

HRCM Submission to the OHCHR re: request for information to be included in the OHCHR study on work and employment of persons with disabilities

Q.1) The situation of persons with disabilities in the field of employment, including relevant data and statistics. Do you have information on persons with disabilities working in the informal sector?

In April 2010, The Human Rights Commission of the Maldives (HRCM) published a report entitled "*Activities Addressing Rights of Persons with Disabilities- A Baseline Assessment*" (HRCM, 2010). The objective of the report was to identify issues and activities pertaining to the rights of persons with disabilities in the Maldives. It also highlights shortcomings that need to be considered for the future development and improvement of services offered to persons with disabilities. The following information is extracted from this baseline assessment and the monitoring work done to oversee the implementation of the recommendations of this assessment through constructive dialogue.

- ❖ The baseline assessment report highlighted that the most obvious gap in services provided to persons with disabilities include lack of employment services.
- ❖ There is no evidence of any government organised support or services to persons with disabilities in obtaining jobs. The report 'The Situation of People with Disabilities in Haa Alifu and Haa Dhaalu' – based on a survey undertaken in the two northern most atolls of the country by the Child and Family Protection Authority of the Ministry of Gender and Family in 2008 - showed that 71 percent of working age men with disabilities and 93 percent of working-age women with disabilities were not in work (Campion, 2008 cited in HRCM, 2010).
- ❖ The challenges around employment include discrimination in the labour market and workplace against persons with disabilities and low expectations and assumptions of their potential. For example, employers often say the workplace is not a safe environment for persons with disabilities. This means people with valuable skills and strong motivation have

- ❖ Article 35(b) of the Constitution states that elderly and disadvantaged persons are entitled to protection and special assistance from family, the community and the State.
- ❖ Article 37 of the Constitution stipulates that every citizen has the right to engage in any employment or occupation, emitted to just and safe conditions of work, fair wages, and equal remuneration for work equal of equal value, and equal opportunity for promotion and the right to rest and leisure, including limits on hours of work and periodic holidays with pay.
- ❖ *Employment Act (2008)* founded the rights and obligations of the employers and employees established a Labour Relations Authority (LRA) and an Employment Tribunal to protect employment rights. Article 4(a) of *Employment Act* prohibits discrimination against persons carrying out equal work, in either granting of employment, determination of remuneration, increase in remuneration, provision of training, determination of remuneration, increase in remuneration, provision of training, determination of conditions and manner of employment, dismissal from employment or resolution of other employment-related matters, based on disability etc. The Article 4(b) states that implementation of any principles, activities or programs with the objective of assisting those persons disadvantaged against for any of the reasons specified in subsection (a) or socially disadvantaged persons shall not be deemed as discrimination amongst employees carrying out equal work.
- ❖ Article 21 of the *Employment Act* prohibits dismissal without reasonable cause. An employee shall not be dismissed from employment without showing appropriate cause as to failure to maintain work ethics, inability to carryout employment duties and responsibilities. The employee's disability or temporary failure to report to work for a period of time due to illness or injury and employee exercising or attempting to exercise any right of the employee to stay away from work environment based on a reasonable belief that is directly and indirectly hazardous to the employee's life or health.
- ❖ *The Law on protection of the Rights of persons with disabilities and providing financial assistance (2010)* guarantees equal opportunity in employment and also to choose any field of the employment of their choice and prohibits discrimination in recruitment, work

- ❖ Article 18 of *Law on protection of the Rights of Persons with Disabilities and providing financial assistance* assures accessibility to persons with disabilities to public places and living environment. This is one of issues emphasized in the *Activities Addressing Rights of Persons with Disabilities - A Baseline Assessment (2010)*, undertaken by HRCM.
 - Inaccessible workplaces present barriers to persons with disabilities to access employment and employers need to play a significant role in removing such barriers. Inaccessibility of the built environment is a major contributing factor that decreases the number of workplaces available to persons with disabilities. Where government organisations rent facilities to be used by their customers, they shall be required to consider access to premises under their role as purchaser, provider and regulator of public services.
 - The roads, pavements, road signs and traffic lights are not designed to be friendly for persons with disabilities. The passenger dhonis and speed boats do not have any special seating or built in accessibility considerations for persons with disabilities. It is lamentable that wheelchair access is not possible even on ferry services between Male' and the airport and between Male' and Vilingilli. The benefits of improving the accessibility of public transport will not only be of benefit to persons with disabilities but also will be of immense benefit to people with temporary injuries or illness, parents with children and buggies, people carrying groceries, the elderly, and people who are getting frailer.
 - There are a limited number of workplaces in Maldives with access to persons with physical disabilities and thus very few of them are able to seek employment. So far accessing public buildings, and using transport services remain a great challenge to persons with disabilities.
- ❖ Article 16 of the *Law on protection of the Rights of Persons with Disabilities and providing financial assistance* affirms that legal aid be facilitated to persons with disabilities. However, the Justice System of Maldives is not fully accessible to persons with disabilities. Some judges have raised the issue that in cases where interpreters are needed for the court proceedings, the defendants have to bring their own interpreters. The trial courts (Criminal

Q6) Is there any additional information you wish to provide?

There are total of 2 (out of 23 recommendations) recommendations put forward relating to the employment in the “Activities Addressing Rights of Persons with Disabilities - A Baseline Assessment” (2010), undertaken by HRCM in 2010. These are:

- Develop and implement an employment strategy with clear focus on preparing and supporting persons with disabilities entering paid employment or leaving school.
- Develop a ‘disability charter’ which states the fundamental purpose and philosophy of the various sector agencies with regard to protecting the rights of persons with disabilities.

It is distressing to note that the State has yet not taken an initiative to implement them.

References

- CDE Consulting, 2010, *Activities Addressing the Rights of Persons with Disabilities – A Baseline Assessment* Human Rights Commission of the Maldives