

**The State of Economic, Social and Cultural Rights
of Persons with Disabilities in Sri Lanka**

**Submission
by
Disability Organizations Joint Front**



April 2017

Disability Organization Joint Front (DOJF)

The Disability Organization Joint Front (DOJF) is the only umbrella body for disability organizations in Sri Lanka formed in 2001. Membership consists of organizations of Visually, Hearing, Physically impaired and parents of intellectually impaired children. Presently there are 26 member organizations from different parts of the country including the North and East. The DOJF is registered with the Ministry of Social Empowerment and Welfare as a Voluntary Organization of people with disabilities under Parliamentary Act No. 28 of 1996, 'Protection of the Rights of People with Disabilities'. DOJF aims to enable disability organizations to work jointly as a pressure group to protect the rights of persons with disabilities, ensuring them a free and independent life.

Contact information of DOJF

Postal Address : No 33, Rajamawatha, Ratmalana, Sri Lanka
Telephone/ Fax : 009411 2721383
Email : dojf@sltnet.lk
Web : www.gojf.org

Member organizations of DOJF

1. Ceylon Association For The Mentally Retarded
2. Kalutara District Organisation Of The Disabled
3. Matugama Social Service Society Mayura Rehabilitation Centre
4. National Forum Of Visually Handicapped Women
5. Organisation For Rehabilitation Of The Handicapped Vavuniya District (ORHAN)
6. Parents Teachers Organisation Of The Intellectual Disability In Sri Lanka
7. Saviya Development Foundation
8. Special Education Development Service Society
9. Special Educational Services Society Blind And Deaf School
10. Sri Lanka Association Of Parents Of Deaf Children
11. Sri Lanka Central Federation Of The Deaf
12. Sri Lanka Council For The Blind
13. Sri Lanka Federation Of The Visually Handicapped
14. Sri Lanka Foundation For The Rehabilitation Of The Disabled
15. Sri Lanka National Federation Of The Visually Handicapped
16. Sri Lanka Spinal Injuries Association
17. Narada Sawana (Hear) Foundation
18. "Our Kids" Organization For Slow Growing Minded Children.
19. National Institute For The Care Of Paraplegics Sri Lanka.
20. Sri Lanka Council Of Visually Handicapped Graduates

21. Exceptional Children's Educational Development Foundation
22. Navajeevana
23. Southern Province Deaf Association
24. Puthiya Pathai Disabled People's Organization
25. Valvaham Special Need People's Organization
26. Association For Persons With Rheumatic Diseases

Apart from the list of Disabled People's Organizations holding membership status with DOJF, **this report is also endorsed by** a coalition of organizations and independent rights activists who lobby collectively as the "**February 8th Movement**", in line with the GoSL's date of ratification of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The February 8th Movement is an independent alliance of disability services and rights oriented organizations, persons with disabilities, practitioners, lawyers, rights activists and academics, forming a collective voice demanding independent and stringent, mechanisms for monitoring disability rights and implementation of services; in line with Article 33 of the CRPD.

February 8th Movement participants are:

Organizations:

MyRight

International Centre for Ethnic Studies (www.ices.lk)

Law and Society Trust

Sri Lanka Central Federation of the Deaf

EnableLanka Foundation

CAMID

Piyapath Foundation

MENCAFEP

ORHAN

CMEV

Department of Disability Studies, University of Kelaniya

Cerebral Palsy Lanka

Employers Federation Ceylon (EFC)

Independent Activists:

Mr. Priyantha Pieris

Mr. Kasunjith Satanaarachchi

Ms. Zahabia Adamaly

Ms. Lasanthi Daskon Attanayake

Background

The 2011 World Report on Disability estimated that more than one billion people in the world live with a disability. Out of them nearly 400 million live in developing countries. Sri Lankan **government has been weak at enumerating and updating statistics pertaining to disability**, and therefore this report will illustrate the numbers of persons with disabilities in the country by drawing from several sources. Statistics in 2012 on Sri Lanka issued by UNESCAP inform that of the country's 21 million population an **approximated 1.7 million persons live with a disability**. This is estimated to be around 10% of the population. However, this number does not include the more recent presumed increase in disabilities caused as a direct result of the war. It is also understood that mental disability and trauma related stress and psychosocial disorders belong to the 'invisible' category of disability and are not included in available statistics. The Sri Lankan Ministry of Health issued a statement in 2014 that the number of people with disabilities is likely to increase by 24.4% in 2040.¹ The Sri Lankan survey on National Blindness, Visual Impairment, Ocular Morbidity and Disability (2014) reported that the prevalence of disability is 'significantly higher in females than in males' (especially among lower socio-economic strata and in rural districts), while there were no reported differences by ethnicity. Even though Sri Lanka attained middle-income status in 2010, research conducted in 2015 shows that ²while "multidimensional poverty is relatively low in Sri Lanka, the difference in multidimensional poverty levels between households with and without the disabled is high. This suggests that households with the disabled encounter problems other than low monetary earnings". Globally it is accepted that there is a symbiotic relationship between disability and poverty

The Sri Lankan constitution guarantees a citizen's right to equal protection and prohibits discrimination on particular grounds including race, religion, sex and language (Article 12). However, unlike the South African constitution, **the right to non-discrimination on the grounds of disability is not given constitutional protection in Sri Lanka**.³ Protection of the Rights of Persons with Disabilities Act, No 28 of 1996, amended by Act, No 33 of 2003 governs the law on the disabled people in Sri Lanka⁴ at present. The National Council for Persons with Disabilities (NCPD) is established under the Rights of Persons with Disabilities Act, and members to the council are appointed by the President. The NCPD's role was to be an independent decision making entity, and inclusive of persons with disabilities, care-givers and organizations representing/advocating for the rights of persons with disabilities as well as representation from other important line Ministries and local government. However, the

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

²

https://www.researchgate.net/publication/283532631_Disability_and_Poverty_in_Sri_Lanka_A_Household_Level_Analysis

³ www.manthri.lk

⁴ <http://hcdg.org/govpolicy.htm>

NCPD is viewed to be a body that is limited and ineffective in policy formulation or the promotion of disability rights but is relegated to routine procedures of a charitable nature; such as the review and approval of applications to disability welfare schemes , approval of annual budgets for welfare schemes, review and approval of procurement related to conventional distributions such as assistive devices, livelihood equipment and scholarships. A reason for this procedural and conventional role of the Council is attributed to it being housed in the Ministry of Social Empowerment and Welfare and limitations in autonomy attributed to the Council being chaired by the respective Minister of social Empowerment and Welfare. Importantly, it must be noted that **the Council does not at present include a single woman with a disability as a member**, thereby marginalizing an acutely vulnerable segment of disabled population in Sri Lanka from the national decision making unit on disability.

Sri Lanka ratified the United Nations Convention on the Rights of Persons with Disabilities on the 8th of February 2016. While this is an important milestone for persons with disabilities and for the country to begin formulating legislation and provisions in line with this – the ground realities of deprivation, poverty and discrimination experienced by persons with disabilities continue. Sri Lanka is yet to accede to the Optional Protocol which enables complaints to be submitted by individuals and groups if and where there is a violation of the rights of persons with disabilities.

Status of Social, Economic and Cultural Rights of persons with disabilities

Promoting health for the benefit of persons with disabilities

Timely detection and early intervention are key to prevention of disability and/or reducing severity of disability. Despite Sri Lanka's positive health development indicators the statistics are not representative of prevalence of birth impairments and related disabilities.

Public health education programs as well as the general health education curriculum do not include even at the primary level, disability identification and prevention programs are insufficient. Access to health services is a challenging task for PwD's due to lack of physical accessibility and non-availability of information, non-availability of audio visual communication boards and sign language interpreters even in leading state hospitals. The absence of disability specific programs and priority health schemes, persons with severe disabilities and other difficulties are expected to wait in long queues for many hours and do not receive timely health services.

<p>Recommendations: <i>It is necessary to establish a focal point/ help desk in every hospital in order to provide services to persons with disabilities and minimize the discomfort they have to face in hospitals.</i></p>

Habilitation programs for persons with disabilities

Despite government's free primary health care policy, to date there are no systematic rehabilitation programs which present continued monitoring of children born with disabilities (especially from poor income families) and whereby the type and degree of disability could become severe and more debilitating. Although Sri Lanka rolled out an effective Community Based Rehabilitation program (which enabled early identification and interventions) since the 1980s, by today the program is weak (or non-existent in most districts) with limitations in human and financial resources. Further the CBR program continues to be the portfolio of the Ministry of Social welfare and empowerment thereby constraining the efforts to one Ministry. CBR is effective only if coordinated and implemented in collaboration with other important line Ministries such as the Health, Education and Labor Ministries respectively.

Recommendations: *A national coordination mechanism spearheaded by the ministry of health together with other important stakeholders such as Ministry of Social Empowerment and Welfare, Ministry of Indigenous Medicines and Ministry of Higher Education should introduce required habilitation services to PwDs.*

Access to primary education

According to 2011 census, 34% of children with disabilities in school attending age do not receive any education. Furthermore, it has been reported that 20.3% of children with disabilities⁵ do not receive primary education. Although Sri Lanka is required to adhere to Article 24 of the UNCRPD and other international instruments, however minimum access to nor availability of basic equipment and resources are not made available through the education system.⁶ Despite the pledge that has been made by the government to provide equal opportunities to children with disabilities, the government has failed to implement it sufficiently in practice.⁷ The pledge continues to be an impressive framework on paper. Not even the minimum facilities required for the concept of inclusive education accepted worldwide are not available in the schools system of Sri Lanka. Reasonable accommodations and standards required to facilitate inclusive education is lacking thereby marginalizing children with disabilities from their right to education⁸

Recommendations: *Necessary government intervention and legal provisions must be made to reach inclusive education, substantially implement integrated education programs and where needed introduce regularized special residential institutional based school systems.*

Barriers to higher education

Reaching higher education attainment is a challenge, especially to those with severe conditions of disabilities, multiple disabilities and hearing impairment. Minimum resources

⁵ <http://www.statistics.gov.lk/PopHouSat/CPH2011/Pages/Activities/Reports/FinalReport/FinalReportE.pdf>

⁶ http://socialemwelfare.gov.lk/web/images/content_image/pdf/legislation/disability_policy.pdf

⁷ http://www.un.org/en/ecosoc/julyhls/pdf11/14general_debate_sri_lanka.pdf

⁸ <http://www.ips.lk/talkingeconomics/2016/04/25/sri-lankas-invisible-children-the-need-for-inclusive-education-for-children-with-special-needs/>

needed to facilitate a reasonable standard of education is a challenge for those students with disabilities aspiring for higher education. They do not have a choice in selecting subjects according to their ambition and goal but are given the choices available by education authorities even if they are not in favor of that subject which violates their freedom and right to choose⁹. Furthermore, action has not been taken to make available the learning devices and tools in accessible alternative formats which would help students with disabilities to engage in higher education. Physical accessible facilities available in every higher education institutes are far below the standards and not at all sufficient. Although women indicate considerable progress in higher education (approximately 62% in 2014)¹⁰ in Sri Lanka, women with disabilities opting for higher education is not significant due to other societal and cultural barriers faced by women with disabilities.

Recommendations: *Action must be taken by the authorities to facilitate students to choose subject streams as per their preference, provide learning devices and tools in accessible alternative formats and ensure better access to physical environment as well as information as per the standards in Accessibility Regulations. Special scholarships must be made available to students with disabilities in order to encourage more students to engage in higher education and motivate young girls and women with disabilities already engaged in secondary/higher education to successfully face challenges and complete their studies.*

Barriers to vocational skills training: The Ministry of Social Empowerment and Welfare continue to be the responsible Ministry for providing vocational skills training opportunities for persons with disabilities. Being a long standing welfare oriented Ministry with limited progress in modernizing services and training opportunities the Ministry continue to roll out conventional livelihood skills training which have been the norm for decades. This renders persons with disabilities with limited choice and not access marketable skills that are in demand with present labor requirement/employability. Apart from this grave limitation the available vocational skills training facilities are not adequate to accommodate the numbers of persons with disabilities seeking skills training programs. Persons with disabilities are also marginalized from accessing private sector skills training facilities because of accessibility barriers and lack of supportive technology and communication facilities which enable them to participate and receive a meaningful training experience.

Recommendations: *Establish a proper system that includes alternative communication facilities required to include persons with disabilities into mainstream vocational training institutes based on the principles of inclusion. Action must be taken by the state to improve the quality of special training centers and to introduce new vocational training streams based on the preference of persons with disabilities and the market trends/demands. Furthermore, these courses must be*

⁹ http://www.ugc.ac.lk/downloads/admissions/Handbook_2015_2016/ENGLISH%20HANDBOOK%202015-2016.pdf

¹⁰ http://www.ugc.ac.lk/downloads/statistics/stat_2014/Chapter%203.pdf

designed to be on par with National Vocational Qualifications. For the benefit of candidates who wish to obtain training but do not have the expected minimum qualifications due to limited access for primary/secondary education and as a result of their disability, a special admission methodology based on hands on practical skills must be introduced. All-inclusive disabled friendly environment must be promoted in all vocational training centers, technical colleges, technology schools and other training centers.

Barriers to employment of persons with disabilities

By law the 1996 Act¹¹ assure persons with disabilities equal opportunities to employment. However, this is not evident in practice and especially by state authorities. As Per the census and statistics report of 2012, 70.9% of the persons with disabilities in the employment age is not economically active¹² When filling vacant positions, PwDs are not recruited and are denied the opportunities despite the 3% quota allocated to persons with disabilities when recruiting for government jobs.¹³ Even where a person with disabilities holds the required minimum qualification for a vacancy, the disability is viewed as a barrier and thereby the person not granted the employment opportunity. Certain gazette notifications issued by the Public Services Commission from time to time in order to recruit persons to government sector jobs include certain conditions which violate the right to employment of persons with disabilities.¹⁴ No legal provisions are available to provide persons with disabilities any employment opportunities in the private sector.

Recommendations: *Discrimination against persons with disabilities when recruiting for employment in the public and private sectors must be eliminated. Furthermore, the current 3% quota must be increased at least to 5% and made mandatory to both state and private sectors. Additionally, special provisions should be made available by the government to safeguard the employment rights of persons with disabilities who have been unable to fulfill basic qualifications required for employment due to their disabilities. A Disability Employment Trust should be established through an act of parliament and state and private sector employers who do not comply with the 5% quota allocated for employment of PwD's must be made to contribute an equal amount in gratuity payment to the trust.*

Quality of Life and Social Protection

¹¹ http://socialemwelfare.gov.lk/web/images/content_image/pdf/legislation/act1996.pdf

¹² <http://www.statistics.gov.lk/PopHouSat/CPH2011/Pages/Activities/Reports/FinalReport/FinalReportE.pdf>

¹³ [http://www.pubad.gov.lk/web/eservices/circulars/1999/E/01-1999\(e\).pdf](http://www.pubad.gov.lk/web/eservices/circulars/1999/E/01-1999(e).pdf)

¹⁴ When vacancies in the public sector is announced by Public Services Commission should promulgate the vacancies in the government gazette. For example, Government gazette 2016/12/09 page no. 2945 it states that the candidate should comply medical standards as well as physical medical requirements which would prevent the Persons with Physical disabilities applying for the post even though the announced post does not require the stated physical standards. It has become a standard in the vacancy announcement of by the Public Services Commission

Persons living with multiple disabilities, and severe degrees of disability experience legal discrimination and protection issues after the death of their parents and/or care-givers.¹⁵ This situation is similarly applicable for elderly persons with disabilities as well as senior citizens when they become restricted with their movements.

Apart from that generally pwd are viewed as dependent on their family members On the other hand, the state has income–support schemes in place to support ‘needy’ PwDs. This includes provision for a monthly allowance of Rs. 3,000 and the following one time allowances: for construction of a new house of Rs. 250,000, self-employment and medical assistance for surgical needs up to Rs.25,000 and Rs. 20,000 respectively, medicine and traveling allowance of Rs. 20000, and educational assistance of up to Rs. 10000. However provisions notwithstanding there are many complications involved in obtaining the financial assistance.

The state draws an inevitable link between disability and poverty. Distribution of funds is largely on welfare to bail out indigent families with PwDs. In providing the monthly allowance of Rs. 3,000, priority is given for the family where the breadwinner is disabled and the disability is severe. It has been noted that the monthly allowance is largely insufficient to cover the cost of living

In terms of geographic distribution, a relatively higher number of PwDs from the districts of Kurunegala (9.81%), Jaffna (6.56%) and Ampara (5.76%) receive monthly allowances.²⁸ Conversely the highest number of PwDs is in fact reported from Nuwara Eliya, Kandy, and Ratnapura.²⁹ The reason for the mismatch in the number of PwDs and the PwDs who receive assistance remains unclear but is likely reflective of the problems of accessibility of the financial assistance schemes, especially in the up-country estate areas.

Delivery arrangements are channeled through the Social Service Officers in the Provincial Council and the respective Divisional Secretariat. For a PwD to be eligible for the above mentioned allowance, his/her monthly income should be below Rs. 6000 (41 USD). The NSPD also requires the medical doctor’s certification on the type and severity of the disability to be produced along with a recommendation of the Divisional Secretary.³¹ The criteria and process of applications require the PwD to be dependent on several layers of government structures and approvals, ranging from the village level administrative officer, the social services officer, and the medical officer of health. Moreover, the process of selection is also adversely impacted by political patronage and discrimination. As a consequence, the PwDs are viewed as dependent on their family members. On the other hand, the state has income–support schemes in place to support ‘needy’ PwDs. This includes provision for a monthly allowance of Rs. 3000 and the following one time allowances: for construction of a new house of Rs. 250 000, self-employment and medical assistance for surgical needs up to Rs.25000 and Rs. 20000 respectively, medicine and traveling allowance of Rs. 20000, and educational assistance of up to Rs. 10000. However provisions notwithstanding there are many complications involved in obtaining the financial assistance.

¹⁵ The biggest issue faced by the parents of persons with intellectual disabilities and sever disabilities is the caring and guardianship of their loved once after their demise. It is evident that this vulnerable group is more susceptible to abuse and physical harassment by their legal guardians and relatives including own siblings. This is well explained in article 23 of UNCPRD.

Recommendations: Action must be taken by the government to establish a formal system to provide social security and disability specific social insurance programs should be introduced and implemented for the benefit of those groups. Stringent legal provisions should be made available when parent ship changes to guardianship.

Participation in Cultural Activities, Entertainment

Engagement in and enjoyment of cultural activities, religious activities, recreation and the arts are not available to persons with disabilities or where there is an opportunity it is with accessibility limitations and attitudinal constraints. Further, it is also not studied or known if conventional practices in recreation, cultural events and the arts should remain as the only option for persons with disabilities and where it should be allowed for them to introduce their own unique expressions and manifestations.

Recommendations: Required actions should be taken by the authorities to ensure that persons with disabilities will have the same right to access and enjoy cultural, religious, entertainment, sports and recreation activities

Principle Recommendation for the enjoyment of all Economic, Social and Cultural Rights of persons with disabilities (with specific adherence to Article 33 of the United Nations Convention on the Rights of Persons with Disabilities):

With reference to the status of access to and enjoyment of Economic, Social and Cultural Rights of persons with disabilities detailed above in the report, we advocate for

- the establishment of a **Coordination Mechanism located at the highest levels of government** that enables important line Ministries pertaining to Health, Education, Labour, Justice, Social Empowerment and Welfare, Women's Empowerment, Child Protection and Foreign Affairs to appoint Focal Persons in each Ministry and to coordinate activities on the rights of disabled persons, including the implementation of the National Action Plan on Disability.
- the establishment of an **independent 'Disability Rights Commission'**, set up by statute, whose members are appointed by the President on the recommendation of the Constitutional Council (as set up by the Constitution of Sri Lanka), to protect, promote and realize the rights of disabled persons.