be on their physical, emotional, or mental health.

Section 4 on Acts of Violence

Section 4 which enumerates the “Acts of Violence” against older persons should use the definition of elder abuse under Section 3. We propose the following for the section:

SEC. 4. Acts of Violence Constituting Elder Abuse. — The crime of acts of violence against a senior citizen constituting elder abuse is committed through any of the following acts:

- a. Causing physical harm to the senior citizen;
- b. Threatening to cause physical harm to the senior citizen;
- c. Attempting to cause physical harm to the senior citizen;
- d. Placing the senior citizen in fear of imminent physical harm;
- e. Attempting to compel or compelling the senior citizen to engage in conduct which the senior citizen has the right to desist from or desist from conduct which the senior citizen has the right to engage in, or attempting to restrict or restricting the senior citizen’s freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the senior citizen. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the senior citizen’s movement or conduct:
 1. Depriving or threatening to deprive the senior citizen of financial support legally due him or her, or deliberately providing the senior citizen insufficient financial support;
 2. Depriving or threatening to deprive the senior citizen of a legal right;
 3. Preventing the senior citizen from engaging in any legitimate profession, occupation, business, or activity or controlling the victim's own money or properties;
- f. Inflicting or threatening to inflict physical harm on oneself for the purpose of controlling the senior citizen’s actions or decisions;
- g. Engaging in purposeful, knowing, or reckless conduct, personally or through another, that alarms or causes substantial emotional or psychological distress to the senior citizen. This shall include, but not be limited to, the following acts:
 1. Destroying the property and personal belongings or inflicting harm to animals or pets of the woman or her child; and
 2. Engaging in any form of harassment or violence;

3. Shouting, swearing, scaring, or humiliating a senior citizen through name-calling, ridicule, constant criticism, accusing, blaming, showing disrespect, ignoring or giving them the silent treatment, which may cause mental or emotional suffering or distress;

Styling of Section 14

Section 14 which refers to protection orders may be divided into several shorter provisions as follows: 1) types of protection orders; 2) reliefs provided by protection orders; 3) how to apply for a protection order; 4) form of the application for a protection order; 5) who may file a complaint and 6) filing fees.

Include a Monitoring and Evaluation Mechanism

We reiterate our comment on including a monitoring and evaluation mechanism that may be instituted to assess the effectiveness of the law to prevent elder abuse. We suggest including a mechanism similar to the Community-Based Monitoring System Act under Republic Act No. 11315, which collects data to conduct comprehensive poverty analysis. The Senior Citizen Help Desk may also collect such data to be reported to the LGU. We propose Section 11 to be revised as follows:

Sec. 11. Establishment of Senior Citizen Help Desk. – Every barangay shall establish a Senior Citizen Help Desk which shall provide immediate assistance to victim-survivors of abuse. It may also be manned by representatives of the senior citizen sector or by members of a local senior citizen organization designated and authorized by the Punong Barangay. **It shall, likewise, be enjoined to collect aggregated data involving elder abuse.**

Inclusion of Human Rights Education and Advocacy

To add preventative measures, our bill may also include a provision where the Commission on Human Rights shall be tasked to create a human rights education and advocacy program for the general public addressing the issue of anti-elder abuse. We propose the following section to be inserted:

Sec. xx. Establishment of Human Rights Education and Advocacy. The Commission on Human Rights shall establish a human rights education and advocacy program on anti-elder abuse in coordination with the National Commission of Senior Citizens, which shall be made accessible to the public.

Conclusion

We reiterate that the Commission fully supports the enactment of the bill on anti-elder abuse. While enacting legislation prohibiting elder abuse and providing

redress for such acts is a huge leap forward, it is also the obligation of the State to take other measures that create awareness and provide adequate social services that balance between integrating older persons into society while acknowledging their basic needs. Hence, we reiterate the need for the inclusion of measures that increase awareness among the public relating to the rights of older persons as well as elder abuse. We, likewise, reaffirm their rights to autonomy and independence while ensuring that they may be able to live a life with dignity and respect.

ISSUED this 25th day of July 2023, Quezon City, Philippines.



RICHARD P. PALPAL-LATOC
Chairperson



BEDA A. EPRES
Commissioner



FAYDAH M. DUMARPA
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Justice MONINA A. ZENAROSA (ret.)
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