

MAURITIUS

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1 Population indicators

1.1 What is the total population of Mauritius?¹

The Republic of Mauritius has a population of about 1.3 million, with 1 255 020 inhabitants on the Island of Mauritius; 38 240 on the Island of Rodrigues and 289 in Agalega.²

1.2 Describe the methodology used to obtain the statistical data on the prevalence of disability in Mauritius. What criteria are used to determine who falls within the class of persons with disabilities in Mauritius?

Statistical data concerning the prevalence of disability in Mauritius is obtained from the 2011 Population Census conducted by Statistics Mauritius found under the aegis of the Ministry of Finance and Economic Development, which is the 'official organisation responsible for collection, compilation, analysis and dissemination of the official statistical data relating to the economic and social activities of the country'.³

For purposes of data collection, disability is primarily defined as 'any limitation to perform a daily life activity in a manner considered normal for persons of their age'.⁴ The different criteria to determine whether a person falls within the class of persons with disabilities are as follows:⁵

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1 Mauritius lies in the Indian Ocean with a total area of 2040 square kilometres.

2 Statistics Mauritius 'Population and vital statistics: Republic of Mauritius, year 2012' (2012) 2, available at http://statsmauritius.gov.mu/English/StatsbySubj/Documents/ei1018/Amen ded%20FINAL%20_ESI%202012.pdf (accessed 5 March 2014).

3 Official site of Statistics Mauritius, available at <http://statsmauritius.gov.mu/English/Pages/default.aspx> (accessed on 5 March 2014).

4 Statistics Mauritius '2011 Population Census – Main Results' (2011) 19, available at <http://statsmauritius.gov.mu/English/CensusandSurveys/Documents/ESI/pop2011.pdf> (accessed 5 March 2014).

5 Statistics Mauritius (n 4 above) 12.

- Disturbances of behaviour
- Speaking
- Hearing
- Manual activities
- Personal care
- Memory
- Seeing
- Walking

1.3 What is the total number and percentage of people with disabilities in Mauritius?

According to the 2011 Population Census, there are approximately 59 200 persons with disabilities in Mauritius, representing 4,8 per cent of the population.⁶

1.4 What is the total number and percentage of women with disabilities in Mauritius?

About 30 900 women live with disabilities in Mauritius and this accounts for 51,6 per cent of the population of persons living with disabilities.⁷

1.5 What is the total number and percentage of children with disabilities in Mauritius?

The 2011 Population Census estimated that 1,5 per cent of the population consists of persons who are under 15 and who are living with a disability.

1.6 What are the most prevalent forms of disability and/or peculiarities to disability in Mauritius?

Physical disabilities are the most prevalent form of disability in Mauritius, these account for 42 per cent of the population living with a disability.⁸ This is followed by persons with visual impairments, amounting to 24 per cent.⁹ Persons who have difficulty remembering, concentrating or acquiring education and learning account for 20 per cent of the population of persons living with disabilities.¹⁰

6 As above.

7 Statistics Mauritius 'Gender statistics, 2012' (2012) 10, available at <http://statsmauritius.gov.mu/English/StatsbySubj/Documents/ei1052/gender.pdf> (accessed 5 March 2014).

8 Statistics Mauritius (n 2 above) 12.

9 As above.

10 As above.

2 Mauritius's international obligations

2.1 What is the status of the United Nation's Convention on the Rights of Persons with Disabilities (CRPD) in Mauritius? Did Mauritius sign and ratify the CRPD? Provide the date(s).

Mauritius signed the United Nation Convention on the Rights of Persons with Disabilities (CRPD) on 25 September 2007 and ratified the document on 8 January 2010.¹¹ However, Mauritius has placed reservations on articles 11,¹² 9(2)(d)¹³ and 24(2)(b)¹⁴ of the CRPD.

2.2 If Mauritius has signed and ratified the CRPD, when was its country report due? Which government department is responsible for submission of the report? Did Mauritius submit its report? If so, and if the report has been considered, indicate if there was a domestic effect of this reporting process. If not, what reasons does the relevant government department give for the delay?

- Mauritius' country report was due on 8 February 2012.
- The disability unit, under the wing of the Ministry of Social Security, National Solidarity and Reform Institutions, which is the 'focal point'¹⁵ for disability issues, is responsible for the submission of the report.¹⁶
- Mauritius submitted its report to the Committee on the Rights of Persons with Disabilities (the Committee) on 15 May 2012.¹⁷
- The Committee had not considered Mauritius' country report to date.

2.3 While reporting under various other United Nations' instruments, or under the African Charter on Human and Peoples' Rights, or the African Charter on the Rights and Welfare of the Child, did Mauritius also report specifically on the rights of persons with disabilities in its

11 UN Website, available at <http://www.un.org/disabilities/countries.asp?navid=17&pid=166> (accessed 12 March 2014).

12 Article 11 of the CRPD: 'States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.'

13 Article 9.2(d) of the CRPD: 'States Parties shall also take appropriate measures to ... provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms.'

14 Article 24.2(b) of the CRPD: 'In realizing this right, States Parties shall ensure that ... persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live.'

15 Article 33(1) of the CRPD provides for a focal point within governments in the following terms: 'States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.'

16 Website of the government of Mauritius, available at <http://www.gov.mu/portal/sites/disability/index.htm> (accessed 13 March 2014).

17 A copy of the report is available on the website of the Office of the High Commissioner for Human Rights at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fMUS%2f1&Lang=en (accessed 13 March 2014).

most recent reports? If so, were relevant ‘Concluding Observations’ adopted? If relevant, were these observations given effect to? Was mention made of disability rights in your state’s UN Universal Periodic Review (UPR)? If so, what was the effect of these observations/recommendations?

• **The International Covenant on Civil and Political Rights**

Mauritius acceded to the International Covenant on Civil and Political Rights (ICCPR) on 12 December 1973.¹⁸ The last state report that Mauritius submitted was on 27 May 2004, the due date of which was 4 November 1993.¹⁹ Paragraphs 110 to 113 of the report highlight the measures that have been adopted by Mauritius to prevent discrimination against PWDs.²⁰ Concluding observations on the report were adopted on 27 April 2005 but there were no recommendations concerning the rights of PWDs.²¹

• **The Convention on the Elimination of All Forms of Discrimination Against Women**

Mauritius acceded to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on 9 July 1984.²² The latest state report which was considered by the CEDAW on 12 August 2010 made no specific reference to the rights of PWDs.²³ However, the Concluding Observation of the Committee on the Elimination of Discrimination against Women,²⁴ highlighted the lacunas concerning the rights of women who are living with a disability in the following paragraphs:

Paragraph 36:

The Committee notes that Mauritius’ state report lacked information and statistics about disadvantaged groups of women, including rural women, elderly women and women with disabilities, who often suffer from multiple forms of discrimination.

Paragraph 37:

The Committee invites Mauritius to provide, in its next state report, a comprehensive picture of the de facto situation of disadvantaged groups of women, including rural women, older women and women with disabilities, in all areas covered by the Convention.

18 United Nations Treaty Collection Database, available at https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en (accessed 13 March 2014).

19 As above.

20 HRC ‘Consideration of reports submitted by States Parties under article 40 of the Covenant, Fourth Periodic Report, Mauritius’ CCPR/C/MUS/2004/4 28 June 2004, available at file:///C:/Users/User.CREATEK2012/Downloads/G0442345.pdf (accessed 13 March 2014).

21 HRC ‘Consideration of reports submitted by States Parties under article 40 of the Covenant-Concluding Observations of the Human Rights Committee-Mauritius’ CCPR/CO/83/MUS adopted on the 83rd session on 27 April 2005, available at file:///C:/Users/User.CREATEK2012/Downloads/G0541376%20(3).pdf (accessed 13 March 2014).

22 Office of the High Commissioner for Human Rights ‘Ratification status for CEDAW’, available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?Treaty=CEDAW&Lang=en (accessed 13 March 2014).

23 Office of the High Commissioner for Human Rights ‘CEDAW/C/MUS/CO/6-7’. French version available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fMUS%2f6-7&Lang=en (accessed 16 May 2014).

24 ‘Concluding Observations of the Committee on the Elimination of Discrimination Against Women’, 8 November 2011, adopted on the fiftieth session CEDAW/C/MUS/CO/6-7, available at file:///C:/Users/User.CREATEK2012/Downloads/G1146814.pdf (accessed 13 March 2014).

• **The International Covenant on Economic, Social and Cultural Rights**

The above Covenant was acceded to by Mauritius on 12 December 1973. Mauritius submitted its most recent report on 3 March 2008, which was due on 30 June 1995. Although Mauritius was reporting under the ICESCR, the report also made reference to the provisions of the CRPD and emphasised how the government is taking measures to protect the rights of PWDs.²⁵ The following areas were reported on: training and employment of PWDs;²⁶ inclusivity;²⁷ pensions and allowances;²⁸ assistive devices;²⁹ education;³⁰ accessibility;³¹ sports culture and leisure;³² basic benefits;³³ and mental health care.³⁴ The Committee on Economic, Social and Cultural Rights, made the following recommendations with regard to PWDs in its concluding observations:³⁵

- The Committee urges the State party to adopt the necessary measures to prevent, diminish and eventually eliminate the conditions and attitudes which cause or perpetuate de facto discrimination against those groups of children, in line with the Committee's general comment no. 20 (2009) on non-discrimination in economic, social and cultural rights.³⁶
- The Committee recommends that the State party strengthen its efforts to eliminate situations that may be discriminatory against children with disabilities and take steps to ensure that all children with disabilities can, as appropriate, study in mainstream schools. In order to implement this approach, the State party should ensure that teachers are trained to educate children with disabilities within regular schools, in line with the Committee's general comment No. 5 (1994) on persons with disabilities.³⁷
- The Committee recommends that the State party considers withdrawing its interpretative declaration concerning article 24, paragraph 2(b), of the CRPD in relation to the policy of inclusive education, as this affects the object and purpose of the Convention. The Committee further recommends that the State party withdraw its reservation concerning article 11 of that Convention, by which it seeks to exclude measures specified in article 11 'unless permitted by domestic legislation expressly providing for the taking of such measures', as this goes to the substance of the provision and affects the object and purpose of the Convention.³⁸

• **The African Charter on Human and Peoples' Rights**

Mauritius ratified the African Charter on Human and Peoples' Rights on 19 June 1992.³⁹ The 2nd, 3rd, 4th and 5th combined state report submitted on 1 January 2008 under the African Charter on Human and Peoples' Rights made reference to the steps taken by the government to ensure a better protection of the rights of

25 Report submitted to the Economic and Social Council-implementation of the International Covenant on Economic, Social and Cultural Rights-fourth periodic report submitted by States Parties under articles 16 and 17 of the Covenant-Mauritius 3 March 2008 E/C.12/MUS/4.

26 Report to the Economic and Social Council (n 23 above) paras 119, 120, 126, 127, 137-140.

27 Para 129.

28 Para 130.

29 Para 131.

30 Paras 132-136.

31 Paras 141-144.

32 Paras 145-146.

33 Para 208.

34 Paras 422-426.

35 Concluding observations of the Committee on Economic, Social and Cultural Rights-consideration of reports submitted by states parties under articles 16 and 17 of the Covenant-forty fourth session-8 June 2010.

36 Concluding observations (n 35 above) para 12.1.

37 Concluding observations (n 35 above) para 30.2.

38 Concluding observations (n 35 above) para 36.

39 African Commission's website 'Ratification table: African Charter on Human and Peoples' Rights', available at <http://www.achpr.org/instruments/achpr/ratification/> (accessed 14 March 2014).

PWDs.⁴⁰ In the concluding observations,⁴¹ the African Commission made the following recommendation concerning children with disabilities:⁴²

- Implement the recommendations of the UN Committee on the Rights of the Child regarding discrimination against certain groups of children, particularly with regard to children with disabilities, children affected and/or infected by HIV/AIDS and children from disadvantaged families and girls.

• **Mauritius' UN Universal Periodic Review**

Mauritius' first Universal Periodic Review (UPR) was conducted on 10 February 2009 and numerous countries raised concerns about Mauritius not having ratified the CRPD at that time.⁴³ The last Universal Periodic Review for Mauritius was conducted on 23 October 2013 during the seventeenth session of the Working Group on the Universal Periodic Review.⁴⁴ The following recommendations were adopted:

- Strengthen coordination within the new institutions for the protection of minors and persons with disabilities;⁴⁵
- Continue with actions aimed at improving the treatment of children with disabilities and children affected and/or infected by HIV/AIDS;⁴⁶
- Make further efforts in increasing participation of persons with disabilities at all levels of political and public life, especially the electoral process;⁴⁷
- Intensify the positive action already taken for improving the living conditions of persons with disabilities;⁴⁸
- Work to ensure inclusive, quality and free primary and secondary education to children with disabilities on an equal basis with other children;⁴⁹
- Support steps regarding the rights of persons with disabilities with administrative arrangements, in order to ensure that these rights are enjoyed by all persons with disabilities within the society, especially children with disabilities;⁵⁰
- Continue implementation of the National Plan of Action, including social programs that aim at carrying out information and education activities with regard to people with disabilities and their social protection according to the relevant Convention which the country has ratified;⁵¹
- Continue increasing skills development programmes to public officers and staff, hospital staff and police officers on how to assist persons with disabilities as well as children with special needs;⁵²
- Withdraw its reservations to the Convention on the Rights of Persons with Disabilities;⁵³ and

40 The report is available at http://www.achpr.org/files/sessions/45th/state-reports/2nd-5th-2008/staterrep2345_mauritius_2008_eng.pdf (accessed 14 March 2014).

41 African Commission on Human and Peoples' Rights-consideration of reports submitted by states parties under article 62 of the African Charter on Human and Peoples' Rights-concluding observation on the 2nd, 3rd, 4th and 5th Periodic Reports of the Republic of Mauritius forty-fifth ordinary session, 13-27 May 2009.

42 Para 63.

43 The report of the Working Group is available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/116/86/PDF/G0911686.pdf?OpenElement> (accessed 14 March 2014).

44 The seventeenth session was held from 21 October to 1 November 2013.

45 Para 128.26 of the UPR.

46 Para 128.68 of the UPR.

47 Para 128.106 of the UPR.

48 Para 128.107 of the UPR.

49 Para 128.108 of the UPR.

50 Para 128.109 of the UPR.

51 Para 128.110 of the UPR.

52 Para 128.111 of the UPR.

53 Para 129.10 of the UPR.

- Formulate strict legislation to prevent abuse and exploitation of children with disabilities by parents or other members of society; and provide necessary measures to assist them in their quest of justice⁵⁴

2.4 Was there any domestic effect on Mauritius' legal system after ratifying the international or regional instrument in 2.3 above? Does the international or regional instrument that has been ratified require Mauritius' legislature to incorporate it into the legal system before the instrument can have force in Mauritius' domestic law? Have Mauritius' courts ever considered this question? If so, cite the case(s).

The ratification of international and regional human rights instruments led to the adoption of many laws aimed at the protection of human rights. Some of the laws pertaining to the rights of PWDs are as follows:

- The Equal Opportunities Act 2008
- The Training and Employment of Disabled Persons Act 1996
- The National Council for Life Rehabilitation of Disabled Persons Act 1986
- The Society for the Welfare of the Deaf Act 1968
- The National Solidarity Fund Act 1991
- The Social Aid Act 1983
- The Lois Lagesse Trust Fund Act 1983
- The Child Protection Act 1994
- The Ombudsperson for Children Act 2003
- The National Women's Council Act 1985
- The Employment Rights Act 2008
- The Social Aid Act 1983
- The Unemployment Hardship Relief Act 1983

The 1968 Constitution of the Republic Mauritius (Constitution of Mauritius) and other legislation make no reference as to whether there is a need to incorporate an international instrument into Mauritius' legal system for it to have any force of law. Since the practice of dualism is more popular in Commonwealth African Countries,⁵⁵ it has been the practice of Mauritius to adopt a law in the Parliament for it to be binding.

The judiciary have, in several instances, emphasised that Mauritius is not bound by international instruments that had not been incorporated in the domestic legislation. In the case of *Matadeen v Pointu*⁵⁶ the court held that '... a State Party is not obliged to incorporate the provisions of the Covenant into its domestic law ... [f]urthermore, interpretation of the Covenant allows a "margin of appreciation" to the State Party in deciding what amounts to the equal protection of the law and there is no reason why that margin of appreciation should be engrossed by the judicial branch of government rather than the legislature or executive'.

In *Jordan v Jordan*⁵⁷ it was highlighted that '... whilst our Constitution proclaims that Mauritius shall be a sovereign democratic State, it also establishes

54 Para 129.39 of the UPR.

55 JO Ambani 'Navigating past the "dualist doctrine": The case for progressive jurisprudence on the application of international human rights norms in Kenya' in M Killander (ed) *International law and domestic human rights litigation in Africa* (2010) 27.

56 *Matadeen v Pointu* Privy Council Appeal No 14 of 1997 para 24.

57 *Jordan v Jordan* 2000 SCJ 226.

the principle of separation of powers; that each of the three arms of Government has a distinct role to play and each should confine itself to its specific domain; that there was a need for the Legislature to pass the necessary legislation to incorporate a Convention (which is usually acceded to by the Executive) into our municipal law before the Judiciary can take cognizance of it and apply it as its own domestic law'. In *Pulluck v Ramphul*⁵⁸ it was concluded that '[t]he provisions contained in international instruments can therefore hardly be of help to respondents when there is no evidence of their incorporation into our domestic law'.

Finally, *Ex Parte Hurnam Devendranath, a Barrister-at-Law*⁵⁹ clearly established that '[i]t is a well-settled principle that unratified and unincorporated treaties are of no direct effect in our courts'.

2.5 With reference to 2.4 above, has the CRPD or any other ratified international instrument been domesticated? Provide details.

Although there is no specific domestic piece of legislation that directly concern the rights of PWDs, the acts listed in 2.4 above each ensures that the rights of PWDs are protected in all spheres of life. The new Government Programme 2012-2015 presented by the then Acting President of Mauritius on 16 April 2012 stipulates that the government intends to introduce a Disability Bill which will give directly give effects to the provisions of the CRPD.⁶⁰

3 Constitution

3.1 Does the Constitution of Mauritius contain provisions that directly address disability? If so, list the provisions and explain how each provision addresses disability.

The Constitution of Mauritius does not contain any provisions which directly address disability.

3.2 Does the Constitution of Mauritius contain provisions that indirectly address disability? If so, list the provisions and explain how each provision indirectly addresses disability.

Section 16(3) of the Constitution provides for an exhaustive list of factors on which people cannot be discriminated against. Disability does not form part of this exhaustive list.⁶¹

58 *Pulluck v Ramphul* 2005 SCJ 196.

59 *Ex Parte Hurnam Devendranath, a Barrister-at-Law* 2007 SCJ 289.

60 Para 52 of the Government Programme 2012-2015, available at http://primeminister.gov.mu/English/Documents/Govt_Prog2012-15.pdf (accessed 16 May 2014).

61 Sec 16(3) of the Constitution of Mauritius: 'In this section, 'discriminatory' means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, caste, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages that are not accorded to persons of another such description.'

4 Legislation

4.1 Does Mauritius have legislation that directly addresses issues relating to disability? If so, list the legislation and explain how the legislation addresses disability.

Legislation that directly addresses issues relating to disabilities is as follows:

- **The Training and Employment of Disabled Persons Act 1996 (TEDP)**

The TEDP establishes a Board, known as the Training and Employment of Disabled Persons Board, which has to fulfil the following functions:⁶²

- (a) prevent, as provided under section 16, discrimination against disabled persons resulting from or arising out of their disability;
- (b) encourage the establishment of appropriate vocational centres and other institutions for the training of disabled persons;
- (c) operate and encourage schemes and projects for the training and employment of disabled persons;
- (d) improve generally the social and economic status and condition of disabled persons;
- (e) perform such other functions, not inconsistent with this Act, as the Minister may, in writing, specify or approve.

It further provides for the establishment of a register for PWDs and imposes an obligation on employers to provide for suitable employment⁶³ for PWDs⁶⁴ without any discrimination on the grounds listed in section 16 of the TEDP.

- **The National Council for Life Rehabilitation of Disabled Persons Act 1986 (NCRDP)**

The NCRDP sets up a National Council for the Rehabilitation of Disabled Persons.⁶⁵ The objectives of the council are as follows:⁶⁶

- (a) to co-ordinate the activities of voluntary organisations catering for disabled persons;
- (b) to promote the development and expansion of rehabilitative services;
- (c) to advise the Minister on all aspects of the rehabilitation of disabled persons;
- (d) to coordinate with private international and national agencies engaged in the rehabilitation of disabled persons and to disseminate technical information received from these sources;
- (e) generally to promote the welfare of disabled persons.

- **The Society for the Welfare of the Deaf Act 1968 (SWD)**

The SWD incorporates a Society for the Welfare of the Deaf⁶⁷ which targets the following objectives:⁶⁸

62 Sec 4 of the TEDP.

63 Sec 14 of the TEDP.

64 Sec 13 of the TEDP.

65 Sec 3 of the NCRDP.

66 Sec 4 of the NCRDP.

67 Sec 2 of the SWD.

68 Sec 3 of the SWD.

[T]o aid, train and educate all deaf persons in Mauritius; to assist them in obtaining medical treatment and suitable employment; to grant them any material relief of which they may be in need; to erect, open and manage such training centres, schools and hostels as may be deemed necessary.

The SWD also draws the powers and the boundaries within which the Society for the Welfare of the Deaf is to operate.

- **The Lois Lagesse Trust Fund Act 1983 (LLTFA)**

The LLTFA establishes a Lois Lagesse Trust Fund,⁶⁹ which has as its objective the facilitation of persons with visual impairments in the mainstream. The aims of the Lois Lagesse Trust Fund are as follows:⁷⁰

- (a) to aid, train and educate all blind persons in Mauritius;
- (b) to assist blind persons in obtaining medical treatment and suitable employment;
- (c) to set up and manage training centres, schools and hostels for the blind;
- (d) to cater for the general welfare of the blind.

4.2 Does Mauritius have legislation that indirectly addresses issues relating to disability? If so, list the main legislation and explain how the legislation relates to disability.

- **The Equal Opportunities Act 2008 (EOA)**

The EOA prohibits direct or indirect discrimination pursuant to section 5 and section 6 of the Act. In both sections, discrimination based on the 'status' of the aggrieved person is prohibited. The interpretation section (section 2) of the EOA includes impairment in the definition of 'status'. It implies that discrimination on the grounds of disability is illegal under the EOA.

- **The National Solidarity Fund Act 1991 (NSF)**

The NSF Act can be indirectly interpreted as being of financial assistance to persons with disabilities. For instance, Section 4 of the Act provides that citizens in need of financial assistance to undergo medical treatment in foreign institutions can financially benefit from this fund.

- **The National Pensions Act 1976 (NPA)**

The NPA caters for disabilities arising out of accidents in employment and financial assistance required in the form of pensions. Section 8 provides for invalid basic pensions⁷¹ whereas section 26 caters for disablement pensions and allowances. There is equally monetary aid provided to former employees who fell victim to industry injuries.

- **The Social Aid Act 1983 (SAA)**

The SAA provides for social assistance to not only a person with disability, but the aid also extends to others who may be dependent on the persons with the disability. Section 3 qualifies a person and the dependants as a beneficiary of social aid if, as a result of any physical or mental disability, one is temporarily or permanently incapable of earning adequately his livelihood, and has insufficient means to support oneself.

⁶⁹ Sec 3 of the LLTFA.

⁷⁰ Sec 4 of the LLTFA.

⁷¹ Section 8(1) of the NPA: 'Subject to section 10, a person shall be qualified to receive an invalid's basic pension where - (a) he is disabled and is likely to be so disabled for a period of at least 12 months; and (b) he has reached the age of 15 and is under the age of 60.'

- **The Child Protection Act 1994 (CPA)**

The CPA provides for the child mentoring scheme which takes care of child victims of neglect, suffering from mild behavioural problems, are in distress or having problems of social adaptations. These problems are often seen in children with disabilities. Under this scheme, they can be properly mentored and looked after. Sexual offences on children with disability, ill treatment or abandonment or forcing a child with a disability to beg would also amount to a criminal offence under the CPA.

- **The Ombudsperson for Children Act 2003 (OCA)**

The OCA ensures that the rights, needs and interests of children including children with disabilities, are given full consideration by public bodies, private authorities, individuals and associations of individuals. It also helps to promote the best interests of the child and promote compliance with the CRPD.

- **The Employment Rights Act 2008 (ERA)**

Persons with disabilities whose contract is being terminated can receive compensation under the ERA. The ERA also provides for a workfare programme. The workfare programme consists of the payment of a transition unemployment benefit to a worker whose agreement has been terminated.

- **The Unemployment Hardship Relief Act 1983 (UHRA)**

Under the UHRA, a person with a disability who is not working may get monetary assistance from the state. According to section 3, any person below the age of 60 with a wife or a child or who has a disability shall be qualified to claim hardship relief.

- **The Building Control Act 2012 (BCA)**

To ensure that persons with impaired mobility and communication have access to buildings in a comfortable manner, section 3 of the BCA provides for accessibility as one essential building requirement.

- **The HIV and AIDS Act 2007 (HAA)**

Section 3 of the HAA explicitly states that HIV or AIDS are not to be considered as a disability. One's HIV status cannot be used as a ground to discriminate against that person. The Act further mentions that HIV or AIDS cannot be regarded as a disability or incapacity in any other act of Parliament also.

5 Decisions of courts and tribunals

- 5.1 **Have the courts (or tribunals) in Mauritius ever decided on an issue(s) relating to disability? If so, list the cases and provide a summary for each of the cases with the facts, the decision(s) and the reasoning.**

No court or tribunals have decided on an issue(s) that relates to disability in Mauritius.

6 Policies and programmes

- 6.1 **Does Mauritius have policies or programmes that directly address disability? If so, list each policy and explain how the policy addresses disability.**

- **National Policy Paper and Action Plan on Disability 2007 (NPP)**⁷²

The NPP, which has the title 'Valuing people with disabilities', recognises that 'without a commitment from Government, civil society and Disabled People Organisations, (DPOs), the rights of persons with disabilities can never triumph over prejudice and discrimination'.⁷³ Chapter 4 of the document expands on the guiding principles, policy objectives and goals. Chapter 5 lays down the National Plan of Action and the recommendations to be followed to ensure a better protection of the rights of PWDs.

- **Special Education Needs and Inclusive Education Policy and Strategy 2006 (SEN)**⁷⁴

The SEN recognises that children with disabilities should attend school and that it is important for the government to have a strategic plan for inclusion and special educational needs. SEN provides for recommendations for a sustainable special education needs strategy.

- **Respite care programme by the Minister of Social Welfare 2010**

Children with a disability registered at the Disability Unit, which is under the aegis of the Ministry of Social Security, National Solidarity and Reform Institutions, have the privilege of regularly participating in leisure activities organised by the Ministry of Social Welfare.

72 Ministry of Social Security, National Solidarity and Senior Citizens Welfare and reform Institutions 'National Policy Paper and Action Plan on Disability – "Valuing People with disabilities"' (2008) available at <http://www.gov.mu/portal/sites/disability/policypaper.pdf> (accessed 18 March 2014).

73 As above 8.

74 Ministry of Education and Human Resources 'Special Needs and Inclusive Education in Mauritius – The Policy and Strategy Document' (2006), available at <http://ministry-education.gov.mu/English/educationsector/Documents/sen.pdf> (accessed 18 March 2014).

6.2 Does Mauritius have policies and programmes that indirectly address disability? If so, list each policy and describe how the policy indirectly addresses disability.

• Government Programme 2012-2015 (GP)⁷⁵

The following extracts from the GP address disability:

- ‘Government will further pursue the implementation of the UN Convention on the Rights of Persons with Disabilities by giving a new boost to training and employment of persons with disabilities. Relevant amendments will be brought to the Training and Employment of Disabled Persons Act and the National Council for Rehabilitation of Disabled Persons Act.’⁷⁶
- ‘Government proposes to introduce a Disability Bill in line with the Convention provide further protection to persons with disabilities against all forms of discrimination.’⁷⁷
- ‘Government will set up a Respite Care Centre with a view to providing specialised rehabilitative services and leisure facilities to persons with disabilities.’⁷⁸

7 Disability bodies

7.1 Other than the ordinary courts or tribunals, does Mauritius have any official body that specifically addresses violations of the rights of people with disabilities? If so, describe the body, its functions and its powers.

There is no official body which addresses violations of the rights of PWDs.

7.2 Other than the ordinary courts or tribunals, does Mauritius have any official body that though not established to specifically address violations of the rights of people with disabilities, can nonetheless do so? If so, describe the body, its functions and its powers.

The Equal Opportunities Tribunal established in terms of Part VII of the EOA is an additional platform where issues pertaining to violations of rights of people with disabilities may be addressed. The above Tribunal has jurisdiction in matters referred to it by the Equal Opportunities Division. Section 41 of the EOA provides for appeal to the Supreme Court from the decision of the Equal Opportunities Tribunal if one is not satisfied with the proceedings before it.

75 ‘Government Programme 2012-2015: Moving the Nation Forward’ (2012), available at <http://www.labourparty.mu/programme/Govt-Address-2012.pdf> (accessed 18 March 2014).

76 Para 51.

77 Para 52.

78 Para 53.

8 National human rights institutions, Human Rights Commission, Ombudsman or Public Protector

8.1 Do you have a Human Rights Commission, Ombudsman or Public Protector in your country? If so, does its remit include the promotion and protection of the rights of people with disabilities? If your answer is yes, also indicate whether the Human Rights Commission, the Ombudsman or Public Protector of your country has ever addressed issues relating to the rights of persons with disabilities.

- The National Human Rights Commission (NHRC) has been created by the Protection of Human Rights Act of 1998. The NHRC's mandate is limited to written enquiries made by a victim of a violation or a possible violation of the provisions of Chapter II of the Constitution.⁷⁹ As stated in 3 above, Chapter II of the Constitution does not contain any provision relating to disability and therefore, the NHRC's mandate does not cover the promotion and protection of the rights of PWDs.
- Chapter IX of the Constitution establishes the office of an Ombudsman. The Ombudsman investigates issues of public maladministration. Since the Disability Unit is a public body, the office of the Ombudsman has the responsibility to ensure that the Disability Unit is offering the proper services to members of the public.
- The Ombudsperson for Children Act 2003 provides for the office of the Ombudsperson for Children. The Ombudsperson for Children has to ensure that the rights, needs and interests of all children are protected by public bodies, private associations or individuals. Therefore, the rights, needs and interests of children with disabilities also fall within the Ombudsperson for Children's mandate.

9 Disabled peoples organisations (DPOs) and other civil society organisations

9.1 Do you have organisations that represent and advocate for the rights and welfare of persons with disabilities in Mauritius? If so, list each organisation and describe its activities.

Apart from the organisations in 4.1 above, there are about 62 non-governmental organisations, which represent and advocate for the rights and welfare of PWDs in Mauritius.⁸⁰ Some of these organisations are as follows:

- **The 'Centre d'Education et de Développement pour les Enfants Mauriciens' (CEDEM)**⁸¹
The CEDEM was founded in 1984 and its main objective is to ensure that all vulnerable children have a better quality of life. It has schools which host children with disabilities and slow learners and also concentrates on family counselling.

⁷⁹ Sec 4 of the Protection of Human Rights Act 1998.

⁸⁰ A list of organisations of PWDs in Mauritius is available at <http://www.gov.mu/portal/sites/disability/list.pdf> (accessed 18 March 2014).

⁸¹ CEDEM's website: <http://www.lccedem.org/services.htm> (accessed 19 March 2014).

- **Cypres Handicapped Association**⁸²

The Cypres Handicapped Association's was officially registered in 1998 and focuses on the social and economic empowerment of adults with disabilities.

- **'Fraternité Mauricienne des Malades et Handicapés'**

The above NGO runs a special school for children with severe physical disabilities. It also has a programme whereby it provides training for athletes who play basketball from wheelchairs.

- **Century Welfare Association**

One of the projects of the Century Welfare Association is the Century Special Education Needs School for children with disabilities between the age of 5 and 15. According to the school's website the objectives are 'to provide access to proper attention and care', 'to enhance self-esteem and confidence building', and 'to provide appropriate education and promote self-development'.⁸³

- **'Association Handicapés Sans Frontières'**

This particular NGO promotes sports, leisure and recreational activities for PWDs.

- **The Southern Handicapped Association**

The Southern Handicapped Association was registered with the Registrar of the Association in 1986 and was affiliated with the Ministry of Social Security in 1987. It runs a day care centre for children and adolescents with disabilities. Its current project is the creation of a pre-primary unit for children with mental disabilities aged from 3 to 5 years old.

- **'Fondation Georges Charles'**

The 'Fondation Georges Charles' runs a specialised school for children with intellectual disabilities. It also organises workshops for adolescents and adults with intellectual impairment.

- **'Association des parents d'enfants inadaptés de l'île Maurice' (APEIM)**⁸⁴

The APEIM is 'responsible for the care, support, development and well-being of children and adults with developmental disabilities, moderate to severe mental handicap, in some cases with other related disorders'.

- **'Association de Parents des Déficients Auditifs' (APDA)**

The APDA provides for special education, training, sports and cultural activities for children with hearing impairment. It also runs courses on sign language and an adult education programme for deaf persons.

- **'Liziedan la main'**⁸⁵

'Liziedan la main' was set up in 1981. It engages in the rehabilitation of visually impaired persons. Its services cover eye care, education, training the organisation of recreational/leisure activities such as music and sports.

82 Cypres Handicapped Association's Website, available at <http://cypreshandicappedasso.intnet.mu/> (accessed 19 March 2014).

83 Website of the Century Welfare Association, available at <http://www.centuryassociation.org/services/special-needs-school> (accessed 19 March 2014).

84 Website available at <http://www.apeim.org/index.php?langue=eng> (accessed 19 March 2014).

85 Liziedan la main's website is available at <http://www.ldlm.intnet.mu/> (accessed 19 March 2014).

9.2 In the countries in your region, are DPOs organised/coordinated at a national and/or regional level?

In Mauritius, DPOs are regulated by different boards. Some of them are the National Council for the Rehabilitation of Disabled Persons, the Training and Employment of Disabled Persons Board, the Lois Lagesse Trust Fund, the Society for the Welfare of the Deaf and the NGO Trust Fund.

To gain recognition as a DPO, an association must apply for registration under section 6 of the Registration of Associations Act 1978.⁸⁶

9.3 If Mauritius has ratified the CRPD, how has it ensured the involvement of DPOs in the implementation process?

DPOs are generally involved in workshops and conferences that are organised by relevant ministries. Their participation, as mandated by the CRPD, is ensured by their presence and in some cases by the possibility of submitting reports.⁸⁷ However, it is important to highlight that due to the absence of the rights of PWDs and public interest litigation or class action in the Constitution, it becomes quite complex for DPOs and NGOs to ensure a better protection of the rights of PWDs through constitutional litigation.

9.4 What types of actions have DPOs themselves taken to ensure that they are fully embedded in the process of implementation?

The Universal Periodic Review (UPR) for Mauritius was conducted in 2013 and about 20 DPOs came together to present a report on that occasion. They pointed out the main issues and provided for recommendations to be considered.

9.5 What, if any, are the barriers DPOs have faced in engaging with implementation?

There is no proper legal or normative framework concerning DPOs. The nature and the understanding of the role and functions of NGOs or DPOs, by themselves, are questionable. DPOs tend to work in a vacuum where only a single relationship is defined, the one between themselves and the state or financial partners.

86 Section 6 of the Registration of Associations Act provides:
(1) Subject to subsection (2), every application under section 5 shall be accompanied by –
(a) 2 copies of the rules of the association;
(b) a list of the members, showing their names, occupations and addresses;
(c) a list of the officers, showing their titles, names and addresses;
(d) a certified copy of the minutes of proceedings of the meeting at which the rules were approved and the officers were appointed;
(e) a notice of the address of the office of the association; and
(f) the prescribed fee.
(2) An application for registration under section 5 (2) shall also specify –
(a) the names and addresses of the person authorised to represent the foreign association in Mauritius;
(b) the office of the association in Mauritius; and
(c) the nature of the activities in which the foreign association intends to engage in Mauritius.
(3) The Registrar may, by written notice, require the secretary to provide any further information he may reasonably require for the purpose of considering the application.
(4) Where the Registrar is of opinion that the association does not comply with this Act or, as the case may be, with the Sports Act 2001, he shall give written notice to the secretary of the failure to comply and afford the association a reasonable time in which to comply with this Act or as the case may be, with the Sports Act 2013.

87 Art 32 and 33 of the CRPD.

Information about their activities is most of the time not disseminated and they do not seek assistance from third parties. For instance, academics, the university and research tanks are never involved in what they do. There are few efforts to develop a partnership and working relations between various stakeholders. This is a huge barrier impeding the proper functioning of DPOs.

9.6 Are there specific instances that provide ‘best-practice models’ for ensuring proper involvement of DPOs?

No.

9.7 Are there any specific outcomes regarding successful implementation and/or improved recognition of the rights of persons with disabilities that resulted from the engagement of DPOs in the implementation process?

No.

9.8 Has your research shown areas for capacity building and support (particularly in relation to research) for DPOs with respect to their engagement with the implementation process?

Training and education in the field of disability is essential. It is often observed that officers of DPOs are not necessarily qualified to handle issues on disabilities. There is a lack of training of persons who engage in DPOs. In addition, fostering links with other regional DPOs is equally important but this is not currently present in the Mauritian context. This actually impacts on their financial capacity and they fail to be part of important associations of DPOs that benefit from donor aids.

9.9 Are there recommendations that come out of your research as to how DPOs might be more comprehensively empowered to take a leading role in the implementation processes of international or regional instruments?

As highlighted in 9.5, there is a need for proper legislative framework within which DPOs can operate. The government should therefore strive towards setting up a legal framework, which will facilitate the operation of DPOs in Mauritius. Apart from the Registration of Associations Act, DPOs do not get legal support and structure from any other legislation. Their functioning, the modes of operation and their financing are not harmonised and well publicised.

9.10 Are there specific research institutes in your region that work on the rights of persons with disabilities and that have facilitated the involvement of DPOs in the process, including in research?

No.

10 Government departments

10.1 Do you have a government department or departments that is/are specifically responsible for promoting and protecting the rights and welfare of person with disabilities? If so, describe the activities of the department(s).

The Ministry of Social Security, National Solidarity and Reform Institutions has the Disability Unit which is responsible for promoting and protecting the rights and welfare of PWDs. The activities of the Disability Unit are as follows:⁸⁸

- The Disability Unit is the “focal point” for disability issues in Mauritius.
- It provides information, counselling, guidance and referral services.
- It is responsible for the conceptualisation and implementation of disability policies, projects and programmes and facilitates the process of integration of persons with disabilities in mainstream society.
- It coordinates matters relating to the UN Convention on the Rights of Persons with Disabilities.
- It organises activities, seminars and workshops on disability issues.
- It also provides an array of direct services to persons with disabilities.

11 Main human rights concerns of people with disabilities in Mauritius

11.1 Contemporary challenges of persons with disabilities in Mauritius (for example, in some parts of Africa ritual killing of certain classes of PWDs, such as people with albinism, occurs).

The Mauritian society still looks down on PWDs.⁸⁹ The reservation that Mauritius has on article 9.2(d) of the CRPD acts as a barrier for accessibility for PWDs. There are no public transportation means that accommodate PWDs in Mauritius. This therefore prevents PWDs from moving around independently. Furthermore, there is a lack of ‘accommodations for PWDs’ during elections.⁹⁰

⁸⁸ Website of the disability unit is available at <http://www.gov.mu/portal/sites/disability/index.htm> (accessed 19 March 2014).

⁸⁹ DPO's submission for Mauritius' UPR.

⁹⁰ US Department of State Affairs 'Mauritius-Executive summary' (2011) 8, available at <http://www.state.gov/documents/organization/186432.pdf> (accessed 19 March 2014).

11.2 Describe the contemporary challenges of persons with disabilities, and the legal responses thereto, and assess the adequacy of these responses to:

• **Access and accommodation**

The Building Control Act 2012 makes provision for PWDs to access buildings. However, the reservation purporting to article 9.2(d) of the CRPD is a challenge for PWDs since the government of Mauritius does not feel obliged to make sure that all buildings accommodate PWDs.

• **Access to social security**

The Ministry of Social Security, National Solidarity and Reform Institutions provides for a number of social security measures for registered PWDs such as a carer's allowance, constant attendance allowance, special allowance and child allowance.

• **Access to public transport**

See 11.1 above.

• **Access to education**

The reservation to article 24.2(b) of the CRPD acts as a barrier for Mauritius to provide free inclusive education to children with disabilities. They have to either go to specialised schools or face the challenges of being in the mainstream education without any accommodation for them.

• **Access to vocational training**

The Training and Employment of Disabled Persons Act makes sure that PWDs have access to vocational training.

• **Access to employment**

See 4.2 above.

• **Access to recreation and sport**

As far as it is reasonable, recreation and sport activities are organised by either the Ministry for Social Security, National Solidarity and Reform Institutions or the DPOs.

• **Access to justice**

Support is provided for to PWDs whenever they are in contact with the law.

11.3 Do people with disabilities have a right to participation in political life (political representation and leadership) in Mauritius?

Section 33 of the Mauritian Constitution provides for the qualification for membership of the Parliament and it makes no reference to PWDs. However, section 34 states that a person is disqualified from membership if he 'is a person adjudged to be of unsound mind ...'.⁹¹ Nevertheless, no disqualification is made regarding a person with a physical disability. It is noteworthy that in 2009, a person with visual impairments was elected as a Mayor in one of the towns.

91 Sec 34(1)(e) of the Constitution.

11.4 Are people with disabilities' socio-economic rights, including right to health, education and other social services protected and realised in Mauritius?

Socio-economic rights are not generally protected by the Constitution. However, the Ministry of Health and Quality of Life ensures that everyone has access to healthcare systems in the public hospitals. Moreover, there is a Mental Health Care Act of 1998, which ensures that persons with mental disabilities have access to health.

As for education, see 11.2 above.

11.5 Specific categories experiencing particular issues/vulnerability:

• **Children with disabilities**

Children with disabilities encounter difficulties with regard to access to education since they are not integrated in mainstream education.

12 Future perspective

12.1 Are there any specific measures with regard to persons with disabilities being debated or considered in Mauritius at the moment?

Currently, the Ministry of Social Security, National Solidarity and Reform Institutions is working on a Disability Bill, which will address specific issues related to PWDs.

12.2 What legal reforms are being raised? What legal reforms would you like to see in your country? Why?

The Concept of a one-stop shop as the principal provider of social services to persons with disabilities is being envisaged by the Government. However, the actions of the Government towards realisation of this project has been very slow with seven years down the line without much progress.

It is proposed that first there must be a proper domestication of the CRPD to provide for the proper legal structure and to hold the government accountable. Consequently, based on those obligations, it would then be possible to pressurise the government whenever such 'statements' are made without appropriate actions.

There equally needs to be a proper educational campaign on disability rights in Mauritius. As it is, the social and compassionate aspect in relation to persons with disabilities are not at all lacking. Mauritians help and contribute socially when it comes to Persons with Disabilities. However, what is equally important is that they work towards the empowerment of those people by acknowledging their rights and start pushing through a legal agenda for them by lobbying various stakeholders.

