**Human Rights Council resolution 43\_L.34 on the rights of persons with disabilities**

1. **Laws, policies, plans, strategies and guidelines at the level of Government relating to statistics and data collection about persons with disabilities**

1.1 Under the Statistics Act, the Director of Statistics of the Statistics of Mauritius is empowered to collect, compile, analyse, abstract, publish and otherwise disseminate statistics relating to the commercial, industrial, financial, agricultural, social, demographic and economic activities, and general conditions, of the people of Mauritius.

1.2 The Data Protection Act (DPA), which came into force in Mauritius on 15th January 2018, is the legal framework set up to provide for the protection of the privacy rights of individuals, including persons with disabilities.

Detailed information regarding the provisions of DPA in respect of persons with disabilities, is at Annex.

In accordance with the Data Protection Act, Statistics Mauritius collects data on disability for any individual under the provisions under the Act while ensuring data security, privacy, confidentiality, quality, transparency and accountability. Protection of confidentiality and respect for the privacy of persons with disabilities has always been the policy and practice in every hospital.

Collection, administration and use of disability data is important for developing strategy and policy for the disabled themselves. They are used also for research and epidemiologic purpose.

1.3 Statistics Mauritius conducts a population census every 10 years in order to collect data on all citizens. Door to door visits are conducted to ensure that all persons, including persons with disabilities, are interviewed personally. The last census conducted in 2011 and the data on disability is disaggregated by gender, age, type of disability, locality, marital status and other criteria such as school attendance, educational attainment, activity status and employment. In 2011 Population Census, eight questions on disability were used, out of which two were similar to the Washington Group Short Set of questions.

1.4 Statistics Mauritius has further adopted the Washington Group short set of questions to identify persons with disabilities. This method would be used for the next population census. The Ministry of Social Integration, Social Security and National Solidarity is consulted by Statistics Mauritius with regard to the collection of data on beneficiaries of pensions.

1.5 Moreover, as main producer of official statistics, Statistics Mauritius disseminates on its website statistics, questionnaires and metadata in accessible and these are accessible to all users, including persons with disabilities.

1.6 As regard pensions, it also produces monthly statistics including the various pensions paid under the National Pension Fund, National Savings Fund and the Social Aid, including the Invalid’s Basic Pension based on administrative data from the Ministry of Social Integration, Social Security and National Solidarity.

The Invalid’s Basic Pension is payable to any person under the age of 60, if certified by a Medical Board that the person is either permanently or substantially incapacitated to a degree of 60% or more for at least 12 months.

It is to be noted that the disability assessment tool used in the above is based on the National Pensions Act.

1.7 Furthermore, the Ministry of Social Integration, Social Security and National Solidarity has a database regarding persons with disabilities who receive basic pensions and other disability benefits. The database was developed on the basis of information provided by representative organisations of persons with disabilities, NGOs, relevant Ministries, organisation in the disability sector such as the National Council for the Rehabilitation of Disabled Persons, Training and Employment of Disabled Persons Board and other stakeholders as well as calls for registration by means of press communiqué or radio or televised broadcast. The support of NGOs is enlisted in the collection and updating of data.

In addition, household, having as dependents, children with disability, are recipients of a monthly child allowance based on a preferential rate of 75% attendance instead of 90%. As part of the economic empowerment of beneficiaries living in absolute poverty, the Marshall Plan also makes provision for the compulsory registration of unemployed working-age adults, who are suffering from any form of disabilities, with the Training and Employment of Disabled Persons Board (TEDPD).

It is worth noting that the primary, secondary and specialised care are provided free of user cost to the whole population of Mauritius without any kind of discrimination including disability status. People suffering from certain severe forms of disabilities are given special attention including reduced waiting time in accessing health services.

1.8 In line with Article 33 of the UN Convention on the Rights of Persons with Disabilities, a National Coordination and Monitoring Committee, was also set up at the Ministry of Social Integration, Social Security and National Solidarity to coordinate, monitor and facilitate policies/ programmes and actions relating to issues of disability in different sectors. At the particular meeting, all stakeholders, that is, relevant Ministries and Departments as well as NGOs are requested and encouraged to keep disaggregated data as far as possible.

Data concerning Mental Health are collected by Senior Health Records Officer and available at Brown Sequard Mental Health Care Centre and all five Regional Hospitals. The yearly report is submitted to the Ministry of Health and Wellness. The policies, guidelines and plans relating to statistics are currently being used.

It is worth noting that neither Statistics Mauritius nor the Ministry of Social Integration, Social Security conducts national disability survey. Statistical data on environmental barriers faced by persons with disabilities is not presently collected by the Statistics Mauritius.

1.9 For the purpose of implementing the Marshall Plan against Poverty, the registration of vulnerable households is made via the Social Register of Mauritius (SRM) which is the main platform and provider of data for the implementation of various schemes falling under the Social Integration and Empowerment (SIE) Act 2016. Collection and updating of information under the SRM is carried out at the level of the Social Security Division (SSD). For the implementation of the various schemes under the SIE Act 2016, the use of relevant information is at the level of the Social Integration Division (SID) as a user. Data is being stored in electronic format (Oracle) at the level of SRM unit (SSD) while for SID as a user, the data is pulled from SSD and stored under the Social Integration and Management Information System (SIMIS). Among others, the SRM database also captures and provides data on beneficiaries, who are suffering from any form of disabilities. For example, such data are useful for the implementation of the Child Allowance Scheme in respect of a child with disability.

SIMIS is hosted in a secured environment at the Government Online Centre. SIMIS is accessible through the Government Intranet System (GINS) which is secure and users log in with a username and password. Audit trailing is available which logs all users’ activities. The Systems Analyst posted in the IT section is an officer from the Central Information Systems Division and has taken oath regarding data confidentiality.

Disability mainstreaming has recently been embraced as a strategy towards realising disability-inclusive development. SID is working towards the integration of a disability perspective into the preparation, design, implementation, monitoring and evaluation of policies, and to that respect, provision is being made for a consolidated database to include disaggregated data on disability issues.

Data on disabled persons are available for SDG indicator 8.5.2 (Unemployment rate) under Target: 8.5 “By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.”

It is to be noted that the indicator is compiled using Population Census.

Moreover, challenges have already been met through the setting up of a Child Allowance Module which is linked to the SID-SIMIS and is used for capturing the attendance of children at school.

It is worth highlighting that the employees of the Ministry of Social Integration, Social Security and National Solidarity observe internal confidentiality and secrecy in respect of all information acquired in the course of their duty.

***19/10/2021***

**Annex**

**Data Protection and Safeguard Measures**

The DPA provides for “Special Categories of personal data” in relation to a data subject. The disability status of a data subject falls within this category in as much as section 2 of the DPA provides for the “physical or mental health or condition” to fall under the *“special categories of personal data”.*

Pursuant to section 28 of the DPA, the data subject must give his consent to the processing of his personal data and the processing of the data under section 28(2) must be necessary for

1. the performance of a contract to which the person is a party or in order to take steps at the request of the person before entering into a contract;
2. compliance with any legal obligation to which the controller is subject;
3. the protection of the vital interests of the person or another person;
4. the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
5. The performance of any task carried out by a public authority;
6. the exercise, by any person in the public interest, of any other functions of a public nature;
7. the legitimate interests pursued by the controller or by a third party to whom the data are disclosed, except if the processing is unwarranted in any particular case having regard to the harm and prejudice to the rights and freedoms or legitimate interests of the person;
8. the purpose of historical, statistical or scientific research.

Furthermore, as per section 29 of the DPA, data pertaining to disability, falling under the “special categories of personal data”, cannot be processed unless:

1. the processing is lawful as described above and under section 28 of the of the DPA; and
2. the processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other not-for- profit body with a political, philosophical, religious or trade union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the personal data are not disclosed outside that body without the consent of the data subjects;

(c)  the processing relates to personal data which are manifestly made public by the data subject; or

1. the processing is necessary for –

(i) the establishment, exercise or defence of a legal claim;

(ii)  the purpose of preventive or occupational medicine, for the assessment of the working capacity of an employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services or pursuant to a contract with a health professional and subject to the conditions and safeguards referred to in subsection (2);

(iii)  the purpose of carrying out the obligations and exercising specific rights of the controller or of the data subject; or

(iv)  protecting the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving consent.

Most importantly, the DPA, through section 40 confers on the data subject a right to object to the processing of his personal data. Under section 40(2) of the DPA, where the personal data are processed for the purpose of direct marketing, the data subject may object to processing of personal data concerning him for such marketing, which includes profiling to the extent that it is related to such direct marketing.

If the data subject, by virtue of his/her age or physical or mental incapacity is unable to object or exercise a right conferred onto her by the act, a parent or guardian in the case of a minor or another person appointed as guardian or legal administrator by a Court, may exercise this right on her behalf virtue of section 41 of the Act.

The Act further imposes on data controllers to destroy any personal data stored on the subject as soon as is reasonably practicable when the purpose for keeping the personal data has lapsed. (Section 27 of the Act)

It should further be noted that –

1. contravention of section 28(1) and 29(1) amounts to a criminal offence and on conviction, a person is liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 5 years;
2. unlawful disclosure of personal data as described in section 42 of the Act is an offence which upon conviction is amenable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years.

Finally, exceptions to the Data Protection Act are only allowed where it constitutes a necessary and proportionate measure in a democratic society for –

1. subject to subsection (4), the protection of national security, defence or public security;

(b) the prevention, investigation, detection or prosecution of an offence, including the execution of a penalty;

(c) an objective of general public interest, including an economic or financial interest of the State;

(d) the protection of judicial independence and judicial proceedings; or

(e) the protection of a data subject or the rights and freedoms of others;

(f) issue of any licence, permit or authorisation during the COVID-19 period.