

South East Asia National Human Rights Institutions Forum

Baseline Paper on the Rights of Older Persons in South East Asia

Executive Summary

The world is increasingly becoming an ageing world. The agenda for older persons have been invigorated recently as the world turned its attention to the plight of older persons. This paper provides information that is important for an understanding of the issues and concerns relating to the human rights of older persons in SEANF countries. The role of NHRIs will be crucial in formulating a regional mechanism for older persons' rights, and it is in this regard that an understanding of the situation of older persons is imperative. As to demographics, the number of older persons in the countries of the SEANF members are increasing. The countries are either ageing societies or have a substantial number of older persons. In all of the countries, there are also concerns for the ageing of the aged, and the feminization of ageing as most of those who are older persons are females. Females tend to outlive their male counterparts. There are issues and concerns of older persons that are specific to them: non-discrimination, independence, and challenges to the exercise of civil and political rights, as well as economic, social, and cultural rights of older persons (in particular, the right to health). As SEANF countries have support and assistance programs/projects/activities to promote and protect the rights of older persons, these may be further enhanced/improved in order to address the situations of older persons in South East Asia.

I. Introduction

A. The Beginnings and Development of the Engagement with the Rights of Older Persons of South East Asian National Human Rights Institutions

The world is becoming an increasingly ageing world. By 2050, for the first time, there will be more older persons than children under the age of 15 worldwide, and it is projected that the number of older persons will more than double from 900 million currently to nearly 2 billion. With the rapid increases in the elderly populations, and Asia having the region with the largest number of older persons, there is a need to advance the promotion and protection of their rights. The most frequently mentioned

rights are the rights to social protection, care, an adequate standard of living, equality and non-discrimination, dignity and integrity.¹

The promotion and protection of the human rights of all has been at the forefront of the agenda of national human rights institutions (NHRIs) in South East Asia. In early 2004, NHRIs in South East Asia, namely, Komisi Nasional Hak Asasi Manusia (Komnas HAM) of Indonesia, Suruhanjaya Hak Asasi Manusia (SUHAKAM) of Malaysia, Commission on Human Rights of the Philippines (CHRP), and National Human Rights Commission of Thailand (NHRCT) embarked on the process of establishing a South East Asian human rights mechanism. They have agreed to engage with matters relating to common human rights issues. This formed the basis for inter-border collaboration among the four (4) NHRIs. This was born out of their first formal meeting held in Bangkok, Thailand on 21 October 2004, and the second one in Kuala Lumpur, Malaysia on 15-17 March 2006.

In order to solidify their commitment to the promotion and protection of human rights in South East Asia, on their third meeting in Bali, Indonesia on 25-28 June 2007, the four NHRIs signed a Declaration of Cooperation. This reinforced strategic programs and activities on the five (5) human rights issues of common concern among human rights institutions: (a) suppression of terrorism while respecting human rights; (b) human rights aspects of trafficking of persons; (c) protection of the human rights of migrants and migrant workers; (d) promotion of economic, social and cultural rights and right to development; and (e) enhancement of human rights education. In addition, they have agreed to advice their respective governments to take necessary steps to establish an appropriate Association of South East Asian Nations (ASEAN) human rights mechanism and/or any organ within the ASEAN Charter.

During the fourth annual meeting in Manila, Philippines on 29-30 January 2008, the body agreed to adopt the ASEAN NHRI FORUM (ANF) as the official name by which the four NHRIs under the cooperation agreement shall be collectively known. The name reflects consultation and cooperation as the two key methods of engagement of the body. Successively, from 2009 to 2010, annual consultative meetings were held, and following the tradition of the ASEAN, changes of chairpersonship among the NHRIs using the alphabetical order of States. In 2009, on its sixth annual meeting, with the chairpersonship of Komnas Ham, a new name was adopted by the group, the South East Asia NHRI Forum (SEANF), to give emphasis to the geographical sub-region of the NHRIs as part of its identity. Afterwards, on the seventh annual meeting hosted by SUHAKAM, the Provedor de Direitos Humanos e Justica (PDHJ) of Timor Leste was added as the fifth member of SEANF. It was also during this event that the chairpersonship was handed over to CHRP until the eighth annual meeting on 18-19 October 2011 in Quezon City, Philippines. At this time, the establishment of a human rights commission in Myanmar was a significant progress. During the ninth annual meeting, hosted by NHRCT on 12-14 September 2012, the Myanmar Human Rights Commission became the sixth member of SEANF and the chairpersonship was then passed to PDHJ.

¹ Southeast Asia National Human Rights Forum, Statement on the Rights of Older Persons.

From 2013 to 2017, NHRIs in South East Asia have established and developed areas of human rights that they all aspire to engage with. One of these areas concerns the rights of older persons in the sub-region.

The SEANF states that in November 2014, during the Second World Human Rights Forum, a thematic forum on Old-Age Human Rights was organized by the NHRI of Morocco, the International Coordinating Committee (now Global Alliance of National Human Rights Institutions or GANHRI), and other key stakeholders. The Marrakesh Declaration, which recommends to build upon and advance the rights of older persons, was adopted. South East Asian NHRIs participated in the event. Yet, SEANF adds that despite the work and potential of NHRIs to contribute to the development of the international normative framework for the rights of older persons, NHRIs remain largely on the sidelines of the formal process at the international level. In 2015, the NHRI of Korea, ICC (GANHRI) and APF hosted the NHRI Special Session on the Role of NHRIs in promoting and protecting the rights of older persons where it was recommended that a GANHRI working group will hold a consultation process among all NHRIs to adopt an informed GANHRI position on an international binding instrument on the rights of older persons. Thereafter, in 2016, a sub-committee was convened last 14-15 June 2016 in Seoul, Korea to discuss the NHRIs' role.²

In April 2017, the CHRP, as chair, hosted the SEANF - First Technical Working Group with a special focus on migration and human rights. During this time, the group acknowledged that a parallel concern for older persons should also be in the agenda of NHRIs. Understanding the issues and concerns for the protection and promotion of the rights older persons was identified as a goal. In particular, the SEANF identified the rights of older persons as part of the agenda for its meetings/assemblies in the second semester of 2017.

The protection and promotion of the rights of older persons are an agreed priority activity of the SEANF who NHRI members come from six States in South East Asia. In order to understand the issues and concerns relating to the protection and promotion of the rights of older persons, CHRP as chairperson in charge of convening the SEANF and monitoring the implementation of activities in 2017, has developed this baseline paper on the rights of older persons in South East Asia. It is hoped that this paper will give benchmark information, collected from all NHRIs in South East Asia, as to the current situation of older persons in the sub-region. Also, it is envisioned that this paper provide the group information that will aid the group in identifying opportunities to protect and promote the rights of older persons and in forming strategic actions to ensure that their rights are respected.

B. Objectives of this Paper

This paper aims to provide information that is important for an understanding of the issues and concerns relating to the human rights of older persons in South East Asia.

² *Id.*

The paper will focus on the rights of such persons in the six South East Asian States that have representatives to the SEANF.

To fulfill this overall goal, based on information provided by the NHRIs which are members of the SEANF, this paper will present the following:

- Baseline information on the population and other demographic characteristics of older persons in South East Asia;
- Share information gathered on some key issues that older persons face; and
- Specify/enumerate the support and assistance available in the six countries of the member NHRIs of the SEANF in relation to the promotion and protection of the rights of older persons.

II. The rights of older persons: A general context

A. The United Nations Principles for Older Persons

At the international level, a number of policy documents have been adopted to strengthen the protection of older persons, such as the 1982 Vienna International Plan of Action on Ageing, the 1991 UN Principles for Older Persons, and the 2002 Madrid International Plan of Action on Ageing.³

In 1991, the United Nations General Assembly adopted the Principles for Older Persons. This became the reference for the actions that should be undertaken by the Member States to uphold the rights of older persons. These principles have five major features: independence, participation, care, self-fulfillment, and dignity.⁴

- First, independence on access to adequate food, water, shelter, clothing and health care through the provision of income, family and community support, and self-help. It also includes opportunity to work or to have access to other income-generating opportunities, and appropriate educational and training programs; to live in safe and adaptable environments to suit their personal preferences and changing capacities; and be able to reside at home for as long as possible.
- Second, participation means that older persons should remain integrated in society, and participate actively in the formulation and implementation of policies that directly affect their well-being and be able share their knowledge and skills with younger generations. In addition, they should be able to seek and develop opportunities for service to the community and to serve as volunteers in positions appropriate to their interests and capabilities, and to form movements or associations of older persons.
- Third, care for older persons as they should benefit from family and community care and protection in accordance with each society's system of cultural values.

³ *Id.*

⁴ United General Nations General Assembly Resolution No. 46/91, United Nations Principles for Older Persons, 16 December 1991.

Likewise, they should be accorded access to health care to help them to maintain or regain the optimum level of physical, mental and emotional well-being and to prevent or delay the onset of illness. Furthermore, there has to be access to social and legal services to enhance their autonomy, protection and care. Additionally, appropriate levels of institutional care providing protection, rehabilitation and social and mental stimulation in a humane and secure environment should be available. Still, older persons should be able to enjoy human rights and fundamental freedoms when residing in any shelter, care or treatment facility, including full respect for their dignity, beliefs, needs and privacy, and the right to make decisions about their care and the quality of their lives.

- Fourth is self-fulfillment for older persons. They should be able to pursue opportunities for the full development of their potential, and their access to educational, cultural, spiritual, and recreational resources of society.
- Fifth and last is dignity. Older persons should be able to live in dignity and security and be free from exploitation and physical or mental abuse. Further, they should be treated fairly regardless of age, gender, racial or ethnic background, disability or other status, and be valued independently of their economic contribution.⁵

Subsequently, after a decade of the adoption on the UN Principles for Older Persons, in April 2002, the Madrid International Plan of Action on Ageing (MIPAA) was unanimously adopted during the UN Second World Assembly on Ageing. The United Nations Second World Assembly on Ageing (Madrid, 8-12 April 2002) unanimously adopted the Madrid Political Declaration and International Plan of Action on Ageing. The World Health Organization's (WHO) contributions to the Assembly included the submission of a policy framework,⁶ and the formulation of regional action plans for implementing the International Plan, notably by the United Nations Economic Commission for Europe, the United Nations Economic and Social Commission for Asia and the Pacific, and the United Nations Economic Commission for Latin America and the Caribbean. Reports on the content of the policy framework and the outcomes of the Second World Assembly were submitted to the fifty-fifth World Health Assembly.

The General Assembly established an Open-Ended Working Group (OEWG) on Ageing, pursuant to Resolution No. 65/182 (2010) for the purpose of strengthening the protection of the human rights of older persons by considering existing international frameworks, and identifying possible gaps and how best to address them, including considering, as appropriate, the feasibility of further instruments and measures.⁷ There are divergent views among States. Some have expressed the need to utilize the existing international human rights framework, others have called for a new treaty for protecting

⁵ *Id.*

⁶ Third Regional Review of the Madrid International Plan of Action on Ageing, Bangkok, 14-15 June 2017; Progress Towards MIPAA Implementation, Ministry of Women, Family & Community Development, Malaysia.

⁷ United Nations General Assembly Resolution No. 65/182, Follow-up to the Second World Assembly on Ageing, 21 December 2010.

the rights of older persons because existing mechanisms do not sufficiently protect the older persons.⁸

Pursuant to Resolution No. 67/139 (2012), the OEWG on Ageing was requested to consider proposals for an international legal instrument to promote and protect the rights and dignity of older persons based on the holistic approach in the work carried out in the fields of social development, human rights, and non-discrimination, as well as gender equality and the empowerment of women. The Working Group was also requested to present to the General Assembly a proposal containing the main elements that should be included in an international legal instrument to promote and protect the rights and dignity of older persons, which are not currently addressed sufficiently by existing mechanisms. Regional commissions, the United Nations Department of Economic and Social Affairs (DESA) and other relevant parts of the United Nations were mandated to contribute to the work of the Open-ended Working Group on Ageing.⁹

In 2014, the United Nations also appointed an International Expert on the enjoyment of all human rights by older persons. The Independent Expert on the enjoyment of all human rights by older persons has presented her report to the Seventh Session of the Open-ended Working Group on Ageing in 2016. The independent expert called on States to step up their efforts to determine the best way to strengthen the protection of the human rights of older persons and to consider the various proposals that have been made, notably the elaboration of a convention on the rights of older persons.¹⁰

B. A Regional Mechanism in Asia and the Pacific

Asia and the Pacific is among the fastest ageing regions in the world. It is expected that by 2050, one-fourth of the total population in Asia and the Pacific will be sixty (60) years old or older (“older persons”). It is home to the most number of older persons in the world. Due to increased life expectancy and continuing fertility decline, all sub-regions in Asia and the Pacific are ageing. In East and North-East Asia, the fastest ageing sub-region, one-third of the population will be above 60, and in South Asia, persons above 60 will make up almost one-fifth of the population. In spite of older person’s increasing importance in the demographics of the region, rights of older persons are often inadequately considered in policies and programs. For example, in East Asia, only 18.5 per cent of the working-age population is covered by pension systems, and in South Asia, the number is only 7.5 per cent. Therefore, a large number of older persons has to continue working or is dependent on family support.

From 28 September to 1 October 1998, a regional meeting on a plan of action on ageing for Asia and the Pacific was convened by the Economic and Social Commission for Asia and Pacific Secretariat (UN-ESCAP) at Macao. The meeting adopted the Macao Declaration and Plan of Action on Ageing for Asia and the Pacific.

⁸ *Supra* note 1.

⁹ United Nations General Assembly Resolution No. 67/139, Towards a comprehensive and integral international legal instrument to promote and protect the rights and dignity of older persons, 20 December 2012.

¹⁰ *Supra* note 1.

A regional survey of national policies and programs on ageing was conducted by the ESCAP secretariat in June 2002. The findings from the survey were reviewed at the Asia-Pacific Seminar on Regional Follow-up to the Second World Assembly on Ageing (Shanghai, China, 23–26 September 2002). Priorities were identified, along with key actions to enhance the implementation of commitments made under the Madrid and Macao plans of action. It adopted the regional implementation strategy for the MIPAA 2002 and the Macao Plan of Action on Ageing for Asia and the Pacific 1999, known as the Shanghai Implementation Strategy.

The major areas for action recommended in the Shanghai Implementation Strategy were: (a) older persons and development; (b) advancing health and well-being into old age; (c) ensuring enabling and supportive environments; and (d) implementation and follow-up. In each area, key action points were identified for national and regional actions which take into consideration the results of the 2002 survey on ageing and national circumstances.

To review the recommendations of the MIPAA, the UN-ESCAP organized a regional meeting in Macao in 2007 and came out with the “The Macao Outcome Document of the High-Level Meeting on the Regional Review of the Implementation of the Madrid International Plan of Action on Ageing.”

The regional review of the MIPAA in 2011/2012 led to the adoption of the Bangkok Statement on the Asia-Pacific Review of the Implementation of the Madrid International Plan of Action on Ageing. Member States identified the following prevailing and emerging issues related to older persons: the need to expand social protection and health-care coverage; addressing the gender dimensions of ageing; enacting and enforcing specific legislation to protect the rights of older persons; and promoting employment opportunities for older persons. The social integration of older persons is a key element in combating the social isolation and ageism that can lead to discrimination. This includes, *inter alia*, access to work and employment, community and social participation, civil and political participation, access to goods and services, age-appropriate health care, housing and transportation, and long-term care.

In the ASEAN Human Rights Declaration of 2012, it is a general principle that every person is entitled to the rights and freedoms under the Declaration without discrimination on the ground of age.¹¹ In 2015, the ASEAN adopted the Kuala Lumpur Declaration on Ageing: Empowering Older Persons in ASEAN.¹²

C. The Role of the National Human Rights Institutions in the Protection and Promotion of the Rights of Older Persons

It is well recognized that NHRIs are independent bodies established to stand up for those in need of protection and to hold governments to account for their human rights obligations. They also aid in shaping laws, policies, and attitudes that create

¹¹ ASEAN Human Rights Declaration, General Principles, No. 2.

¹² ASEAN, Kuala Lumpur Declaration on Ageing: Empowering Older Persons in ASEAN, 21 November 2015.

stronger and fairer societies. An NHRI is either established by law or constitution to promote and protect human rights in a countries, although it operates and functions independently from government.¹³

According to the Asia Pacific Forum of NHRIs, strong and effective NHRIs help bridge the “protection gap” between the rights of individuals and the responsibilities of the State by:

- Monitoring the human rights situation in the country and the actions of the State;
- Providing advice to the State so that it can meet its international and domestic human rights commitments;
- Providing advice to the State so that it can meet its international and domestic human rights commitments;
- Receiving, investigation and resolving complaints of human rights violations;
- Undertaking human rights education programs for all sections of the community; and
- Engaging with international human rights community to raise pressing issues and advocate for recommendations that can be made to the State.

The Paris Principles relating to the status of national institutions (the Paris Principles) were adopted by NHRIs in 1991, They set out the minimum international standards for the roles and responsibilities of NHRIs, including the need for a broad mandate; guarantees of independence; autonomy from government; pluralism of members and staff; adequate powers of investigation; and adequate resources.¹⁴

In the Workshop on the Social Integration and Rights of Older Persons in the Asia-Pacific Region on 30 September - 2 October 2014, it was recognized that NHRIs have a unique role to place as the interface between the government and the civil society, and between the national and international level. It was also said that NHRIs are central to ensuring accountability of stakeholders, especially government institutions, and based on the observations resulting from the monitoring work of NHRIs they can take the lead in suggesting policy changes and raising inadequacies in the existing protection of the rights of older persons. The report on the workshop also stated that NHRIs could play a role in advocacy, highlighting publicly issues of concern.¹⁵

III. Situations of Older persons in SEANF Member States

A. The General Demographic Profile

¹³ Asia Pacific Forum of National Human Rights Institutions, What are national human rights institutions?, <http://www.asiapacificforum.net/support/what-are-nhris/> (last accessed 9 November 2017).

¹⁴ Office of the United Nations High Commissioner for Human Rights, National Human Rights Institutions: History, Principles, Roles and Responsibilities (2010), p. 31.

¹⁵ United Nations, Department of Economic and Social Affairs, Division for Social Policy and Development and United Nations Economic and Social Commission for Asia and the Pacific, Social Development Division, Social Integration and Rights of Older Persons in the Asia-Pacific region: Report of the Workshop (2014), p. 18.

The world's population is ageing, and it is estimated that almost 700 million people in the world, as of 2012, are over 60 years old.¹⁶ By 2050, according to United Nations statistics, the number of older persons will be twice the number of children in developed countries; and the number of older persons in developing countries will double.¹⁷ It is claimed that the world has witnessed tremendous human development over the last three decades resulting in an increased life expectancy.

In all countries of South East Asia, not only are the numbers of persons in older ages increasing but so is their share of the total population. This phenomenon, a hallmark of population ageing, is said to have started only several decades ago but is virtually certain to continue for decades to come.¹⁸ In **Indonesia**, the population (as of 2012) is 246.9 million. The life expectancy is at around 70 years old. The population of older persons or at least 60 years old will increase from 18.1 million in 2010 to 29.1 million in 2020 or approximately 11.4% of the total population. By 2025, it will be 36 million. In 2012, it is 23 million. Life expectancy has increasingly risen (45.7 years in 1970, 59.8 years in 1990, 69 years in 2008, 69.4 years in 2010, 70.07 years in 2013). The aged population will increase in proportion to the overall population from 7.4% (15.4 million in 1999) to 10-11% (30-40 million in 2020).¹⁹

In **Malaysia**, according to the Department of Statistics Malaysia in 2012, there are 2,438,700 older persons in Malaysia, and this number is predicted to increase due to, among others, improvements in the delivery of healthcare services.²⁰ The average life expectancy increased from 68 years old in 1980 to 75 years old in 2012. This longer life expectancy contributed to a steady rise in its older persons from 6.3% in 2000 to 8.2% out of the total population in 2012 (2.4 million out of 29.83 million). It is estimated that the number of older persons will be 5.5 million when Malaysia attains its developed country status in 2020, and by 2030, older persons are expected to constitute 15% of the total population. While it is a relatively young country with a young population, there is a necessity to be prepared and address increasing challenges and needs of senior citizens.²¹

In the Country Health Plan of Malaysia, the Ministry of Health Malaysia notes that while Malaysia has a relatively young population, the proportion of the population below the age of 15 years has decreased to 27.6% in 2010 compared with 33.3% in 2000. The proportion of people aged 65 years and above also increased to 5.1% (compared

¹⁶ Lake Tee Khaw, Human Rights Commission of Malaysia (Suhakam), Human Rights of Older Persons (Presentation), 22 March 2012.

¹⁷ Human Rights Commission of Malaysia (Suhakam), "Suhakam Commemorates International Day of Older Persons 2015 (Press Release)," 1 October 2015, p. 1.

¹⁸ John Knodel and HelpAge International, The Situation of Older Persons in Myanmar: Results from the 2012 Survey of Older Persons (2013), p. 3.

¹⁹ Makmur Sunusi, Ministry of Social Affairs, Republic of Indonesia, Inter-Generational Family and Community Support: Implication to Social Participation and Contribution of Older Person (Presentation), 12th ASEAN and Japan High Level Officials Meeting on Caring Societies, Tokyo, 21-23 October 2014.

²⁰ Human Rights Commission of Malaysia (Suhakam), Report on Care Services for Older Persons and Support for Caregivers (2015), p. 2.

²¹ Statement by H.E. Ambassador Hussein Haniff, Permanent Representative of Malaysia to the United Nations, Fifth Open-ended Working Group on Ageing, New York, 30 July 2014.

with 3.9% in 2000.) The median age increased from 23.6 years in 2000 to 26.2 years in 2010 although the dependency ratio dipped from 59.2% to 48.5%. The Ministry believes that the trend shows a transition of age structure towards ageing in Malaysia.²² Life expectancy in Malaysia has increased over the years (71.1 years for males and 76.46 years for females as of 2007).²³

As in other countries in South East Asia, the number of older people in **Myanmar** is increasingly rapidly, having quadrupled over the past 60 years. This is due to the decline in fertility, and to some extent, improved life expectancy. As of 2012, they account for 9% of the country's population (growing at a gradual pace during the last 50 years but will accelerate rapidly over the next four decades). The United Nations has projected that, by 2030, they will comprise 15% of the population and a quarter of the population by 2050. After 2035, older persons will outnumber children below 15 years old for the first time in known Myanmar history.²⁴ It should be noted that there was considerable uncertainty about the current size and age composition of the population in Myanmar because of the absence of a national census since 1983²⁵ (a census was conducted in 2014).

Government estimated the total population in 2010 at 59.8 million and the older population at 5.2 million. However, the United Nations estimate shows 48 million and 3.8 million, respectively. Nonetheless, it can be said that both figures peg the proportion of older people in the total population at around 8%. The United Nations has shown that the number of older persons has been steadily increasing for over half a century in Myanmar (more than doubled during the 30 years between 1950 and 1980 and almost quadrupled between 1950 and 2010). Population ageing has been happening since the 1960s, although at a "relatively modest pace with the exception of a distinct uptick between 2005 and 2010." Yet, in the coming years, this will become the beginning of rapid population ageing. By 2030, the percentage of older persons will almost double to 15%, and by 2050, 25% of the population. This is also similarly caused by lower fertility rates (2 births per woman in 2010) leading to lower proportion of childhood ages in the population as the proportion of the old increases. Life expectancy is also set to increase to almost 76 years by 2045. The number of those at advanced ages within the older population is also rising, especially expected after 2030.²⁶ The net result is population ageing as shown by the fact that the median age in Myanmar is rising (less than 20 years in 1970 to over 40 by 2050), the potential support ratio (ratio of the population aged 15 to 64 to aged 65 and older as indication of the relative size of the support base available to older persons) is shrinking from 14.5 persons in 1970 to about less than 3 persons by 2040.²⁷

²² Ministry of Health Malaysia, Country Health Plan: 10th Malaysia Plan (2011-2015) (2010), p. 4. The population of 2010 was at 28.3 million with an annual growth rate of 2.0 % for the period 2000-2010.

²³ *Id.*, at p. 8.

²⁴ *Supra* note 7, at p. v.

²⁵ *Id.*, at p. 4.

²⁶ *Id.*, at pp. 4-5.

²⁷ *Id.*, at p. 8.

In the **Philippines**, according to a report, older persons are increasing both in absolute numbers and in proportion to overall population increases. As of 2010, there are 6.23 million older persons in the country, representing 6.76% of the 92.1 million population of the Philippines. It is thus almost considered an ageing society. The number is expected to increase in the future with the percentage of the population who are over 60 reaching double digits by 2020 under the assumption of a moderate fertility and mortality decline.²⁸

The Philippines shows a consistency with its neighbors as to the fact that females (55.8%) outnumber males (44.2%) among older persons. Among older Filipino persons, women outlive men. The life expectancy of a man is 67.3 years, a woman is 72.9 years. Life expectancy among Filipinos at 60 years shows a slightly smaller gender difference, with women who have reached the age of 60 expecting to live to 80 and men to 76 and a half years old.²⁹

In **Thailand**, in the past several decades, it is one of the most successful countries in bringing down its fertility level within a short period of time (declined from over 6 births per woman in the mid 1960s to below 2 in the mid-1990s). In the same period, however, life expectancy at birth increased from 55.2 years to 69.9 years for men and 61.8 years to 74.9 years for women. Aside from the lowering of the growth rate, it is predicted that a major demographic consequence of this rapid fertility reduction is ageing of the population. The rapid increase in the absolute number of older persons will be dramatic. It is a result of past high fertility levels and substantial declines of mortality. From a pyramid population profile in the 1960s to a bell shape in 2000, it will be a vast shape in 2020.³⁰

As estimated by the United Nations in 1999, by 2050, there will be more than 74.1 million older persons in Thailand (up from around 46.7 million in 1980). There are three main characteristics noted: (1) considerable change in the age structure of the population, (2) rapid increase in the share of the older population, and (3) increase in the proportion of females in the older population. The number of older persons is also growing faster than the total population, implying a sharp increase in their number (proportion to the population at 8.7% in 2000 to 10.8% in 2010, 15.2% in 2020, and 30% in 2050). By absolute numbers, they will be around 11 million in 2020. It was predicted that Thailand would have become an ageing society in a decade from 1999. But within the older population, the older population itself is also ageing as the percent of older persons who are aged 75 years or older increases.³¹

This trend is seen to continue in the future. According to studies, since 1960, the number of older people in the Thai population has increased seven-fold from approximately 1.5 million to 10.7 million by 2015 or 16% of the total population. It is

²⁸ Coalition of Services of the Elderly, Commission on Human Rights of the Philippines, and Department of Social Welfare and Development, Human Rights Situation: Senior Citizens in the Philippines, November 2016, p. 4.

²⁹ *Id.*, at p. 6.

³⁰ World Health Organization, Developing Integrated Response of Health Care Systems to Rapid Population Ageing, Older Population and Health System: A Profile of Thailand (n.d.), pp. 19-21.

³¹ *Id.*, at pp. 21-23.

said that future population ageing will occur even more rapidly (over 20 million by 2035, at which point they will constitute over 30% of the population). Over the next few years, older persons will outnumber children under age 15 for the first time.³²

In **Timor Leste**, the situation is a bit different. Older persons over 60 years of age are said to represent only 6% of the population. However, almost one in three households have an older person in residence.³³ According to the International Labor Organization, despite the progress made since independence, poverty is widespread in Timor Leste and people experience reduced labor productivity and capacity, as they get older. Around 70% live in rural areas and many are engaged in production of their own food. Older persons and people with disabilities are priority groups given their vulnerable status.³⁴

Based on the above, it can be said that the number of older persons in the countries of the SEANF members are increasing. The countries are either ageing societies or have a substantial number of older persons. Lower fertility rates (except in Timor Leste) and higher life expectancy rates are factors in many of the countries. In all of the countries, there are also concerns for the ageing of the aged, and the feminization of ageing as most of those who are older persons are females. Females tend to outlive their male counterparts. Further, the population of older persons is expected to rise, even in countries with relatively young populations, thus, the issue of dependence. The phenomenon of ageing is expected to continue.

B. Issues and Concerns of Older Persons

Reports record the different issues and concerns of older persons in the countries of the SEANF members. Since the reports do not adopt a uniform category for listing down the issues and concerns of older persons, this paper considers the highlights of the reports on the following broad categories: (1) non-discrimination; (2) independence; (3) exercise of civil and political rights; and (4) exercise of economic, social, and cultural rights, with emphasis on the right to health. The categorization of this paper is not neat and there are issues and concerns that overlap with each other. However, the objective of this paper in providing an overview of the issues and concerns is achieved through the above categorization.

1. Non-discrimination

In the 2014, the Workshop on the Social Integration and Rights of Older Persons in the **Asia-Pacific Region** has highlighted the multiple discrimination experienced by older persons, especially by older women in employment, healthcare and social services

³² John Knodel, Bussarawan Teerawichitchainan, Vipan Prachuabmoh, and Wiraporn Pothisiri, *The Situation of Thailand's Older Population: An Update Based on the 2014 Survey of Older Persons in Thailand*, Population Studies Center, University of Michigan Institute of Social Research (2015), p. 2.

³³ International Labor Organization, Social Protection Department, *Timor-Leste: Universal old-age and disability pensions* (2016), p. 5.

³⁴ *Id.*, at p. 2.

provision, in addition to being subjugated to patriarchal traditions.³⁵

However, a range of discrimination laws exists in countries across Asia-Pacific, with some examples of specific efforts to legislate on age discrimination. Most had examples general non-discrimination frameworks that may be used to protect the rights of older persons.³⁶

In **Malaysia**, the inclusion of age as a ground upon which discrimination shall be prohibited in the Federal Constitution has been recommended.³⁷ There were reportedly no clear-cut laws on non-discrimination in Malaysia, and so, according to a study, the rights of older persons are not fully protected under the current applicable laws in Malaysia.³⁸ According to Tan Sri Hasmy Agam, older persons are often categorized as senile, rigid and old fashioned. There is a process of systematic stereotyping and discrimination against people because they are old, similar to those experienced in relation to racism and sexism. This makes them exposed to physical and mentally abuse.³⁹

Syarulnizam Salleh, Secretary of the Sabah Law Association, has emphasized that older persons are also discriminated in accessing financial services,⁴⁰ and because of the lack of resources in public hospitals, some are forced to wait longer to access medical services, leading to a perception that older persons are being discriminated against when in fact the issue is far reaching and prevalent throughout the health care system, every age group is affected, and government has taken steps to overcome this challenge.⁴¹ For his part, Dr. Ling How Kee of the Faculty of Social Sciences of UNIMAS has opined that some may face difficulties and discrimination in employment based on their age. This may be compounded by the reason that some facilities are not friendly to persons with disabilities.⁴²

In the **Philippines**, older people could be subjected to discrimination on the basis of age in combination with one or more other factors. The Philippine Commission on Women states that the most disadvantaged and marginalized senior citizens are senior women from urban slums, rural areas, indigenous communities, and Muslim communities; senior women in detention; senior women who live alone; and senior gay men, lesbians, and transgender persons who live alone.⁴³

Related to this, a study by Dr. Edna E.A. Co links discrimination to elder abuse. There is a lack of data and awareness on this. However, according to a study in 2004, 40% of respondents had personal experience of elder abuse, the most common type

³⁵ *Supra* note 15, at pp. 14-15.

³⁶ *Id.*, at p. 16.

³⁷ *Supra* note 17.

³⁸ *Supra* note 20, at p. 38.

³⁹ *Id.*, at p. 52.

⁴⁰ *Id.*, at p. 79.

⁴¹ *Id.*, at p. 81.

⁴² *Id.*, at p. 98.

⁴³ *Supra* note 28, at p. 10.

experienced being verbal abuse and the most common perpetrators being children followed by other family members. Abuse ranges from physical and verbal abuse, ridicule and discrimination, dependency of families to elder people and even negligence. Of those who experienced abuse, the report states that only 2% reported it to the authorities which clearly suggests that abuse is being perpetrated with impunity, and 11% of victims turned to family for support but 21% sought no support or refuge.⁴⁴

2. Independence

The independence of older persons remains a cross-cutting concern across all SEANF countries.

In **Indonesia**, the old dependency ratio as of 2010 is at 11.95%. According to Ministry of Social Affairs, among the more than 18 million ageing people in Indonesia, around 2.8 million are neglected, and 4.65 are vulnerable to be neglected. This leads to around 70% of the older persons being (possible) victims of violence.⁴⁵ The relationship between dependence and violence is established.

In **Malaysia**, while the median age has increased from 23.6 years in 2000 to 26.2 years in 2010, the dependency ratio has dropped from 59.2% to 48.5%. The government admits that the trend of these indicators is in line with the transition of age structure towards aging population of Malaysia.⁴⁶ With this, the major concern is the health of the adult population in the working age group that would need to support growing numbers of dependents. Because of this, the biggest challenge will be how best to prevent and postpone diseases and disability and to maintain the health, independence, and mobility of an ageing population.⁴⁷

Based on data provided by the Department of Social Welfare Malaysia, in 2012, there were nine abuse cases of older persons received by the Department via its hotline and the number increased to fourteen in 2013. While the reports are significantly low in number, when compared to the total population of older persons, cases may go unreported due to lack of awareness, limited mobility and over dependency needs of older persons on their caregivers.⁴⁸ Another problem is that community-based day centers for people with dependency needs are rare and the transportation to convey them to the centers is also a concern.⁴⁹

According to Dr. Rahimah Ibrahim of the Institute of Gerontology of UPM, there is also a lack of elderly-friendly infrastructure – which refers to physical environment that enables older persons to continue to function on despite disabilities – and the lack of products and services for older persons with diminished capacity to live

⁴⁴ *Id.*, at p. 38. Citing, Dr. Edna E. A. Co, The Case of the Philippine Older Persons: Finding a Place in the Human Rights Domain (Presentation), 17 June 2014.

⁴⁵ *Supra* note 19.

⁴⁶ *Supra* note 22, at p. 4.

⁴⁷ *Id.*, at p. 22-23.

⁴⁸ *Supra* note 20, at p. 7.

⁴⁹ *Id.*, at p. 37.

independently.⁵⁰ Datuk Wilfred Lingham, Vice President of Persatuan Warga Emas Sabah, highlighted the high cost of living that has made older persons to depend on working children for handouts.⁵¹

Within Malaysian society, there are now changes within the modern family system so much so that the care system for older persons and the traditional practice of having extended families to care for older persons are on a decline. The number of older persons resorting to or being referred to care services provided by the Government, non-governmental organizations, and private sectors has increased. However, older persons who are poor and with high dependency needs will rely on their family.⁵²

In **Myanmar**, the story seems to be a bit different. According to a survey, many older people in Myanmar remain active and independent. They work for income or else provide help around the home, thus, economically more productive. But, many others are still vulnerable and need assistance, especially as they age more. The family (particularly spouses and adult children) is the bedrock of care and support for older people in Myanmar. This reflects strong cultural traditions of filial responsibility and respect for elders. Yet, severe poverty is a problem. Also, demographic trends are said to pose serious challenges for the future, especially the inevitable decline in family sizes and likely increased migration of adult children as the economy expands and changes. However, the graver problem is, although small, the proportion of older persons who have no children, and this is expected to increase.⁵³

Overall, children are the main source of material support for just over 60% of older persons in Myanmar. This shows a situation of dependency. Older elderly and women are more likely to depend mainly on children than are the younger elderly or men. They are hence more vulnerable.⁵⁴ During the next two decades, it is predicted that there will be little change in the overall dependency ratio in Myanmar, which will remain at about 50 persons in dependent ages per 100 working age persons. However, according to the United Nations, starting around 2030, this overall dependency ratio will increase at an accelerating rate and reach 69 dependent age persons per 100 working age persons by 2050. The share of older persons in the total dependent age population will increase very substantially during the coming decades (24% in 2010 to 60% by 2050).⁵⁵

Similar to Malaysia, Myanmar also faces the problem of having fewer productive people in the future who can provide support to the dependents.⁵⁶

In the **Philippines**, since there is a marked absence of an adequate social security system, the family, specifically the children are the main source of old-age

⁵⁰ *Id.*, at p. 61.

⁵¹ *Id.*, at p. 76.

⁵² *Id.*, at p. 94.

⁵³ *Supra* note 18, at p. viii.

⁵⁴ *Id.*, at p. 31.

⁵⁵ *Id.*, at p. 7-8.

⁵⁶ *Id.*, at p. 2.

security (as in other countries in the sub-region). Studies reveal strong family ties are still very much apparent in the intergenerational exchange of support and co-residential arrangement between the senior citizens and at least one of their children.

The country relies on remittances in the absence of adequate social security. This increases older people's dependency on others and limits their autonomy. However, most older people want to be self-reliant, with 60% not planning to rely on children for financial support in their older age. Yet, in the absence of an adequate social security system, they often remain economically dependent on their children.⁵⁷

Notably, support for independent living and long-term care is also provided by more formal and trained care providers, but they are rarely available to older people because majority leave the Philippines and work overseas once they have been trained. Those who remain are unable to be afforded by the average older person.⁵⁸

Thai older people also have an increasing dependency rate. According to a report, the aged dependency levels, however, will steadily increase from about 13 older persons per 100 persons aged 15-59 at present to 16 per 100 in 2010 and 23 per 100 in 2020. The burden of support for older persons will thus become heavier. This includes health care costs and other social and economic supports. Like in other ASEAN societies, the economic condition of older women, particularly the unmarried, is least favorable. Women also tend to depend on children and receive more indirect support than men do.⁵⁹ It is common to think about diseases or health problems as affecting performance and increasing dependence status.⁶⁰

While Thailand's first and second generations of health system reform were supply-oriented, most Thais continued to depend on their own resources to pay for their health, and a public nursing home is not yet available in Thailand.⁶¹

A feature in Thai law is that the Criminal Code (Section 398) prescribes conviction and sentences on persons who commit acts of torture against children under 15 years of age, sick people or elderly persons who have to depend on them for subsistence or other affairs.

Families are also changing in Thailand. Living alone or only with a spouse increased steadily since 1986. Thais 60 and older that live independently doubled. According to a report, by 2014, 9% of older persons live alone and 19% live only with their spouse.⁶² Correspondingly, it says that self-assessed economic situations of older persons also show a modest improvement between 2011 and 2014, and persons 70 or

⁵⁷ *Supra* note 28, at p. 18. Citing, Philippine Study of Aging (PLSOA), 2007.

⁵⁸ *Id.*, at p. 32.

⁵⁹ *Supra* note 30, at p. 19.

⁶⁰ *Id.*, at p. 20.

⁶¹ *Id.*, at p. 27, 35.

⁶² *Supra* note 32, at p. 3.

older are more likely to depend mainly on government allowances.⁶³

However, it is to be pointed out that adult children remain important providers of material support as well as other forms of assistance to their older-age parents.⁶⁴ In fact, within the working age population, people in the ages of 40 to 54 forms the core of the labor force. They shoulder a double burden, that is, simultaneously supporting their children and their older parents.⁶⁵

Nonetheless, in **Timor Leste**, older persons have lower dependence compared to its peers. It will continue to be low for many decades to come since the Timorese birth rate remains one of the highest in the world. Also, before the establishment of a pension system, older persons and persons with disabilities fully continued to work or depends on their families for subsistence.⁶⁶

3. Exercise of Civil and Political Rights

The literature provided to the CHRP for the drafting of this paper does not point to an elaborate discussion of the issues and challenges surrounding the exercise of civil and political rights by older persons. Thus, based on the national surveys in SEANF countries, the issue of civil and political rights is not that covered in literature.

In the **Malaysian** survey, it was pointed out that the process of stereotyping and discrimination against older persons expose them to physical and mental abuse.⁶⁷ Per Dr. Rahimah, securing accurate data on cases of domestic violence against older persons is difficult. If at all, they may not depict the real situation due to the inability of older persons to access authorities. Ranuga Devy M. Packirisamy explains that if the victims are unable to lodge a report, a third party could do so, but they need to produce some tangible evidence. She opines that while physical abuses are visible and detectable by sight, psychological and emotional abuses require professional verification.⁶⁸ Dr. Ling How Kee highlights that women are more vulnerable to abuse and neglect, and all may suffer from economic abuses when they lose their properties to unscrupulous people (who may be their relatives).⁶⁹

In **Myanmar**, literature emphasizes the importance of the practice of the freedom of religion by older Myanmar residents since almost all older persons feel that religion is important (80%) in their lives, and most pray or meditate on a daily basis. It also offers informal social contact with persons outside the household, and it is quite common among older persons: three-fourths report that they socialize with friends, neighbors or nearby relatives on a daily basis.⁷⁰ There is not much issue with regard to

⁶³ *Id.*, at p. 4, 55.

⁶⁴ *Id.*, at p. 22-23.

⁶⁵ *Id.*, at p. 19.

⁶⁶ *Supra* note 33, at pp. 2, 5.

⁶⁷ *Supra* note 20, at p. 52.

⁶⁸ *Id.*, at p.70.

⁶⁹ *Id.*, at p.96, 98.

⁷⁰ *Supra* note 18, at 12, 18.

this aspect of freedom in their lives, according to the national survey.

However, as noted in the **Philippines**, freedom from violence and the exercise of mobility are issues. Similar to the situation in Malaysia, a key issue is the invisibility of elder abuse, compounded by the lack of data and awareness that it is happening. The survey points to a study in 2004 found that 40% of respondents had personal experience of elder abuse; the most common type experienced being verbal abuse and the most common perpetrators being children followed by other family members. The types of abuse are physical and verbal abuse, ridicule and discrimination, dependency of families to elder people and even negligence. Only 2% of the victims report to authorities, suggesting impunity. Some (11%) had turned to family for support but a greater number (21%) sought no support or refuge.⁷¹

The Philippine Commission on Women states that it is not uncommon in the Philippines to find elderly women experiencing abuse and violence from family members, including being abandoned and forced to live on the streets. From 2006 to 2010, for instance, the social welfare department recorded 4,332 cases of elderly women in need of special protection. Almost three-fourths (or 3,174) of them were served in the 17 crisis intervention units of the department.⁷² Another facet of elderly rights involves accessibility and personal mobility. A survey shows that out of 1,200 local government agencies screened nationwide, only 40 passed the criteria set for the minimum requirement for accessibility law.⁷³ While senior citizens in the Philippines are socially connected (like those in Myanmar), a study has revealed that they face barriers to participating in the decision-making at the local government level since the law does not require representation of older people on the legislative body while it does for other sections of society such as women, people with disabilities and workers.⁷⁴

4. Exercise of Economic, Social, and Cultural Rights

Much of the studies on elder rights in the SEANF countries deal with the socio-economic situation of older persons.

In **Indonesia**, as in any other country, older persons face physical challenges affecting socio-economic and cultural rights, especially the right to health. With age, they experience decline in the ability to move, to hear, to see, to smell, to feel and to remember, and have degenerative diseases. As an economic challenge, many experience poverty and decline of productivity. Socially, they may be neglected, feel lonely, and have limited social interactions and communities. An older person may also be robbed of managing properties and inheritance and be victims of fraud.

In addition, in Indonesia, according to Ministry of Social Affairs:

⁷¹ *Supra* note 28, at p. 38.

⁷² *Id.*

⁷³ *Id.*, at p. 39.

⁷⁴ *Id.*, at p. 35-37.

- They experience triple burden diseases: nutrition, metabolic, degenerative and infections, are on the rise, it means there will be an increased for health care cost.
- The economic growth lack behind the speedy increase of elderly. Since resources are limited, solving problems of the ageing population, do not get proper priority.
- The education of the present elderly is far beyond expectation. There are only 1.2% with university degree, 6,2% high school and elementary school, 28.2% with basic school. 63.2% do not enjoy formal education.
- Labour force. More than 50% of elderly are still working. 88.37% of men aged 60-64 and 75.48% of men aged 65+ are still working. While 59.66% women aged 60-64 and 46.03% women aged 65+ are still working.⁷⁵

In **Malaysia**, older persons face challenges relating to health care, social services, and community care; rapid urbanization and industrialization; changes to the family structure; and increase in the number of ageing women. Since the National Policy for the Elderly in 1995 (followed by the Action Plan in 1999) was drawn to ensure integration and participation of older persons in the development process, the implementation and impact have yet to be evaluated. The definition of who an older person is as regards retirement is a social issue. So are the adequacy of pension schemes, lack of skills for re-employment, long queues impairing health access and insufficient trained health personnel, among others.⁷⁶

The decline in family support to the elderly is an issue in Malaysia. It is also questionable if the number of care centers that ensure proper care for older persons, especially those with no family members or whose family is unable to provide care, is adequate.⁷⁷ In a report, the following issues and challenges affecting care services and caregivers were identified:

- Limited care centers for older persons,
- Limited mobility (for many older persons who have medical condition),
- No specific laws on older persons and incomprehensive laws on care centers for older persons,
- Access to healthcare services (long queues, shortages, lack of resources, etc.),
- Insufficient funding for care centers,
- The weak implementation of policies and unequal distribution of services,
- Lack of promotion of the rights of older persons, and
- Issues related to caregivers (*e.g.*, changing pattern of living arrangements, overburdened caregivers).⁷⁸

The health system is admittedly further strained by a rapidly ageing population, many with multiple and chronic illnesses. They use health services far more than younger people as they have higher prevalence of chronic diseases. According to the government, five most common morbidities among them are hypertension, diabetes, problems related to joints, respiratory system, and eye

⁷⁵ *Id.*, at pp. 37-41.

⁷⁶ *Supra* note 16.

⁷⁷ *Supra* note 20, at pp. 3-4.

⁷⁸ *Supra* note 19.

problem. However, the disease pattern among the elderly in Malaysia had changed from diseases associated with ageing to disease associated with life style, *i.e.*, hypertension, hypercholesterolemia, diabetes mellitus, and adult asthma. The percentage of elderly people being admitted to government hospitals has increased (more than 400,000 in 2008 or 20.3% of total admissions, compared to 2005). It is expected that the demand for medical services will exceed the rate of population growth, as the aged population is expected to grow at a disproportionate rate, consuming a large proportion of funds for health where it is estimated that about 30% to 60% of total health care cost will go towards the elderly. There is a concern also about the health of the adult population in the working age group that would need to support growing numbers of dependents.⁷⁹

Older persons in **Myanmar** face similar issues and challenges. According to the national survey, as regards their health, some of the concerns involve the following:

- Only 33% of older persons reported their health as good or very good. Reports of poor health increase significantly with age, from 17% to 32% between those aged 60-64 and those 80 and older.
- Poor memory is reported by 18% of older persons and increases from 14% to 26% between those aged 60-64 and those 80 and older.
- A large majority of older persons experienced one or more symptoms of ill health during the previous month, the most common being pain in their joints and spells of dizziness.
- Over one-third (35%) of respondents reported illness or injury during the past 12 months that prevented them from carrying out normal activities.
- 15% of respondents reported having problems hearing and 29% with vision; those who wore glasses reported better vision than those who did not.
- Overall, 52% reported at least one physical movement limitation, and 23% reported difficulty with at least one basic self-care related activity.
- Women report more problems than men with virtually all aspects of health.
- Although almost all older persons eat three or more meals a day, only 50% say they generally have enough to eat.
- Current alcohol use is quite low and limited almost entirely to men, but substantial minorities of both men and women use tobacco and betel.
- Almost all who were ill or injured in the past year received treatment, although 27% of those who went for treatment did not receive all the treatment they felt they needed.
- Only 12% of older persons went for a routine physical check-up in previous three years.⁸⁰

About 30% of older persons still work. Almost a third of those who did not work said that they would like to work. Yet, only a small share of older persons (7%), limited to mainly to urban residents, reported that they or their spouse receive a pension; less than 3% indicated that a pension was their main source of support. Over 80% of older

⁷⁹ *Supra* note 22, at p. 22-23.

⁸⁰ *Supra* note 18, at p. 88.

persons reported receiving some material support (income or goods) from adult children, and three-fifths cited children as their main source of support.⁸¹ It is alarming that substantial proportions of older persons live in poor quality housing with earth or bamboo floors and roofs and walls of non-permanent materials, especially in rural areas. Still the percentage that lives in households with roofs of permanent material is higher than a decade ago. Over one-third of the houses of older persons lack electricity, half living in rural areas. Most have no running water, especially in rural areas. A fifth either lack any toilet facility or use a primitive pit toilet with no pan. Drinking water is a problem for over a third of them. Household income is also typically very low (over 40% report household daily income of US\$2 per day).⁸²

In the **Philippines**, on occupation and work, of the total senior citizen working population, the majority are involved in low paying jobs. A study shows that although older persons derive income from two sources on the average, the median monthly income is meager, registering to P3000 per month, barely breaching poverty thresholds. Out of the 39% working senior citizens, only 29% actually receive earnings from work. This implies that many do not get paid for work.⁸³

On social security, a study reveals that only a fifth (19%) of elderly (60 years old and above) are covered by the 15 pension schemes in the Philippines. This is in spite of the fact that the Philippines has the most number of pension schemes in East and Southeast Asia, yet, the lowest in the region in terms of coverage.⁸⁴ Most elderly women from poor families have no pension as they were never formally employed. The law granting social pension for indigent older persons is, based on a study, confronted with the problem of selection and validation of beneficiaries. It is said that the system needs improvement with the enduring perception that many of the deserving poor are still excluded from the program while a number of well-off individuals benefit from it.⁸⁵ On poverty and adequate standard of living, evidence has suggested that older people who are better educated and have a higher income benefit from anti-poverty programs more than those in lower income brackets. Those who are richer and have a higher level of education are more aware and have better access to government programs especially the privilege of senior citizens. Others cannot access privileges altogether. The incidence of poverty among the old is high.⁸⁶

On health, the studies on older persons in the Philippines point to the following data, among others:

- Overall, 52% reported at least one physical movement limitation, and 23% reported difficulty with at least one basic self-care related activity.
- At least 15% has reported difficulty in performing at least one activity of daily living (ADL).

⁸¹ *Id.*, at p. 24.

⁸² *Id.*, at p. 34.

⁸³ *Supra* note 28, at p. 12-13.

⁸⁴ *Id.*, at p. 13-14.

⁸⁵ *Id.*, at p. 16-18.

⁸⁶ *Id.*, at p. 19-20.

- Older people reported greatest difficulty in standing or sitting on a chair or bed, going outside the house, and walking. The difficulty is higher among females than males. An age pattern was also apparent such that the level of disability significantly increases as age increases with noted dramatic increase in disability at age 80 years and above.
- Functional health is improving over time as shown by the decline of proportion who reported difficulty in performing ADL activities between 1996 and 2007.
- Female senior citizens have an advantage in terms of the number of years lived, but they experience greater disability than the male senior citizens.
- Other indicators of health status are sleep patterns, vision, hearing, and oral health. With regard to their sleep pattern, generally senior citizens are satisfied, but males experience less sleep problems than females. There are 6.9% males and 5.5% female who experience loss of vision with at least one eye. There are also those who lose hearing with at least one ear, of which 7.5% are males and 7.3% are females, mostly in ages 80 years and above. Oral health is important because people necessarily have to chew some of their food before they eat and be nourished. Their oral health care is poor as there is low number of remaining teeth especially in females.
- Mental health is also an issue of concern for both older men and women and is currently an un-met health need. According to the data 1 in 4 older people are depressed. This has been linked to poor health, lack of awareness among health care providers, older people themselves, their families and their care providers.
- Essential medicines are often unaffordable for older people. Despite discounts in the purchase of medicines, it is those who are already in a position to afford the medicine who benefit from this privilege. It has no beneficial effect on those who cannot afford to buy medication.
- Based on a study, 42% of drugstore personnel interviewed, said that senior citizens are still not able to buy their medicines completely because of lower incomes (or limited financial ability) and higher costs of medicines. Further, of all the senior citizens surveyed, less than 50% indicated that they were able to buy all their medications.
- Appropriate health care is also often unavailable. There seem to be lacking, medical practitioners proficient in geriatric care, considering the very small number of specialists currently working in the field of geriatrics and gerontology.
- Those aged 60 to 69 years of both sexes, have the highest percentage of 24.9% on unmet health care needs.⁸⁷

In **Thailand**, studies show that children and work are the two predominant sources of income for Thai older persons as only 4% of older persons receive regular income from pension. The older persons in urban areas had much higher income than those in rural areas. Compared with elderly men, elderly women are in a disadvantaged position but the economic condition of older women, particularly unmarried women, appears to be least favorable. Women are less financially independent than men. But 35% of Thai older persons have reported that their income was not adequate for

⁸⁷ *Id.*, at p. 26-31.

themselves and their family's expenses.⁸⁸

On the health of Thai older people, the following information is important:

- The age-specific mortality rates of Thai population except among the highest age group have been declining for more than four decades. However, age-specific mortality rates have increased with age, with the highest rate in the age group of 70+ years.
- According to the 1996 national data on mortality obtained from the Ministry of Public Health, 41 percent of Thai older men and 54 percent of Thai older women were recorded under "senility". Another 6-7 percent of both sexes were recorded as "unknown causes". Thus, more than 50 percent of the recorded causes of death of Thai older persons in 1996 were obscure.
- From the available data, heart failure and cerebrovascular diseases are common causes of death in both male and female older persons. Whereas accidents and cancers are common causes of death among older men; diabetes mellitus, hypertension and septicaemia are common causes of death among older women.
- The pattern of chronic diseases among Thai older persons is quite similar to that in developed countries.
- A study on healthy life expectancy of older persons suggested older persons that the well-being of Thai older persons has been increasing during 1986-1995. However, the perceived health status, which is used for calculation of healthy life expectancy, is influenced not only by physical and mental well-being but by also socio-economic well-being so the improvement of healthy life expectancy might be a result of social and economical development rather than a better state of health.
- Community hospitals and general hospitals are the main secondary health care organizations of Thailand. Rehabilitative services do not receive sufficient attention.
- The prevalence of long-term disability (6 months or longer), total disability (long-term plus short-term) and dependence status in self-care activities are high. Thai older women have a higher prevalence rate of disabilities and dependence than men in all age groups. The rate of disabilities increases with age.
- Most of very severe and severe disabilities are contributed to long-term disability. These findings suggest the health status of Thai older women is worse than that of Thai older men.
- A national survey conducted in 1997 also showed rather high prevalences of dependence in activities of daily living. The prevalence increased with age and was high among women compared to their male counterparts.⁸⁹

In **Timor Leste**, a report shows that despite being one of the youngest and poorest countries of the region, Timor-Leste has offered a universal social pension to its senior citizens and persons with disabilities since 2008. Almost all persons above 60 years and about one in five persons with disabilities participate in the scheme. The pensions support the well being of beneficiaries and contribute to reducing overall

⁸⁸ *Supra* note 30, at p. 19-20.

⁸⁹ *Id.*, at p. 20-24.

poverty. Poverty is widespread and people experience reduced labor productivity and capacity, as they get older.⁹⁰

IV. Support and Assistance Available in SEANF States in relation to the Promotion and Protection of the Rights of Older Persons

This section made use of the core thematic focus of the MIPPA as reference in the enumeration of support and assistance available among the six member countries of the SEANF in relation to the promotion and protection of the rights of older persons. The items in this baseline report are by no means comprehensive. However, the objective of an overall bird's eyeview would be achieved by this section. The matrixes below list the implementation initiatives of the SEANF members vis-à-vis the major focus of the MIPPA.

A. On Legislation and National Policies

Country and NHRI	Law/Policy
Indonesia Komisi Nasional Hak Asasi Manusia (Komnas HAM) of Indonesia	<p>Before MIPAA:</p> <ul style="list-style-type: none"> ▪ Law No. 13/1998 on Older Persons Welfare; and ▪ Law No. 39/1999 on Human Rights. <p>After MIPAA:</p> <ul style="list-style-type: none"> ▪ National Plan of Action for Older Person Welfare Guidelines in 2003. ▪ Government Regulation No. 43/2004 on Older Person Welfare Improvement Efforts. ▪ Presidential Decree No. 52/2004 on Formation of National/ Regional Commission. ▪ Presidential Decree 93/M/2005 on Appointment and Membership of National Commission for Older Persons period 2005-2008. ▪ Law No. 40/2004 on the National Social Security System (NSSS). ▪ Law No. 11/2009 on Social Welfare. 7. Law No. 13/2011 on Poverty Eradication. <p>National Commission for Older Persons (NCOP), with the following tasks:</p> <ul style="list-style-type: none"> ▪ To assist President in coordination of implementation efforts to increase social welfare; ▪ To provide recommendation and consideration in developing policy on efforts to improve older person social welfare. ▪ In implementation of its tasks, NCOP can cooperate

⁹⁰ See, *Supra* note 33.

	<p>with government agencies, community, experts, international organizations and other necessary parties.</p> <p>Monitoring Framework of NPA on Ageing-Monitoring and evaluation of NPA involves:</p> <ul style="list-style-type: none"> ▪ Central government; ▪ Local government; and ▪ Older people associations
<p>Malaysia</p> <p>SUHAKAM</p>	<ul style="list-style-type: none"> ▪ National Policy and Plan of Action for Older Persons (1995, 2011) –Strategies: lifelong learning; promotion and advocacy ▪ National Health Policy & Plan of Action for Older Persons (2008) Strategies: health promotion, comprehensive health care services, HR development, information system, R&D, collaboration and legislation ▪ National Advisory and Consultative Council for the Older Persons ▪ Implementation and Coordination of policies and action plans: State Action Council and District/Local Authority Action Council (Committee for Development of Older Persons) ▪ Community & NGOs, and Private integration and participation
<p>Myanmar</p> <p>Myanmar National Human Rights Commission (MNHRC)</p>	<ul style="list-style-type: none"> ▪ Government is in process of appointing the National Committee for Older Persons in terms of the Law. The draft Policy, Action Plan and the Rules will be taken up by the Committee for discussions before submission to the Cabinet. ▪ Significant progress in last 4 years: <ul style="list-style-type: none"> - 2017: Rules for the implementation of the Law is now being finalised with legal expertise - 2016: The Law Relating to Older Persons enacted by both Houses of Parliament - A draft 20-year National Policy on Ageing is being finalised for submission to the Cabinet ▪ 2014 Action Plan is being reviewed. <ul style="list-style-type: none"> - A new 5-year Action Plan is being discussed - National Action Plan on Ageing approved by the Cabinet
<p>Philippines</p> <p>Commission on Human Rights (CHR/CHRP)</p>	<ul style="list-style-type: none"> ▪ Developed the Human Rights Situationer of Older Persons in the Philippines (in partnership with Coalition of Services of the Elderly and the Department of Social Welfare and Development) ▪ Advocacy efforts for the passage of the “Anti-Elderly Abuse Bill” ▪ RA 10645-Mandatory PhilHealth coverage of all senior

	<p>citizens</p> <ul style="list-style-type: none"> ▪ RA 9994-Granting additional benefits and privileges to senior citizens ▪ General Appropriations Act 2015: Programs and Projects related to Senior Citizens and Persons with Disability ▪ Implementation of the Philippine Plan of Action for Senior Citizens (PPASC) ▪ Other government issuances providing additional legal bases, supporting programs and services for older persons are: a) Executive Order No. 105, Series of 2003, b) Presidential Proclamation No. 1048, Series of 1999, and c) Presidential Proclamation No. 470, Series of 1994 ▪ The 1987 Philippine Constitution (contains policies for the elderly)
Thailand National Human Rights Commission of Thailand (NHRCT)	<ul style="list-style-type: none"> ▪ The 1st National Plan on Older Persons: 1982 -2001 ▪ Thailand Declaration on Older Persons: 1999 (UN International Year of Older Persons) ▪ The 2nd National Plan on Older Persons: 2002-2021 (National Strategic Plan, revised 2009) ▪ The Act on Older Persons: 2003 (Comprehensive welfare services) ▪ Older Persons National survey (Every 5 years)
Timor Leste Provedor de Direitos Humanos e Justica (PDHJ)	<ul style="list-style-type: none"> ▪ Decree-Law no. 19/2008 of 19 June 2008 regarding Support Allowance for the Elderly and Persons with Disabilities ▪ The Ministry of Social Solidarity has the overall responsibility for the elderly support scheme, as provided for in article 10 of Decree-Law no. 19/2008

The initiatives/laws/policies as shown above are proof that the NHRIs among the SEANF members are already responsive to the call of promoting and protecting elder rights. However, there may still be gaps in their implementation and more could be done to promote the rights of older persons as indicated by a review of the situation of older persons in SEAF countries.

B. Older Persons and Development

Country/NHRI	Plan/Action/Initiative
Komisi Nasional Hak Asasi Manusia (Komnas HAM) of Indonesia	<p>National Plan of Action (NPA) on Ageing and its Objectives:</p> <ul style="list-style-type: none"> ▪ Political support of policy maker, NGOs, community and religious leaders as well as experts in ageing in efforts to improve older person welfare; ▪ Create informal support for older persons by maintaining family and community support for older population;

	<ul style="list-style-type: none"> ▪ Create formal support for older persons by increasing improvement in health services and development of system in protection and social security for older persons; ▪ Establish reinforcement of older person institutions through improving inter sector cooperation at national and international levels; and ▪ Role of older persons in family life as well as community, nation and state <p>NPA on Ageing and Gender Concerns:</p> <ul style="list-style-type: none"> ▪ Mainstreaming older women in development sector; ▪ Identifying sector programs that are age-friendly; ▪ Inter sector meetings on mainstreaming older women in development programs; <p>Monitoring and evaluation:</p> <ul style="list-style-type: none"> ▪ Increase sensitivity and Community Awareness on Older Women (equality to men); ▪ Public Education through published media; ▪ Public education through mass media; ▪ Solidifying institutions and networking as well as age-friendly community; ▪ Affirmative action for older women; ▪ Education is implemented through education and skills program for older women; ▪ Health is implemented through activities of health insurance for older persons; and ▪ Economy is implemented through activities of economic empowerment
SUHAKAM, Malaysia	<p>Financial Assistance -the Bantuan Orang Tua (Assistance for Older Persons) of the Department of Social Welfare:</p> <ul style="list-style-type: none"> ▪ provides a monthly cash allowance of RM300 to older persons from low income families ▪ the objective is to increase the quality of life of Poor Elderly for better living and to remain them in their families/ communities ▪ Development of a National Social Protection Blueprint through Malaysia Social Protection Council
Myanmar National Human Rights Commission (MNHRC)	<p>Main focus: Social protection</p> <ul style="list-style-type: none"> ▪ 2014: Myanmar National Social Protection Strategic Plan (NSPSP) approved. NSPSP has two flagship programmes re. older persons: Social Pension and promotion of Older People’s Self-Help Groups (OPSHGs). ▪ 2015 – 2016: One-off cash transfers to older persons above 100 years and 90 years by government. Social pension pilots by HelpAge & DSW with LIFT support to gain experience and develop delivery systems

	<ul style="list-style-type: none"> ▪ 2017: First national universal social pension will commence in June for older persons above 90 years with government budget for FY 2017-18 of approximately 4.2 Billion MMK
Commission on Human Rights of the Philippines (CHRP)	<p>Monitor implementation of some Institutional mechanisms:</p> <ul style="list-style-type: none"> -Office of the Senior Citizens Affairs (OSCA) -National/Regional Coordinating and Monitoring Board (N/R/CMB) <p>Protective Services for Senior Citizens:</p> <ul style="list-style-type: none"> - Center based services (residential care centers/institutions) - Community based services (Home Care Support Services for Senior Citizens, Foster Care Home Programs, Intergenerational program for senior citizens and children, assistance to individuals in crisis situations, social pension for indigent senior citizens & assistance during disasters)
National Human Rights Commission of Thailand (NHRCT)	<ul style="list-style-type: none"> ▪ Older Persons Participation (OPA, OP Clubs, OP Schools, OP Centers, OP Brain Bank) ▪ Employment/Re-employment (Extend years of retirement : Gov't/Private sectors) ▪ Income Security (Old Age Allowance, Old Age Insurance, National Saving Fund, OP Fund)
Provedor de Direitos Humanos e Justica (PDHJ) of Timor Leste	<ul style="list-style-type: none"> ▪ Social Assistance for the elderly (e.g., non-contributory basic allowances for the elderly, old-age allowances) Health assistance (e.g., reduced medical fees for vulnerable groups) ▪ Welfare and social services targeted at the sick, the poor, the disabled, and other vulnerable groups ▪ Temporary subsidies for utilities and staple foods - only if imposed in times of crisis and if targeted at particular vulnerable group

C. Advancing Health and Well-Being into Old Age

Country/NHRI	Plan/Action/Initiative
Komisi Nasional Hak Asasi Manusia (Komnas HAM) of Indonesia	<p>Increase access to primary health care for the elderly through development of age friendly primary health care:</p> <ul style="list-style-type: none"> ▪ Healthy life style program (healthy diet, physical activity); ▪ Early detection of risk factors and counseling: control BP, Cholesterol, Blood Glucose; ▪ Distribute media promotion on Healthy Life Style; ▪ Increase community empowerment through development of elderly supporting groups; and ▪ Increase referral services in integrated geriatric clinics

	hospitals
SUHAKAM, Malaysia	Private Aged Healthcare Facilities and Services Bill: <ul style="list-style-type: none"> To ensure minimum quality of care for the older persons in an accesible, affordable and sustainable manner -To ensure the wellbeing of the older persons-integrity and dignity. -To encourage aging in place and independence.
Myanmar National Human Rights Commission (MNHRC)	Day care Centre <ul style="list-style-type: none"> Community based home care programmes Care giver training Promoting access to health care: towards Universal Health Coverage in an equitable, effective and efficient manner through life cycle approach including Elderly Health Care Government support to Homes for Elderly who are very vulnerable and isolated
Commission on Human Rights of the Philippines (CHRP)	Monitor implementation of current laws and plans of the Philippine Government on the following: <ul style="list-style-type: none"> -Mandatory Phil health coverage for all Senior Citizens -Additional “20% discount” for all benefits and services -Expanded additional benefits -General Appropriations for the programs and services intended for the <u>senior citizens</u>
National Human Rights Commission of Thailand (NHRCT)	-Universal Health Care Coverage (Free of charge, Prevention, Promotion, Treatment, Rehabilitation, Referral system) -Dental Care, Eyes Care, Mental Health Care -Home Health Care (Family Care Team Visiting) -Long Term Care (Elderly care plan , Care Managers, Caregivers)
Provedor de Direitos Humanos e Justica (PDHJ) of Timor Leste	<ul style="list-style-type: none"> Social Insurance Programs Pensions Unemployment Benefits Health Insurance-but not universal health insurance Other social insurance (maternity, disability benefits)

D. Ensuring Enabling and Supportive Environments

Country/NHRI	Plan/Action/Initiative
Komisi Nasional Hak Asasi Manusia (Komnas HAM) of Indonesia	Social Protection Programs for Persons working in the Informal Sector: Social welfare Insurance: <ul style="list-style-type: none"> Community based run assurance; Fights against vulnerability and enforces family resilience; Provides assurance to replace income if workers fall sick, accident or dies; Focuses on funding potential in the community; Transparent in implementation; Objective in service provision, just and unbiased; and Implementation according to procedure; Community empowerment, services are directed to increasing

	<p>community capacity;</p> <ul style="list-style-type: none"> ▪ Participation, management of ASKESOS must involve all levels and components in the community; ▪ Inter sector program integration; ▪ Professional and accountable ASKESOS is implemented based on skills and accountable; ▪ Independent program development is directed to increase capacity of self-management and self-funding in developing ASKESOS synergistically; ▪ Sustainable in management of program must be able to develop active participation of the community to use, maintain, reinforce and develop the program continuously. ▪ Usaha Ekonomi Produktif (UEP) or Economic productive efforts and Kelompok Usaha Bersama (KUBE) or Economic groups. ▪ UEP or Economic productive efforts is monetary assistance to older persons individually to increase older person income ▪ KUBE or Economic groups is monetary assistance to older people in groups to increase the income of older people ▪ Usaha Ekonomi Produktif (UEP) or Economic productive efforts and Kelompok Usaha Bersama (KUBE) or Economic groups □UEP or Economic productive efforts is monetary assistance to older persons individually to increase older person income □KUBE or Economic groups is monetary assistance to older people in groups to increase the income of older people <p>Increasing Employment Opportunities for older persons who wish to work: ng in preparation of pre-pension or Training for second career for civil servant pensioners.</p>
SUHAKAM, Malaysia	<ol style="list-style-type: none"> 1) Development of a Guideline on Physical Planning for Older Persons 2) Audit on compliance of developers to universal design
Myanmar National Human Rights Commission (MNHRC)	<p>Promoting enabling environment in close collaboration with CSOs, Help Age International with support from LIFT:</p> <ul style="list-style-type: none"> ▪ Public awareness on International Day of Older Persons and also through Age Demand Action Campaigns. Media campaign on Elder Abuse Awareness day ▪ Promoting Older People's Self-Help Groups (OPSHGs) to encourage active engagement in local communities ▪ Township OPSHG networks and a national Older People's Federation. The Federation represent older people at policy discussions. ▪ Studies and Surveys: Situation of Older People (2012); Older People's Service Mapping (2016); Accessing Health Care by Older People (2017); Ageing of Myanmar's Farming Population (2017)

	and the Population & Census Department's Thematic Analytical Report on Elderly Population (2017)
Commission on Human Rights of the Philippines (CHRP)	Other activities: -Participation to international workshops, fora and meetings -Other initiatives (sheltered workshops for older persons, Golden Reception and Action Center for the Elderly and Other Special Cases: GRACES, Research on Active Ageing and ASEAN Regional Workshop on Social Pension)
National Human Rights Commission of Thailand (NHRCT)	Promotion of UD (OP), House repairing, academia, and local organizations collaboration) - Community Volunteer caregivers - OP Centers (Connection, Engagement, Participation) - Supportive Transportation/Public Facilities - Senior Complex - OP loan, Reverse Mortgage - Public Private Partnership: Knowledge/ Awareness -Rapid Ageing Impact - Policy Support Government -Policy Support -National Assembly -Cabinet -Implementation-Ministries (Active Collaboration-Academia-Business OP/Int. Network)
Provedor de Direitos Humanos e Justica (PDHJ) of Timor Leste	▪ Timor-Leste has a very strong civil society sector, including NGOs. Most of the institutions which provide care for the elderly were initiated and/or are still maintained by civil society organization.

IV. Conclusions

The world is increasingly becoming an ageing world. As human rights are about ensuring that the rights of all are protected, respected, and fulfilled, the promotion and protection of the human rights of all has been at the forefront of the agenda of NHRIs in South East Asia. The agenda for older persons have been invigorated recently as the world turned its attention to the plight of older persons.

This paper has provided information that is important for an understanding of the issues and concerns relating to the human rights of older persons in South East Asia, in particular in SEANF countries. At the international level, a number of policy documents have been adopted to strengthen the protection of older persons. The most important of which is the 1991 UN Principles for Older Persons. The role of NHRIs will be crucial in formulating a regional mechanism for older persons' rights.

As to demographics, the number of older persons in the countries of the SEANF members are increasing. The countries are either ageing societies or have a substantial number of older persons. Lower fertility rates (except in Timor Leste) and higher life expectancy rates are factors in many of the countries. In all of the countries, there are also concerns for the ageing of the aged, and the feminization of ageing as most of those who are older persons are females. Females tend to outlive their male counterparts.

Further, the population of older persons is expected to rise, even in countries with relatively young populations, thus, the issue of dependence. The phenomenon of ageing is expected to continue.

There are issues and concerns of older persons that are specific to them. Non-discrimination is one of them, and this has shown a link to abuses and/or neglect of the elderly in some SEANF countries. Independence of older persons is a concern of all SEANF countries. Filial support is common in all the countries but the overdependence of older persons may cause strain on social, economic, and societal institutions. While not a subject of many reports, the elderly experience challenges on the exercise of civil and political rights, such as freedom from violence and the right to freedom of movement. All SEANF countries have issues with regard to the promotion and protection of the economic, social, and cultural rights of older persons. Most acute among them are the right to health of the elderly.

SEANF countries have support and assistance programs/projects/activities to promote and protect the rights of older persons. These may be further enhanced/improved in order to address the situations of older persons in South East Asia.

Thus, there is a need for the SEANF to come up with realistic and country-specific and regionally based plans that will address the gaps and challenges along policies, programs/services, coordination and linkages, for the promotion and protection of the rights of older persons.

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