



EQUALITY FOR PERSONS WITH DISABILITIES

BACKGROUND

Disabled persons constitute the largest minority in Sri Lanka. In February 2014, the Ministry of Health estimated that 10% of the total population of Sri Lanka lives with some form of disability.¹ According to the World Health Organization, approximately 15% of the world's population is disabled. Anecdotal evidence suggests that the number of persons with disabilities continues to grow due to non-communicable diseases such as diabetes, strokes, road accidents, birth related impairments and an aging population. The Ministry of Health estimates that by 2040 the number of persons living with disabilities would constitute approximately 24.2% of the population. According to the Ministry of Health, there is a need for adequate infrastructure and services to ensure appropriate rehabilitation services for persons with disabilities and a 'special system is required to give protection and assistance to persons with disabilities'.

Effective responses to disability require that government Ministries and other agencies collaborate to ensure that all persons and children with disabilities enjoy their civil, cultural, economic, political, and social rights and are able to live a life of dignity.

The Sri Lankan government has committed to a rights-based approach by acceding to the United Nations Convention on the Rights of Persons with disabilities (UNCRPD) on the 8th of February 2016.² This represents a historic moment for persons with disabilities in Sri Lanka, who for decades have been at the receiving end of the conventional 'charity-based' model of social welfare and special schemes. Historically, disability was viewed through the lens of 'sympathy', 'pity' and 'charity' across the world and persons with disabilities were often seen as 'helpless victims'.³ The UNCRPD ushered in a new approach to disability globally. It expands on the 1948 Universal Declaration of Human Rights and on the international covenants on Economic, Social, and Cultural Rights and Civil and Political Rights, to establish a comprehensive rights-based framework that all countries commit to implement when they accede to or ratify the CRPD.

¹<http://newsfirst.lk/english/2014/02/disabled-persons-sri-lanka-will-increase-upto-24-2-2040/21877>

²<http://efcnetworkondisability.employers.lk/wp/sri-lanka-ratify-the-united-nations-convention-on-rights-of-persons-with-disabilities-uncrpd/>

³http://www.cuts-international.org/cart/pdf/dis-ability_junction_03-2011.pdf



In 2014, the Sri Lankan government adopted a National Action Plan on Disability (NAPD), which obliged the state to allocate adequate financial and human resources to implement seven pillars of action and services on disability. The seven pillars include health and rehabilitation, education, work and employment, empowerment, mainstreaming and enabling environments, data and research and social institutional cohesion.

A NEW LAW ON DISABILITY

The process of drafting a new law on disability rights has commenced and a draft is currently with the Legal Draftsman's department. However, there are several concerns about the process in drafting the law, including the lack of adequate consultations with a wide spectrum of persons with disabilities, the non-availability of the draft law in Tamil and English, and the draft not being in accordance with the version formulated by the appointed drafting committee and later reviewed by the members of the consulting committee.

Earlier in the year, organizations and advocates working on disability rights made representations before the Public Representations Committee on Constitution Reform. The gist of the submissions was that equal rights for persons with disabilities must be included in the new Constitution and that the new Constitution should include a modern bill of rights that guarantees enforceable civil, cultural, economic, political and social rights. These proposals were re-presented before the Sub-Committee on Human Rights, of the Constitutional Assembly in August this year.

On 12th August the International Centre for Ethnic Studies (ICES) facilitated a discussion on the draft disability law with a diverse group of stakeholders.⁴ A key point of discussion was that while the Ministry of Social Empowerment and Welfare should continue to be the focal point for disability services and schemes, the 'Disability Rights Commission' as proposed in the draft law, should be established as an **independent entity** and should champion the rights of disabled persons. Its members should be appointed by the President after approval by the Constitutional Council.

⁴<http://ices.lk/projects/enacting-a-new-law-on-disability-rights-in-sri-lanka/>



The implementation of the National Action Plan on Disability (NAPD) calls for adequate funding sourced through relevant line Ministries and an effective coordination mechanism amongst these several Ministries. Participants at the discussion proposed that the 'Disability Rights Commission' be vested with the task of monitoring the implementation of the NAPD. Participants were also of the view that the proposed Commission be tasked with 'investigating complaints and seeking relief and redress through the courts.'⁵

Recommendations of the 12th August Discussion

With the accession to the UNCRPD, the government of Sri Lanka has an opportunity to introduce a new disability law that could be a model for other countries. The Government of Sri Lanka should:

- Publish the draft law in Sinhala, Tamil and English and **consult widely** with persons with disabilities, academics, legal professionals, disability rights advocates and practitioners.
- Ensure that the draft disability law is passed by Parliament only after an **extensive period of consultations** with all stakeholders
- Ensure that the new law establishes an **independent 'Disability Rights Commission'** with adequate financial and human resources. The members of the Commission should be appointed by the President after approval by the Constitutional Council
- Ensure that the proposed 'Disability Rights Commission' is not chaired by a government Minister

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⁵ Statement to Members of the Sub- Committee on Human Rights of the Constitutional Assembly, 23rd August 2016