

Submission from Human Rights Commission of Sri Lanka (HRCSL) to the Open Ended working Group on Ageing (OEWGA) at UN for consideration at its tenth Session during 15-18 April 2019 at UN Headquarters in New York

Introduction

The Human Rights Commission of Sri Lanka (HRCSL) in keeping with its policy of prioritizing policy intervention to promote the respect for and protection of human rights, established a series of Sub Committees as expert bodies on various prioritized themes to contribute to the development of policy recommendations to be advocated by it. One such Sub Committee is the Sub-committee on Elders' Rights formed to review legislation, policies and official practices pertaining to elders.

With regard to the guiding questions of the OEWGA to Member States for consideration at its 10th Session in April 2019, the HRCSL wishes to respond as follows:

Thematic focus Area: Social protection and social security (including social protection floors)

The principal legislation that is in place for the protection of the Rights of Elders in Sri Lanka is the Protection of the Rights of Elders Act no.9 of 2000 followed by an amendment to the Act namely, Protection of the Rights of Elders' (Amendment) Act no.5 of 2011. This legislation provides for the establishment of a National Council for Elders for promotion of the welfare and the Rights of Elders and the establishment of a National Secretariat as its policy implementation body.

Several social protection support schemes and contributory and non-contributory pension schemes are in force under several legislations and budgetary allocations in Sri Lanka. However, they cover only a segment of the total old population of the country reflecting the fact that Sri Lanka does not have a universal pension scheme covering the entire older population in the country. Currently, only 621,516 government pensioners are covered under the government pension schemes.

Social protection support schemes implemented by the Government such as 'Samurdhi' and public assistance schemes also cover only a segment of the older people in the country.

Elders who are above 70 years old and have no other means of income have been covered under the elders' allowance scheme which provides around 11 US Dollars per month. Around 416,000 older people are getting this allowance at present. Apart from this, disabled older people can claim assistance from the disability support scheme which provides around 17 US Dollars per month. These support schemes have been created under several parliamentary Acts and budgetary allocations.

Social Security board of Sri Lanka provides social security to self-employed persons on the basis of their age and disability. Upon the death of the employee, the dependents are provided relief as per the different schemes. All persons who are not entitled to receive a pension or are not holding pensionable posts are eligible to enroll in these schemes. This is a contributory pension scheme for self-employed persons.

Sri Lanka needs to initiate an alternatives mechanism to provide financial support absence of universal pension scheme for older people. Nevertheless, Sri Lanka has universal absence of mechanism to provide financial support in the health services. Elders as a vulnerable group are immensely benefited from the free services of the government.

Further, the government has facilitated few elders' homes which provide protection, food, accommodation and other facilities for needy elders. The National Secretariat of Elders and Social Services Department assist needy elders through various schemes and improve community protection through Senior Citizen Committee network. To ensure the accession it of information on the available social security schemes, effective awareness programs and systems should be brought into place. Even though information is available at Divisional Secretariats, older people are unable to have access to these offices due to their mobility and transportation difficulties.

Sri Lanka has recently introduced Senior Citizen committee network around the country. 11, 00 Village level Senior Citizen Committees (SCC) have been formed. These village-level SCCs get together and have formed Divisional level, District Level, Provincial level and National level Senior Citizen networks. These networks are expected to be exploited to capture the views, opinions and suggestions from the senior citizens in order to develop policies on aging population.

Two institutions namely, National Secretariat of Elders and Maintenance board are currently working together to assist elders to claim their rights from children and responsible persons. Entitlement or protection issues are addressed by the general laws of the country

Thematic Focus Area: Education, training, life-long learning and capacity-building

Chapter III of the 1978 Constitution of Sri-Lanka lists out a number of fundamental rights including Right to Equality, Freedom of Speech, and Freedom from Torture and so on. But not the Right to Education. Further by Article 27(2) (h) of the 1978 Constitution under Chapter VI – Directive Principles of State Policy (DPSP) the State is pledged to “the complete eradication of illiteracy and the assurance to all persons of the Right to universal and equal access to education at all levels”, but free education is not stipulated; not the right to non-State education.

However through a Case Law from Sri Lanka, *R Haputhantrige & Others v. Secretary, Ministry of Education & Others* ¹An important judgment in the field of education was delivered by the Supreme Court of Sri Lanka in 2007. In the absence of the right to education as a Fundamental Right in our present Constitution, the Supreme Court applied the Fundamental Right to equality (Article 12 of the Constitution) as discussed above to prove the infringement of the Child’s Right to education by the education authorities of the State. Unfortunately this doesn’t extend to older population in the country at all times. Right to Free Education could be extended to any age group but it has limitations for the elderly. Thus the free education is not an absolute or a directly recognized right in the country.

Education is considered as an essential need for elders as well as for others. Therefore, lifelong learning opportunities should be available for everyone in the country. Unlike the health service in Sri Lanka, its education system is not universal since elders do not have access to schools, university, and other formal education systems. Nevertheless, they can sit for general examinations conducted by the relevant government authorities.

The current approach which concentrates on younger people and on skills for employment is inadequate to meet the challenges of demographic change, around 1% of the education budget is currently spent on the oldest third of the population. The challenges include the fact that most people can expect to spend a third of their lives in retirement, that there are now more people over 65 than under 14 and that 9.67 percent of the total population of 20,971,313 (as of

¹ (2007 FR) 10-13/2007 (Grade One Admission case) (2007) 1 Sri LR 101.

October 16th 2018) people are over 65 years..The vast majority of our education budget is spent on people below the age of 25.

Sri Lanka has taken initiatives to provide village level training programs for self-employed people through various ministries and ongoing development programs. However, initiatives need to be taken to provide elderly centered training programs for the benefit of the older population in the country.

In The National Policy and Plan of Action for Senior Citizens in Sri-Lanka, under Strategy 3 (Provide Access to Appropriate Education and Training) which was adopted by the Cabinet of Ministers on 30th March 2006, it is mentioned that actions will be taken

- To introduce in education curricula, the subject of "Ageing Population" to teach the process of ageing, promote healthy ageing and reinforce by inclusion in school projects.
- Obtain services of retired persons for peer education and counseling.
- Expand and develop adult education to provide opportunities for the elderly to upgrade knowledge and acquire new skills. Access adequate training, orientation to current affairs, and general knowledge.
- Within the context of an increasingly information - based society, Senior Citizens should have adequate access to adult learning to ensure intergenerational participation and economic and social integration.

Moreover, age is not considered as a ground to prohibit one from being discriminated as the constitution of Sri-Lanka under Right to Equality, Article 12 (2) states No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds. Therefore age is not included in this provision.

Further there is no proper redress mechanism regarding the right to education and, training, life-long learning and capacity-building as such right are not recognized in Sri-Lanka as an absolute right through the constitution for elders.