

Driving Change: How the Law Can Pave the Road for Accessible Public Transport for People with Mobility Issues in the Philippines

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The Author continues to conduct research on transportation policies and dedicates this Article to her sister who was impaired with a physical disability. The views expressed by the Author in this Article do not necessarily reflect the views of the organizations that she has worked for.

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I. INTRODUCTION

A. People with Mobility Issues in the Philippines

Certain vulnerable groups in the Philippines have mobility issues in using public transportation, including persons with disabilities,¹ the elderly,² similar persons with mobility issues, such as pregnant women,³ and those with injuries or illnesses that result in mobility limits or impairments.⁴ According to the Philippine Statistics Authority (PSA), based on the 2010 Census of Population and Housing,⁵ 1.44 million persons out of the 92.1 million (1.57%) household population in the country had a disability.⁶ As to the elderly or senior citizens who are defined as persons aged 60 years or over,⁷ the 2020 Census of Population and Housing shows

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1. Ma. Janice J. Gumasing & Charm Hanalae C. Dela Cruz, *Ergonomic Design of Public Bus in the Philippines with Provision for Senior Citizens and Persons with Disability*, MATEC WEB OF CONFERENCES, Volume No. 150, Issue No. 4, at 1.
 2. *Id.*
 3. Franco Luna, *Advocates Ask DOTr: Are PWDs Part of EDSA Bus Plan Design?*, PHIL. STAR, May 27, 2020, available at <https://www.philstar.com/headlines/2020/05/27/2016890/advocates-ask-dotr-are-pwds-part-edsa-bus-plan-design> (last accessed Oct. 31, 2022) [<https://perma.cc/UEA3-4KZG>].
 4. Gumasing & Dela Cruz, *supra* note 1.
 5. National Statistics Office, 2010 Census of Population and Housing (Report No. 1-A, National Capital Region, April 2012), available at https://psa.gov.ph/sites/default/files/NCR_Report%20No.1.pdf (last accessed Oct. 31, 2022) [<https://perma.cc/4PKB-2R2B>].
 6. Philippine Statistics Authority, Persons with Disability in the Philippines (Results from the 2010 Census) (Reference No. 2013-005), tbl. 1, available at <https://psa.gov.ph/content/persons-disability-philippines-results-2010-census> (last accessed Oct. 31, 2022) [<https://perma.cc/AW96-PD78>].
 7. An Act Granting Additional Benefits and Privileges to Senior Citizens, Further Amending Republic Act No. 7432, as Amended, Otherwise Known as “An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes” [Expanded Senior Citizens Act of 2010], Republic Act No. 9994, § 3 (2010).

that 8.5% of the household population of the Philippines were senior citizens.⁸

B. Disability

Before delving into the issue of accessibility of public transportation in the Philippines, a brief discussion about disability is apropos. There are two distinct models on how society views disabilities: the “Medical Model,” which “views disability as a defect *within the individual*,” an “aberration compared to normal traits and characteristics,” and which “defects must be cured, fixed, or completely eliminated;”⁹ and the “Social Model,” which views disability as an individual’s inability to participate fully in everyday activities *as a result of the interaction* between functional limitations and physical or social barriers, and that which can be resolved not by fixing the person, but by changing society through education, accommodation, and universal design.¹⁰

The Convention on the Rights of Persons with Disabilities (CRPD)¹¹ endorses the Social Model and “recogniz[es] that disability is an evolving concept” that primarily “results from the interaction between persons with impairments and attitudinal and environmental barriers.”¹² Article 1 of the CRPD states that “[p]ersons with disabilities include those who have long-term physical, mental, intellectual[,] or sensory impairments which in

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8. Press Release by Philippine Statistics Authority, *Age and Sex Distribution in the Philippine Population (2020 Census of Population and Housing)* (Aug. 12, 2022) (on file with the Philippine Statistics Authority). Table 2 shows that the 8.5% corresponds to both sexes of the household population in the country whose age group is 60 years and over. *Id.* at 4.
 9. University of California, Office of Developmental Primary Care, Medical and Social Models of Disability, *available at* <https://odpc.ucsf.edu/clinical/patient-centered-care/medical-and-social-models-of-disability> (last accessed Oct. 31, 2022) [<https://perma.cc/E7G5-3EFU>] [hereinafter *Models of Disability*] (emphasis supplied).
 10. *Id.* (emphasis supplied).
 11. Convention on the Rights of Persons with Disabilities, *opened for signature* Mar. 30, 2007, 2515 U.N.T.S. 3 [hereinafter *CRPD*] (entered into force May 3, 2008).
 12. The Convention on the Rights of Persons with Disabilities (CPRD)’s endorsement of the Social Model is not express, but may be gleaned from paragraph I of its preamble. *Id.* pmb1. *But see* Katerina Kazou, *Analysing the Definition of Disability in the UN Convention on the Rights of Persons with Disabilities: Is It Really Based on a ‘Social Model’ Approach?*, 23 INT’L J. MENTAL HEALTH & CAPACITY L. 25, 45 (2017).

interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”¹³

In the Philippines, the “Magna Carta for Disabled Persons”¹⁴ defines “disability” as “(1) a physical or mental impairment that substantially limits one or more psychological, physiological[,] or anatomical function of an individual or activities of such individual; (2) a record of such an impairment; or (3) being regarded as having such an impairment[.]”¹⁵

The Magna Carta likewise defines “disabled persons” as “those suffering from restriction of different abilities, as a result of a mental, physical[,] or sensory impairment, to perform an activity in the manner or within the range considered normal for a human being.”¹⁶ This definition is problematic in itself, as it begs the question, “*what is considered normal for a human being?*”¹⁷ Moreover, Philippine laws and policies view disabilities as a defect within the individual,¹⁸ endorsing the Medical Model.¹⁹

Contrast the above with the definition of “disability” by the Centers for Disease Control and Prevention in the United States as “any condition of the body or mind (impairment) that makes it more difficult for the person with the condition to do certain activities (activity limitation) and [to] interact with the world around them (participation restrictions).”²⁰ The contrast becomes

13. CRPD, *supra* note 11, art. I.

14. An Act Providing for the Rehabilitation, Self-Development and Self-Reliance of Disabled Person and Their Integration into the Mainstream of Society and for Other Purposes [Magna Carta for Disabled Persons], Republic Act No. 7277 (1992) (as amended).

15. *Id.* § 4 (c).

16. *Id.* § 4 (a).

17. *Id.*

18. See, e.g., National Council Disability Affairs, Rules and Regulations Implementing the Magna Carta for Disabled Persons, Republic Act No. 7277, rule I (1995) [hereinafter Rules and Regulations Implementing the Magna Carta for Disabled Persons] & Department of Health, et al., Rules and Regulations Implementing Republic Act No. 9442, and Act Amending Republic Act No. 7277, Otherwise known as the “Magna Carta for Disabled Persons, and For Other Purposes” Granting Additional Privileges and Incentives and Prohibitions on Verbal, Non-verbal Ridicule and Vilification Against Persons with Disability, rule III, § 5.1 (2007).

19. Models of Disability, *supra* note 9.

20. Centers for Disease Control and Prevention, Impairments, Activity Limitations, and Participation Restrictions, available at <https://www.cdc.gov/ncbddd/>

even more stark when considering the broader definition of disability by the World Health Organization (WHO) which does not focus on the impairment, injury, or illness, but rather on the complex interaction between individuals with a health condition (i.e., cerebral palsy, down syndrome, and depression) and personal and environmental factors (i.e., negative attitudes, inaccessible transportation and public buildings, and limited social supports).²¹ According to the World Report on Disability, defining disability as an interaction means that “disability” is “not an attribute of the person,” and “[p]rogress on improving social participation can be made by addressing barriers which hinder persons with disabilities in their day to day lives.”²² These barriers are not limited to physical barriers, such as public transportation infrastructure that are not accessible, but may also refer to legislation, regulations, and policies.²³

The definition of disability alone in the Magna Carta²⁴ shows that the Philippines has a long way to go in understanding disabilities and therefore in providing an accessible built environment to persons with disabilities and other persons with mobility issues. The United Nations (UN) Secretariat for the CRPD has stated that the term “disabled persons” emphasizes the disability before the person and should not be used.²⁵ Initially, the term “disabled persons” was used in earlier laws, which focus on the rights of persons with disabilities, like Batas Pambansa Blg. 344²⁶ and Republic Act No. 7277.²⁷ This

disabilityandhealth/disability.html#ref (last accessed Oct. 31, 2022) [https://perma.cc/A2DB-DK8E].

21. World Health Organization, Disability, *available at* <https://www.who.int/news-room/fact-sheets/detail/disability-and-health> (last accessed Oct. 31, 2022) [https://perma.cc/Y55B-RY42].
22. WORLD HEALTH ORGANIZATION & WORLD BANK, WORLD REPORT ON DISABILITY 4 (2011).
23. *See id.* at 4.
24. Magna Carta for Disabled Persons, § 4 (c).
25. UN Secretariat for the Convention on the Rights of Persons with Disabilities, Frequently Asked Questions (FAQs), *available at* <https://www.un.org/esa/socdev/enable/faqs.htm> (last accessed Oct. 31, 2022) [https://perma.cc/9B4S-H97V].
26. An Act to Enhance the Mobility of Disabled Persons by Requiring Certain Buildings, Institutions, Establishments and Public Utilities to Install Facilities and Other Devices, Batas Pambansa Blg. 344, §§ 1-2 (1983).
27. Magna Carta for Disabled Persons, § 4 (a).

issue has been remedied in the Philippines by R.A. Nos. 9442²⁸ and 10070,²⁹ which mandate that references to the term “Disabled Persons”³⁰ in R.A. No. 7277 are amended to be read as “Persons with Disabilities (PWDs).” It should be noted, however, that the use of the acronym “PWD,” which is a general practice in laws, regulations, and policies in the Philippines, is viewed by some as not being appropriate.³¹ The Disability Language Guidelines suggest that the term “‘persons with disabilities’ should always be written in full to keep the focus on people, and not as a homogenous group reduced to an acronym.”³² There needs to be a paradigm shift from viewing persons with disabilities as “‘objects’ of charity, medical treatment[,] and social protection towards viewing persons with disabilities as ‘subjects’ with rights[,] who are capable of claiming those rights and making decisions for their lives based on their free and informed consent[,] as well as being active members of society.”³³

Persons with disabilities are entitled to enjoy human rights and fundamental freedoms.³⁴ They should be treated with dignity,³⁵ but their

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28. An Act Amending Republic Act No. 7277, Otherwise Known as the “Magna Carta for Disabled Persons, and for Other Purposes,” Republic Act No. 9442, § 4 (2007) (as amended).
 29. Establishing Institutional Mechanism to Ensure the Implementation of Programs and Services for Persons with Disabilities in Every Province, City and Municipality, Amending Republic Act No. 7277, Otherwise Known as the “Magna Carta for Disabled Persons”, as Amended, and for Other Purposes, Republic Act No. 10070, § 2 (2010).
 30. Magna Carta for Disabled Persons, § 4 (a).
 31. See e.g., Roda Tajon, *PWD or Person with Disability: To Acronym or Not to Acronym?*, available at <https://www.cdp.org.ph/news-1/2017/09/25/pwd-or-person-with-disability-to-acronym-or-not-to-acronym> (last accessed Oct. 31, 2022) [<https://perma.cc/N24V-62RE>].
 32. UN Economic and Social Commission for Western Asia, Disability Language Guidelines, at 2, available at https://www.unescwa.org/sites/default/files/services/doc/guidelines_disability_language_en.pdf (last accessed Oct. 31, 2022) [<https://perma.cc/LBP9-JHWP>].
 33. UN Secretariat for the Convention on the Rights of Persons with Disabilities, Paradigm Shift, available at <https://www.un.org/esa/socdev/enable/convinfopara.htm> (last accessed Oct. 31, 2022) [<https://perma.cc/HD8P-UAJ8>].
 34. CRPD, *supra* note 11, pmbl. & art. I.
 35. *Id.* art. I.

rights are often overlooked.³⁶ In January 2022, a viral social media post showed a handicapped person who struggled to climb up the stairs at the Manila Light Rail Transit System (LRT) Recto Station in Manila while two security personnel carried his wheelchair.³⁷ Apparently, there were elevators in the station, but they were not functioning.³⁸ In addition, a study focused on Cainta, Rizal, was conducted on problems encountered by persons with disabilities in public utility vehicles,³⁹ and it was found that issues include: difficulty in boarding and alighting due to absence of ramps; the driver immediately leaving even when passengers are not yet seated or still alighting; drivers choosing which passengers to serve; and other passengers not giving space to persons with disabilities near the entrance, among others.⁴⁰ Further, it is not uncommon in the Philippines to see able-bodied commuters who use facilities and infrastructure that are specifically designed to assist persons with disabilities, senior citizens, pregnant women, and other vulnerable persons, such as priority seating, elevators, and toilets with hand rails, even when there are persons who need these that are present.

On the positive side, accessible public transportation in the country is being facilitated by some ramps and pedestrian overpasses that are wheelchair accessible,⁴¹ and recently, the Public Utility Vehicle Modernization Program (PUVMP) is being implemented by the Department of Transportation (DOTr) which expands the coverage of accessible Point-to-Point (P2P) buses with low floors, ramps, and wider aisles.⁴² There are also initiatives by some

36. Navanethem Pillay, *Foreword to MONITORING THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES: GUIDANCE FOR HUMAN RIGHTS MONITORS*, (PROFESSIONAL TRAINING SERIES NO. 17, HR/P/PT/17) 05 (2010).

37. Catalina Ricci S. Madarang, *Filipinos Call for PWD-Friendly Facilities, Spaces amid Viral Photo*, PHIL. STAR, Jan. 6, 2022, available at <https://interaksyon.philstar.com/trends-spotlights/2022/01/06/208026/filipinos-call-for-pwd-friendly-facilities-spaces-amid-viral-photo> (last accessed Oct. 31, 2022) [<https://perma.cc/T4GK-YCNS>].

38. *Id.*

39. Justin Brylle Pajarin, et al., *Assessment of Mobility of Persons with Disabilities (PWDs) in Cainta, Rizal*, 1 PHIL. TRANSP. J. 60, 61 (2018).

40. *Id.* at 76-77.

41. *Id.* at 61.

42. See Rosette Adel, *DOTC, LTRFB Launch First PWD-friendly P2P Bus*, PHIL. STAR, Feb. 18, 2016, available at <https://www.philstar.com/headlines/2016/02/18/1554407/dotc-ltrfb-launch-first-pwd-friendly-p2p-bus> (last accessed Oct. 31, 2022) [<https://perma.cc/ZM4W-HWYK>] & Carla Michelle Cruz, *Recalibrating*

local government units (LGUs) such as tricycles in Marikina with ramps that are accessible to persons with disabilities.⁴³ It is necessary, however, to implement other initiatives to improve the accessibility of public transportation.

C. Transportation Systems and the Built Environment

The term “built environment” is “used to describe structures, facilities, and other physical resources built by people,” and may include transportation systems, urban and rural settlements, telecommunication and utility networks, sewerage and water systems, dams and flood control structures, as well as recreational facilities.⁴⁴ The term “environment,” however, extends beyond the aforementioned physical resources and “involves the relationships between people and communities, and physical resources.”⁴⁵ These relationships are affected by laws, regulations, and policies that are drafted, promulgated, and issued by the government.⁴⁶

Transportation systems are a huge part of the built environment.⁴⁷ Transportation is not an end by itself, but a means to be used for people to get from one place to another.⁴⁸ These transportation systems should meet the needs of the community and be accessible to everyone, even persons with disabilities and those who have mobility issues.⁴⁹ While there are personal tools

Rhythm: Commuters Navigating Manila Through the Point-to-Point Bus, at 8 (Oct. 1, 2020) (unpublished M.A. thesis, University of Basel) (on file with the Public Library of the University of Basel).

43. Pajarin et al., *supra* note 39, at 61.

44. Greater Wellington Regional Council, The Built Environment and Transportation, at 1, available at https://www.gw.govt.nz/assets/Documents/2009/07/2991_TheBuiltEnvironm_s5975.pdf (last accessed Oct. 31, 2022) [<https://perma.cc/PRT2-2XX7>].

45. *Id.*

46. See e.g., Wendy Collins Perdue, et al., *The Built Environment and Its Relationship to the Public's Health: The Legal Framework*, 93 AM. J. PUB. HEALTH 1390, 1392 (2003).

47. See Greater Wellington Regional Council, *supra* note 44.

48. Dagny Salas, Transportation Is Not an End Itself, It Is a Means to an End, available at <https://voiceofsandiego.org/2011/02/23/transportation-is-not-an-end-itself-it-is-a-means-to-an-end/> (last accessed Oct. 31, 2022) [<https://perma.cc/Q8B2-F8SR>].

49. Jel Santos, *CHR: 'Make Transportation Accessible Especially to People with Impairments'*, MANILA BULL., Jan. 10, 2022, available at

to help such vulnerable persons (i.e., canes, crutches, and wheelchairs),⁵⁰ there should also be tools integrated into transportation systems to allow the targeted groups to use public transportation without complications or unnecessary difficulties.

D. International Obligations and Strategies

The Convention on the Rights of Persons with Disabilities⁵¹ was adopted on 13 December 2006 at the UN Headquarters in New York,⁵² signed by the Philippines on 25 September 2007, ratified on 15 April 2008, and entered into force on 3 May 2008.⁵³ This treaty identifies the rights of persons with disabilities as well as the obligations on State Parties to the CRPD to “promote, protect[,] and ensure” those rights.⁵⁴ On the issue of accessibility, Article 9 of the CRPD requires countries to identify and eliminate obstacles and barriers, and ensure that persons with disabilities can access their environment, transportation, public facilities and services, and information and communications technologies.⁵⁵ To determine whether the Philippines has fulfilled its obligations under the CRPD, Philippine laws, regulations, and policies will have to be assessed.⁵⁶

<https://mb.com.ph/2022/01/10/chr-make-transportation-accessible-especially-to-people-with-impairments> (last accessed Oct. 31, 2022) [<https://perma.cc/4F7L-ZUY3>].

50. National Library of Medicine — MedlinePlus, Mobility Aids, *available at* <https://medlineplus.gov/mobilityaids.html> (last accessed Oct. 31, 2022) [<https://perma.cc/YAM5-YYE6>].

51. CRPD, *supra* note 11.

52. UN Department of Economic and Social Affairs, Convention on the Rights of Persons with Disabilities (CRPD), *available at* <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html> (last accessed Oct. 31, 2022) [<https://perma.cc/MQA3-BU55>].

53. UN Treaty Collection, Convention on the Rights of Persons with Disabilities, *available at* https://treaties.un.org/pages/ViewDetails.aspx?chapter=4&clang=en&mtdsg_no=IV-15&src=IND (last accessed Oct. 31, 2022) [<https://perma.cc/S96R-3GMN>].

54. CRPD, *supra* note 11, art. I.

55. *Id.* art. 9.

56. *Id.* arts. 33 & 35.

In addition, the Incheon Strategy to “Make the Right Real” for persons with disabilities in Asia and the Pacific (Incheon Strategy)⁵⁷ was launched by the UN Economic and Social Commission for Asia and the Pacific (UN ESCAP) in 2012, and it provided regionally agreed disability-specific development goals, targets, and indicators to track progress towards improving the quality of life and fulfilment of the rights of persons with disabilities, most of whom live in poverty.⁵⁸ Goal three of the Incheon Strategy is to “enhance access to the physical environment, public transportation, knowledge, information[,] and communication.”⁵⁹ It recognized that access to public transportation, among others, is “a precondition for persons with disabilities to fulfil[] their rights in an inclusive society.”⁶⁰ Specifically, goal three, target 3B aims to “enhance the accessibility and usability of public transportation.”⁶¹ The Beijing Declaration, including the Action Plan to Accelerate the Implementation of the Incheon Strategy (also known as the Beijing Declaration and Action Plan),⁶² “was adopted by the [M]ember States of ESCAP at the High-level Intergovernmental Meeting on the Midpoint Review of the Asian and Pacific Decade of Persons with Disabilities, 2013-2022, held in Beijing” in 2017.⁶³ The Beijing Declaration and Action Plan “specifies a set of policy actions to be taken by [g]overnments, civil society

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57. UN Economic and Social Commission for Asia and the Pacific, Incheon Strategy to “Make the Right Real” for Persons with Disabilities in Asia and the Pacific, *available at* <https://www.unescap.org/resources/incheon-strategy-“make-right-real”-persons-disabilities-asia-and-pacific> (last accessed Oct. 31, 2022) [<https://perma.cc/34TM-MUR7>] [hereinafter Incheon Strategy].
58. *Id.* at 2. The Philippines is a member of UN ESCAP. UN Economic and Social Commission for Asia and the Pacific, ESCAP Members and Associate Members, *available at* <https://www.unescap.org/about/member-states> (last accessed Oct. 31, 2022) [<https://perma.cc/6YFP-ZAD4>].
59. Incheon Strategy, *supra* note 57, at 22.
60. *Id.*
61. *Id.* at 23.
62. UN Economic and Social Commission for Asia and the Pacific, Incheon Strategy to “Make the Right Real” for Persons with Disabilities in Asia and the Pacific and Beijing Declaration Including the Action Plan to Accelerate the Implementation of the Incheon Strategy, *available at* <https://www.unescap.org/sites/default/d8files/knowledge-products/Incheon%20Strategy-Beijing%20Action%20Plan.pdf> (last accessed Oct. 31, 2022) [<https://perma.cc/2UWN-WCFW>].
63. *Id.* at 3.

stakeholders[,] and ESCAP[,]” for each goal of the Incheon Strategy.⁶⁴ To implement goal three of the Incheon Strategy, the Action Plan states that the governments should “develop, adopt[,] and implement laws and regulations to promote universal design and accessibility in the built environment,” including, among others, “[by] [e]stablishing enforcement and coordinating bodies, with sustained budgets, that have the authority to oversee multi-ministerial implementation of accessibility and enforce punitive measures for non-compliance,” and “establishing accessibility requirements ... as a criterion for granting business permits.”⁶⁵

II. PHILIPPINE TRANSPORT LAWS, REGULATIONS, AND POLICIES RELATING TO PERSONS WITH DISABILITIES, SENIOR CITIZENS, AND SIMILAR PERSONS WITH MOBILITY ISSUES

To determine ways to improve accessibility and to identify what is lacking in the current status of public transport in the Philippines, this Article provides a brief scan of laws, regulations, and policies that are currently available.

The 1987 Constitution declared as a State policy that “[t]he State values the dignity of every human person and guarantees full respect for human rights.”⁶⁶ Article XIII (Social Justice and Human Rights) on Health also considered the needs of persons with disabilities as follows —

SECTION 11. The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health[,] and other social services available to all the people at affordable cost. There shall be priority for the needs of the underprivileged sick, *elderly, disabled*, women, and children. The State shall endeavor to provide free medical care to paupers.

...

SECTION 13. The State shall establish a special agency for disabled persons for rehabilitation, self-development[,] and self-reliance, and their integration into the mainstream of society.⁶⁷

64. *Id.*

65. *Id.* at 55.

66. PHIL. CONST. art II, § 11.

67. PHIL. CONST. art. XIII, §§ 11 & 13 (emphases supplied).

As to the special agency mandated under Section 13 of the Constitution,⁶⁸ Presidential Decree No. 1509⁶⁹ created the National Commission Concerning Disabled Persons (NCCDP)⁷⁰ to provide persons with disability “the fullest measure of protection and assistance to develop their abilities.”⁷¹ Executive Order No. 232⁷² amended P.D. No. 1509 and reorganized the NCCDP into the National Council for the Welfare of Disabled Persons (NCWDP).⁷³ E.O. No. 676⁷⁴ transferred NCWDP from the Department of Social Welfare and Development (DSWD) to the Office of the President.⁷⁵ E.O. No. 709⁷⁶ redefined the functions and organizational structure of the NCWDP and renamed it as the National Council on Disability Affairs (NCDA).⁷⁷ Finally, E.O. No. 33⁷⁸ transferred NCDA from the Office of the President back to DSWD.⁷⁹

68. PHIL. CONST. art. XIII, § 13.

69. Creating the National Commission Concerning Disabled Persons and for Other Purposes, Presidential Decree No. 1509 (1978) (repealed in 1987).

70. *Id.* § 2.

71. *Id.* pmb1.

72. Providing for the Structural and Functional Reorganization of the National Council for the Welfare of Disabled Persons and for Other Purposes, Executive Order No. 232, Series of 1987 [E.O. No. 232, s. 1987] (July 22, 1987) (repealed in 2007).

73. *Id.* § 1.

74. Transferring the National Council for the Welfare of Disabled Persons (NCWDP) from the Department of Social Welfare and Development (DSWD) to the Office of the President, Executive Order No. 676, Series of 2007 [E.O. No. 676, s. 2007] (Oct. 25, 2007) (repealed in 2008).

75. *Id.* § 1.

76. Redefining the Functions and Organizational Structure of the National Council for the Welfare of Disabled Persons Which Is Renamed as the National Council on Disability Affairs and Attached to the Office of the President, and Amending for the Purpose Executive Order 676 (2007) and Executive Order 232 (1987), Executive Order No. 709, Series of 2008 [E.O. No. 709, s. 2008] (Feb. 26, 2008) (repealed in 2011).

77. *Id.* § 1.

78. Transferring the National Council on Disability Affairs (NCDA) from the Office of the President (OP) to the Department of Social Welfare and Development (DSWD), Executive Order No. 33, Series of 2011 [E.O. No. 33, s. 2011] (Apr. 5, 2011).

79. *Id.* § 1.

There is a need to revisit the ways in which the State has implemented and enforced the above-mentioned constitutional provisions, particularly Section 11 of Article XIII,⁸⁰ which deals with persons with disabilities as well as the elderly with respect to public transportation. Although there are other legislative and policy frameworks which contain the measures taken by the Philippines to benefit persons with disabilities such as R.A. No. 10070, which establishes institutional mechanisms to ensure the implementation of programs and services for persons with disabilities at the local level,⁸¹ this Article will focus on those laws, regulations, and policies on public transportation in relation to persons with disabilities, the elderly, and similar persons with mobility issues. Other non-legal related issues such as the design of transportation facilities, pedestrian facilities, and other facilities that are adjacent to transport such as foot bridges, sidewalks, and pedestrian crossings are not part of the scope of this Article. Finally, this Article mainly focuses on public land transportation systems such as trains, buses, jeepneys, UV express, taxis, tricycles, pedicabs, and the like. The principles discussed herein, however, may also be applicable to aviation and maritime transport.

A. Transport Laws Involving Persons with Disabilities

Since the 1980s, the Philippines has enacted a law which protects the rights of persons with disabilities, particularly with respect to public conveyances.⁸² B.P. Blg. 344 is entitled, “An Act to Enhance the Mobility of Disabled Persons by Requiring Certain Buildings, Institutions, Establishments, and Public Utilities to install Facilities and Other Devices,”⁸³ otherwise known as the “Accessibility Law.”⁸⁴ This law mandates that

[i]n case of public conveyance, devices such as the prominent display of posters or stickers shall be used to generate public awareness of the rights of the disabled and foster understanding of their special needs. Special bus stops shall be designed for disabled persons. Discriminating against disabled persons in the carriage or transportation of passengers is hereby declared unlawful.⁸⁵

To implement the provisions of B.P. Blg. 344, its Implementing Rules and Regulations (IRR) was jointly promulgated by the then Department of

80. PHIL. CONST. art XIII, § 11.

81. *See generally* Republic Act No. 10070, § 1.

82. *See generally* Batas Pambansa Blg. 344.

83. *Id.*

84. Pajarin, et al., *supra* note 39, at 62.

85. Batas Pambansa Blg. 344, § 2.

Public Works and Highways, Department of Transportation and Communications, and National Council for the Welfare of Disabled Persons.⁸⁶ The IRR includes public transport vehicles in its scope, such as passenger buses and jeepneys, passenger trains (including those of the Light Rail Transit Authority), domestic inter-island vessels, and domestic aircraft of air carriers.⁸⁷ Transport vehicles for public use are required to provide and designate a certain number of seats for persons with disabilities, in addition to providing audio-visual aids.⁸⁸ There are also accessibility requirements for public transport terminals.⁸⁹ Rule IV of the IRR includes very specific requirements for public transportation including land, rail, water, and air transportation in order to accommodate persons with disabilities.⁹⁰ For example, public transportation is required to have designated seats for persons with disabilities, such as the front seats for jeepneys or those seats near the entrance or exits of buses, trains, airplanes, and domestic ships.⁹¹ Other passengers may use these designated seats if not occupied, but must yield to persons with disabilities when necessary.⁹² The designated seats shall be identified by the International Symbol of Access.⁹³ City buses in highly urbanized cities are required to install audiovisual aids such as buzzer, bell, or a flashing light to inform the driver of any alighting passenger.⁹⁴ Those who violate any provision of the IRR are criminally liable and may be subject to imprisonment, fines, or both.⁹⁵

In 1992, R.A. No. 7277 entitled, “An Act Providing for the Rehabilitation, Self-Development and Self-Reliance of Disabled Persons and

86. Department of Public Works and Highways, Department of Transportation and Communications, National Council for the Welfare of Disabled Persons, Rules and Regulations Implementing An Act to Enhance the Mobility of Disabled Persons by Requiring Certain Buildings, Institutions, Establishments and Public Utilities to Install Facilities and Other Devices, Batas Pambansa Blg. 344, rule I, § 1 (2008).

87. *Id.* rule I, § 3.2.2.

88. *Id.* rule I, § 4.2.3.

89. *Id.* rule I, § 4.2.6.

90. *Id.* rule IV.

91. *Id.* rule IV, §§ 6.1, 6.4, 6.7, & 6.9.

92. Rules and Regulations Implementing Batas Pambansa Blg. 344, rule IV, §§ 6.5 & 6.8.

93. *Id.* rule IV, § 7.

94. *Id.* rule IV, § 8.

95. *Id.* rule V, § 2.

Their Integration into the Mainstream of Society and for other purposes,” also known as the Magna Carta for Disabled Persons, was promulgated.⁹⁶ The law compels the State to promote the mobility of persons with disabilities, who shall be “allowed to drive motor vehicles, subject to the rules and regulations issued by the Land Transportation Office pertinent to the nature of their disability and the appropriate adaptations or modifications made on such vehicles.”⁹⁷ The law also requires the Department of Social Welfare and Development (DSWD) to “develop a program to assist marginalized disabled persons gain access ... [to] public transport facilities,” which may be in the form of a subsidized transportation fare.⁹⁸ The DSWD is also mandated to allocate necessary funds to effectively implement the public transport program for disabled persons.⁹⁹ The IRR of R.A. No. 7277 defines the scope of the subsidized transportation scheme, which is limited to marginalized persons with disabilities.¹⁰⁰ As to public transportation, the law also prohibits discrimination with respect to “the franchises or operators and personnel of sea, land, and air transportation facilities to charge higher fare or to refuse to convey a passenger, his orthopedic devices, personal effects, and merchandise by reason of his disability.”¹⁰¹ Rule IX, Section 3 of the IRR of R.A. No. 7277 defines acts of discrimination against persons with disabilities with respect to the use of a terminal, depot, or other stations used for specified public transportation, as follows:

- (1) denying the disabled passenger to enter the terminal, station[,] or depot premises; purchase travel tickets; prepare waybills; secure boarding passes; claim tags for baggage[,] and other transactions which an able-bodied passenger may do[;]
- (2) failure to provide accessibility features such as ramps, signage[,] and stickers inside the terminal, station[,] or depot[;]
- (3) failure to designate seats in the waiting area for disabled passengers if there are seats available[; or]

96. Magna Carta for Disabled Persons, § 1.

97. *Id.* § 26.

98. *Id.* § 27.

99. *Id.*

100. Rules and Regulations Implementing the Magna Carta for Disabled Persons, rule VII, § 2 (a) (3)-(5).

101. Magna Carta for Disabled Persons, § 34.

- (4) denying the disabled passenger access to use the toilet [or] washrooms or failure to make such facilities accessible.¹⁰²

If such discrimination occurs, a legal action may be commenced against the offending party.¹⁰³ Violation of any provision of R.A. No. 7277 shall be subject to penalties such as fines, imprisonment, or both.¹⁰⁴

R.A. No. 9442 amends and adds a new chapter to R.A. No. 7277,¹⁰⁵ and provides privileges and incentives to persons with disabilities, which includes at least 20% discount on fare for domestic air and sea travel, as well as for public railways, skyways and bus fare, for the exclusive use or enjoyment of persons with disabilities.¹⁰⁶ Such benefit of at least 20% discount was expanded by R.A. No. 10754¹⁰⁷ to include exemption from the value-added tax (VAT), if applicable, and to apply on the “actual fare for land transportation travel such as, but not limited to, public utility buses or jeepneys (PUBs or PUJs), taxis, asian utility vehicles (AUVs), shuttle services, and public railways, including Light Rail Transit (LRT), Metro Rail Transit (MRT), and Philippine National Railways (PNR)[,]” for the exclusive use of the person with disability.¹⁰⁸

B. Transport Laws Involving Senior Citizens

Senior citizens or the elderly are defined as those resident citizens of the Philippines who are at least 60 years old.¹⁰⁹ Section 5 (f) of R.A. No. 9257 (the Expanded Senior Citizens Act of 2003) mandates the government to provide access to public transport wherein “[t]he Department of Transportation and Communications (DOTC) shall develop a program to assist senior citizens to fully gain access in the use of public transport facilities.”¹¹⁰ This was reiterated in Section 5 (f) of R.A. No. 9994 (the

102. Rules and Regulations Implementing the Magna Carta for Disabled Persons, rule IX, § 3 (2) (1)-(4).

103. *Id.* rule XI, § 2.

104. *Id.* rule XI, § 4.

105. Republic Act No. 9442, § 1.

106. *Id.*

107. An Act Expanding the Benefits and Privileges of Persons with Disability (PWD), Republic Act No. 10754 (2016).

108. *Id.* § 1.

109. Expanded Senior Citizens Act of 2010, § 3.

110. *Id.* § 5 (f).

Expanded Senior Citizens Act of 2010).¹¹¹ Further, the Implementing Rules and Regulations of R.A. No. 9257 states that “[t]he minimum requirements and standards to make transportation facilities, buildings[,] and utilities for public use accessible to senior citizens shall be developed to enhance the mobility of senior citizens particularly those with disability pursuant to the Accessibility Law.”¹¹² Finally, the Implementing Rules and Regulations of R.A. No. 9994, Rule V (Government Assistance), Article 18, includes a specific provision on access to public transport which states that

[t]he DOTC and its attached agencies and sectoral officers shall improve the implementation of programs to assist senior citizens to fully gain access in the use of public transport facilities. The minimum requirements and standards to make transportation facilities and utilities for public use accessible to senior citizens shall be developed to enhance the mobility of senior citizens. There shall be strict implementation of courtesy space and seats for the exclusive use of senior citizens in all transport systems. As far as practicable, PUVs [public utility vehicles] shall also strive to install safe lower stepping boards.¹¹³

The Expanded Senior Citizens Act of 2010 also provides privileges to senior citizens that are similar to those provided to persons with disabilities in relation to public transport, which includes the grant of 20% discount (and exemption from the value-added tax, if applicable) in actual fare for land transportation travel in PUBs, PUJs, taxis, AUVs, shuttle services, and public railways, including the LRT, MRT, and PNR, as well as “in actual transportation fare for domestic air transport services and sea vessels and the like, based on the actual fare and advanced booking[.]” provided that these are for the exclusive use of the senior citizen.¹¹⁴

In any event, monetary aid such as subsidized transportation fare is a step in the right direction but could only go so far as alleviating the financial needs of persons with disabilities and those of the elderly. Further, it could be

111. *Id.*

112. Department of Social Welfare and Development, Rules and Regulations Implementing the Expanded Senior Citizens Act of 2003, Republic Act No. 9257, rule VII, § 21 (2004).

113. Department of Social Welfare and Development, Rules and Regulations Implementing the Expanded Senior Citizens Act of 2010, Republic Act No. 9994, rule V, § 18 (2010).

114. Expanded Senior Citizens Act of 2010, §§ 4 (a) (5) & (6).

considered as merely a temporary solution to a permanent problem, which is the lack of accessibility in public transport.¹¹⁵

C. Other Government Issuances and Initiatives

The DOTr created the Task Force on Accessibility in 2007 to develop initiatives that will address the needs of persons with disabilities in the transport sector, so such persons may participate in achieving the development goals of the country, and to help them gain access to quality transport services in the country.¹¹⁶ The functions and responsibilities of the Task Force include preparing the “plans, programs[,] and funding requirement” of the DOTC for the implementation of accessibility laws in the Philippines, and monitoring implementation of the Accessibility Law and Magna Carta for Disabled Persons, among others.¹¹⁷

The Land Transportation Franchising and Regulatory Board (LTFRB) issued Memorandum Circular (M.C.) No. 2009-010 which granted a 20% transport fare discount to all senior citizens.¹¹⁸ The LTFRB also issued M.C. No. 2010-023 which required the display of the International Symbol of Accessibility in all units and provision of designated seats for persons with disabilities on PUVs and imposed fines and cancellation of the franchise or Certificates of Public Convenience (CPC) in case of violations.¹¹⁹ CPCs are granted by the LTFRB in order for a public utility to engage in operating land transportation services.¹²⁰ LTFRB’s Memorandum Circular entitled “2011

115. See Anastasia Vladimirovna Lukina, et al., *Study of Perceived Accessibility in Daily Travel Within the Metropolis*, 5 EMERGING SCI. J. 868, 868 (2021).

116. Department of Transportation and Communications, Creation of the DOTC Task Force on Accessibility, Special Order No. 77, Series of 2007 [DOTC S.O. No. 77, s. 2007] (May 11, 2007).

117. Department of Transportation, DOTC Task Force on Accessibility, *available at* <https://dotr.gov.ph/dotr-task-force-on-accessibility.html#functions-and-responsibilities> (last accessed Oct. 31, 2022) [<https://perma.cc/UNU7-R29E>].

118. Land Transportation Franchising and Regulatory Board, Granting of Transport Fare Discount to All Senior Citizens, Memorandum Circular No. 10, Series of 2009 [LTFRB Memo. Circ. No. 10, s. 2009], para. 3 (Apr. 1, 2009).

119. Land Transportation Franchising and Regulatory Board, Reiteration the Provisions of BP344, RA7277 (as Amended by RA9422), and Amendment to MC No. 89-010 on the Accessibility of Persons with Disabilities (PWDs) on Public Land Transportation, Memorandum Circular No. 23, Series of 2010 [LTFRB Memo. Circ. No. 23, s. 2010], at 1 & 2 (May 12, 2010).

120. *Id.* at 1.

Revised Terms and Conditions of Certificates of Public Convenience and Providing Penalties for Violations Thereof’ required PUV operators to grant fare discounts as prescribed by law, policies, rules, and regulations to senior citizens and persons with disabilities.¹²¹ As specified under Section 15 of the M.C., the following provisions relating to persons with disabilities are made part of every CPC to be issued by the LTFRB —

The PUV operator shall display the International Symbol of Accessibility in their units and shall designate seats in all their units specifically for the use of Persons with Disabilities [PWDs] as follows[;]

For [Public Utility Buses (PUBs)]

- (1) Regular buses shall have at least five (5) designated seats for PWDs near entrance doors[;]
- (2) Air-conditioned buses shall have at least four (4) designated seats for PWDs near entrance doors[;]
- (3) For regular and air-conditioned city buses, other passengers may use those designated seats if not occupied but shall yield them to incoming PWDs whenever the occasion arises[;]
- (4) For provincial buses[,], other passengers may use those designated seats if no PWDs shall occupy these seats at the start of the trip[;]
- (5) Owners or operators of PUBs operating in highly urbanized cities shall install audio-visual aids such as buzzers, bells[,], and flashing lights to inform the driver of any alighting passenger.

For [Public Utility Jeepneys (PUJs)]

- (1) Owners of PUJs shall provide at least two (2) seats, at the convenience of the PWD, for the use of PWDs in their units[;]
- (2) Other passengers may use those designated seats if not occupied but shall yield them to incoming PWDs whenever the occasion arises[;]

For Bus Terminals and Stations

- (1) Widen doors [or] access to comfort rooms to be able to allow the entry of wheelchairs[;]
- (2) Provide ramps for easy access by wheel chair to the waiting lounges; and

¹²¹ Land Transportation Franchising and Regulatory Board, 2011 Revised Terms and Conditions of CPC and Providing Penalties for Violations Therefor, Memorandum Circular No. 4, Series of 2011 [LTFRB Memo. Circ. No. 4, s. 2011], ¶ 12 (June 11, 2011).

- (3) Mark a bench or space for the use of PWDs in waiting lounges. This may be used by others if there are no PWDs using it.

It shall be considered discriminating for PUV operators and their drivers [or] personnel to charge higher fare or to refuse to convey a PWD, his orthopedic devices, personal effects, and merchandise by reason of his disability.¹²²

DOTr Department Order No. 2014-013 provides minimum requirements and standards to make public transportation and facilities accessible to persons with disabilities, including designating the first row of each bus for persons with disabilities, and the first car in passenger trains for persons with disabilities, pregnant women, and children.¹²³

In 2017, DOTr issued Department Order No. 2017-011 (Omnibus Guidelines on the Planning and Identification of Public Road Transportation Services and Franchise Issuance) or the Public Utility Vehicle Modernization Program (PUVMP).¹²⁴ Its basic policy is to “move toward environmentally-sound mobility solutions, ... develop[,] and promote high quality public transportation systems,” and “prioritize the movement of people and goods.”¹²⁵ Pursuant to this policy, DOTr shall “promulgate, administer, enforce, and monitor compliance of public land transportation policies, laws, and regulations which promote mobility as a basic human need.”¹²⁶ One of the principles of the PUVMP is accessibility — “[p]ublic transport must be available in every community, with accessibility for all segments of society, including senior citizens and persons with disabilities.”¹²⁷ More specifically, as to the body make of Public Utility Buses (PUBs) such as city buses or minibuses for urban routes, they should have a “low entry for quick boarding and alighting and with space for at least one (1) passenger with wheelchair and [a] foldable or retractable wheelchair ramp at curbside door.”¹²⁸

122. *Id.* ¶ 15.

123. Department of Transportation and Communications, Policies on Transport Accessibility, Department Order No. 13, Series of 2014 [DOTC D.O. No. 13, s. 2014], §§ 4.7 & 4.11 (Nov. 24, 2014).

124. Department of Transportation, Omnibus Guidelines on the Planning and Identification of Public Road Transportation Services and Franchise Issuance, Department Order No. 11, Series of 2017 [DOTr D.O. No. 11, s. 2017] (June 19, 2017).

125. *Id.* § 2.1.

126. *Id.*

127. *Id.* § 2.1.3.

128. *Id.* § 2.2.1.

As to maritime transport, the Maritime Industry Authority (MARINA) in April 2017 issued MARINA Circular No. 2017-03 which is entitled “Omnibus Rules and Regulations on the Grant of Privileges for Students, Persons with Disability (PWDs) and Senior Citizens on Board Domestic Passenger Ships.”¹²⁹ Domestic shipping companies, as well as owners and operators of passenger-carrying ships, were required to provide discounts to students, persons with disabilities, and senior citizens on fare, amenities, and other services upon presenting proof of identity.¹³⁰ This includes at least 20% discount plus 12% VAT exemption to the fare, food and drinks, medicines onboard, services, and recreation.¹³¹ “Courtesy and civility” are also mandated with respect to embarkation and disembarkation, and it is defined as “preferential assistance given to PWDs and senior citizens during embarkation and disembarkation as well as the use of other facilities on board domestic passenger ships.”¹³² Penalties are also imposed for violations or refusal to grant said discounts and privileges.¹³³

As to air transport, the DOTr, the Civil Aviation Authority of the Philippines (CAAP), the Civil Aeronautics Board (CAB), the Manila International Airport Authority (MIAA), the Clark International Airport Authority (CIAC), and the Mactan Cebu international Airport Authority (MCIAA) issued Joint Memorandum Circular No. 2018-001 in February 2018 to all airline operators and airport ground handlers to install and use accessible passenger boarding ramps for all their aircraft for the use of persons with disabilities and senior citizens.¹³⁴ This is in response to DOTr Department Order No. 2017-018 on the installation and use of PWD and senior citizen accessible passenger boarding ramps by airline operations and airport ground

129. Maritime Industry Authority, Omnibus Rules and Regulations on the Grant of Privileges for Students, Persons with Disability (PWDs), and Senior Citizens on Board Domestic Passenger Ships, MARINA Circular No. 3, Series of 2017 [MARINA Circ. No. 3, s. 2017], § 1 (May 23, 2017).

130. *Id.* § 4.

131. *Id.* § 5 (A) (1).

132. *Id.* § 3 (4).

133. *Id.* § 6.

134. Department of Transportation, Installation of Accessible Passenger Boarding Ramps/Aircraft Stairs for PWDs and Senior Citizens, Joint Memorandum Circular No. 1, Series of 2018 [DOTr Joint Memo. Circ. No. 1, s. 2018], para. 3 (Feb. 21, 2018).

handlers.¹³⁵ D.O. No. 2017-018 recognized that “the goal of attaining a barrier-free environment is not limited to” persons with disabilities “as the Expanded Senior Citizens Act of 2010 likewise requires minimum requirements and standards to make transportation facilities and utilities for public use accessible to senior citizens to enhance mobility.”¹³⁶

The Commission on Human Rights (CHR) in its Human Rights Advisory on Accessibility as a Matter of Right of Persons with Disabilities (A2019-005) called on the proactive collaboration of the DOTr, being the “agency that is primarily responsible for the development and provision of efficient, effective, and secure [transportation] infrastructure,” to “ensure that persons with disabilities will be provided with reliable, efficient, secure, and accessible transportation services compliant with international standards.”¹³⁷ There should be strict compliance in the designation of seats for persons with disabilities and in the grant of discounts in public transportation.¹³⁸ The CHR likewise reiterated that discrimination on the basis of disability in the use of transportation is explicitly prohibited under the Magna Carta for Persons with Disabilities.¹³⁹

Further, the CHR highlighted that the Transport Modernization Program should “ensure the application of global accessibility standards to accommodate all citizens without discrimination.”¹⁴⁰ The following design elements must be implemented in order to ensure accessibility for persons with disabilities:

- (1) ramps or lifts;
- (2) spaces for wheelchairs with safety accessories (e.g. belts, clamps, and grab bars);
- (3) audio and visual announcement systems;

135. Department of Transportation, Installation and Use of PWD and Senior Citizen Accessible Passenger Boarding Ramps by Airline Operators and Airport Ground Handlers, Department Order No. 18, Series of 2017 [DOTr D.O. No. 18, s. 2017], para. 4 (Dec. 18, 2017).

136. *Id.* para. 3.

137. Commission on Human Rights, Human Rights Advisory on the Accessibility as a Matter of Right of Persons with Disabilities, Advisory No. A2019-005, Series of 2019 [CHR Advisory No. A2019-005, s. 2019], at 6 (July 1, 2019).

138. *Id.*

139. *Id.*

140. *Id.*

- (4) directional tactile in appropriate areas; and
- (5) visible signages.¹⁴¹

III. RECENT DEVELOPMENTS

Modernization of the Philippines' public transport system continues and point-to-point (P2P) buses were launched in 2016.¹⁴² Aside from having modern features such as free Wi-Fi, global positioning system (GPS), closed-circuit television (CCTV), and a tap-and-go payment system, such buses also have lower floors and retractable boarding and alighting ramps to make them accessible to persons with disabilities and similar persons with mobility issues such as the elderly and pregnant women.¹⁴³ The modern PUVs are environmentally-friendly, safe, secure, and convenient, and were designed with due consideration to passengers with disabilities.¹⁴⁴

The NCDA provided technical assistance and facilitated disability-related activities and advocacy campaigns in various government agencies, including the CAAP Access Audit and Sensitivity Training on Handling PWDs for the Air Sector held in Palawan in 2017, attended by staff from airport terminals, airport companies, and tourism offices in Palawan.¹⁴⁵ The participants developed action plans to organize similar disability sensitivity trainings and to install tactile floors inside the Puerto Princesa airport terminal.¹⁴⁶ The NCDA likewise facilitated "Seminars on How to Handle Persons with Disabilities in Tourism Industry" held in various locations in 2017 in partnership with the Department of Tourism.¹⁴⁷ The seminars imparted knowledge to relevant frontliners and personnel from the tourism industry (including those engaged

141. *Id.*

142. Adel, *supra* note 42.

143. Official Gazette, PWD-Friendly Buses Launched Today, *available at* <https://www.officialgazette.gov.ph/2016/02/18/pwd-friendly-buses-launched> (last accessed Oct. 31, 2022) [<https://perma.cc/J85D-9HAZ>].

144. Land Transportation Franchising and Regulatory Board, PUV Modernization, *available at* https://ltfrb.gov.ph/?page_id=3191 (last accessed Oct. 31, 2022) [<https://perma.cc/X27S-9XNP>].

145. National Council on Disability Affairs, 2017 NCDA Annual Report, at 29, *available at* <https://www.ncda.gov.ph/wp-content/uploads/2018/11/2017-AR-printed-latest-edited-no-photos-small-pdf.pdf> (last accessed Oct. 31, 2022) [<https://perma.cc/4CRC-PCXP>] [hereinafter 2017 NCDA Annual Report].

146. *Id.* at 28.

147. *Id.* at 36.

in transport operations) “on how persons with disabilities will be accorded with utmost treatment and accommodation in tourism destinations and establishments in accordance with the universal policy on ‘Accessible Tourism for All.’”¹⁴⁸

It was also reported that the DOTr is coordinating with the Metro Manila Development Authority (MMDA) and proposing the creation of special bus stops along EDSA to accommodate more commuters, particularly the elderly and persons with disabilities who cannot cross EDSA via footbridge, since the new design will allow ground level crossings to access buses.¹⁴⁹

In some LGUs, initiatives have been launched to provide transportation services for persons with disabilities using vehicles that are specifically modified for their use.¹⁵⁰

In Cebu, the Bayaning Tsuper (BTS) party-list commissioned a service vehicle that can be booked by persons with disabilities for free transportation.¹⁵¹ A photo of the vehicle is shown in the Cebu Daily News website.¹⁵² The BTS will hire and compensate drivers servicing the vehicle so the passengers do not have to pay a fee when using such service, but they have to book through the Regional Federation of PWDs in Cebu for the schedule of use.¹⁵³

In the town of Naval, Biliran, persons with disabilities, senior citizens, and pregnant women may avail of the free rides program.¹⁵⁴ The program was

148. *Id.* See generally U.N. World Tourism Organization, *Accessible Tourism for All: An Opportunity Within Our Reach*, at 6, available at <https://www.e-unwto.org/doi/pdf/10.18111/9789284417919> (last accessed Oct. 31, 2022) [<https://perma.cc/4XVQ-BUJ7>].

149. Danielle Nakpil & Paolo Barcelon, *DOTr Proposes Creation of Special Bus Stops Along EDSA, Seniors and PWDs to Benefit*, CNN, June 5, 2020, available at <https://www.cnnphilippines.com/news/2020/6/5/DOTr-special-bus-stops-EDSA-.html> (last accessed Oct. 31, 2022) [<https://perma.cc/HF8Y-LQ6Y>].

150. See e.g., Pajarin, et al., *supra* note 39, at 78.

151. Dyrecka Letigio, *PWD Sakay for Free Launched in Cebu*, CEBU DAILY NEWS, Oct. 15, 2021, available at <https://cebudailynews.inquirer.net/406108/pwd-sakay-for-free-launched-in-cebu> (last accessed Oct. 31, 2022) [<https://perma.cc/Z6PW-RAQQ>].

152. *Id.*

153. *Id.*

154. Roel Amazona, *Free Ride for Seniors, PWDs, Pregnant Women in Biliran*, PHIL. NEWS AGENCY, Sept. 19, 2019, available at

expected to start in October 2019 and will be using a G-Shuttle, an electronic vehicle or e-trike that uses cleaner sources of energy, and will be implemented through a point-to-point scheme, where a passenger may only ride and get off at identified stations.¹⁵⁵ This program is expected to benefit around 4,800 senior citizens and 150 persons with disabilities in the said town.¹⁵⁶

Marikina City was set to launch an “adaptive mobile vehicle” (AMV) in 2016 which is specially intended to help people with disabilities and senior citizens who live in the city.¹⁵⁷ The AMV is described as an “elongated tricycle that allows more headroom” so passengers could sit up straight inside, which is said to be convenient for elderly people with rheumatism.¹⁵⁸ It could accommodate three passengers, has a clamp to hold a wheelchair in place, and features a movable ramp for easier entry and exit.¹⁵⁹ Although it is run by the city government, the service is not free but will charge regular tricycle rates with the usual 20% discount for persons with disabilities and senior citizens.¹⁶⁰ A photo of the AMV is shown on the Philippine Daily Inquirer website.¹⁶¹

IV. BRIDGING THE GAP BETWEEN THE SUFFICIENCY OF LEGAL FRAMEWORK AND THE LACK OF IMPLEMENTATION

There is no denying that there exists a legal framework in the Philippines which addresses the needs of persons with disabilities.¹⁶² The question still remains as to whether these laws are sufficient to meet such needs and whether there is conformity with international standards. The viral LRT incident¹⁶³ mentioned above is an ominous depiction of the status quo.

<https://www.pna.gov.ph/articles/1080885> (last accessed Oct. 31, 2022) [<https://perma.cc/JX4U-M53F>].

155. *Id.*

156. *Id.*

157. Jovic Yee, *Marikina Rolls Out PWD-Friendly Trike*, PHIL. DAILY INQ., Jan. 11, 2016, available at <https://newsinfo.inquirer.net/754320/marikina-rolls-out-pwd-friendly-trike> (last accessed Oct. 31, 2022) [<https://perma.cc/58YE-BXFS>].

158. *Id.*

159. *Id.*

160. *Id.*

161. *Id.*

162. See 2017 NCDA Annual Report, *supra* note 145, at 4.

163. Madarang, *supra* note 37.

Even though various laws have been enacted to implement the constitutional mandate to uphold the rights of persons with disabilities and the elderly, progress seems to be more apparent than real.¹⁶⁴ According to a Senate Press Release airing the concerns of then opposition Senator Leila M. de Lima, there exists a need “to examine the level of implementation and enforcement of existing laws for [persons with disabilities], including ... [B.P.] Blg. 344[,] ... and [] [R.A.] No. 7277[.]”¹⁶⁵ Again, the viral LRT incident¹⁶⁶ is just one of the many manifestations of the Philippines’ inability to implement legislation that adequately protects the rights and welfare of persons with disabilities.

As already discussed above, B.P. Blg. 344 and R.A. No. 7277 are pieces of legislation intended to address the needs of persons with disabilities. A careful look into the terminologies used in the law itself reveals a telling sign that such laws are outdated and are not conducive in promoting the rights of persons with disabilities. One suggestion that Congress could consider in drafting future laws for persons with disabilities is to redefine and update the usage of certain terms such as “disability” and “disabled persons,” and adopt the usage of terms and definitions that endorse the Social Model — viewing disability as a complex interaction between individuals with a health condition and the world around them, with the goal of making these interactions for people with disabilities less burdensome.¹⁶⁷ The current definitions and terms used in the laws abovementioned are not exactly at par with how the CRPD and the WHO define “disability” and “disabled persons.”¹⁶⁸ Moreover, the discussed amendments to R.A. No. 7277 advocated the use of the inappropriate acronym “PWD.”¹⁶⁹ The use of the term “persons with disabilities” should suffice.¹⁷⁰

Another glaring weakness of Philippine legislation about addressing the needs of persons with disabilities is the lack of presence of adequate infrastructure to cater to the evolving demands of day-to-day living in the

164. See Santos, *supra* note 49.

165. Press Release by Leila M. de Lima, Senator, Senate of the Philippines 19th Congress, *De Lima Bemoans Lack of PWD-Friendly Facilities* (Jan. 8, 2022) (on file with the Senate of the Philippines).

166. Madarang, *supra* note 37.

167. Models of Disability, *supra* note 9.

168. CRPD, *supra* note 11, art. 1 & World Health Organization, *supra* note 21.

169. See Tajon, *supra* note 31.

170. See *id.*

modern world.¹⁷¹ In this respect, it is recommended that Congress enact measures, making it mandatory for operators of public transportation to effect changes that will make access to public vehicles for persons with disabilities easier. An illustrative example of such a change would be to require in some public utility vehicles an apportionment of space for wheelchair passengers, and ramps that should be provided to accommodate the boarding and alighting of such passengers.¹⁷² A specific example is B.P. Blg. 344 which already requires:

- (1) the prominent display of posters or stickers to generate public awareness of the rights of persons with disabilities;
- (2) special bus stops to be designed for persons with disabilities;
- (3) public transport vehicles to provide and designate seats for persons with disabilities; and
- (4) designated seats to be identified by the International Symbol of Access.¹⁷³

Although B.P. Blg. 344 has been promulgated as early as 1982,¹⁷⁴ notice that the said requirements are not strictly implemented and thus not being complied with by present day public utility vehicles. Implementation of these measures should be strictly enforced.

Furthermore, as already discussed above, national legislators should also investigate how some LGUs have started to gear towards a future better suited for persons with disabilities. These improvements made on a smaller scale should serve as reference points into potential national legislation that could enact a large-scale infrastructure project, specifically addressing the needs of all persons with disabilities, the elderly, pregnant women, and similar persons with mobility issues.

The Committee on the Rights of Persons with Disabilities (pursuant to the CRPD) considered the initial report of the Philippines on its implementation of the CRPD which was submitted in accordance with

171. See e.g., Robert Y. Siy, *The Accessibility Law: 40 Years of Disappointment*, MANILA TIMES, Nov. 26, 2022, available at <https://www.manilatimes.net/2022/11/26/business/top-business/the-accessibility-law-40-years-of-disappointment/1867822> (last accessed Oct. 31, 2022) [<https://perma.cc/8MTT-9XFY>].

172. See e.g., Pajarin, et al., *supra* note 39, at 77-79.

173. Batas Pambansa Blg. 344, § 2.

174. See generally Batas Pambansa Blg. 344.

Article 35 thereof.¹⁷⁵ The Committee issued its Concluding Observations on the initial report of the Philippines.¹⁷⁶ One of its principal areas of concern is accessibility, and it raised concerns that accessibility laws of the Philippines (B.P. Blg. 344 and R.A. No. 7277) do not include the principles of accessibility through universal design and that a national action plan on accessibility are absent.¹⁷⁷ The Committee has the following recommendations:

- (1) Conduct a review of its legislation and adopt a plan of action to develop accessibility to the physical environment, transportation, information[,] and communications of all persons with disabilities. The State [P]arty should adhere to the principle of universal design as laid down in [A]rticle 2 of the Convention, ensuring that the infrastructure, transportation, services[,] and technologies are designed for and usable by all people to the greatest extent possible, without the need for further adaptation or specialized design;
- (2) Expand accessibility laws and guidelines to protect the accessibility of all persons with disabilities;
- (3) Establish complaint procedures and monitoring of accessibility requirements concerning public and private services, facilities[,] and procurement procedures, ensuring the right of and resources for organizations of persons with disabilities to support complaint procedures and monitor accessibility;
- (4) Strengthen the technical and financial resources to ensure accessibility to transportation beyond the available accessible seats on public buses;
- (5) Increase the use of jeepneys for all persons with disabilities;
- (6) Take into account its obligations under [A]rticle 9 of the Convention that are relevant to [T]argets 11.2 and 11.7 of the Sustainable Development Goals in order to provide access to safe, affordable, accessible[,] and sustainable transport systems to persons with disabilities by adapting public transport, with special attention to the requirements of persons with disabilities; [and]
- (7) Adopt monitoring indicators to assess improvements in accessibility.¹⁷⁸

175. U.N. Committee on the Rights of Persons with Disabilities, *Considerations of Reports Submitted by States Parties Under Article 35 of the Convention (Initial Report of the Philippines)*, ¶ 3, U.N. Doc. CRPD/C/PHL/1 (Nov. 3, 2015).

176. U.N. Committee on the Rights of Persons with Disabilities, *Concluding Observations in Relation to the Initial Report of the Philippines*, ¶ 1, U.N. Doc. CRPD/C/PHL/CO/1 (Oct. 16, 2018).

177. *Id.* ¶ 20.

178. *Id.* ¶ 21.

As mentioned above, the Incheon Strategy encourages that accessibility audits of public transportation, including the necessary facilities, should be done regularly.¹⁷⁹ An “accessibility audit” would evaluate “what barriers may exist that reduce access and participation of persons with disabilities, and what measures can be taken to eliminate these barriers.”¹⁸⁰ The UN Women has a five-page Accessibility Audit Brief that contains key considerations, information on guidelines that might help in developing an accessibility audit, and a couple of examples of accessibility audits.¹⁸¹ Decision makers could use this brief in making regulations to implement regular accessibility audits for the transport sector, among others.

V. RECOMMENDATIONS AND CONCLUSION

From the review of current Philippine transport laws, regulations, and policies above, it is clear that laws, regulations, and policies in the Philippines are not entirely lacking. Their level of implementation and enforcement, however, should be intensified. There are opportunities to promote and protect the rights of persons with disabilities and senior citizens to accessibility, enhance their access to public transportation, and implement laws, regulations, and policies that have been promulgated.

In addition to the recommendations of the Committee on the Rights of Persons with Disabilities (pursuant to the CRPD) in the previous Section, the suggestions in this Article should be considered to improve accessibility of public transportation. These recommendations for future policies may be used as a guide by decision-makers in drafting laws or regulations that remove transportation barriers for the targeted groups.

Although accessible buses are increasingly available, jeepneys which are used by majority of commuters still lag behind in terms of accessibility design.¹⁸² Adding to this is the gap in the guidelines in the PUVMP as to the body make of PUJs. Note that only body makes for PUBs and mini-buses in

179. Incheon Strategy, *supra* note 57, at 22.

180. UN Women, Accessibility Audit, available at <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2021/Brief-Accessibility-audit-en.pdf> (last accessed Oct. 31, 2022) [<https://perma.cc/9CYN-CUXY>].

181. *See id.*

182. *See* Mohammad Ahanchian & Jose Bienvenido Manuel Biona, *Modeling Rational, Psychological, and Social Behavior Toward Diffusion of New Technology Using Agent-Based Simulation: The Case of the Public Utility Jeepney (PUJ) Fleet in Metro Manila*, ADAPTIVE BEHAV., 2017, at 8.

the city are required to have low entry for quick boarding and alighting with space for at least one passenger with wheelchair and foldable or retractable wheelchair ramp at curbside door.¹⁸³ Although owners of PUJs are mandated by the LTFRB to provide at least two seats for the use of PWDs in their units,¹⁸⁴ this is rarely implemented and enforced. Given that the jeepney has no space for a wheelchair design and safety, consultants could be engaged to determine whether a roof attachment could potentially contain a wheelchair carrier, and whether a low entry or a ramp could be integrated into the modern PUJ design, among others. Markers and stickers for priority seating of persons with disabilities, the elderly, and pregnant women could be required near the entrance of the jeepney and this would not cost much. Other policies that could help persons with disabilities and the elderly include requiring an announcement system to notify those with vision impairment when it is time to alight, or visual guides for those with hearing impairment.

The above discussion mentions that NCDA facilitated disability-related activities and advocacy campaigns in various government agencies including seminars to improve awareness of the issues faced by persons with disabilities.¹⁸⁵ Similar sensitivity trainings in dealing with persons with disabilities, seniors, and similar persons with mobility issues could be developed by NCDA in partnership with DOTr or its agencies. This could even be translated into a regulation which requires drivers and operators of PUVs to attend such training before the issuance of CPCs or a professional driver's license in order for them to understand and accordingly accommodate the special needs of persons with disabilities, the elderly, and similar persons who have mobility issues.

It could also be observed that the penalties for non-compliance with current laws promoting the rights of persons with disabilities do not provide for adequate deterrence in preventing these violations and omissions. The penal clause in R.A. No. 9442 for persons who violate provisions of the law include a maximum fine of ₱200,000 and a maximum period of imprisonment of not more than six years.¹⁸⁶ Often, the grievances suffered by persons with disabilities from erring persons go unnoticed and unreported, unless publicized and sensationalized in popular media.¹⁸⁷ It is proposed that increasing penalties for violating laws that promote the rights of persons with disabilities will have

183. DOTr D.O. No. 11, s. 2017, § 2.2.1.

184. LTFRB Memo. Circ. No. 4, s. 2011, § 15.

185. 2017 NCDA Annual Report, *supra* note 145, at 28 & 36.

186. Republic Act No. 9442, § 1.

187. *See, e.g.,* Madarang, *supra* note 37.

the net effect of decreasing the normalcy of these violations and omissions. Lack of access to grievance mechanisms also plagues the implementation of current laws that promote the rights of persons with disabilities. Absence of adequate means to report violations and omissions of these rules leads to the inevitable consequence of non-implementation of the laws designed to address their needs. It is further proposed that in drafting future legislation pertaining to the pertinent subject matter, Congress should consider the advantages that can be procured through technology. If an electronic database can be established that can easily track reports of violations and omissions of the laws abovementioned, it should be included as a tool in implementing the provisions of future legislation.

To monitor implementation and enforcement of the laws, regulations, and policies to benefit persons with disabilities, senior citizens, and similar persons with mobility issues, complaint mechanisms against erring public utility vehicles should also be strengthened. In train stations, a help desk to help vulnerable persons could be set up. A hotline for those who experienced discrimination may be set up and complaints must be thoroughly investigated. There should also be a mechanism to solicit input and suggestions from relevant stakeholders (i.e., persons with disabilities, senior citizens, and civil society organizations representing such persons), for example an email address which is regularly checked and monitored. Such inputs could be compiled and turned into a report which will be submitted to NCDA to be addressed or integrated into future policies.

Some solutions around accessible transportation may be as simple as making sure that available facilities (e.g., elevators) are working. Other solutions may require more effort, expertise, and most importantly, empathy.