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Employment of People with Disabilities: The Impact of Legislation (East Africa)

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Skills, Knowledge and Employability
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1. Introduction

Many countries throughout the world have, in recent years, adopted policies aiming to promote the rights of people with disabilities to full and equal participation in society. This has often been in response to the ILO Convention No. 159 concerning Vocational Rehabilitation and Employment of Disabled Persons (1983). Policy on employment opportunities for people with disabilities is frequently supported by legislation and implementation strategies as essential tools to promote integration and social inclusion.

Some countries in Africa have made progress in introducing disability-related legislation, but many of these laws have not yet been implemented. In other African countries, existing national laws need to be reviewed in order to achieve equalization of opportunities for persons with disabilities. Improving legislation and implementation strategies has been identified as one of the main issues to be tackled in the African Decade of Disabled Persons 1999-2009.

The effectiveness of laws in improving employment opportunities for disabled persons – whether they are vocational rehabilitation laws, quota legislation or anti-discrimination legislation – is central, not only in terms of the economic rights of disabled people, but also their broader social and political rights, which are closely linked to economic empowerment.

The country study for Mauritius is part of the ILO project '*Employment of People with Disabilities – the Impact of Legislation*', funded by the Government of Ireland, which aims to enhance the capacity of national governments in selected countries of East Africa and Asia to implement effective legislation concerning the employment of people with disabilities. Starting with a systematic examination of laws in place to promote employment and training opportunities for people with disabilities in the selected countries of each region,¹ the project sets out to examine the operation of such legislation, identify the implementation mechanisms in place and suggest improvements. Technical assistance is provided to selected national governments in implementing necessary improvements.

The country study outlines the main provisions of the laws in place in Mauritius concerning the employment of people with disabilities. An initial review of the implementation of the legislation is also provided, based on a survey of documentary sources and feed-back from Mauritius delegates to a Technical Consultation held in Addis Ababa, 20-22 May 2002. It may be read in conjunction with the regional overview for this Consultation *Employment of People with Disabilities - The Impact of Legislation (East Africa), Technical Consultation Report, Addis Ababa, 20-22 May 2002, ILO 2002.*

¹ East Africa: Ethiopia, Kenya, Mauritius, Seychelles, Sudan, Uganda and United Republic of Tanzania; Asia and the Pacific: Australia, Cambodia, China, Fiji, Japan, India, Mongolia, Sri Lanka and Thailand.

2. Context

Mauritius, located in the Indian Ocean approximately 855 kilometres off the East coast of Madagascar, includes Rodrigues, Agalega and Cargados Carajos islands. Formerly under British rule, Mauritius gained independence in 1968 and officially became a Republic in 1992, achieving a level of political and economical stability which attracted considerable foreign investment. It has one of Africa's highest per capita incomes.

With an estimated population of 1,189,825 million in 2001, Mauritius is ranked 63rd out of 164 countries on the 2001 UNDP Human Development Index (HDI). Four key indicators used to calculate the HDI, longevity, educational attainment, standard of living and adult literacy rate show the following:

- Longevity, measured as life expectancy at birth, was 67.3 years for men and 75.1 for women;
- Educational attainment, measured as the gross enrolment ratio, was 62 per cent among boys and 64 per cent among girls;
- The standard of living, measured as per capita GDP, was US\$ 9,107 in 1999; and
- The adult literacy rate was 84.2 per cent with a slightly higher rate recorded for men (87.6 per cent) than women (80.8 per cent).

In 1998, the labour force participation rate was 39 per cent for women and 80 per cent for men.² The service sector accounted for over half of the total GDP, followed by the industrial sector (33.1 per cent), with the agricultural sector contributing 8.6 per cent.³ In 1996, half of the labour force was employed in services (54 per cent), while agricultural and industrial sectors employed each a fifth of the labour force.⁴

2.1 People with disabilities

According to the National Census of 2000, there are 40,000 persons with disabilities in Mauritius, comprising 3.36 per cent of the population. The National Council for the Rehabilitation of Disabled Persons, in collaboration with the Ministry of Social Affairs and Employment, carried out a survey of people with disabilities in 2002. Results of this survey were not available when this country study was being prepared.

² The World's Women 2000: Trends and Statistics

³ Human Development Report, 2001

⁴ African Development Report 2000, African Development Bank

3. Legislative framework

In 1996, the Government of Mauritius enacted a special Act concerning vocational rehabilitation and employment of disabled persons. A comprehensive piece of legislation on accessibility was in preparation in 1997.

Neither the Constitution nor the Labour Law makes specific provision for people with disabilities.

3.1 The Training and Employment of Disabled Persons Act, 1996

Incorporating the provisions of the **Trust Fund for Disabled Persons Act of 1988**, which established a funding mechanism for vocational training of disabled persons, the **Training and Employment of Disabled Persons Act of 1996** includes a section on anti-discrimination. It is now an offence for an employer to discriminate against disabled persons in relation to advertisement of and recruitment for employment, and the determination or allocation of wages, salaries, pensions and other matters relating to employment. Offenders shall be liable to a fine or imprisonment. Other objectives include: to provide appropriate training to disabled persons; to keep a register of all disabled persons of the Republic of Mauritius; to keep a register of employers; to monitor whether the law is being observed; to take remedial legal action, where appropriate; and to generally improve the social and economic status and conditions of disabled persons.

The definition of disabled persons in the Act refers to physical, mental and sensory impairment and to the substantial reduction of the individual's occupational prospects as a result of the impairment:

'Disabled person means a person with a physical, mental or sensory disability, including a visual, hearing or speech functional disability, which gives rise to barriers inhibiting him from participating at an equal level with other members of society in activities, undertakings or fields of employment that are open to other members of society; and who is willing and able to work'.

The Act establishes a Board for Training and Employment of Disabled Persons with the following functions:

- *'to prevent [...] discrimination against disabled persons resulting or arising out of their disability';*
- *'to encourage the establishment of appropriate vocational centres and other institutions for the training of disabled persons';*
- *'to operate and encourage schemes and projects for the training and employment of disabled persons';*
- *'to improve generally the social and economic status and condition of disabled persons'.*

The Act requires workplaces with 35 or more employees to set aside at least 3 per cent of their positions for persons with disabilities. Any employer who contravenes this provision is liable to a compensatory payment payable to the Training and Employment of Disabled Persons Board or to imprisonment. Hence, the compensatory payment is used to finance better access to employment for people with disabilities.

3.2 The National Council for the Rehabilitation of Disabled Persons Act 1986

This Act provides for the establishment of a National Council for the Rehabilitation of Disabled Persons (NCRD). The NCRD has the following objectives: to co-ordinate the activities of voluntary organizations catering for disabled persons; to promote the development and expansion of rehabilitative services; to advise the Government on all aspects of the rehabilitation of disabled persons; to co-ordinate with international agencies engaged in such rehabilitation; and to promote the welfare of persons with disabilities.

3.3 Other Regulations

The National Pension Act of 1976 guarantees benefits for persons with disabilities.

The Accessibility/Amendment and Building Act, 1999 requires that public buildings be accessible for persons with disabilities.

3.4 International commitment

In a report to the ILO in 1997, the Government of Mauritius stated that ratification of ILO Convention concerning Vocational Rehabilitation and Employment (Disabled Persons) No. 159 (1983) would be considered when equal opportunities for vocational training were provided to all disabled persons through the creation of additional vocational training schools in the country.⁵

⁵ 1997 Report made in accordance with Article 19 of the ILO Constitution by the Government of Mauritius, on the position of national law and practice in regard to the matters dealt with in the following instruments: the Vocational Rehabilitation and Employment (Disabled Persons) Convention No. 159 (1983) and Recommendation No. 168 (1983) concerning Vocational Rehabilitation and Employment (Disabled Persons).

4. Implementation

4.1 Institutional framework

4.1.1 *Ministry of Social Security and National Solidarity and Senior Citizens Welfare*

4.1.1.1 Rehabilitation Unit

The Rehabilitation Unit of the Ministry of Social Security and National Solidarity serves as focal point for issues relating to training and employment of people with disabilities. The Unit liaises with those governmental and Non-Governmental Organizations (NGOs) which provide a wide range of services to children and adults with disabilities in Mauritius.

4.1.1.2 National Council for the Rehabilitation of Disabled Persons

During the International Year of Disabled Persons in 1981, the Government of Mauritius established a National Committee to organize and coordinate activities to focus attention on the needs of disabled persons and the particular problems they face. In 1986, this Ad-hoc Committee obtained legal status through an Act of Parliament and became the National Council for the Rehabilitation of Disabled Persons (NCRD).

The NCRD is a parastatal body under the aegis of the Ministry of Social Security, National Solidarity and Senior Citizens Welfare. The Council has an advisory, brokerage and coordinating role. It has consultative status on matters relating on disability, advising the Government on policy issues through the Ministry of Social Security and National Solidarity and serves as a clearing house for organizations which apply to the Government. The Committee brings together the stakeholders involved in the process of rehabilitation and coordinates the various activities and programmes to advance disability issues.

The NCRD carries out sensitization and information campaigns, seminars and workshops. It is involved in advocacy (especially concerning accessibility) and, in collaboration with the Ministry of Social Security and National Solidarity, has embarked on a programme of adaptation of existing public buildings and places in order to improve accessibility. The NCRD also assists Non-Governmental Organizations through the funding of micro projects, the provision of logistical support, and improvement of infrastructure and training of personnel.

4.1.2 *The Training and Employment of Disabled Persons Board*

The Training and Employment of Disabled Persons Board was established by Parliament in 1996. The Board runs two training centres.⁶ Every individual registered as disabled with the Board is interviewed by a Socio Psychologist/Career Guidance Officer and recommended for appropriate training and/or employment. Trainees who satisfy necessary requirements are sponsored to follow courses at the Industrial and

⁶ Courses available: Telephone Operator; Computer Skill; Woodwork; Leathercraft; Handicraft; Dressmaking; Draughtsmanship; Jewellery; Hairdressing; Mechanics; Electronics.

Vocational Training Board (IVTB)⁷ or other Training Institutions approved by the IVTB.

The Board works in close collaboration with Employers and Trade Unions to ascertain that disabled persons do not suffer discrimination in the interviewing process or at the workplace. The Board has a policy to assist disabled persons in seeking jobs but is not an employment provider. Information on job prospects and vacancies are communicated to the Board by registered employers. Board officers then forward the profiles of individuals who match the job description to the relevant employers. They also assist disabled persons to write CVs, prepare them for interview and provide backup support during their first week in employment. Officers visit employers to identify jobs which individual job-seekers with disabilities are qualified for and able to perform. They have also implemented an awareness-raising campaign to remind employers of their social and legal responsibilities. According to the Board, one-third of around 1,000 employers with more than 35 employees are registered with it.

4.2 Policy

According to reports of delegates to the ILO Technical Consultation, Addis Ababa, 20-22 May 2002, the Government's policy on disability has shifted from its previous medical focus to a human rights focus. No document expressing the changed policy approach was located in the course of preparing this country study.

4.3 Consultative mechanisms

Mauritius has set up a Permanent Council (the Training and Employment of Disabled Persons Board) that is consulted by the Government on the implementation of the national policy. Consultations are held with four representatives of the Training and Employment of Disabled Persons Board and two representatives of employers, appointed by the Labour Ministry.

4.4 Enforcement

The quota system has not been effectively enforced. Instead, emphasis has been placed on persuasion and sensitization campaigns targeting employers. Initially, appeal made to the social responsibility of employers and their response was quite positive: some 200 persons with disabilities were able to secure employment as clerks, telephonists, computer operators or machinists. A number of incentives are also provided to employers to encourage them to recruit disabled persons, including a fiscal measure introduced in 1999 that entitles employers to a 200 per cent tax reduction on the salary of each disabled worker.

4.5 Organizations providing training/employment to disabled persons

In Mauritius, Non-Governmental Organizations (NGOs) are key players in providing services for persons with disabilities. Those involved in training and employment related services are listed below.

⁷ The IVTB is a parastatal body monitoring the needs for training in consultation with relevant authorities controlling and operating schemes, providing for, promoting, assisting in and regulating the training of persons employed/to be employed in commercial, technical and vocational fields.

4.5.1 Visually impaired persons

Lois Lagesse Trust Fund and the Mauritius Union of the Blind provide training for persons with disabilities in Mauritius.

The Lois Lagesse Trust Fund caters for people with visual disability in Mauritius. Its main objective is to educate, train and seek employment for them. It runs a Primary School and a pre-primary unit, and a programme to identify and rehabilitate disabled persons through home visits. It provides equipment and mobility aids (white canes). It runs a sheltered workshop where persons with visual disability are involved in basketry and canework. Other services include training in mobility and orientation, guidance and counselling, job placement, home visits and talking library. It also runs a Resource Centre on visual impairment.

Mauritius Union of the Blind runs a school for persons with visual disability. It also runs a unit in a mainstream school and prepares visually impaired children and adults to integrate society by providing them with training in mobility, orientation, daily living skills and education. The Union is also involved in sports and cultural activities.

4.5.2 Hearing impaired persons

The Society for the Welfare of the Deaf runs a school for hearing impaired children. It has special units in several primary schools. It provides equipment to hearing-impaired persons and operates an ear mould laboratory. Other services include pre-vocational training, counselling and guidance.

4.5.3 People with mental health disability

Mauritius Mental Health Association, the Cypres Handicapped Association and the 'Association de Parents d'Enfants Inadaptés de l'Île Maurice' (APEIM) provide services for persons with mental health disabilities.

The Mauritius Mental Health Association runs a school for children with mental health disability, where academic education and training in activities of daily living are taught. Pre-vocational training is provided to children between 15 and 18. A sheltered workshop has been set up for people with severe disability, aged over 18.

The Cypres Handicapped Association organizes leisure activities to its members and is involved in handicraft products

The APEIM runs several special schools for children with mental health disability. It also provides services involving parent volunteer training programme, early intervention, speech therapy, occupational therapy, medical follow-up and psychological support. Other services include pre-vocational training, sheltered employment, special classes for children with autism, home visits and parent counselling.

4.5.4 People with physical disability

The Physically Handicapped Welfare Association provides vocational training in industrial sewing to persons with physical disability. It runs a sheltered workshop where trainees with physical disability produce garments, uniforms, curtains. It also does subcontract work for Air Mauritius and other companies.

4.5.5 Other organizations

The following organizations provide training and employment related services for persons with all categories of disability:

The Flacq Disabled Centre provides day care services to disabled adolescents and training in craft and embroidery works.

The Maison d'Entre-Aide is a home which is run and managed by disabled women. Members are involved in embroidery and garment-making.

The United Skills Workers Co-operative Society Ltd. provides employment to members of the Society which runs a sheltered workshop where textile goods are produced.

The Craft Aid Ltd provides for vocational training and employment to persons with disabilities who produce flower cards, ship models, textile products and other craft works.

5. Concluding comment

In Mauritius, provisions for training and employment of disabled persons are included in disability-specific laws and also in the general labour legislation. The Training and Employment of Disabled Persons Act, 1996 establishes a Board to provide appropriate training to persons with disabilities. The National Council for the Rehabilitation of Disabled Persons Act, 1986 established a Council to promote and coordinate rehabilitation-related services for disabled persons. In Mauritius, the definition of a 'disabled person' is focussed on the limiting effects of impairment on employment opportunities.

Of the project countries in the East Africa region, Mauritius stands out as having well-developed structures and an extensive NGO network in place to promote opportunities for disabled persons. While strong legislation is in place, evidence needs to be gathered on how effective this is in practice and whether the social partners are effectively involved in the consultation process regarding the implementation of national policy.