

## **Submission on the normative content of Access to justice**

### **12<sup>th</sup> Working Session of the Open-ended Working Group on Ageing, April 2022**

#### **1. Definition**

There is no special definition of the right of older persons to access justice in the Mauritian legislation. This right should be defined as being the same for all other categories of the population, including the right for a fair trial and equality before the law. All persons young or old have legal capacity and, therefore, no one shall be denied access to justice on the basis of age.

#### **2. Scope of the right**

- a. There is no specific mechanism that guarantees access to justice of older persons. The legal aid mechanism is means-tested that can provide some comfort based on their revenues. There is no positive discrimination towards old age citizens.
- b. No such incident or remark is of public knowledge on a case of prejudice or discrimination. It is proposed to propose that any person irrespective of occupation found guilty shall be liable to pay damage or compensation to the aggrieved person.
- c. Timely legal proceedings are part of the solution to equal justice as issues to be redressed could be very complex, e.g: inheritance in favour of older persons or inheritance of children from older persons.

Cases must be heard without unnecessary delay as to do otherwise may lead to great injustice.

- d.
  - for physical access, provision of ramps and user-friendly signage
  - provision of services of interpreters
  - use of video conferencing

e. In Mauritius Government provides legal aid to a person who earns less than MR 10,000 a month.

(1\$=MR 50)

A person who is unable to exercise his right of appeal for want of means shall write to the magistrate to obtain legal aid.

It is proposed to have Private Legal Chambers to offer pro-bono legal services.

Dis-Moi is providing pro-bono services for 4 years now.

f. The creation of Mediation Agencies to settle legal hassles.

Creation of an Office of Ombudsperson for Older Persons to hear, assess, and make recommendations in the same spirit as Office of Ombudsperson for Children.

g. provide reasonable accommodation for older persons on wheel-chairs or who are impaired in all legal and administrative proceedings where the physical presence of the older person is required.

h. Dis-Moi has a Memorandum of Understanding with the Police Department by which the Organisation has conducted Training of Police Trainers, and new Police Recruits (men and women) in human rights including of the rights of older persons.

i. older prisoners have the right to physical, psychological protection inside the prisons, to be placed in areas to avoid mixing with potentially dangerous inmates, have the right to enroll on University Degree Courses and even act as Trainers becoming role models.

j. Older prisoners should have the right to equal access to services as obtained in normal life circumstances: health: physical, mental and cognitive, well-being.

k. when access of older persons' right to justice is denied the State should immediately avail of a mechanism to identify the nature of the problem through concerned ministries, Pro-bono Law Chambers to intervene.

The State should put in place an Office of Ombudsperson for older persons who would also intervene to see that justice is not denied because it is delayed.

### **3. State Obligations**

a. the Protection of Elderly Persons' Act (2005): to provide a legal and administrative framework

This Act has to be a standalone module for Training sessions in the context of campaigns spearheaded by the State, the National Human Rights Commission, the Senior Citizens Council. Additionally, the State should provide logistic assistance to NGOs advocating for the rights of older persons.

The training should target secondary school students, tertiary institutions and associations of older persons.

### **4. Special considerations**

- facilities to access courts of justice
- services of translators
- special derogation for older and injured persons to sit when being interrogated
- NGOs to make research and supply information as may be required by Attorneys and the Court. NGOs can access the family circle of older persons by developing an easy rapport with all parties including residential care homes.

### **5. Implementation**

There is no discrimination on the basis of age for an older person to access justice.

But all older persons cannot sustain the costs of legal fees.

The legal professionals, Office of the Director of Public Prosecutions, magistrates and judges are recruited and appointed by an independent Commission composed of, namely, the Chief Justice, Director of Public Prosecutions, and the Attorney General.

However, there is no specific mechanism that addresses any discrimination issue against older persons committed by the justice system professionals apart from the general mechanisms available to the public, namely the Equal Opportunities Commission and the Equal Opportunities Tribunal.