**Response to**

**The Office of the High Commissioner for Human Rights**

**QUESTIONNAIRE ON ARTICLE 13 OF THE CONVENTION ON RIGHTS OF PERSONS WITH DISABILITIES: ACCESS TO JUSTICE FOR PERSONS WITH DISABILITIES**

About us

The Centre for Human Rights, based at the Faculty of Law, University of Pretoria, is both an academic department and a non-governmental organisation. The Centre for Human Rights works towards human rights education in Africa, a greater awareness of human rights, the wide dissemination of publications on human rights in Africa, and the improvement of the rights of women, people living with HIV, indigenous peoples, sexual minorities and other disadvantaged or marginalised persons or groups across the continent.

The LLM/ MPhil Human Rights and Democratisation in Africa is a one-year course where 25-30 individuals across Africa and beyond spend 6 months at the University of Pretoria and 6 months at one of 13 partner universities. The Disability Rights Clinic Group is one of ten Law Clinics of the Centre for Human Rights.

This submission is in response to the call for contribution by the Office of the High Commissioner for Human Rights with regards to the study being conducted on article 13 of the Convention on Rights of Persons with Disabilities.

The responses focus on three jurisdictions notably Mauritius, Ethiopia and Rwanda.

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**MAURITIUS**

Mauritius signed the *Convention on the Rights of Persons with Disabilities* in 2007 and ratified it in 2010. It has not domesticated the Convention even though reports that a Disability Bill is in the making have emerged intermittently since 2012. A Disability Bill features in the current government programme.[[1]](#footnote-1)

Mauritius submitted its initial state report to the CRPD Committee in 2012.[[2]](#footnote-2) The Committee adopted concluding observations in 2015.[[3]](#footnote-3) The Committee noted the dearth of information regarding the impact of conciliation measures and redress provided to victims and the lack of actions taken to ensure accountability for violations of the rights of persons with disabilities. The Committee recommended that Mauritius provide for disability-related and age-appropriate accommodations in all legal proceedings notably that accessibility measures, such as braille, the provision of sign language interpretation, alternative modes of communication, easy-to-read format and enforcement measures, be available without cost in all courts. It also recommended that personnel in the justice and prison system receive training on the application of human rights standards specifically for persons with disabilities.

**Question 1:**

**Does your country have laws, policies or guidelines on access to justice, at any level of government, which ensure persons with disabilities, particularly women and children with disabilities:**

1. **to participate in judicial and administrative proceedings on an equal basis with others in their role as witness, juror, complainant, defendant or other, including through the provision of procedural and age-appropriate accommodations (please identify and share the text of those provisions)**

The Mauritian legal framework does not include specialised provisions referring to accommodations warranting equitable access to justice for persons with disabilities. Rather, access to justice is governed by rights enshrined in the Constitution as well as administrative measures afforded to all citizens of the country.

The mission statement of the judiciary is stated to be:

“To maintain an impartial and efficient Justice System that upholds the Rule of Law and that provides a modern, easy and fast access to justice to all users.”[[4]](#footnote-4)

The *Constitution of Mauritius* does not recognise discrimination based on disability. Section 16, speaking to the prohibition of discrimination, stipulates:

“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.”[[5]](#footnote-5)

Nonetheless, section 3 of the *Equal Opportunities Act 2008* prohibits direct and indirect discrimination on the basis of “impairment”[[6]](#footnote-6) in matters relating to “employment, education, qualifications for a profession, trade or occupation, the provision of goods, services, facilities or accommodation, the disposal of property, companies, partnerships, ‘sociétés’, registered associations, sports, clubs and access to premises which the public may enter or use.”[[7]](#footnote-7)

Section 10 of the Constitution, entitled “provisions to secure protection of the law”, provides for fair trial rights notably the presumption of innocence and the right to legal representation and interpretation for all citizens including persons with disabilities.[[8]](#footnote-8)

1. **to have individual legal standing in all administrative and judicial procedures, including the right to be heard as part of their right to fair trial**

The Civil Code enshrines the institution of substituted decision making for persons who have attained the age of majority but who are in a “habitual state of imbecility, insanity or madness”. They must be placed under guardianship even while this state may present lucid intervals. Guardianship also applies when an adult, due to physical alterations is prevented from expressing his or her will, needs to be represented in a continuous manner in the acts of civil life.” Further, a person with disability who is institutionalised is prevented from entering into contracts, voting, marrying, taking decisions about health and accessing courts of law. This is confirmed in the government’s replies which set out that: “A person with disability is not prevented from entering into contracts, voting, marrying, taking decisions about health and accessing courts of law. However, if he is institutionalised, he cannot do so”.[[9]](#footnote-9)

Section 74 of the *Criminal Procedure Act* relates to unfitness to stand trial:

“(1) Where an accused suffers from insanity and on arraignment is found to be so suffering by a Court so that he cannot be tried on the information filed against him, the Court may direct the confinement of the accused in a mental health care centre under the Mental Health Care Act.

(2) The Court shall not make a finding under subsection (1) except on the evidence of not less than 2 registered psychiatrists.”

Section 33 of the *Mental Health Care Act* stipulates:

“(1)Conveyance and detention of persons unfit to stand trial (1) Where a court finds that any person charged with an offence is unfit to stand trial under section 74 of the Criminal Procedure Act and makes an order for the confinement of the person in a centre, the order shall be sufficient authority for the Police to convey the person forthwith to the centre specified in the order.

(2) On receipt of an order under subsection (1), the Superintendent shall immediately inform the Commission of the confinement and shall detain the person referred to in the order as a security patient.”

Children are represented by a “legal administrator”, their parents, in civil actions.[[10]](#footnote-10) Where the interests of the child are in conflict with those of their parents, the court assigns an ad hoc administrator.[[11]](#footnote-11)

A child “capable of discernment” may request to be heard by the judge in all proceedings. The child can be heard alone, with a legal counsel or a person of his choice. There is no age limit for filing a criminal complaint to the DPP.

1. **to have access to effective remedies that are appropriately proportional to the right(s) infringed and which are tailored to their specific situation; and**

The *Child Protection Act* was amended in 2005 to provide for higher penalties for sexual offences committed on victims with intellectual impairment. Section 18(5) of the Child Protection Act 1994 states:

“Any person who commits an offence under section 14(sexual offences) or 15(Indecent photographs of children) shall, on conviction, be liable –

(a) where the victim is mentally handicapped, to penal servitude for a term not exceeding 15 years;

(b) in any other case, to penal servitude for a term not exceeding 10 years.”

A minimum term of imprisonment is imposed by law for offences committed on minors and physically or mentally handicapped victims.

Section 250(2) of the *Criminal Code* states:

“Where it is averred that the sodomy is committed on a minor or a physically or mentally handicapped person, the person charged shall, on conviction, be liable to imprisonment for a term of not less than 2 years.”

Section 254(2)(a) of the *Criminal Code* states:

“Where it is averred that the victim of the sexual harassment is a minor or a mentally handicapped person, the person charged shall, on conviction, be liable to imprisonment for a term not less than one year and to a fine not exceeding 100,000 rupees.”

Section 258(3)(a) of the *Criminal Code* states:

“Where it is averred that the person sequestrated is a minor or a physically or mentally handicapped person, the person charged shall, on conviction, be liable to imprisonment for a term of not less than 2 years.”

Section 303(2)(a) of the *Criminal Code* states:

“Larceny with wounding- Where it is averred that the person wounded is a minor or a physically or mentally handicapped person, the person charged shall, on conviction be liable to imprisonment for a term of not less than 2 years.”

Section 228(5) of the *Criminal Code* states:

“Assault with aggravating circumstance- where victim is a minor under the age of 16 or a physically or mentally handicapped person, the person charged shall, on conviction, be liable to imprisonment for a term of not less than 2 years.”

1. **to have effective access to justice in the context of disasters, migration and asylum-seeking, conflict and post-conflict situations and transitional justice, and formal or informal systems of customary, indigenous and community justice, among others.**

There are no provisions pertaining specifically to access to justice in the context of disasters, migration and asylum-seeking, conflict and post-conflict situations and transitional justice, and formal or informal systems of customary, indigenous and community justice.

**2. Do you have examples from your country on:**

**a. how procedural and age-appropriate accommodations are provided and applied, including protocols or other guidelines;**

The Supreme Court disposes of independent sign language interpreters to allow persons with hearing and speech disabilities to access the justice system and participate in court procedures on an equal footing with others. The Intermediate Court disposes of lifts and ramps to ensure accessibility to persons with physical disabilities.[[12]](#footnote-12)

The Office of the Ombudsman, set up under section 96 of the Constitution, entrusted with investigating instances of maladministration in the public sector, commonly looks into complaints relating to non-payments of benefits to persons with disabilities.[[13]](#footnote-13)

**b. training programmes on the right of access to justice for persons with disabilities for judges, lawyers, prosecutors, police, social workers, language and sign language interpreters, legal aid centres, other judicial and administrative bodies intervening in judicial or quasi-judicial instances;**

Police personnel have attended sensitisation programmes on the needs of persons with disabilities and have received training to serve them with promptness and without delay. Complaints of persons with disabilities are dealt with on a fast track basis. The services of an interpreter, psychologist or appropriate persons from organisations in the disability sector are sought when required.[[14]](#footnote-14)

The National Human Rights Commission noted:

“There is greater awareness of victims’ rights in the country, being a reaction to the general trend in the past where too much emphasis was laid on the rights of suspects, especially when they are most vulnerable – women, children or persons with disabilities have to be afforded greater protection and facilities whether during police investigations or in the course of a trial.”[[15]](#footnote-15)

**c. education programmes on the right of access to justice for persons with disabilities for law students as well as in schools of social work, sign language interpretation, forensic science, psychiatry and psychology, among other relevant faculties; and**

There are no such programmes.

**d. legal aid programmes, public and/or private, which include the right of access to justice for persons with disabilities in their practices, including the availability of support and liaison services for courts or other judicial or quasi-judicial instances.**

All persons with a maximum monthly income of 10 000 rupees and assets not surpassing 500 000 rupees, including persons with disabilities, are eligible to apply for legal aid.[[16]](#footnote-16) Minors are able to benefit from legal aid regardless of any set threshold.[[17]](#footnote-17)

**3. Does your country have laws, policies and strategies to ensure the participation of persons with disabilities on an equal basis with others in the judiciary or other judicial or quasi-judicial instances, including in their role as judges, witnesses, jurors, lawyers or any other active party to judicial or quasi-judicial procedures?**

The Judicial and Legal Service Commission is vested with the power to appoint judicial and legal officers. Section 86(1) of the Constitution states:

“Power to appoint persons to hold or act in offices to which this section applies (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the Judicial and Legal Service Commission.”

Discrimination on the basis of disability in appointment can be challenged before the Equal Opportunities Tribunal.

**4. Does your country monitor and collect disaggregated data with respect to access to judicial or quasi-judicial procedures concerning:**

**a. the participation of persons with disabilities in judicial or quasi-judicial procedures, including the number of complaints submitted, nature of complaints and outcomes;**

There is no available data on the above.

**b. persons with disabilities obtaining remedies and the nature of those remedies, whether they are adequate, effective, prompt and appropriate, responding to their specific situation;**

There is no available data on the above.

**c. persons with disabilities being convicted, the nature of their sentence, and whether they benefitted from safeguards of the right to fair trial on an equal basis with others; and**

There is no available data on the above.

**d. the opening and conduct of impartial and independent investigations of human rights violations of persons with disabilities, particularly those relating to the right to life, liberty and security of the person, freedom from violence, abuse and exploitation, and freedom from torture or cruel, inhuman or degrading treatment or punishment.**

There is no available data on the above.

**ETHIOPIA**

**1. Does your country have laws, policies or guidelines on access to justice, at any level of government, which ensure persons with disabilities, particularly women and children with disabilities:**

**a. to participate in judicial and administrative proceedings on an equal basis with others in their role as witness, juror, complainant, defendant or other, including through the provision of procedural and age-appropriate accommodations (please identify and share the text of those provisions);**

There are no specifically designed laws or policies that directly deal with the right to access to justice of persons with disabilities in Ethiopia. However, the 1995 constitution of the federal democratic republic of Ethiopia FDRE constitution has a provision that talks about access to justice in general terms and it is also applicable to persons with disabilities. Thus, women with disabilities can also get justice by bringing their cases to appropriate justice organs. Ethiopia has also ratified the CRPD in July 2010. According to the constitution international human rights instruments ratified by Ethiopia are an integral parts of the law of the land.[[18]](#footnote-18) Therefore, treaties in Ethiopia have direct application. Accordingly, It is possible to say that human rights of persons with disabilities including access to justice is part of the laws of the country. Article 37 of the constitution reads as follows:

1. Everyone has the right to bring a justiciable matter to, and to obtain a decision or judgment by, a court of law or any other competent body with judicial power.
2. The decision or judgment referred to under sub-Article 1 of this Article may also be sought by:
3. Any association representing the Collective or individual interest of its members; or
4. Any group or person who is a member of, or represents a group with similar interests.

The Building Proclamation, No. 624/2009, provides for accessibility in the design and construction of any building to ensure suitability for physically impaired persons. Since inaccessibility of buildings in the justice system is one of the factors that prohibits persons with disabilities from accessing justice. This law is relevant in feeling this gap. Article 36 of the building proclamation reads as follows:

1. Any public building shall have a means of access suitable for use by physically impaired persons, including those who are obliged to use wheelchairs and those who are able to walk but unable to negotiate steps.
2. Where toilet facilities are required in any building, as adequate number of such facilities shall be made suitable for use by physically impaired persons and shall be accessible to them.

**b. to have individual legal standing in all administrative and judicial procedures, including the right to be heard as part of their right to fair trial;**

with respect to individual standing, the criminal code of Ethiopia under article 48 and 49 talks about criminal responsibility and irresponsibility. And one of the grounds of irresponsibility is mental disability. The provisions of the criminal code reads as follows:

Article 48.- Criminal Responsibility and Irresponsibility.

(1) The criminal who is responsible for his acts is alone liable to punishment under the provisions of criminal law.

(2) A person is not responsible for his acts under the law when, owing to age, illness, abnormal delay in his development, deterioration of his mental faculties, one of the causes specified under Article 49 sub-article 1 or any other similar biological cause, he was incapable at the time of his act, of understanding the nature or consequences of his act, or of regulating his conduct according to such understanding.

(3) The Court may order in respect of an irresponsible person such suitable measures of treatment or protection as are provided by law (Arts. 129-131).

49.- Partial Responsibility.

(1) He who owing to one of the causes specified under Article 48sub-article (2) above, or a derangement or an abnormal or deficient condition or any other similar biological cause was, at the time of his act, partially incapable of understanding the nature or consequences thereof or regulating his conduct, according to such understanding shall be partially liable to the punishment specified for the crime committed. The court shall determine the sentence in accordance with Article 180.

(2) In addition to a penalty the Court may order such appropriate measures of treatment, correction or protection as are provided by law (Arts. 129-131).

However, The criminal procedure law of Ethiopia is silent with respect to persons with disabilities. There are general provisions that require the court to provide interpreters for those who do not understand the language. And according to the replies of Ethiopia to the list of issues to the initial report, in the Criminal procedure if the suspected is a person with hearing impairment and/ or speech difficulties, the court assigns sign language interpreter.[[19]](#footnote-19) the relevant provisions of the criminal procedure code reads as follows:

Art. 27. - Interrogation.

4. Where the arrested person is unable properly to understand the language in which his answers are to be recorded, he shall be supplied with a competent interpreter who shall certify the correctness of all questions and answers.

Art. 126. - Opening of hearing.

1. The court shall sit on the day and at the hour fixed for the hearing.

2. Where an interpreter is required for the purposes of any proceedings, the court shall select a qualified court interpreter. Where none is available it will select a competent interpreter but no person shall be selected who is a relative to the accused or prosecutor or is himself a witness.

3. The case shall be called and the accused shall be produced.

Regarding rules of evidence, Ethiopia doesn’t have a comprehensive evidence law. The laws of evidence are scattered in different substantive laws. There is only draft evidence law and it doesn’t declare persons with mental disability as incompetent witness. The draft evidence rule under its rule 92 states that a child or a person with mental defects are generally competent if they understand the questions put to them and rationally answer them.[[20]](#footnote-20)

**c. to have access to effective remedies that are appropriately proportional to the right(s) infringed and which are tailored to their specific situation;**

From my reading persons with disabilities have no access to effective remedies tailored to their specific situation. Under the 1960 civil code of Ethiopia, all persons are presumed to be capable of entering in to juridical acts. However, this is a rebuttable presumption. In this civil code there are grounds of incapacity. These include: minority, notorious insanity, apparent infirmity and judicial interdiction. According to some people the main purpose of incapacity is protecting these groups of persons from others. However it seems contrary to the CRPD. It seems to follow substituted decision making than supported decision making. Article 358 for example reads as:

Art. 358. - Protection of interdicted person

Without prejudice to the provisions of the following Articles, a person who has been judicially interdicted shall be subject in respect of his person and of his property to the same rides of protection and a minor.

**d. to have effective access to justice in the context of disasters, migration and asylum-seeking, conflict and post-conflict situations and transitional justice, and formal or informal systems of customary, indigenous and community justice, among others.**

There is no information available on this issue.

**2. Do you have examples from your country on:**

**a. how procedural and age-appropriate accommodations are provided and applied, including protocols or other guidelines;**

According to the reply to the list of issues to the initial report of Ethiopia, in Ethiopia, Persons with disabilities have supports in the different stages of legal procedures. If a person with disabilities needs legal assistance due to resource or any other constraints, one gets free legal service. The report in question further states that the Ministry of Labor and Social Affairs has also been continuously organizing and conducting awareness raising and training to staffs of the justice sector to promote the UNCRPD especially on reasonable- and procedural- accommodations in the justice sector at the federal and regional levels.[[21]](#footnote-21) Other than this I am not aware of any protocol or guideline that provide procedural and age appropriate accommodation.

**b. training programmes on the right of access to justice for persons with disabilities for judges, lawyers, prosecutors, police, social workers, language and sign language interpreters, legal aid centres, other judicial and administrative bodies intervening in judicial or quasi-judicial instances;**

Part of the effort to ensure access to justice is training of personnel working in the field. According to Ethiopia’s initial report to the CRPD committee 2012, some effort has been made to organize trainings in collaboration with DPOs and NGOs. The initial report said that In 2011, About 30 of Addis Ababa regular and traffic police officers were given training on treating persons with disabilities in the police investigation process and managing disability on the roads and streets. The training was focused more on sexual offences against women with disabilities. Besides police officers and representatives of Addis Ababa justice bureau received training on how to treat persons with disabilities in cases where the later appear at the institutions as parties to civil and criminal proceedings, witnesses and reporters of crime commission.[[22]](#footnote-22)

The Ministry of Justice, which is now the attorney general office, has also given short- and long-term trainings to Attorneys, lawyers, court staffs, legal experts, judges, and middle managers on mainstreaming disability issue and sign language. In addition to that, the reply to the initial report also states that the Federation of Ethiopian National Associations of Persons with Disabilities (FENAPD) provides free legal support in the legal process to its members when they face constraints.[[23]](#footnote-23)

**c. education programmes on the right of access to justice for persons with disabilities for law students as well as in schools of social work, sign language interpretation, forensic science, psychiatry and psychology, among other relevant faculties;**

University faculties in Ethiopia do not have disability module. However, with respect to legal aid centres, there are University human rights centers that are established at universities for the purpose of promoting human rights and social justice nationally and locally. In this regard, Addis Ababa university school of law legal aid center is a good example. Although it is not specific to persons with disabilities, the project includes access to justice to PWDs in its practice.

**3. Does your country have laws, policies and strategies to ensure the participation of persons with disabilities on an equal basis with others in the judiciary or other judicial or quasi-judicial instances, including in their role as judges, witnesses, jurors, lawyers or any other active party to judicial or quasi-judicial procedures?**

As far as their participation in judicial and administrative proceedings as witness, complainant, defendant etc. concerned, The only instrument that tries to address this issue is the proclamation concerning the Rights to Employment for Persons with Disabilities, No. 568/2008. It makes law, practice, custom, attitude and other discriminatory situations that limit equal opportunities for persons with disabilities null and void.

This law has spelled out two significant procedural provisions. These provisions deal with the burden of proof in case of discrimination and the right to bring court action by disability associations in cases of violation of the rights of their members. Article 7 of this law provides as follows:

Article 7 - Burden of proof

1. Any person with a disability who alleges that discrimination existed with respect of recruitment condition of employment may institute promotion, transfer or replacement or other to the competent court on the issue without the requirement of the burden of proof.
2. The defendant to the suit instituted pursuant to sub-article 1 of this article shall be responsible to prove that there was no an actor of discrimination.

Article 10 of the same proclamation also provides the right of disability associations to bring action on behalf of their members. Article 10 of the proclamation reads:

1. Any person with a disability whose rights are infringed due to the non­observance of the provisions of this proclamation, regulation or directives issued for the proper implementation of this proclamation, the association of persons with disabilities, which who is a member of or trade union of which he is a member or the concerned organ entrusted the implementation of this proclamation, may institute a suit before the competent court.
2. The court shall render its decision within 60 days from the date on which the suit is instituted.

This minimizes the possible difficulties that could be faced by persons with disabilities in the process of evidence production and provides more opportunity for victims of violations of rights to seek justice by reducing their financial burden and overcoming the difficulty in getting lawyers.

**4.** **Does your country monitor and collect disaggregated data with respect to access to judicial or quasi-judicial procedures concerning:**

**a. the participation of persons with disabilities in judicial or quasi-judicial procedures, including the number of complaints submitted, nature of complaints and outcomes;**

**b. persons with disabilities obtaining remedies and the nature of those remedies, whether they are adequate, effective, prompt and appropriate, responding to their specific situation;**

**c. persons with disabilities being convicted, the nature of their sentence, and whether they benefitted from safeguards of the right to fair trial on an equal basis with others; and**

**d. the opening and conduct of impartial and independent investigations of human rights violations of persons with disabilities, particularly those relating to the right to life, liberty and security of the person, freedom from violence, abuse and exploitation, and freedom from torture or cruel, inhuman or degrading treatment or punishment.**

There is no information available on the issues above.

**RWANDA**

Rwanda ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol on 15 December 2008 without qualification.

**1. Does your country have laws, policies or guidelines on access to justice, at any level of government, which ensures persons with disabilities, particularly women and children with disabilities?**

**a. to participate in judicial and administrative proceedings on an equal basis with others in their role as witness, juror, complainant, defendant or other, including through the provision of procedural and age-appropriate accommodations (please identify and share the text of those provisions);**

-Legislative legal framework such as:

- Law n° 01/2007 of 20/01/2007 relating to protection of disabled .By this law Article 26(2) of the law relating with disabilities explain that Gestures, Braille writings and other ways that aid the disabled persons in communication, where possible shall, be used in conferences and meetings, news reading and other public debates.

-Law nº 30/2013 of 24/5/2013 relating to the code of criminal procedure. In this organic law, do not express the right of disabled. However, in its article 25, it states that A Judicial Police Officer shall interrogate a suspect and make a written record of the statement made by the suspect. The suspect shall be interrogated in the language he/she understands well. Also article 58 of this law, minor aged under twelve (12) years shall be qualified to testify as an adult. A minor aged under twelve (12) years shall give testimony without taking an oath but the judge cannot solely rely on his/her testimony. In that case, the testimony must be supported by other corroborative evidence.

**b. to have individual legal standing in all administrative and judicial procedures, including the right to be heard as part of their right to fair trial;**

The Constitution of the Republic of Rwanda in its article 11 emphasizes the principle of equality to all citizens which arranges that “All Rwandans are born and remain free and equal in rights and duties”. “Discrimination of whatever kind based on, inter alia, ethnic origin, tribe, clan, colour, sex, region, social origin, religion or faith, opinion, economic status, culture, language, social status, physical or mental disability or any other form of discrimination is prohibited and punishable by Law”.

The Ministerial order is n° 20/18 of 27/7/2009 determining the modalities of classifying persons with disabilities into basic categories based on the degree of disability. Physically Disability, Visual Disability, Hearing Impairment, Mental Impairment and a category of Others. However, this order is not specified in the categories mentioned include humpback, little persons and albinos.

**c. to have access to effective remedies that are appropriately proportional to the right(s) infringed and which are tailored to their specific situation; and**

There are no special remedies in Rwanda for the violation of the right of disable person.

**d. to have effective access to justice in the context of disasters, migration and asylum-seeking, conflict and post-conflict situations and transitional justice, and formal or informal systems of customary, indigenous and community justice, among others.**

Law No 54/2011 of 14/12/2011 relating to the rights and the protection of the child in the article 50 of this law says that ‘’ the child must be protected and rescued first during of disaster or armed conflict. Military service is prohibited for children less than eighteen (18) years. The Government shall, within its means, ensure and facilitate the physical and psychological recovery and the social reintegration of any child affected by a disaster or armed conflict.

**2. Do you have examples from your country on:**

**a. how procedural and age-appropriate accommodations are provided and applied, including protocols or other guidelines;**

According to the National Council of Persons with Disabilities guidelines published on May 2014, they point out the following challenges:

• Barriers to information: lack, or inaccessibility, of information about what is available, and on justice issues in general; Attitudinal, communication and social barriers manifested through, for example, attitudes of justice professionals that may even be discriminatory, as well as specific hindrances for persons with hearing impairments and with intellectual disability, who cannot directly and appropriately communicate themselves when justice services are required.

**b. training programmes on the right of access to justice for persons with disabilities for judges, lawyers, prosecutors, police, social workers, language and sign language interpreters, legal aid centres, other judicial and administrative bodies intervening in judicial or quasi-judicial instances;**

On 15 Febuary, the National Council of Person with Disabilities carried out workshop on rights of persons with disabilities with police justice system in Eastern Province.

**c. education programmes on the right of access to justice for persons with disabilities for law students as well as in schools of social work, sign language interpretation, forensic science, psychiatry and psychology, among other relevant faculties; and**

The Rwandan sign language dictionary is being developed but it not yet published. It is in this line that NCPD in collaboration with VSO and Handicap International in the project: “Inclusive Futures: establishing and applying a set of national norms and standards in inclusive education” are revising the existing dictionary to have the one which can be used by all persons with hearing and speech impairment as well as Universities.

**d. legal aid programmes, public and/or private, which include the right of access to justice for persons with disabilities in their practices, including the availability of support and liaison services for courts or other judicial or quasi-judicial instances.**

Law n° 01/2007 of 20/01/2007 relating to protection of disabled persons in general. By this law article 8 relating to people with disabilities states that: “a disabled person shall have the right to legal representation like any other person in courts of law as determined by law the state shall determine the modalities of providing legal aid to the needy disabled persons who are not able to get legal representation.” the law further states that “various organs shall facilitate the disabled persons in acquisition of the required services at any time it is considered necessary.

Furthermore, in the article 42 of Organic Law N° 03/2012/OL of 13/06/2012 determining the organization, functioning and jurisdiction of the Supreme Court, makes it mandatory for an appellant and other parties before the Supreme Court to be represented by counsel (art.42). Additionally, where the appellant or other parties to the proceedings cannot afford their legal fees, they can apply to the President of the Supreme Court for free legal assistance shall be required to provide to proof of indigence.

**3. Does your country have laws, policies and strategies to ensure the participation of persons with disabilities on an equal basis with others in the judiciary or other judicial or quasi-judicial instances, including in their role as judges, witnesses, jurors, lawyers or any other active party to judicial or quasi-judicial procedures?**

Article 18 of law No 01/2007 relation to disabilities, provided that no discrimination of any form shall be subjected upon a disabled person in matters related to employment.

However, a disabled person shall be given greater access to employment opportunities than any other citizen in case of equal capacities or in case of equal marks in competition. Additionally, article 18 of the Presidential Order Nº46/01 of 29/07/2011 governing modalities for the recruitment, appointment and nomination of public servants, offers a great opportunity, though limited to the public sector: "If two candidates obtain equal marks on one given post and in case one of the candidates is a person with disabilities, the latter shall be given the priority. If two candidates with disabilities obtain equal marks on the same vacant post, the experience shall be taken into consideration. If they have the same experience, the principle of gender equality shall be considered.

**4. Does your country monitor and collect disaggregated data with respect to access to judicial or quasi-judicial procedures concerning:**

**a. the participation of persons with disabilities in judicial or quasi-judicial procedures, including the number of complaints submitted, nature of complaints and outcomes;**

No data

**b. persons with disabilities obtaining remedies and the nature of those remedies, whether they are adequate, effective, prompt and appropriate, responding to their specific situation;**

No data

**c. persons with disabilities being convicted, the nature of their sentence, and whether they benefitted from safeguards of the right to fair trial on an equal basis with others;**

No statistics found online

**d. the opening and conduct of impartial and independent investigations of human rights violations of persons with disabilities, particularly those relating to the right to life, liberty and security of the person, freedom from violence, abuse and exploitation, and freedom from torture or cruel, inhuman or degrading treatment or punishment.**

The National Commission for Human Rights (NCHR) has right to monitor and to investigate the complaint relating to human right violation, particularly monitor respect for the rights of the child, women, persons with disabilities, people living with HIV/AIDS, refugees, migrant workers and members of their families and elderly. However, they cannot publish the report on the investigation due to fact that lack of independence of this institution.

1. Mauritius Government Programme 2015-2019 ‘Achieving Meaningful Change’, Address by The President of the Republic of Mauritius,Tuesday 27 January 2015, https://www.lexpress.mu/sites/lexpress/files/attachments/article/2015/2015-01/2015-01-27/govprog2015.pdf (accessed 29 April 2017). [↑](#footnote-ref-1)
2. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/118/21/PDF/G1411821.pdf?OpenElement> (accessed 29 April 2017). [↑](#footnote-ref-2)
3. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/222/66/PDF/G1522266.pdf?OpenElement> (accessed 29 April 2017). [↑](#footnote-ref-3)
4. Republic of Mauritius, Annual Report of the Judiciary 2015, June 2016, para 1.2, <https://supremecourt.govmu.org/pubabout/Annual%20Report%20Judiciary%202015.pdf> (accessed 29 April 2017). [↑](#footnote-ref-4)
5. Constitution of Mauritius 1968, sec 16. [↑](#footnote-ref-5)
6. Sec 2: ‘’ ‘status’ means age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation”. [↑](#footnote-ref-6)
7. Equal Opportunities Act 42 of 2008, secs 5-7. [↑](#footnote-ref-7)
8. Constitution (n 3 above ) sec 10. [↑](#footnote-ref-8)
9. Federation of Disabled Peoples' Organizations Mauritius, Submission on CRPD implementation in Mauritius, 14th session, CRPD Committee, July 2015, <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRPD%2fCSS%2fMUS%2f21396&Lang=en> (accessed 29 April 2017). [↑](#footnote-ref-9)
10. Mauritian Civil Code, sec 390. [↑](#footnote-ref-10)
11. Mauritian Civil Code, sec 388. [↑](#footnote-ref-11)
12. Mauritius State Report, ‘Implementation of the UN Convention on the Rights of Persons with Disabilities’, para 13.12, <http://disability.govmu.org/portal/sites/disability/file/uncrpd.pdf> (accessed 29 April 2017). [↑](#footnote-ref-12)
13. Mauritius State Report (n 11 above), para 13.7. [↑](#footnote-ref-13)
14. Mauritius State Report (n 11 above), para 13.13. [↑](#footnote-ref-14)
15. National Human Rights Commission, Mauritius, Annual Report 2014, March 2015, para 1.11. [↑](#footnote-ref-15)
16. Legal Aid and Legal Assistance Act 57 of 1973, sec 4. [↑](#footnote-ref-16)
17. Legal Aid and Legal Assistance Act (n 1 above), sec 7A. [↑](#footnote-ref-17)
18. Constitution of the federal democratic republic of Ethiopia, 1995, art. 9(4). [↑](#footnote-ref-18)
19. United nations CRPD/C/ETH/Q/1/Add1. Replies of Ethiopia to the list of issues of initial report, para37. [↑](#footnote-ref-19)
20. Law of evidence, Ethiopian legal brief, https://chilot.files.wordpress.com/2011/06/law-of-evidence. [↑](#footnote-ref-20)
21. (n 1 above Para 37 and 38). [↑](#footnote-ref-21)
22. United nations CRPD/C/ETH/1, initial state report of Ethiopia, 2012, Para 73. [↑](#footnote-ref-22)
23. (see n 1 above). [↑](#footnote-ref-23)