

*United Nations General Assembly Open-ended Working Group for the purpose of
strengthening the protection of the human rights of older persons*

Eleventh working session
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Guiding Questions for Focus Area: Right to Work and Access to the Labour Market

An elderly person is someone who has attained the age of 60 as stipulated in the Protection of Elderly Persons Act 2006.

National Legal and Policy Framework

1. What are the legal provisions and policy frameworks in your country that recognise the right to work and access to the labour market by older persons?

International Labour Organisation (ILO) Conventions that Mauritius is a signatory party to:

1. Labour Inspection Convention, 1947 (No. 81)
2. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
3. Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
4. Equal Remuneration Convention, 1951 (No. 100)
5. Abolition of Forced Labour Convention, 1957 (No. 105)
6. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
7. Minimum Age Convention, 1973 (No. 138)
8. Worst Forms of Child Labour Convention, 1999 (No. 182)

Employment Legislation:

1. The Workers' Rights Act (2019)
2. The Employment Relations (Amendment) Act (2019)
3. Equal Opportunities Act (2008)
4. Training and Employment of Disabled Persons Act (1996)
5. Non-Citizens (Employment Restriction) Act (1973)
6. Combating of Trafficking in Persons Act (2009)
7. Occupational Safety and Health Act (2007)

Legal Provisions that recognise the right to work for elderly persons:

1. Constitution - Section 94 covers the Pension laws and protection of pension rights
2. Employment Rights Act (2009)

3. Protection of Elderly Persons Act (2006)
4. The Private Pension Schemes Act (2012)

2. What are the challenges faced by older persons for the realization of their right to work and access to the labour market in your country?

Older persons often face distinctive human rights challenges for the realization of their right to work and access to the labour market.

(i) Age limit in job advertisement

For instance, if an applicant above 40 seeks employment, the latter will be barred from the public sector as the Public Service Commission Regulations specify that "*candidates, unless already in the Service, should not have reached their 40th birthday by the closing date for the submission of applications.*"

(ii) Language barrier

(iii) User friendly services - accessibility to online applications.

(iv) Discrimination- Older people face ageism as they are treated differently because of their age which may be a barrier to have access the labour market.

(v) Technology-the use of new technologies may be a barrier to older persons

3. What data, statistics and research are available regarding older persons engaged in informal work, particularly older women, including conditions of their work and economic value?

Mauritius Statistics Bureau - disaggregated data

Information gathered from Statistics Mauritius, which falls under the aegis of the Ministry of Finance and Economic Development, reveal that there is predominance of females among the elderly.

Availability, Accessibility, Acceptability and Quality

4. What steps have been taken to ensure the access of older persons to the labour market including through physical accessibility, access to information about employment opportunities, training and the provision of appropriate workplace accommodations?

Free transport facilities as from the age of 60.

5. What steps have been taken to ensure the availability of specialised services to assist and support older persons to identify and find employment?

Retirement age has been extended to 65 since 2018.

6. What good practices are available in terms of ensuring the older persons' enjoyment of their right to work and their access to the labour market?

The Employment Rights Act and the Equal Opportunities Act respectively protect employees from Harassment and Discrimination on basis of their age. The former describes Harassment as any unwanted conduct, verbal, non-verbal, visual, psychological or physical while on the other hand discrimination means treating an employee differently due to the latter's age or for other specific reasons.

7. What protections are available to ensure older persons enjoy just and favourable conditions of work, including fair wages and equal remuneration for work of equal value, safe working conditions, both in the formal and informal sector?

Section 20 of the Employment Rights Act guarantees the equal remuneration for work of equal value between men and women. There is no provision on equal remuneration on basis of age.

Non-contributory Benefits

Every Mauritian citizen benefits from the National Pension Scheme (NPS) as from the age of 60, at the monthly rate of Rs. 9,000. A person aged 90 and below 100 years receive a pension of Rs 16,210, while centenarian receives Rs 21,710. The monthly NPS rate has been updated since December 2019.

Retirement Gratuity

Older persons who have been in continuous employment for at least 12 months benefit from a retirement gratuity at retirement age (S49, Employment Rights Act). The retirement gratuity is paid in the form of a one-off lump sum, which is calculated on basis 15 days' remuneration for every 12 months' in continuous employment. In the event that an employee dies before reaching retirement age, his or her widow(er) or children or legal representative receive the lump sum.

The Workers' Rights Act introduce a Portable Retirement Gratuity Fund (PRGF) to replace the current 15 days' remuneration calculation of gratuity with a contribution of 4.8% of monthly remuneration (Section 87). This provision will also ensure that all the employers where the employee was once employed contribute to the retirement gratuity.

Contributory Benefits

Employees of the private and para-statal bodies contribute to the National Pension Fund (NPF) also known as the Contributory Pension plan to which they benefit from at retirement age of 65.

Equality and non-discrimination

8. In your country, is age one of the prohibited grounds for discrimination in relation to work and access to the labour market, including in older age?

The Equal Opportunities Act guarantees protection from discrimination on basis of age. As per the 2016-2019 Report of the Equal Opportunities Commission, 11% of complaints were made on basis of age.

Remedies and Redress

9. What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their right to work and access to the labour market?

Older persons can access the following complaint or conflict resolution mechanisms:

- Labour Offices -Employees of all age groups can access the 17 labour offices scattered across Mauritius in order to facilitate their job application or to serve as a complaint mechanism upon breach of their employment rights.
- Equal Opportunities Commission - for complaints of discrimination on basis of age and sexual harassment.
- Complainants across all working spheres have the right to form part of trade union and to seek amends thereof (Employment Relations Act). It is equally accessible to elderly persons.
- Employment Relations Tribunal - resolves labour disputes through mediation and conciliation. Labour disputes include inter alia wages, terms and conditions of employment, promotion, allocation of work between workers and groups of workers, reinstatement or suspension of employment of a worker.