

**Ministry of Social Integration, Social Security and National Solidarity
(Social Security and National Solidarity Div)**

12th Session of the UN Open-Ended Working Group (OEWG) on Ageing

Focus Area: Contribution of older persons to sustainable development

- **National Legal and Policy Framework**

The Workers' Rights Act (WRA) 2019 apply indiscriminately to **every worker** including *older persons* and provides a safety net to enhance protection of every worker, including old age workers, against violence and infringement of their human rights in employment.

Freedom of association is a fundamental right which is guaranteed by Article 13 of our Constitution. This fundamental right is further enshrined as a legal right at Section 29 of the Employment Relations Act (EReA), which stipulates that every worker, including *older persons*, *shall have* the right to establish or join, as a member, a trade union of his/her choice without distinction whatsoever or discrimination of any kind. Section 31 of the Act affords additional protection against any form of discrimination and victimization to any person exercising the aforesaid rights.

Additionally, with a view of enhancing and improving the standard of living and conditions, especially of the lowest paid and vulnerable workers, including elderly persons, Government has with effect from 01 January 2018 introduced a **national minimum wage** through the National Minimum Wage Regulations 2017 as

provided for under the National Wage Consultative Council Act. The national minimum wage applies indiscriminately to all workers, including older persons.

The Ministry has 17 Regional Labour Offices scattered around the island enabling jobseekers, including older persons and employees already in employment to register any nature of complaints related to dispute of their rights. Upon registration of complaints, the employers are called upon to take remedial action else actions are initiated for prosecution at the Industrial Court.

2. Contribution of older persons to sustainable development and Equality and non-discrimination

(a) **The Constitution of Mauritius** provides as follows:

3. *Fundamental rights and freedoms of individual*

It is hereby recognised and declared that in Mauritius there have existed and shall continue to exist without discrimination by reason of race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, each and all of the following human rights and fundamental freedoms—

(a) (...)

(b) *freedom of conscience, of expression, of assembly and association and freedom to establish schools; and*

(c) *the right of the individual to protection for the privacy of his home and other property and from deprivation of property without compensation,*

and the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of those rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

(...)

12. Protection of freedom of expression

(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(a) in the interests of defence, public safety, public order, public morality or public health;

(b) for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the Courts, or regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting, television, public exhibitions or public entertainments; or

(c) for the imposition of restrictions upon public officers,

except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.

13. Protection of freedom of assembly and association

(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and, in particular, to form or belong to trade unions or other associations for the protection of his interests.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(a) in the interests of defence, public safety, public order, public morality or public health;

(b) for the purpose of protecting the rights or freedoms of other persons; or

(c) for the imposition of restrictions upon public officers,

except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.

(i) The **Protection of Elderly Persons Act** puts in place a legal and administrative framework to ensure that greater protection and assistance are available to elderly persons.

- It provides for the setting up of a Protection of the Elderly Network, whose objects are to “ensure, promote and sustain the physical, psychological, emotional, social and economic protection of elderly persons” and “ensure, promote and sustain the well-being of elderly persons so that they are able to play a meaningful part in society”. The functions of the Network include inter alia to “advise the Minister on policies which will encourage the promotion of the welfare of elderly persons within the family unit and on any measures” that appear necessary to achieve its objects and to “coordinate the activities of every statutory or other body or group of persons which contributes to the achievement” of these objects.

- There shall be furthermore a Monitoring Committee for the Elderly having as main function the supervision of the operations of the Unit and of every Elderly Watch and to give to its officers such directions of a general character as it may deem necessary as well as it shall provide adequate resources and facilities for the proper operation of the Unit and of every Elderly Watch.

- Section 8 provides that there shall be in every region, designated by the Monitoring Committee, an Elderly Watch, whose functions of the Elderly Watch

shall be to (a) promote the welfare of elderly persons in the region for which it is responsible; (b) provide support to families that need assistance and protection for elderly persons; (c) endeavour to prevent acts of abuse on elderly persons; and (d) report cases of repeated abuse of an elderly person to an officer of the Unit. Every Elderly Watch shall consist of (a) such volunteers working for the care of elderly persons of the region as may be appointed by the Minister; (b) such voluntary organisation member of the Senior Citizens' Council as may be designated by that Council; (c) such public officer as may be designated by the Minister.

- Section 11 of the Act makes it an offence for any person to inter alia commit an act of abuse on an elderly person or to willfully fail to provide an elderly person under his care with adequate food, medical attention, shelter and clothing. Furthermore, any person who wilfully subjects an elderly person to ill-treatment, whether physical or verbal; subjects an elderly person to prolonged mental or emotional harassment; or intentionally causes pecuniary loss or material prejudice to an elderly person, shall commit an act of abuse. Such a person shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

- (ii) The **Trust Fund for Soroptimist Day Care Centres for the Elderly Act** provides for the setting up of a Trust Fund whose objects are to establish and operate day care centres to provide day care, nursing and other services to the elderly; and to promote the welfare of the elderly generally.
- (iii) Under the **Mental Health Care Act**, special care is afforded to elderly persons who are admitted as patients at the relevant mental health centres, (*"centre" meaning a mental health care centre providing mental health care in a hospital, or in any other place, which by notice published in the Gazette has been declared to be a mental health care centre by the Minister*), inasmuch as they are treated in special units. Section 23 provides specifically for the setting up of a separate unit for *inter alia* the category of

“elderly patients” and for all categories of patients, there shall be a separate unit for male and for female patients.

- (iv) The **Protection from Domestic Violence Act** provides namely for the issue of emergency protection orders, occupation orders and tenancy orders and provides for a wide definition of domestic violence which includes inter alia physical, emotional, sexual violence, harassment, depriving the other spouse of resources which he/she is entitled to, causing or attempting to cause, or threatening to cause damage to the other spouses’ property. The aim of the Act is to protect not only spouses, but also any person living under the same roof including thereby elderly persons, from any act of domestic violence at home.
- (v) Section 132 A of the **Criminal Procedure Act** makes provision for the Court, after conviction of an accused, and prior to imposing sentence, to take into account *inter alia* such other factors as may be relevant, including the fact that the victim is an elderly person, a minor or a person with physical or mental impairment.

The Act also provides that where a Court by or before which a person is charged with an offence (*not being an offence the sentence of which is fixed by law*) thinks that having regard *inter alia* to the character, antecedents, age, health or mental condition of the person, it is inexpedient to inflict punishment and that a probation order is not appropriate, the Court may make an order discharging him absolutely or conditionally subject to certain conditions.

- Welfare of Elderly Persons’ Protection Unit (WEPPU) set up to allow older persons to lodge complaints and seek redress. The Officers of WEPPU effect visits to persons who lodge complaints
- SCC organizes seminars/conferences/Talks to enhance the collaboration of older persons to sustainable development.

- The Elderly Day Care Centres and Recreation Centres provide the necessary platform/forum where the elderly contribution are valued and respected.