



## Convention on the Rights of Persons with Disabilities

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### Committee on the Rights of Persons with Disabilities

## Concluding Observations in relation to the initial report of Mauritius\*

### I. Introduction

1. The Committee considered the initial report of Mauritius (CRPD/C/MUS/1) at its 214<sup>th</sup> and 215<sup>th</sup> meetings (CRPD/C/SR. 214 and 215), held on 24 and 25 August 2015, respectively, and adopted the following concluding observations at its 225<sup>th</sup> meeting, held on 1 September 2015.
2. The Committee welcomes the initial report of Mauritius, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State party for the written replies (CRPD/C/COK/Q/1/Add.1) to the list of issues prepared by the Committee in a timely manner.
3. The Committee appreciates the fruitful dialogue held with the State party's delegation, at which many issues were raised, as well as its proactive and open attitude.

### II. Positive aspects

4. The Committee also commends the State party for:
  - (a) The Employment Rights Act of 2008 which specifically prohibits harassment on the basis of disability at work;
  - (b) Launch of a database on disability in 2012;
  - (c) The substantial increase of the social budget in support of persons with disabilities;
  - (d) The establishment of a National Monitoring and Implementation Committee on persons with disabilities under the Ministry of Social Security.

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\* Adopted by the Committee at its fourteenth session (17 August to 4 September 2015).



### III. Principal areas of concern and recommendations

#### A. General principles and obligations (arts. 1–4)

5. The Committee is concerned that the definitions contained in the Equal Opportunities Act and the Training and Employment of Disabled Persons Act still reflect the medical approach of disability and are therefore incompatible with the concept of disability in the Convention. The Committee is also concerned about the use of derogatory language against persons with disabilities throughout laws, policies and discourse. The Committee is further concerned that achievements obtained through the implementation of the 2007 Action Plan on Disability are unclear and that persons with disabilities have not been consulted in the development of the draft Disability Bill and the Strategy Paper and Action Plan on Disability 2015-2020.

**6. The Committee recommends that the State party amend the Equal Opportunities Act and the Training and Employment of Disabled Persons Act to reflect the human rights model of disability and that it eliminate the use of derogatory language throughout its laws, policies and discourse. The Committee also urges the State party to fully associate and regularly, transparently and meaningfully consult with organization of persons with disabilities in the design, implementation and monitoring of laws, policies and action plans, which have an impact on them, especially the draft Disability Bill and the Disability Strategy and Action Plan (DSAP 2015-2020) and to ensure that the DSAP contain clear goals, benchmarks and indicators and that necessary resources are provided for its effective implementation.**

7. The Committee notes the commitment by State Party to withdraw its reservations to articles 9 (para.2), 11 and 24 (para. 2) to the Convention (A/HRC/25/8 para. 129.10, 129.11 and 129.12), but is concerned that this process has yet to be engaged. The Committee also regrets that the State party conditions the ratification of the Optional Protocol to the Convention to the withdrawal of these reservations.

**8. The Committee recommends that the State party withdraw all its reservations to the Convention and ratify the Optional Protocol to the Convention without further delay.**

#### B. Specific rights (arts. 5–30)

##### **Equality and non-discrimination (art. 5)**

9. The Committee is concerned that the legislation of the State party, in particular the Equal Opportunities Act still reflect the medical approach of disability. The Committee is also concerned that the concept of reasonable accommodation has yet to be defined and included in the legislation of the State party.

**10. The Committee recommends that the State party ensure that all its legislation is aligned with the Convention and define the concept of reasonable accommodation in line with article 2 of the Convention and recognizes the denial of reasonable accommodation as a form of disability-based discrimination, as well as intersectional discrimination and discrimination by association.**

##### **Women with disabilities (art. 6)**

11. The Committee is concerned that the relations between the ‘Forum of Women with Disabilities’ and the State party remain unclear. The Committee also regrets that the particular situation of women and girls with disabilities is not adequately taken into account

in the State party legislations and policies, as highlighted notably by the absence of any provisions concerning them in the Protection from Domestic Violence Act.

**12. The Committee recommends that the State party, in full cooperation with organizations of women and girls with disabilities, include their rights into all laws, policies and programmes and take all necessary measures to protect them from multiple and intersectional discrimination and violence to enable them to fully enjoy all their rights under the Convention. The State party should ensure that laws against gender based discrimination and violence provide for proportionate enforceable sanctions and effective remedies.**

#### **Children with disabilities (art. 7)**

13. The Committee shares the concern expressed by the Committee on the Rights of the Child<sup>1</sup> (CRC/C/MUS/CO/3-5 para. 49) that the State party gives precedence to an integrative approach instead of eliminating the physical, socioeconomic and cultural barriers that prevent their full inclusion in schools and in society. The Committee is also concerned about the overreliance of the State party on NGOs to provide specialized services to children with disabilities without the necessary support, monitoring & regulatory guidance for these NGOs; the insufficient measures to prevent the placement of children with disabilities in ‘*centres de sauvegarde*’ (“Abris des Enfants en Détresse”) and the rejection and stigmatization faced by these children.

**14. The Committee recommends that the State party take effective measures to ensure provision of quality inclusive services for boys and girls with disabilities both in public and private sectors in compliance with the Convention and allocate the necessary resources to these services.. Furthermore, the Committee recommends that the State party ensure that NGO run programmes be regulated and closely supervised and that staff of these NGOs undergo specific monitoring. The Committee also recommends that the State party amend the National Children’s policy and the National Child Protection Strategy with the view to incorporating targeted measures for children with disabilities to enjoy their rights on an equal basis with other children.**

#### **Awareness-raising (art. 8)**

15. The Committee is concerned that awareness-raising campaigns for the public, including persons with disabilities, the Convention and the Optional Protocol, remain limited.

**16. The Committee recommends that the State party design, develop and conduct together with persons with disabilities, and their representative organisations:**

**(a) Campaigns targeting specific discrimination issues in the aim of cultural transformation, for the general public and with the support of the mass media.**

**(b) Training for persons with disabilities, their families and their representative organisations as well as all relevant civil servants and key areas of the private sector in order for them to apply a human rights based approach to disability.**

#### **Accessibility (art. 9)**

17. The Committee is concerned that persons with disabilities encountered various obstacles to access the physical environment and information communication services,

transport and services opened to the public and therefore cannot exercise their rights on equal basis with others due to the lack of effective measures taken by the State party to eliminate existing barriers to accessibility.

18. **The Committee recommends that the State party proceed to the announced revision of the Building Act, the Roads Act, the Morcellement Act and the Town and Country Planning Act and to adopt a legally binding accessibility action plan, with benchmarks, indicators and timelines, to cover all aspects of the built environment, public service provision, information and communications, including sign language interpretation as well as assistive listening systems and air and sea transport, as referred to in the Committee's general comment No. 2 (2014) on accessibility. A regular monitoring and evaluation of the plan with the participation of organizations of persons with disabilities should be conducted within specified periods of time and sanctions provided in case of non-compliance.**

#### **Situations of risk and humanitarian emergencies (art. 11)**

19. The Committee regrets the lack of clarity as to the legal framework, which the State party will include in the National Risk Reduction and Disaster Management Bill to meet its obligations under article 11 of the Convention.

20. **The Committee recommends that the State party closely consult and actively involve persons with disabilities, through their representative organisations, in the drafting process of the National Risk Reduction Disaster Management Bill, in order to ensure accessible and disability inclusive disaster risk management.**

#### **Equal recognition before the law (art. 12)**

21. The Committee is concerned that the institution of substituted decision making and guardianship for persons with disabilities meeting the derogatory criteria listed in the Mauritius Civil Code as well as the deprivation of the rights of institutionalized persons with disabilities to entering into contracts, vote, marry, take decisions about health and access courts of law violate article 12 of the Convention.

22. **The Committee recommends that the State party abolish guardianship measures in law and practice and to ensure recognition of the legal capacity of persons with disabilities on an equal basis with others, and introduce supported decision-making mechanisms, in line with the Committee's general comment No. 1 (2014) on equal recognition before the law.**

#### **Access to justice (art. 13)**

23. The Committee regrets the lack of clear information on the results of conciliation measures and the redress provided to the victims. The Committee is also concerned that no information was provided on actions taken to ensure accountability for violations of the rights of persons with disabilities.

24. **The Committee recommends that the State party provide for disability-related and age-appropriate accommodations in all legal proceedings. The State party should ensure that accessibility measures such as braille, provision of sign language interpretation, alternative modes of communication, easy to read format, and enforcement measures are available and free of charge in all courts and that personnel in the justice and prison system are properly trained on the application of human rights standards specifically for persons with disabilities.**

**Liberty and security of the person (art. 14)**

25. The Committee is concerned that the legislation of the State party provides for the involuntary hospitalization and institutionalization of persons with disabilities, including children on the basis of their impairments or because they are deemed to represent a danger for themselves and for the society, and that no data is available in this respect.

**26. The Committee recommends that the State party amend legislation to prohibit involuntary placement and promote alternative measures in line with the Convention.**

**Freedom from exploitation, violence and abuse (art. 16)**

27. The Committee is concerned that limited measures have been taken to prevent and combat violence and abuse against persons with disabilities, especially sexual abuse of children with disability, which takes place, including within the family. The Committee is also concerned about reports indicating abuse and neglect of boys and girls placed in some NGO-run institutions. The Committee is further concerned that persons with disabilities who are subjected of violence and especially boys and girls hardly get any help to escape abusive situations and that the abuse does not lead up to prosecution.

**28. The Committee urges the State party to take urgent measures to prevent violence against women, men, girls and boys with disabilities, to protect those who are subjected to violence and to ensure that perpetrators are brought to justice. The State party should in particular:**

(a) **Provide fully funded, accessible helplines and shelters for persons with disabilities who experience violence, whether inside or outside the home;**

(b) **Provide specific training for all respective personnel to detect and report violence against persons with disabilities;**

(c) **Ensure that persons with disabilities, who are subjected to violence, have access to effective remedies and receive all the necessary support for their mental and physical recovery.**

**Protecting the integrity of the person (art. 17)**

29. The Committee is concerned about the absence of safeguards to prevent forced treatment of persons with disabilities in hospitals and institutions, especially women and girls with disabilities from forced sterilization.

**30. The Committee recommends that the State party unambiguously prohibit forced treatment of persons with disabilities, as well as the forced sterilization women and girls with disabilities, in the absence of the individual's free and informed consent.**

**Living independently and being included in the community (art. 19)**

31. The Committee is concerned that families who are often the sole base of support for persons and children with disabilities, especially those with psycho-social and intellectual disabilities, receive limited assistance from the State. The Committee is also concerned that children are removed from family settings and placed in residential institutions where they lack care and psychological support and are sometimes subjected to cruel, inhuman and degrading treatment. The Committee is further concerned that private Day Care Centers where children with disabilities are placed are not regulated nor monitored by the State and that children with disabilities continue to be placed in "*Centres de Sauvegarde*" ("*Abris des Enfants en Détresse*").

32. **The Committee recommends that the State party urgently remove children with disabilities from the “Centres de Sauvegarde” (“Abris des Enfants en Détresse”) and develop family and community-based alternatives for those deprived of a family environment. The State party should initiate without delay a transition from private unregulated Day Care Centers to inclusive early childhood education and education settings and in the interim, regulate and closely monitor these Centers. The State party should adopt urgent measures directed to the deinstitutionalisation of persons with disabilities and to develop mechanisms at the community level to promote choices, autonomy and inclusion, for persons with disabilities. The Committee also recommends that the State party develop effective quality support services for parents caring for children with disabilities and for persons with disabilities to live independently in the community as well as effective protection systems.**

#### **Education (art. 24)**

33. The Committee is concerned about the slow implementation of the 2006 official policy of inclusive education resulting in the education system remaining mostly segregated and many children with disabilities being fully deprived of any form of education. The Committee is also concerned about clause 11 of the draft Disability Bill which provides with a general exception to inclusive education and about the creation foreseen of 14 “integrated” units in mainstream schools, a system which would prolong segregation of pupils and delay the creation of a fully inclusive school. The Committee is concerned about children with disabilities aged two or three years old being enrolled in NGO-run specialized schools, especially pupils with sensory disabilities, thus preventing from the very beginning their inclusion in mainstream schools. It is further concerned about pupils with disabilities who do not have access to public transport in rural areas without reimbursement for other means of transport being covered.

34. **The Committee recommends that the State party reconsider clause 11 of the draft Disability Bill and renounce to the creation of integrated units in schools but promptly engage in the creation of a fully funded and inclusive quality education system while ensuring that those who have been deprived of education can access life long learning education and vocational training. The State party should ensure tailored education plans for all students with disabilities, the provision of mandatory pre-service and in-service specific training to all teachers on inclusive education and the availability of assistive devices, individual support in classrooms, of accessible educational materials and curricula, and of accessible transport, equipment and school environments, with the corresponding budget allocations. The State party should also promote the enrolment of all children with disabilities in quality inclusive education.**

#### **Health, habilitation and rehabilitation (arts. 25 and 26)**

35. The Committee regrets the lack of information on the availability of health, early intervention services, including provision of sexual and reproductive health services and age appropriate habilitation and rehabilitation services for persons with disabilities. The Committee is also concerned about the lack of social support to cover the disability-related expenses for their children with disabilities.

36. **The Committee recommends that the State party adopt clear procedures for the early intervention services for persons with disabilities to appropriate and accessible habilitation and rehabilitation services, including services for parents with disabilities, with special regard to parents of all children with disabilities. The Committee also recommends that the State party ensure that health, rehabilitation and other disability-related expenses for children with disabilities be covered.**

**Work and employment (art. 27)**

37. The Committee is concerned that a large percentage of persons with disabilities is considered not suitable for the open labor market and remains highly discriminated in their access to work. The Committee is also concerned that the quota of 3% of the work force composed of persons with disabilities only applies to the private sector and remains inadequately enforced. Furthermore, the Committee is concerned about the prevalence of sheltered workshops and the lack of formal transition programmes to allow young persons with disabilities to find an employment in the open labour market.

**38. The Committee recommends that the State party develop effective legislative and policy measures to promote the transition from sheltered employment to the of employment of persons with disabilities in the open labour market and ensure protection from discrimination in employment, including explicit recognition of the obligation to provide reasonable accommodation. The State party should extend affirmative actions to the public sector and monitor compliance, establish programmes to facilitate inclusion of young persons with disabilities in the open labour market in close consultation with organisations of persons with disabilities and ensure that penalties are applied to employer who fail to comply with the quota.**

**Participation in political and public life (art. 29)**

39. The Committee is concerned that articles 34 (1) and 43 of the Constitution as well as some electoral rules and regulations limit the rights of persons with disabilities to vote and be elected.

**40. The Committee recommends that the State party repeal the discriminatory provision contained in articles 34 (1) and 43 of the Constitution as well as related regulations and ensure that all persons with disabilities enjoy their rights to vote and to be elected.**

**Participation in cultural life, recreation, leisure and sport (art. 30)**

41. The Committee regrets that the State party has not yet acceded to the Marrakesh Treaty. It is also concerned with the lack of policies regarding accessibility in tourism and travel sector.

**42. The Committee recommends that the State party**

- (a) Accede to the Marrakesh treaty as soon as possible;**
- (b) Ensure accessibility of libraries, audiovisual materials and broadcast services to persons with disabilities;**
- (c) Ensure that tourism policies and practices are accessible to and inclusive of persons with disabilities, and disseminate the World Tourism Organization Recommendations on Accessible Tourism for all among travel agents and tourism agencies.**

**C. Specific obligations (arts. 31–33)****Statistics and data collection (art. 31)**

43. The Committee is concerned that the State party's disability figures are well below the WHO estimates, which might indicate some challenges in the collection of data, especially as regard the ambiguous terminology currently used in the State party on communication-related disabilities. The Committee also regrets that data on all areas covered by the Convention are not available.

44. **The Committee recommends that the State party strengthen the 2012 data collection on persons with disabilities in order to collect data disaggregated by gender, age, , rural/urban population and impairment type on all areas covered by the Convention in order to develop coherent policies and monitor the enjoyment of human rights by persons with disabilities.**

#### **National implementation and monitoring (art. 33)**

45. The Committee is concerned that while a coordination of the implementation of the Convention is addressed, no adequate monitoring mechanism involving persons with disabilities and their representative organizations has been established so far.

46. **The Committee recommends that the State party designate an independent monitoring mechanism in conformity with the Paris Principles, ensuring that persons with disabilities and their representative organizations fully participate in the designation of the mechanism and monitoring the implementation of the Convention as required by article 33 (3).**

#### **Follow-up and dissemination**

47. The Committee requests that the State party, within 12 months and in accordance with article 35, paragraph 2, of the Convention, provide information on the measures taken to implement the Committee's recommendation as set out above in paragraph 8 and 42, which concerns the withdrawal of the State party's reservations, the ratification of the Optional Protocol to the Convention and the Marrakesh treaty.

48. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Governments and Parliaments, officials in relevant ministries, local authorities, and members of relevant professional groups such as education, medical and legal professionals, as well as to the media, using modern social communication strategies.

49. The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic report.

50. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, and to make them available on the government website on human rights.

#### **Next report**

51. The Committee requests the State party to submit its combined second and third periodic reports no later than 8 February 2020., and to include therein information on the implementation of the present concluding observations. The Committee invites the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the combined reports of a State party. The replies of a State party to such a list of issues constitute its next report.