**Special Rapporteur on the rights of persons with disabilities**

***“Protection of persons with disabilities in the context of armed conflict”***

1. The State of Mauritius signed the Convention on the Rights of Persons with Disabilities (CRPD) on 25 September 2007 and ratified same on 08 January 2010 with reservations on Articles 9 (2) (d), 11 and 24 (2) (b).

2. The State of Mauritius has submitted its Combined Second and Third Periodic Report on the implementation of the CRPD on 18 September 2020. The report can be accessed at <https://humanrights.govmu.org>. Moreover, it has recently withdrawn the reservations in respect of Articles 9 (2) (d) and 11.

3. The Ministry of Social Integration, Social Security and National Solidarity is responsible for implementation of the CRPD Report. It works closely with all stakeholders to promote and protect the rights of persons with disabilities. Non-Governmental Organisations are privileged partners of Government throughout the process. They are a major provider of services to persons with disabilities in the local context and are actively consulted and involved in discussions and projects.

4. The State of Mauritius is regarded as a peaceful country. According to the Global Peace Index 2020 (2020 GPI) issued by the Institute for Economics & Peace (IEP), Mauritius is ranked 23rd in the Global State of Peace and 1st in Sub-Saharan Africa.

5. Furthermore, the State of Mauritius is outside the armed conflict regions and is not affected to a great extent by critical issues involved thereat. Nevertheless, Mauritius is party to most of the International Humanitarian Law (IHL) instruments.

6. A National Humanitarian Law Committee has been set up under the aegis of the Human Rights Division to advise and assist Government in implementing the IHL instruments to which Mauritius is party as well as to advise on any legislative amendments required to ensure compliance of the State with those instruments. The Committee comprises representatives of relevant Ministries/ Departments and the Mauritius Red Cross. The Terms of Reference of the Committee is at **Annex I**.

7. Though armed conflict is not relevant to the State of Mauritius, there are various instances where humanitarian aid is critical to the country, be it when it is faced with natural disasters or health crisis. Moreover, as a Small Island Developing Country, it has an increased vulnerability with the global climate change phenomenon.

8. The State of Mauritius has come up with a comprehensive policy for the safety of all individuals in times of humanitarian emergencies and situations of risks and disasters. The National Disaster Risk Reduction and Management Act was proclaimed on 1 July 2016 and a National Disaster Risk Reduction Management Centre (NDRRMC) was set up to coordinate efforts of various agencies responsible for disaster mitigation.

9. This Centre carries out regular sensitisation campaigns on disaster risk reduction and organises frequent simulation exercises and activities. These campaigns and simulation exercises take into account the special needs of persons with disabilities. Safe evacuation procedures are tested for implementation in the event of disasters. Furthermore, Community Disaster Response Teams have been provided training in handling persons with disabilities for safe evacuation during emergencies.

10. Contingency plans have also been developed for Residential Care Homes in vulnerable areas. The development, implementation and monitoring of emergency plans and procedures is in accordance with the Sendai Framework for Disaster Risk Reduction 2015–2030.

11. The State of Mauritius is fully committed to, and is continuously progressing towards, an inclusive society where the rights of persons with disabilities are respected and protected. It also undertakes to review its legislations gradually so that they reflect the human rights model of disability.

12. Government has taken a series of measures to implement the recommendations contained in the CRPD Committee’s previous concluding observations. New legislations that have been recently proclaimed reflect the human rights model of disability and are in line with the CRPD. One such example is the Special Education Needs Authority Act (2018), which defines disability as “a long-term physical, intellectual or sensory impairment of a person which substantially hinders the person’s ability to carry out normal day to day activities”.

13. A consolidated list of current legislations/amendments in favour of persons with disabilities is at **Annex II**.

14. The Welfare and Elderly Persons’ Protection Unit (WEPPU) has been set up in September 2006 after the promulgation of the Protection for Elderly Persons Act 2005. The main objective of the Act is to set up a legal and administrative framework for greater protection and assistance to elderly persons including elderly persons with disabilities.

15. There are no specific laws that seek to punish criminal acts that specifically target persons with disabilities. A draft “Disability Bill” is currently under preparation and this may cater for the abuse against persons with disabilities.

16. The fundamental rights of persons with disabilities are protected in the same manner as those of other citizens of Mauritius.

17. Under Section 3 of the Constitution, recognition is given to right of an individual to life, liberty, security of the person and protection of the law.

18. Section 4 of the Constitution stipulates that:

*“(1) No person shall be deprived of his life intentionally save in execution of the sentence of a Court in respect of a criminal offence of which he has been convicted.*

*(2) A person shall not be regarded as having been deprived of his life in contravention of this section, if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable-*

*(a) for the defence of any person from violence or for the defence of property;*

*(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;*

*(c ) for the purpose of suppressing a riot, insurrection or munity; or*

*(d) in order to prevent the commission by that person of a criminal offence,*

*or if he dies as the result of a lawful act of war.”*

19. Section 7 (1) of the Constitution protects a person against torture or inhuman or degrading punishment or other such treatment.

20. Moreover, the State of Mauritius is signatory to international conventions such as the United Nations Convention against Torture and other Cruel, Inhuman or degrading Treatment or Punishment, the Arms Trade Treaty, Convention on the Rights of the Child among others as well as regional treaties.

21. It is to be noted that though the Criminal Code does not provide for the prosecution of crime against humanity, this is provided for in the International Criminal Court Act. Under this Act, provision has been made for prosecution against war crimes, genocide and crime against humanity.

22. Section 4 (1) of the International Criminal Court Act provides as follows:

*“(1) Notwithstanding any other enactment, any person who commits-*

*(a) a crime against humanity;*

*(b) genocide; or*

*(c ) a war crime ,*

*shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 45 years.*

23. There exists adequate domestic legal remedies and avenues for any of the aggrieved citizens of Mauritius to have recourse to in eventuality that they believe that their fundamentals rights have been violated, namely:

(i) any person whose rights under Chapter II of the Constitution has been, or is being or is likely to be contravened, may apply to the Supreme Court for redress;

(ii) acts of public bodies may be challenged in Court by way of applications for judicial review on grounds of illegality, irrationality, abuse of power and procedural impropriety;

(iii) actions for damages may be equally entered before the Courts of Law;

(iv) complaints may be made to the National Human Rights Commission, which is, by virtue of the Protection of Human Rights Act, empowered to ensure that effective remedies are available to victims of human rights breaches as contained under Chapter II of the Constitution. The Commission may also inform the Minister, to whom the subject of human rights is assigned, of situations of violation of human rights and advise on ways in which such situations can be ended;

(v) complaints may also be made to the Equal Opportunities Commission which may refer a case to the Equal Opportunities Tribunal;

(vi) complaints may be made to other human rights institutions such as the Ombudsman, the Ombudsperson for Children, the Independent Police Complaint Commission, the Ombudsperson for Financial Services or the Ombudsperson for Sports; and

(vii) minor petitions may be addressed to the Attorney-General.

24. There has been 14 cases of abuse and violence against persons with disabilities reported to the Police Family Protection Unit for period January 2020 to June 2021.

# B. Questionnaire for military authorities

1. The State of Mauritius does not have an armed force but rather a paramilitary force, known as Special Mobile Force (SMF) which is part of the Mauritius Police Force (MPF). It is responsible for internal security within the country and abides with all laws of Mauritius. It is governed by the Police Standing Orders.

2. The SMF does not follow any military manual except the Police Act 1974, the Standing Order of the Mauritius Police Force and relevant Standing Operating Procedures (SOPs) issued by Special Mobile Force.

3.The SMF does not have Rules of Engagement (ROEs) but follow the proceeding as laid down in Police Standing Orders 108 & 109 and Police Act 1974. Though the law in Mauritius does not provide for any rule of enjoyment, sufficient time and warning are given before any intervention by the SMF.

4. Training is being imparted annually to SMF personnel as per the Training Directives which are in line with the Mauritius Police Force Annual Policing Plan and the Force Priorities & Objectives. The training directives include both collective and individual training and cater for training of Commanders in-house or abroad. The Training Directives cover issues which are relevant to the demand of the country.

5. Moreover, all recruits by the Police department including the SMF are empowered and provided with knowledge on human rights and relevant consequences for any breach of those rights.

6. There is no specific training on international humanitarian law (IHL) for military and security forces. However, provisions have been made as follows:-

1. The Standing Orders of the Mauritius Police Force – Use of minimum force under Standing Orders No. 108 and 109;
2. SOPs –
3. Three warnings are given before intervention by security forces which can be adapted to persons with disabilities to disperse or move away; and
4. In case of evacuation during disasters, priorities are given to persons with disabilities and to children.

7. The SMF personnel conduct Community Disaster Response Programs (CDRP) to the local inhabitants to increase their awareness and resilient as regard emergency situations such as flooding, landslide, tsunami, etc.

8. The SMF also conducts joint simulation exercise involving various stakeholders such as Government and Non-Governmental Organisations together with the local inhabitants.

9. The State of Mauritius has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 09 December 1992. Section 7 (1) of the Constitution protects a person against torture or inhuman or degrading punishment or other such treatment.

10. The Constitution also makes provision under section 17 for redress to be afforded to any individual whose rights under chapter II have been, are being or are likely to be contravened. There is also the possibility of challenging acts of public bodies in Court by way of applications for judicial review on grounds of illegality, "Wednesbury unreasonableness", abuse of powers and procedural impropriety.

11. The Independent Police Complaints Commission was set up on 9 April 2018 upon proclamation of the IPCC Act 2016 and is mandated to:

1. Investigate into any complaint made by any person or on his behalf against any act, conduct or omission of a police officer in the discharge of his functions, other than a complaint of an act of corruption or a money laundering offence
2. Investigate into the cause of death of a person who died whilst the person was in police custody or as a result of police action.
3. Advise on ways in which any police misconduct may be addressed and eliminated
4. Promote better relations between the public and police
5. Perform such other functions as may be conferred to it by any other enactment.

***18 June 2021***