

Chapter 12

Human Rights Status of Persons with Disabilities in Sri Lanka: Challenges and Opportunities

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Introduction

The terms ‘*Impairments, Disabilities. and Handicaps*’ (ICIDH) are often used interchangeably. However, the International Classification of Impairments, Disabilities, and Handicaps (ICIDH) promotes a most common framework and definitions of disability-related issues (WHO, 1980: 2-3). In the context of health experience, a disability is any restriction or lack of ability to perform an activity in the manner or within the range considered normal for a human being (WHO, 1980: 28). However, the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) recognizes that ‘disability is an evolving concept’ (UNCRPD, 2006: 1). Further, the UNCRPD identifies that Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others (UNCRPD, 2006: 4).

More prominently, the preamble of the United Nations Convention on the Rights of Persons with Disabilities states, *Disability is an evolving concept, and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder full and effective participation in society on an equal basis with others* (UNCRPD, 2006: 01).

In academia, the definition of disability has been a controversial matter. Thus, definitions range from the very narrow to the very broad, from the medical to the social, from the cultural to the local, from the one intended to integrate them into society to the one for exclusion and segregation (Gupta, 2012: 145). However, in cooperating with the UNCRPD, the present study defines the term disability as physically, psychologically, and socially constructed and reflects a misapprehension in the thinking on the part of society.

It has been estimated that more than one billion people in the world live with some form of disability and that a significant proportion of persons with disabilities live in the continents of Asia and Africa (World report on disability, 2011). They are among the most marginalized, vulnerable, and excluded groups in the world. Specifically, they face several barriers to the realization of their basic human rights.

However, the human rights of persons with disabilities have been now properly documented in the United Nations' human rights system and the significance of protecting their human rights by States acknowledged. In this context, many international documents including the Declaration on the Rights of Disabled Persons (1975), *World Programme of Action Concerning Disabled People* (1982), the *Convention on the Rights of the Child* (1989), the *Standard Rules on the Equalization of Opportunities for People with Disabilities* (1993), *United Nations Convention on the Rights of the Persons with Disabilities-CRPD* (2006) and *Convention on the Rights of Persons with Disabilities and its Optional Protocol* (2007) have highlighted that disability is a human rights issue. Moreover, the United Nations has established a range of international mechanisms to deal with human rights issues of disabled persons including *the Ad Hoc Committee: Convention on the Rights of Persons with Disabilities*, *Committee on the Rights of Persons with Disabilities and Special Envoy of the Secretary-General on Disability and Accessibility*. International human rights law determines that every person, including Persons with Disabilities, is entitled to all the rights and freedoms without distinction of any kind.

The population of Sri Lanka has amounted to approximately 20.3 million and the *Census of Population and Housing Report of Sri Lanka in 2012* has estimated that about 8.7% of persons live in visual, speech, hearing, and mobility, intellectual, psychiatric, and epileptic conditions (Census of Population and Housing Report of Sri Lanka, 2012). Among them 57% of persons with disabilities are male and 43% female. Moreover, persons with disabilities in Sri Lanka surface from a complex interface between widespread structural factors like health conditions, social factors, living situations, and the misapprehension in the thinking on the part of society. And, over the past years, research on persons with disabilities in Sri Lanka has been comparatively unsophisticated mostly covering issues like ignorance of their basic human rights. However, *Disability Studies in Sri Lanka: Priorities for Action*, a research by Peiris-John, Attanayake, Dickson, Wickremasinghe, & Ameratunga, is a critical mass of multi-disciplinary work. It has emphasized the significance of a collaborative strategic program of research using effective participatory approaches that engage all sectors and communities relevant to uphold the rights of people living with disabilities (Peiris-John, et al, 2014; 1742-8). Specifically, persons with disabilities have been constantly marginalized due to the absence of a substantive human rights-based approach in Sri Lanka. Therefore, in the language of human rights, people with disabilities in Sri Lanka experience a sense of grievance and injustice. Structuring on the recognition of both the diversity among forms of disabilities and the practical importance of disability to the future of Sri Lankan society, the objectives of this study are to identify and analyze the human right based challenges and opportunities such as right to education, employment, sexuality, reproductivity, health, and political participation of persons with disabilities. Moreover, this study is looking to make policy recommendations to the Government of Sri Lanka in order to overcome some human rights-based issues faced by persons with disabilities. Further, the fundamental questions that the present study seeks to answer are: (01) What are the national and provincial level policies and institutional frameworks for enhancing the human rights status of persons with disabilities in Sri Lanka? (02) What are human rights challenges faced by persons with disabilities in Sri Lanka at the personal, familial, and societal levels with regard to their

disability?, (03) Do the national policies of the Government of Sri Lanka help to foster positive attitudes about persons with disabilities' capabilities and their roles in the community?, (04) What are the policy options before the Government of Sri Lanka that can be applied to overcome some human rights-based issues faced by persons with disabilities? Specifically, same approaches of analysing human right based issues faced by persons with disabilities have failed to develop sufficient understanding of providing a long-term answer to the above problem. Further, this study argues that both state and society have a substantive obligation for accommodating the dignity of persons with disabilities through a human rights-based approach.

Primary and secondary data were collected by the researcher while carrying out the present research. For primary data collection, the study selected the Kandy district from the Central Province, Ratnapura district from the Sabaragamuwa Province, Jaffna District from the Northern Province, Batticaloa district from the Eastern Province, and Colombo District from the Western province the areas with the highest and lowest percentage of persons with disabilities in Sri Lanka (For more details, see, diagram no. 02 and table no. 02). Primary data were collected from forty respondents using purposive sampling method. The selection of the sample comprises of five probation officers, thirty persons with disabilities, and five government officers. Thirty persons with disabilities were selected from those between 15-59 of age group based on the ratio of the sight, hearing, walking impairments by birth from the four districts. Further, based on the population ratio of the Census of Population and Housing Report of Sri Lanka in 2012, ethnic ratio, gender ratio and religious ratio were taken into consideration in the process of selection of the sample. In this study, unstructured interviews through telephone, and zoom conversations as well as field observations were used as the primary data collection tools considering the prevailing Covid-19 pandemic. Secondary data were collected from books, journal articles, reports, international human rights instruments, national regulations, and procedures. In this study, qualitative and quantitative methods have been applied in analyzing data and systematic application of statistical data has been examined using scientific tools. No study has taken holistic steps to discuss the human rights status of persons with disabilities and their perception of their disability. Thus, the

present study could be a valuable means of gathering explanations, policy recommendations, and gaining insight into persons with disabilities in Sri Lanka.

Human Rights Approach Model of Persons with Disabilities

In academia, models of persons with disabilities are often called conceptual models of disability. However, a close look at the literature on disability reveals that there are no universal models for defining disability as a term itself (Michailakis, 2003: 209). Therefore, contemporary academia, adopt various models when studying and analyzing disability. However, since the 1960s, there have been many different models of disability which have been presented in scientific literature. Among them, the most important are the medical, the social, the human rights approach model, and the functional model of disability.

In her study on ‘Models of disability: The juxtaposition of biology and social construction’, Julie Smart points out several signs of various models of disability giving focus to matters such as definitions of disability, explanations of causal attribution and responsibility attributions, needs of disability, the formulation and implementation of policy, value judgments, academic disciplines study and learning about persons with disabilities, shaping the self-identity of disabilities, and causes of prejudice and discrimination (Smart, 2004: 2529). However, for some, the dichotomy between the medical and social models of disability is an outdated subject in the disability studies discourse (Degener, 2017: 02). However, the problem lies not in the prevention or studying the problems of disability as diseases, but it lies with the attitude as mentioned by Najma Begum (Begum, 1995: 30-37).

In the present research, the human rights approach model of persons with disabilities has been applied to identify and analyse the human right based challenges and opportunities such as right to education, employment, sexuality, reproductivity, health, and political participation of persons with disabilities in Sri Lanka. For some, the human rights approach model of persons with disabilities and the social model of persons with disabilities

have some common characteristics. However, Anna Lawson & Angharad E. Beckett argue that the two models have different subjects and different functions in the crafting and monitoring of the United Nations Convention on the Rights of Persons with Disabilities. In the human rights context, their roles are complementary and supportive for the development of human-rights-consistent law and policy, as well as systems and frameworks for monitoring progress. (Lawson, & Beckett, 2021). Further, the medical model of persons with disabilities focuses on the persons' medical disorders such as their specific impairments and it does not deal with the broader social and human rights issues. However, the human rights approach model focuses on the inherent dignity of the persons with disabilities and subsequently, only if necessary, on the person's medical needs or physical traits/characteristics (Quinn and Degener, 2002: 14).

Moreover, in their comparison between the social model and the human rights model, Anna Lawson & Angharad E. Beckett are supportive of the following arguments with references to the human rights approach model.

- First, the human rights model produces rights-holders.
- Second, the human rights model delineates the type of statement and practice associated with a human rights approach to the disability policy.
- Third, the human rights model allows disabled people to work on themselves.
- Finally, the human rights model (like the social model) can be characterized as an oppositional device operating to challenge technologies of government that marginalize, disadvantage, and disempower disabled people (Lawson & Beckett, 2020: 21-22).

In analyzing the strengths and weaknesses of the human rights-based approach, Morten Broberg & Hans-Otto Sano mention some of the consequences of the human rights-based approach. For them, the human rights-based approach is particularly suitable for ensuring that the weakest

citizens have access to essential services such as health-care, water, sanitation, and education as well as whether it is suitable for strengthening the concept of citizenship, etc. (Broberg & Sano, 2018: 672).

However, the human rights approach model of persons with disabilities admits disability as a significant dimension of human culture. It regards disability as a normal aspect in general and persons with disabilities are equally entitled to basic human rights as others in particular. Moreover, this model supports that all human beings irrespective of their disability have certain inalienable rights. Further, it attempts to anchor all policies, action plans, and programs, in principles derived from international human rights treaties' and declares progress towards the achievement of such human rights as its ultimate objective (Schulmann, Ilinca & Rodrigues, 2017: 7).

Institutional Framework of Persons with Disabilities in Sri Lanka

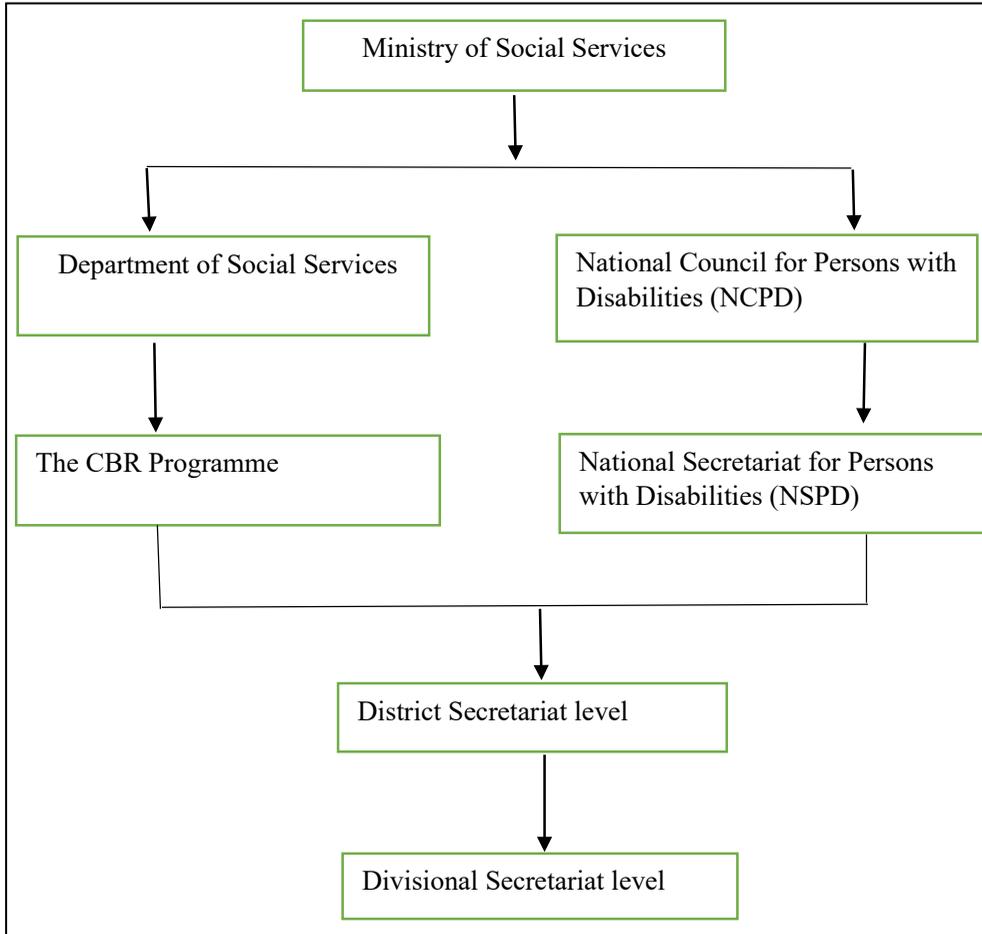
In Sri Lanka, persons with disabilities are legally defined by Article 37 of the Protection of the Rights of Persons with Disabilities Act as “person with a disability” means any person who, as a result of any deficiency in his physical or mental capabilities, whether congenital or not, is unable by himself to ensure for himself, wholly or partly, the necessities of life’ (Act No. 28, 1996, Article 37). The National Policy on Disability for Sri Lanka emphasized that this definition incorporates both medical and social aspects of persons with disabilities (Ministry of Social Welfare, 2003: 9). Further, article no. 23 of the Act has proclaimed the protection of the following rights of persons with disabilities.

- No person with a disability shall be discriminated against on the ground of such disability in recruitment for any employment or office or admission to any educational institution.
- No person with a disability shall, on the ground of such disability, be subject to any liability, restriction, or condition about access to, or use of, any building or place which any other member of the public has access to or is entitled to use, whether on the payment of any fee or not (Act No. 28, 1996, Article 23).

In addition, article no. 24 of the Act has provided the following remedies to grant the provisions for the protection and advancement of persons with disabilities.

- Where there has been a contravention of the provisions of section 23, any person affected by such contravention of the Council on behalf of such person may apply to the High Court established under Article 154P of the Constitution for the Province in which the person affected by such contravention resides, for relief or redress.
- Every such application shall be made by petition in writing addressed to such High Court and shall be heard and determined following the procedure laid down by rules made by the Supreme Court under Article 136 of the Constitution.
- The High Court shall have the power to grant such relief or make such directions as it may deem just and equitable in the circumstances in respect of any application referred to in subsection (Act No. 28, 1996, Article 24)

Diagram - 01
National Level Institutional Structure of Dealing Persons with Disabilities in Sri Lanka



Source: Prepared by the Author

Moreover, the Act has granted permission for the establishment of the National Council and National Secretariat for Persons with Disabilities. The principal function of the Council is to ensure the promotion, advancement, and protection of the rights of persons with disabilities. Its overall functions cover both the medical and socio-economic needs of persons with disabilities.

Further, the Act has granted permission to establish a National Fund for Persons with Disabilities, and funds to come from the annual national budget.

Additionally, the Department of Social Services of Sri Lanka has adopted a Community Based Rehabilitation (CBR) Programme as a strategy for improving the delivery of service by providing physical necessities such as commodes, water, electricity, and access facilities to persons with disabilities. Moreover, it has a policy framework to provide infrastructure facilities for Skills Development Centers run for children with disabilities. This program aims to provide equal opportunity as well as protect the basic human rights of persons with disabilities (Department of Social Services, 2017). An attempt was also made to implement the National Action Plan for Disabilities by the Government of Sri Lanka in 2013. However, these programs are not largely successful due to the lack of institutional capacity including financial support from the government and non-state sector organizations.

In addition, provincial ministries and departments of social services in Sri Lanka provide several policy options with regard to persons with disabilities such as identifying persons with disabilities in their province; rehabilitating persons with disabilities and protecting their rights; providing relief, such as housing and access facilities, vocational training, and self-employment grants; linking government sector programs with the NGO sector in their province; providing assistive devices; improving educational facilities for disabled children through establishment and maintenance of preschools for those who have early childhood disabilities; directing disabled children to special schools; and addressing the prevention of disability by providing information on nutrition, etc. (ADB, 2005: 11)

In addition to the national and provincial level state mechanisms, several International and national level non-governmental organizations which work with persons with disabilities have registered in the National Secretariat for Non-Governmental Organizations as per the provisions of Act No. 31 of 1980 as amended by Act No. 08 of 1998. They currently apply a community-based rehabilitation approach for the wellbeing of persons with disabilities and seek to provide their basic needs.

Overview of Persons with Disabilities in Sri Lanka

Sri Lanka is an island nation, of about 65,610 square kilometers, located in the Indian Ocean. The total population of Sri Lanka is 20,359,439 persons and the population density is 325 persons per square kilometer of the country (Census of Population and Housing Report of Sri Lanka, 2012: xvii).

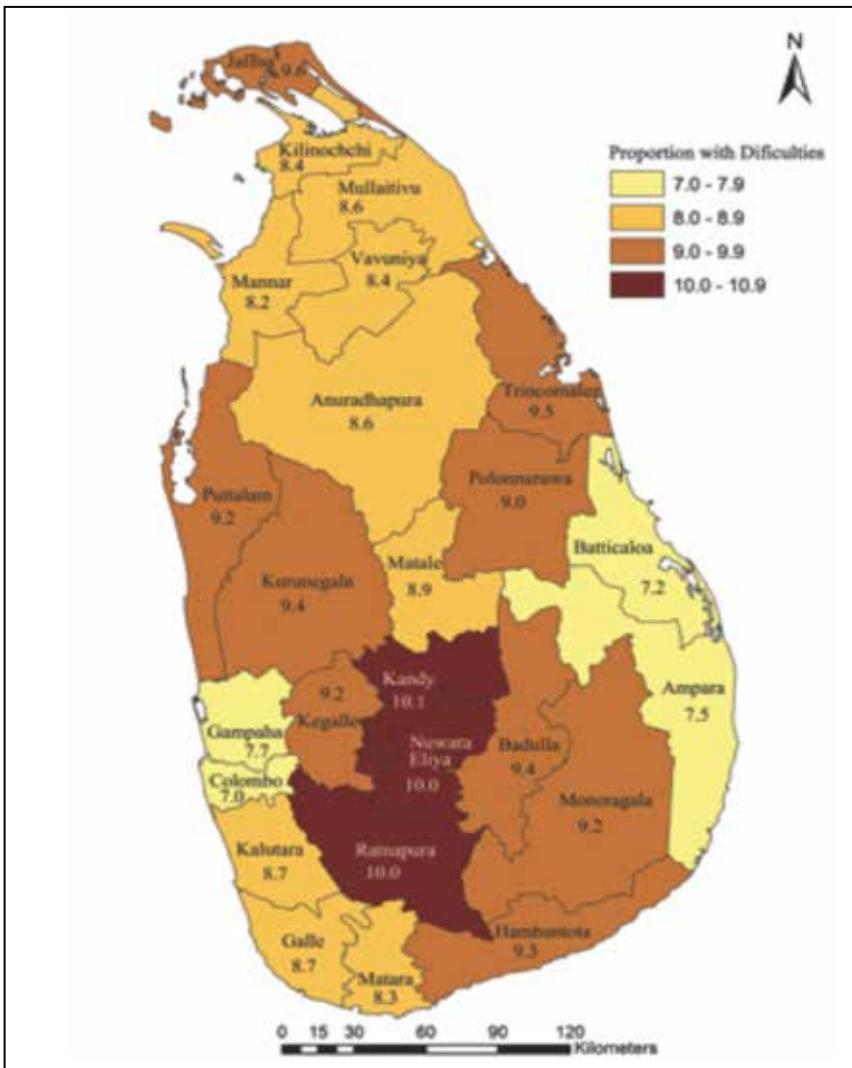
Based on data from the Census of Population and Housing Report of Sri Lanka of 2012, the percentage of persons with disabilities in Sri Lanka is 8.7% (1,617,924) of the population aged 5 years are, scattered in all districts in Sri Lanka. The majority of these persons (996,939) have impairments in their vision while the next most common difficulty in the population is in mobility/walking; 734,213 persons (Census of Population and Housing Report of Sri Lanka, 2012: 132). The number of persons with auditory deficiencies is reported to be 389,077. According to this information, the number of physically or mentally impaired per 1000 in the population is 87 (8.7%) persons (Census of Population and Housing Report of Sri Lanka, 2012: 132).

Table - 1
Number of physically or mentally impaired persons per 1000
in the Population by their impairment, 2012

Impairment	No.	Rate (Per 1000 persons)
Impaired Population	1,617,924	87
Sight	996,939	54
Hearing	389,077	21
Walking	734,213	39
Memory/cognitive	343,689	18
Self-Containing	197,575	11
Communication Problems/difficulties	180,833	10

Sources: - Census of Population and Housing Report of Sri Lanka, 2012: 133

Diagram - 02
The rate of physically or mentally impaired persons
(per 1000 in the population-aged five years and old)
by district, 2012



Source: - Sources: - Census of Population and Housing, 2012: 134

According to the Census of Population and Housing Report of Sri Lanka in 2012, the highest number of impaired persons is reported from the Kandy, Nuwara-Eliya, and Ratnapura districts. Jaffna, Trincomalee, and Kurunegala districts record the next areas with the highest number of persons with disabilities compared to /only second to Nuwara-Eliya and Ratnapura. However, when compared with the distribution of population, Colombo district which is the most populated district in Sri Lanka records the lowest rate for physically or mentally impaired persons in 2012. Even though the civil war in Sri Lanka has resulted in significant rates of physical impairment and mental illness, war-affected areas like Kilinochchi, Mullaitivu, Mannar, Vavuniya, Batticaloa, and Ampara report comparatively low rates of persons with disabilities in the Census of Population and Housing Report of Sri Lanka in 2012. According to the map/Diagram-02 a significant proportion of persons with disabilities live in the districts of Kandy, Nuwara-Eliya, Ratnapura, and Jaffna in Sri Lanka.

Human Rights' Status of Persons with Disabilities in Sri Lanka

Persons with disabilities are not only among the most deprived human beings in Sri Lanka but they are also the most neglected (Liyanage, 2017: 251-265). They are deprived of their basic human rights such as their right to education, employment, marriage, health care, mobility, equality, etc. However, it must be noted that the Government of Sri Lanka provides several legal provisions and policy options to eliminate conditions that prevent persons with disabilities from gaining equal rights and equal opportunities (Protection of the Rights of Persons with Disabilities Act, No. 28 of 1996). Yet families struggling with disabilities are among the poorest segments of Sri Lankan society. They are more likely to be trapped in poverty due to a range of challenges including stigma linked with a disability, negative societal attitudes, problems with mobility, earning power, child care problems, etc. (Padmani & Perera, 2019: 6)

For the study, the purposive sampling method has been adopted in which five districts namely Kandy, Ratnapura, Jaffna, Batticaloa, and Colombo were selected as samples for the collection of empirical data. Data from the Census

of Population and Housing Report of Sri Lanka in 2012 show that these five districts have the highest number of persons with disabilities. The highest number of persons with disabilities is reported from the Kandy district where the rate is 101. The next highest number (100) reported is from Ratnapura. The third-highest number (96) of persons with disabilities shows in the Jaffna district. According to the data of table no. -02, the districts of Batticaloa and Colombo report the lowest rate in Sri Lanka where the rates are 72 and 70 respectively.

According to the Census of Population and Housing Report in 2012, the total population of Kandy, Ratnapura, Jaffna, Batticaloa, and Colombo districts are 1,375,382, 1,088,007, 583,882, 526,567, and 2,524,349 respectively. Further, table-02 shows that the number of persons with disabilities in the Kandy district is 126,623, in Ratnapura 996,604, in Jaffna 541,254, in Batticaloa 475,239 and in Colombo 150,325. The total number of persons with disabilities in the five districts, in which the Census of Population and Housing in 2012, was carried out completely was 463,084 of population aged 5 years and over. The data shows that the highest rate was recorded for the seeing disability/visual impairments and the self-care disability in the districts of Kandy, Ratnapura, and Jaffna. Substantial rates were also stated in hearing, walking, cognition and communicated in the five target districts.

Table - 02
Population with difficulties (aged 5 years and over) by selected
Five districts, type of difficulty, and sex rate per 1000 population

District and sex	Total Population (5 yrs. & above)	Population with difficulties		Type of difficulty											
		No.	Rate	Seeing		Hearing		Walking		Cognition		Selfcare		Communication	
		No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate
Kandy	1,257,665	126,623	101	79,354	63	29,257	23	58,874	47	26,141	21	14,297	11	12,417	10
Ratnapura	996,604	99,722	100	65,533	66	25,916	26	43,580	44	21,406	21	11,394	11	10,073	10
Jaffna	541,254	51,966	96	29,874	55	11,693	22	23,064	43	9,912	18	5,350	10	6,739	12
Batticaloa	475,239	34,448	72	19,243	40	6,025	13	15,929	34	7,533	16	3,330	7	5,120	11
Colombo	2,157,744	150,325	70	93,876	44	34,429	16	64,520	30	31,262	14	21,204	10	17,800	8

Sources: - Census of Population and Housing, 2012: 66

Basic Civil and Political Rights of Persons with Disabilities

Persons with disabilities have the inherent right to respect and human dignity whatever the origin, nature, and seriousness of their handicaps and disabilities are the Preamble of the United Nations Convention on the Rights of Persons with Disabilities emphasizes that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programs. Further, persons with disabilities are entitled to exercise their full enjoyment of all human rights and fundamental freedoms in the Civil, political, economic, social, cultural, or any other field (UNO, 2006: Article No. 02). Being a party to the United Nations Convention on the Rights of Persons with Disabilities since 2016, the Government of Sri Lanka is obliged to fulfill its provisions of it.¹

Right to equality before the law and equal protection of the law

Before the adoption of the United Nations Convention on the Rights of Persons with Disabilities in 2016, the Government of Sri Lanka had taken several measures to recognize the civil and political rights of persons with disabilities. Specifically, Article no. 12 of the 1978 Constitution of Sri Lanka has granted the right to equality as one of the fundamental rights of Sri Lankans, including those persons with disabilities. As per article no. 12 (3), ‘No person shall, on the grounds of race, religion, language, caste, sex or any one of such grounds, be subject to any disability, liability, restriction or condition about access to shops, public restaurants, hotels, places of public entertainment and places of public worship of his own religion’ (The Constitution of Sri Lanka, 1978, Article 12:3). It shows that persons with disabilities are allowed the enjoyment of fundamental rights in Sri Lanka. More specifically, in his fundamental rights petition on 11th December 2018, Dr. Ajith C.S. Perera challenged the non-compliance with provisions of the access facilities for persons with disabilities by nine respondents including the National Council for Persons with Disabilities before the Supreme Court of Sri Lanka. Subsequently, the petitioner filed that ‘All public buildings and

1. Sri Lanka ratified the Convention on the Rights of Persons with Disabilities on 08th February 2016 and became the 162nd State to ratify this Convention.

public places must provide access facilities for persons with disabilities which comply with the aforesaid regulations, should be constructed in a manner which complies with the aforesaid regulations and that newly constructed public buildings should not be issued a certificate of conformity unless they are constructed in compliance with the aforesaid regulations' (SC FR Application No. 273/2018: 4-5). It is important to note that the Supreme Court of Sri Lanka issued several directions to the National Council for Persons with Disabilities acting together with the National Secretariat for Persons with Disabilities incorporated with the Protection of the Rights of Persons with Disabilities Act No. 28 of 1996, as amended, and the Disabled Persons (Accessibility) Regulations No. 1 of 2006, as amended in Sri Lanka in favor of the petitioner's application. Moreover, the Supreme Court of Sri Lanka ordered the state to pay the petitioner a sum of Rs. 50,000/- on account of costs on 18th April 2019.

However, due to the absence of a human rights-based approach in Sri Lanka, public and private sectors have mostly neglected and marginalized persons with disabilities. They are treated unequally in terms of lack of freedom of expression, access to information, to express their views and opinions, and enjoyment of equal rights, etc. (The State of Economic, Social and Cultural Rights in Sri Lanka, 2017, 01-58). Further, persons with disabilities face different structural challenges before the court when they are required to fulfill the procedural requirements of the legal system of Sri Lanka. Persons with disabilities experience multiple discriminations as and when they need to communicate within the court system due to lack of alternative communication methods and mediums and when they need physical access to court premises in the very process of seeking justice (UN Universal Periodic Review, 2017: 6). The experience of a few persons with disabilities relate that they face many difficulties in gaining access to the court system of Sri Lanka due to both infrastructural and social barriers.

In addition, by the end of 2021, Sri Lanka was a signatory to all the major human rights treaties of the United Nations including the United Nations Convention on the Rights of Persons with Disabilities. But, Sri Lanka has not acceded to the Optional Protocol which provides any individual or group of

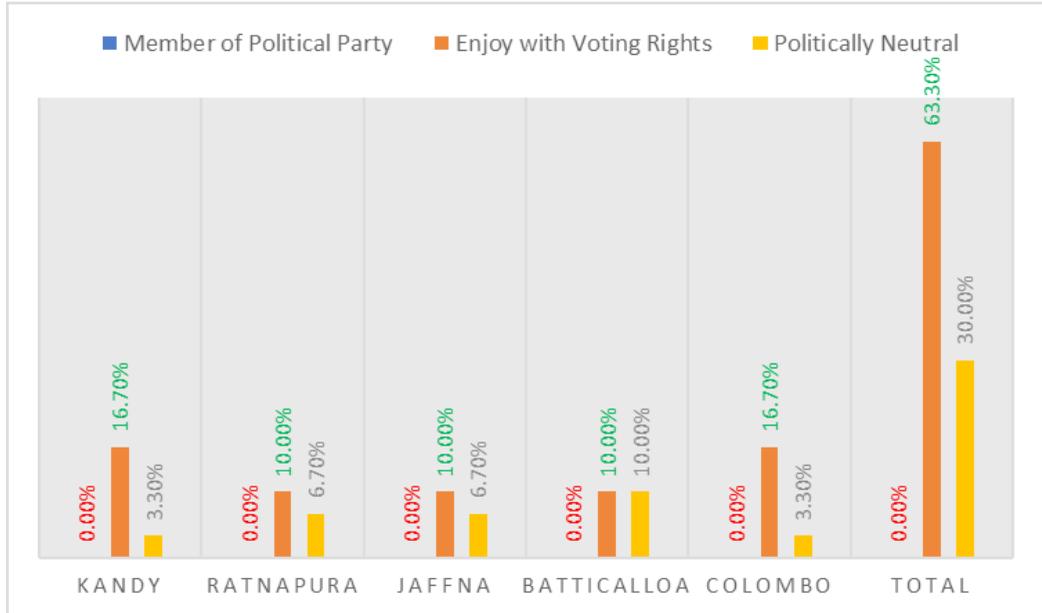
individuals to communicate with the Committee on the Rights of Persons with Disabilities. However, in the Sri Lankan context, persons with disabilities are entitled to all rights and freedoms without distinction/discrimination of any kind.

Right to Political Participation

Sri Lanka has comprehensive legal provisions and national policies to give effect to the realization of equal political rights of persons with disabilities. Specifically, the Government of Sri Lanka provides special provisions for any voter considered to be a person with a disability (2011 Elections (Special Provisions) Act No. 28). However, when compared with other sectors, political participation of persons with disabilities present different statistics in five districts. According to the survey, no person with a disability is shown as being a member of a political party. However, chart-04 shows that 63.3 percent of persons with disabilities enjoy voting rights at the national, provincial, and local level elections.

In discussions of persons with disabilities, it was revealed that the majority were mobilized by their parents, relatives, neighbors, and peers to enable them to cast their vote in favor of a particular political party or a candidate. Further, the pattern of engagement with the political process is also similar to their voting behavior. Since the existing political system does not favor them, 30% of responded persons with disabilities have been politically neutral in the five districts which were scrutinized. At interviews with persons with disabilities and government officers, many barriers such as inadequate facilities, lack of assistive technologies and devices, poor attitudes, and interferences by parents, relatives, neighbors, and peers are dominant/unavoidable in the political participation of persons with disabilities. According to the views of responded persons with disabilities, they have been highly neglected by the structural and socio-cultural pattern of Sri Lanka. The survey found that persons with disabilities have been substantively neglected in the mainstream decision-making process and have no representatives in the parliament, at provincial councils, or local authorities in Sri Lanka.

Chart - 04
Political Participation of Persons with Disabilities



Source: Field Survey, 2021

Basic Economic, Social and Cultural Rights of Persons with Disabilities

When it comes to socio-economic status, the majority of respondents are (89%) members of lower-income families. However, 11% of respondents belong to middle-income families. Further, majority of respondents have been neglected by the state and the society.

In general, basic, social, and cultural rights are essential conditions for the social and economic development of all human beings and persons with disabilities in particular. In Sri Lanka, the agenda of persons with disabilities has endured several policy changes to meet the mandates of the UN *World Programme of Action* for Disabled Persons. Further, the Government of Sri Lanka has taken several steps to introduce regulations like the *Human Rights Commission Act* (no.21 of 1996), *The Protection of the Rights of Persons with Disabilities Act* (no.28 of 1996), and the *Social Security Act*, (no.17 of 1996)

as well as rehabilitation programs such as the development of education, vocational training, psychosocial and creative therapies, social support, religious support, recreational activities, and community rehabilitation services to meet the needs of persons with disabilities (Hettiarachchi 2015: 106). But, the Government of Sri Lanka has not achieved substantial progress in the advancement of human rights for persons with disabilities.

Table – 03
Basic Statistics of Special Schools by Province and District-2020

Province/District	Schools	Students			Teachers		
		Male	Female	Total	Male	Female	Total
1. Western	12	702	399	1,101	21	223	244
11. Colombo	5	311	175	486	13	103	116
12. Gampaha	4	281	145	426	8	87	95
13. Kalutara	3	110	79	189	-	33	33
2. Central	4	102	67	169	9	34	43
21. Kandy	2	70	42	112	5	23	28
22. Matale	2	32	25	57	4	11	15
3. Southern	4	219	146	365	15	73	88
31. Galle	2	85	41	126	7	20	27
32. Matara	1	65	49	114	1	21	22
33. Hambantota	1	69	56	125	7	32	39
4. Northern	1	58	56	114	8	20	28
41. Jaffna	1	58	56	114	8	20	28
5. Eastern	1	33	7	40	1	8	9
51. Batticaloa	1	33	7	40	1	8	9
6. North Western	2	145	103	248	9	32	41
61. Kurunegala	1	80	66	146	5	19	24

62. Puttalam	1	65	37	102	4	13	17
7. North Central	1	46	38	84	6	4	10
71. Anuradhapura	1	46	38	84	6	4	10
8. Uva	1	104	89	193	17	28	45
81. Badulla	1	67	55	122	9	20	29
82. Monaragala	1	37	34	71	8	8	16
9. Sabaragamuwa	3	88	94	182	7	30	37
91. Ratnapura	1	28	23	51	2	11	13
92. Kegalle	2	60	71	131	5	19	24
Total	30	1,497	999	2,496	93	452	545

Source: School Census-2020: 111

This section focuses on the socio-economic conditions of persons with disabilities in the Kandy, Ratnapura, Jaffna, Batticaloa, and Colombo districts. The present survey reported/revealed that most people with disabilities do not have equal opportunity to access the same health care, education, and working opportunities as their non-disabled peers.

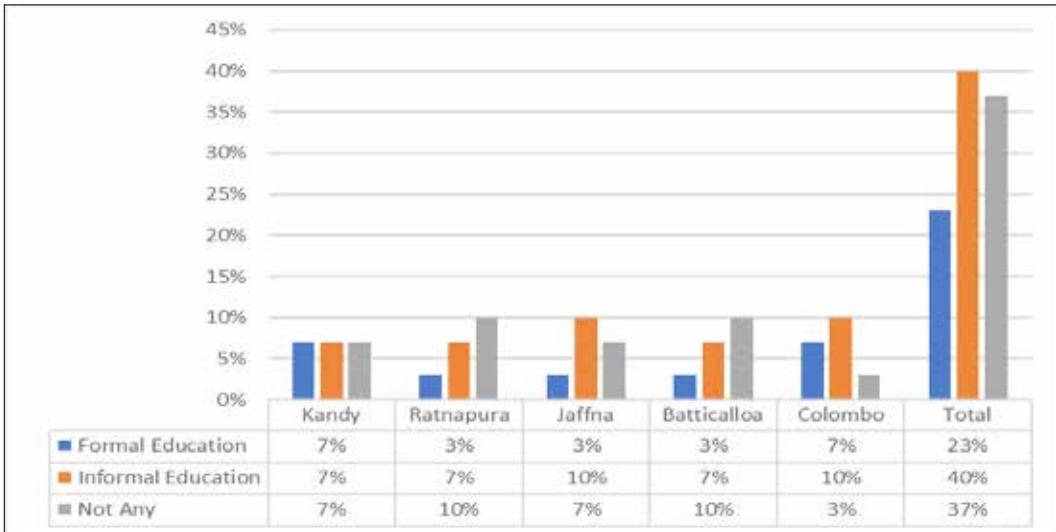
As a national policy, the Government of Sri Lanka practices/endorsees free education for all. Even though the Ministry of Education runs some schools for persons with disabilities and special education units in some schools in the five districts, the present survey revealed that the majority of persons with disabilities never receive either formal or informal education.

Right to Access to Formal and Informal Education

The average formal and informal education rates amongst people with disabilities are much lower than those of the non-disabled in Sri Lanka. The survey highlights that 23% and 40% of responded persons with disabilities have received formal and informal education respectively. But 37% of persons with disabilities did not receive either formal or informal education. Moreover, the present survey revealed that there is gender base disparity in the

education among men and women with disabilities in the five districts. Chart -01 shows that the right to access formal and informal education to the person with disabilities is quite higher in urban areas in the districts of Colombo and Kandy. In comparison districts like Ratnapura and Batticaloa, the figures stand at 10% of persons with disabilities having received formal and informal education, while 10% of persons with disabilities have not got the right to access either formal or informal education as a result of uneven distribution of resources. At interviews with persons with disabilities, probation officers, and government officers, it was highlighted that the physical infrastructure, the academic and the social environment of the schools, vocational training institutes, and universities were yet not ready with reasonable accommodation to integrate the persons with disabilities to provide an inclusive formal and informal education.

Chart - 01
Right to Access to the Formal and Informal Education

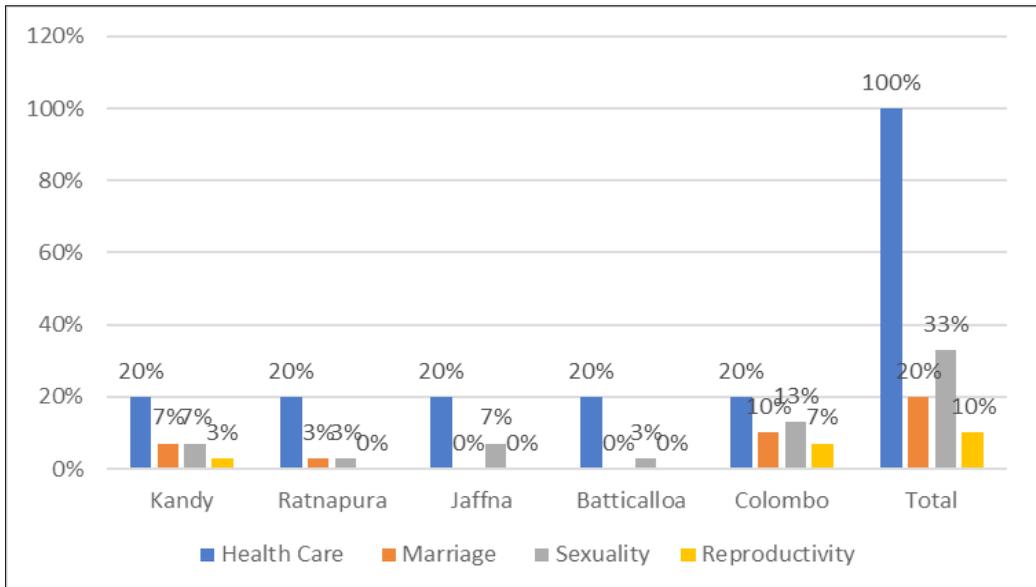


Source: Field Survey, 2021

Right to Sexuality, Reproductivity and Health Care

According to universal human rights norms, the right to health care, marriage sexuality, and reproductivity are fundamental human rights. As a result of the free health policy of Sri Lanka since 1951, a higher regional average has benefited from healthcare. However, based on the data obtained from the Census of Population and Housing Report of Sri Lanka in 2012, the total number of persons with disabilities in Sri Lanka is 1,617,924 of the population aged 5 years and over. According to the present survey, 100% of persons with disabilities receive free health care from the government. In the interviews, the majority highlighted that they are satisfied with free health care because of their economic vulnerability and some of the health care privileges for them. In the meantime, some persons with disabilities emphasized that they do not receive due recognition from the free health sector as they are marginalized in society.

Chart - 02
Health Right to Health Care, Sexuality and Reproductivity



Source: Field Survey, 2021

Persons with disabilities have the same sexual and reproductive health needs as others (WHO, 2009: 01). On comparing the marital status of the non-disabled with persons with disabilities, it was revealed that the majority of persons interviewed with disabilities have been unable to get as a result of societal negligence as well as physical and psychological barriers. Nevertheless, according to the survey, 20 percent of persons with disabilities have been married with others with disabilities or non-disabled. However, chart-02 indicates that the percentage of reproductivity of persons with disabilities is 10. When compared with the reproductive rate of persons interviewed with disabilities, it is quite lower than their marital status. At the interviews with persons of disabilities, it was found that the majority of them including married persons have negative attitudes on reproductivity as a result of social and health motivators like their partners, health practitioners, educators, parents, and peers. Further, it was identified that lack of access to sexual and reproductive education, health information, and services has become one of the major challenges faced by them.

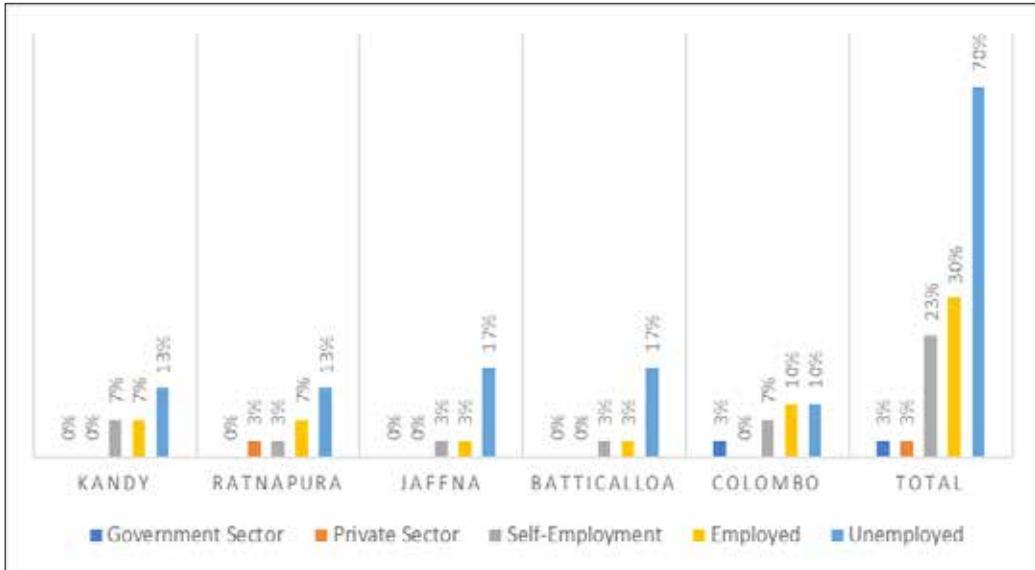
Despite health care and marriage, the right to sexuality for persons with disabilities remains one of the contentious issues in the human rights discourse. In the Sri Lankan context, the right to sexuality in the case of persons with disabilities is often paid little attention in public discourse, policymaking, and other sectors. Moreover, prostitution/access to sex-workers and abortion are taboo topics and legally prohibited because sexuality is a legal and social construct in Sri Lanka. However, interviews revealed that when compared with the marital rate of persons with disabilities interviewed with disabilities where the rate is 20, the sexual behavior of persons interviewed with disabilities shows 33 percentage. In the interviews, it was found that some persons with disabilities, specifically unmarried persons, experience unprotected sexual relations. In short, this has resulted in the violation of the sexual and reproductive rights of persons with disabilities, including marriage, illegal and forced abortions, lack of access to sexual and reproductive health education and service.

Right to Employment

Even though persons with disabilities constitute a significant percentage (8.7%) in Sri Lanka, their basic economic rights including the right to work, right to a fair wage, right to safe and healthy working conditions, right to promotions, and right to engage in trade union actions remain unmet. However, the Persons with Disabilities Act of Sri Lanka has largely been interpreted to mean that the main provisions relating to equal opportunities in employment are covered/provided. In short, the 1996 Act makes provisions for non-discrimination towards Persons with disabilities in employment. Further, the Government of Sri Lanka has introduced several programs for the realization of their basic human rights to live independently by providing skills including rehabilitation of disabled persons, by providing educational services and engaging them in social services, awarding grants, providing aid and assistance to victims of natural disasters, protecting the rights of disabled persons, and providing nutritious food, medical facilities, vocational training and employment to disabled persons as incorporated in various Acts (Special Educational Society (Incorporation) Act No. 3 of 1999 and Rana Viru Seva Authority Act No. 54). In addition, Act (No. 9 of 1992) provides provisions for enhancing educational and vocational training facilities of the visually handicapped; employment opportunities by giving financial assistance and guidance for self-employment and marketing of products manufactured by the visually handicapped (Rehabilitation of The Visually Handicapped Trust Fund Act (No. 9 of 1992)). Moreover, the Government has established mechanisms at District and Divisional Secretariat levels to facilitate the social protection and poverty alleviation schemes of persons with disabilities in the medium term from 2017 to 2021. As a result of the existing Covid-19 pandemic and the financial crisis faced by the government, the program has not successfully reached its target yet.

Chart - 03

Employment and Unemployment Pattern of Persons with Disabilities



Source: Field Survey, 2021

But, it can be observed that employment opportunities for persons with disabilities in both the government sector and private sector are much lower compared to the figures related to the non-disabled in Sri Lanka. In 1988, the Ministry of Public Administration issued a Circular on the Employment of Persons with Disabilities, reserving 3 percent of job opportunities in the state sector for them (Public Administration Circular No. 27/88 Of 1988). Further, this quota has also been extended to private and semi-governmental sectors. However, the finding of the survey in chart-03 shows that 3 percent of persons with disabilities interviewed work in the government and private sectors. However, persons with disabilities are required to have the minimum most common qualification for a particular job issued by the Public Services Commission. Therefore, the competitive recruitment pattern to positions in state and private sectors has become a challenge for persons interviewed with disabilities due to the lack of formal and informal education as well as unequal distribution of resources. In addition, the survey revealed that unless there are proper mechanisms for monitoring their job security and

safety, the majority of persons with disabilities are not ready to work in the private sector.

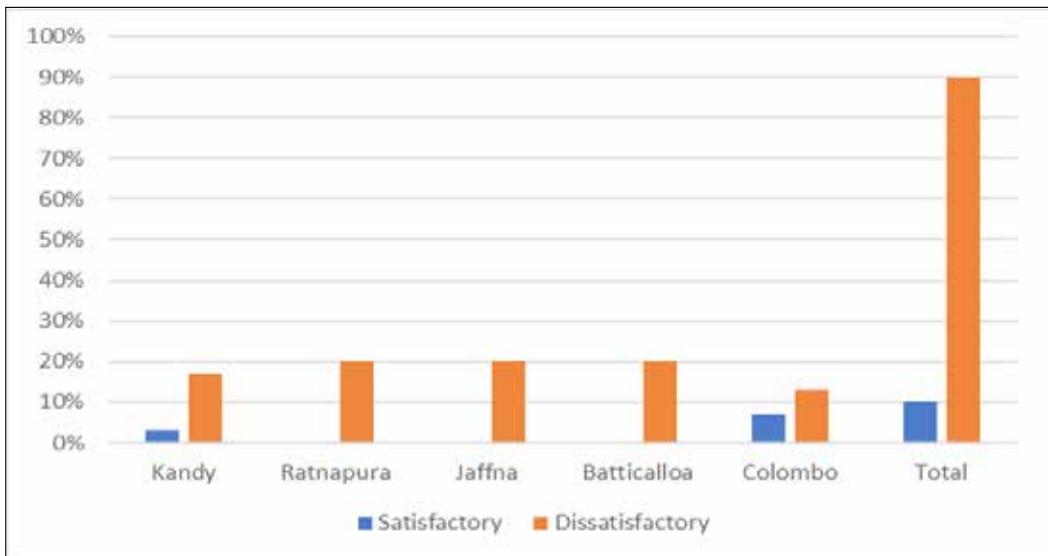
The self-employment pattern of persons interviewed with disabilities shows that agriculture, small-scale unstable business, and plantation remain the main occupations in which the percentage is 23% in the five districts. Whilst the target group of the population over 15 years was found to be persons with disabilities, only 30% were economically active. Moreover, the unemployment rate of persons with disabilities interviewed in the five districts is 70% and they do not engage in any economic activity. It reveals that the majority of the target group members are below the poverty line and the majority of them do not have stable income-generating sources. However, it is also observed that they live under subsistence level and are willing to improve their standard of living by participating in income-generating activities. But, some of them are not mentally and physically fit to work and are viewed as dependent on their family members. The experience of persons with disabilities shows that they have very limited options in finding suitable occupations/job opportunities due to practical and socially constructed limitations. Specifically, the majority of persons with disabilities interviewed vehemently emphasize that the existing vocational training programs of the Department of Social Services under the Ministry of Social Services conducted for them are inadequate in view of the current demands of the job market. Further, the up-grading /increasing of the 3 percent reserved for their benefit and the elimination of discriminations against the recruitment for employment in the public and private sectors are the more urgent demands on their part.

Right to Social Security

As per article 22 of the Universal Declaration of Human Rights, everyone has a right to social security. In general, social security is one of the major concerns of persons with disabilities. Further, social security is one of the main vehicles that can serve to break the exclusion of persons with disabilities (UN, 2017: 3).

As a developing country, Sri Lanka has introduced several legal provisions and policy options for expanding access to social security for its people such as incorporate employment protection and promotion; social security/insurance, and safety nets. Moreover, the Government of Sri Lanka has passed several acts in favor of the social security of persons with disabilities including Disabled Persons (Accessibility) Regulations, No. 1 of 2006 promulgated under Article 23 (2) of Act No 28 of 1996, Disabled Persons (Accessibility) Regulations, No. 1 of 2006 promulgated under Article 23 (2) of Act No 28 of 1996 and Disabled Persons (Accessibility) Regulations, No. 1 of 2006 promulgated under Article 23 (2) of Act No 28 of 1996.

Chart – 04
Satisfaction Pattern of Social Security



Source: Field Survey, 2021

In the survey, it was found that some of the major structurally constructed challenges for persons with disabilities interviewed in the five districts in Sri Lanka are to be found in the lack of inclusive social protection laws, regulations, and programs, the poor functioning of monitoring systems, institutional weakness, insufficient budgetary allocation for social security

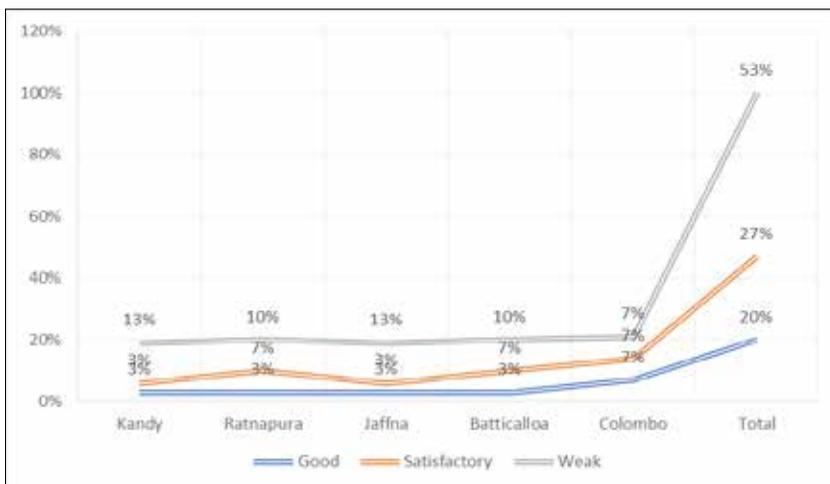
of persons with disabilities (Parliament of Sri Lanka, 2021: 1206). Further, chart-06 shows that while 10 percent of persons with disabilities interviewed are satisfied with the social security system of Sri Lanka 90 percent of them are dissatisfied with it because of the lack of accessibility to public places such as educational institutions, government offices, hospitals, religious places, bus stations, railway stations public toilet facilities, and even the provision of inadequate facilities, and the lack of opportunity to participate in sports, cultural activities and events and the lack of accessibility to public transportations like buses and railways. However, as per chart-02, all the interviewees /all those who were interviewed s have expressed their approval of the healthcare system of Sri Lanka.

Awareness of Human Rights of Persons with Disabilities

Meaningful human rights awareness is a key concept within the discourse of persons with disabilities. It provides a platform for them to fully integrate with society. In the Sri Lankan context human rights awareness for persons with disabilities has become a quite complicated process.

Chart - 05

Awareness of Human Rights of Persons with Disabilities



Source: Field Survey, 2021

Chart-05, data indicates that 53% of persons with disabilities do not have sound knowledge of their basic human rights. Some of the interviewers strongly believed that human rights are meaningless and that they do not benefit by them. However, 20% of persons of those who are differently abled are aware of human rights including the rights of persons with disabilities especially those who have a formal educational background. Some of them have participated in human rights awareness programs conducted by both state and non-state sectors and one interviewer has completed a Diploma Programme in Human Rights. Further, 27% of those interviewed have a satisfactory understanding of basic human rights, and have attended informal human rights awareness programs. The majority of persons with disabilities interviewed responded that they have been marginalized and neglected by the state and society. But, they do not have a clear idea of the responsibilities and obligations on the part of the state in the process of the realization of their basic human rights. Though there are government and civil society initiatives to address human rights issues related to persons with disabilities, it is clear that the human rights awareness programs of Sri Lanka have failed to promote human rights strategies and plans for persons with disabilities. Thus, they have been left out of the mainstream human rights agenda.

Moreover, during the interviews with probation officers and government officers, it was mentioned that the Government of Sri Lanka has taken several steps to enhance the living conditions of persons with disabilities in collaboration with governmental and non-governmental organizations in providing sports facilities, special health care, formal and informal education, vocational training, financial support and legal aid for self-employed. Moreover, they pointed out that the significance of the changing societal attitudes on persons with disabilities as well as attitudes of persons with disabilities matter in enhancing their living conditions. The findings show that there are considerably positive responses from probation officers and government officers about the political, economic, and social integration of persons with disabilities. In addition, the interviews with government officers highlighted the fact that some difficulties and barriers such as lack of transportations and awareness are the main obstacles faced by persons with disabilities in getting access to special facilities provided by the

Government of Sri Lanka. Finally, both probation officers and government officers expressed their views in favor of the significance of a comprehensive community-based rehabilitation approach to enhance the well-being and give due recognition to persons with disabilities.

Concluding Remarks and Policy Recommendations

Persons with disabilities have the same human rights and fundamental freedoms as well as dignity and due recognition as other persons. However, Amartya Sen highlighted that persons with physical and mental disabilities are not only among the most deprived human beings in the world, but that they are also frequently enough, the most neglected (Sen: 2004). In this context, the main focus of the present study has been to understand, primarily through the human rights approach model of disabilities, what persons with disabilities experience in realization of some basic human rights for their dignity. Moreover, the present study has attempted to explore the visible human rights challenges opportunities and experiences of persons with disabilities living in the districts of Kandy, Ratnapura, Jaffna, Batticaloa and Colombo as well as policies and practices of the Sri Lankan Government towards them. In particular, the focus is on their basic human rights such as right to education, employment, sexuality, reproductivity, health, and political participation.

Through interviews the present study revealed that persons with disabilities anticipate challenges in their ability to fulfill their future aspirations for employment in both the public and the private sector owing to a lack of awareness and sensitivity as well as apathy among prospective employers in the five districts. When compared with right to education and right to health care, majority of them held a negative attitude towards the realization of some sensitive human rights such as sexuality, reproductivity, equality before the law and equal protection by the law and political participation

Despite these challenges, a majority of persons with disabilities who were interviewed were found to be active agents rather than passive victims. Specifically, with their educational background and the lack of proper

attention of the government, a majority of them have adopted various self-confident strategies that involved handling issues they face on their own and/or seeking support from informal sources like friends and peer networks rather than looking for privileges from the state sector.

In addition, as a developing economy, the Government of Sri Lanka does not allocate a sufficient amount from its annual budget to empower persons with disabilities because of financial difficulty and a lack of awareness of decision-makers in the government. In addition, some of the general public and decision-makers believe that investment in persons with disabilities is a waste of the GDP. Thus, it is evident that persons with disabilities in Sri Lanka are vulnerable to both state practices and social attitudes of normality. More specifically, even though the civil war had ended in 2009, those persons with disability in Sri Lanka face challenges not only from the medical field but also from the legal system and the state as well as society due to the lack of human rights approach model.

The present study proposes the following suggestions for enhancing the status of persons with disabilities in Sri Lanka through the human rights approach model.

- The draft Disability Rights Bill which is a new legislation to be established an independent commission in order to realize disability rights in place of the Protection of the Rights of Persons with Disabilities, Act, No. 28 of 1996 which has been approved by the Cabinet of Ministers in 2008 should be adopted as national law on persons with disabilities in Sri Lanka.
- The Government of Sri Lanka should take immediate action to accede to the Optional Protocol that provides any individual or group of individuals to communicate with the Committee on Rights of Persons with Disabilities
- In cooperation with the provisions of the Public Administration Circular No. 27/88 of 1988, the 3% quota system when recruiting for

employment persons with disabilities in both state and private should be properly monitored and implemented by the Government of Sri Lanka. Moreover, special provisions should be made available by the Government of Sri Lanka to safeguard the rights of persons with disabilities to engage in a suitable occupation.

- The Government of Sri Lanka should design and implement a program including awareness, physical access, accessibility of services, and accessibility to institutions, such as the police and the judiciary to safeguard access to justice for persons with disabilities.
- The infrastructure of public education and vocational training institutes including reasonable financial and human resources should be enhanced in cooperate with inclusive educational requirements of persons with disabilities.
- The state sector and the non-state sector should work together to eliminate negative perceptions, myths, and stereotypes which exist in society regarding persons with disabilities.
- Children with disabilities who are under 15 years of age require substantial investment in health and education both formal and informal. Further, elderly persons with disabilities require additional health-care hospice services.
- The existing social protection mechanisms need to be enhanced by providing sufficient human resources, financial assistance, and infrastructure.

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