

### **International Disability Alliance (IDA)**

#### Member Organisations:

Disabled Peoples' International, Down Syndrome International, Inclusion International, International Federation of Hard of Hearing People, World Blind Union, World Federation of the Deaf, World Federation of the DeafBlind, World Network of Users and Survivors of Psychiatry, Arab Organization of Disabled People, European Disability Forum, Red Latinoamericana de Organizaciones no Gubernamentales de Personas con Discapacidad y sus familias (RIADIS), Pacific Disability Forum

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### **Suggestions for disability-relevant recommendations Human Rights Committee, 105th Session (9 – 27 July 2012)**

The International Disability Alliance (IDA) has prepared the following suggestions for the Concluding Observations, based on references to persons with disabilities to be found in the State Report, as well as Concluding Observations of other treaty bodies (see Annex below).

#### **MALDIVES**

The Maldives ratified the Convention on the Rights of Persons with Disabilities on 5 April 2010.

#### **IDA suggested Recommendations :**

- Take steps to ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

#### Articles 2 and 26

- Adopt legal measures which explicitly prohibit disability-based discrimination, including the denial of reasonable accommodation (see Article 5 on non-discrimination, CRPD)

#### Articles 3 and 7

- Address the heightened risk for women and children with disabilities of becoming victims of domestic violence and abuse, and adopt urgent measures to ensure that both services and information for victims are made accessible to women and children with disabilities.

#### Articles 2, 7, 10 and 26

- Adopt measures to ensure that all health care and services provided to persons with disabilities, including all mental health care and services, are based on the free and informed consent of the individual concerned, and that involuntary treatment and confinement are not permitted by law. Ensure that reproductive health services are respectful of the dignity and integrity of persons with disabilities based on the free and informed consent of the individual concerned, and that all non-consensual treatment, including that for which consent is given by a third party, is not permitted by law.

#### Article 14

- Ensure the effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations and support, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, in accordance with Article 13 of the CRPD.

## Articles 25 & 26

- Repeal restrictions in the Constitution (sections 73, 109) which state that a person can be disqualified from being elected as a member of Parliament or President if the person is not of "sound mind", which is contrary to the latest international standards on political participation (This is confirmed in OHCHR thematic study on participation in political and public life by persons with disabilities which explicitly states that there is no reasonable restriction nor exclusion permitted regarding the right to political participation of persons with disabilities, [A/HRC/19/36](#), 21 December 2011 para 45).

### [State report](#)

No references to disability in the State report ; it refers the reader to the Common Core document.

[Common core document](#) (16 February 2010)

### **Selected disability references in the Common Core document :**

#### **A.3.3 Education**

The major challenge in the provision of quality education arises from the lack of capacity within the Maldives to train teachers for primary and secondary levels. Significant challenges also lie in the provision of education for children with special needs. In the capital Male', there are three primary schools that offer special classes for **children with special needs**. This includes a class for **hearing impaired, visually impaired and one for those who have multiple disabilities including those who are intellectually challenged**. To ensure that educational opportunities are provided to all children, special education needs units (SEN Units) are being progressively established in the atoll schools. The target is to establish one such unit in at least one school in each atoll within the next two years.

#### **D.4. Existence, Mandate and Financial Resources of Human Rights Institution**

The Government of Maldives is committed to provide adequate financial resources to the national human rights institutions. Together with many international organisations such as the UN, the Government contributes to the funds and annual budgets of the Human Rights Commission of the Maldives and other national institutions that protect human rights. The Government also provides funding for many human rights NGOs such as the Care Society (for **disabled children**) and the Home for People with Special Needs established since 1976.

#### **E.1.3. National Human Rights Commission**

From 2007-2009, the HRCM has carried out approximately fifty human rights awareness programmes, ranging from workshops, seminars, poster competitions and the publication of newsletters. The Commission has also undertaken thirteen visits to places of detention, during 2009, including prisons and state-run facilities for the **disabled** and children. In addition, the Commission has also released 27 reports on its findings following its visits and on various issues of concern.

**H.1. Non-discrimination** The Constitution of the Republic of Maldives guarantees to all persons the same rights and freedoms and upholds the principles of equality and non-discrimination. Chapter II of the 2008 Constitution states that "Everyone is

entitled to the rights and freedoms included in this Chapter without discrimination of any kind, including race, national origin, colour, sex, age, **mental or physical disability**, political or other opinion, property, birth or other status, or native island". The provision furthermore provides for special assistance or protection to disadvantaged individuals or groups, or to groups requiring special social assistance, as provided in law to not be deemed discrimination. The new Constitution has also removed the gender bar that previously prevented women from contesting for the highest political office.

### **H.3. Equality Before the Law and Equal Protection of the Law**

Chapter 2 of the Act prohibits forced labour and Article 4(a) prohibits discrimination amongst persons carrying out equal work, either in the granting of employment, 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 race, colour, social standing, religion, political beliefs or affiliation with any political party, sex, marital status, and family obligations, and in so far as it does not contravene the provisions herein age or **disability**.

### **J.6. Participation by the Disabled in Public Life**

In the absence of legislation specifically covering the rights of **disabled persons**, their rights are protected by general legislation. The judicial mechanism available to protect the rights of **persons with disabilities** is due process (legal remedy through courts), while non-judicial mechanisms include a Governmental body (administrative). The general legislation applies to all different categories of **persons with disabilities** with respect to: education, employment, the right to marriage, the right to parenthood/family, political rights, access to court-of-law, right to privacy, property rights. The following benefits are guaranteed by law to **persons with disabilities**: health and medical care, training, rehabilitation and counselling, financial security, and participation in decisions affecting them. The Government is currently in the process of identifying **persons with disabilities**, for the purpose of paying them an allowance. While a **Disability Bill** was passed by the Majlis on 21 December 2009, President Nasheed decided to resubmit the Bill to the Majlis, without ratifying the Bill as it is, due to calls from several civil society organizations that the Bill does not properly address the **special needs of disabled people**.

The Government of Maldives provides medical care and support to many thalassaemic children across the country. The Government also provides free testing for thalassaemia prior to marriage, through its established centres. The Government also supports a shelter for abandoned and vulnerable children in the country who have no primary care. Government funding is also provided to local NGOs such as the Care Society, the biggest society for **disabled children** in the Maldives, that assists **children with special needs**. Care Society conducts many programmes for **disabled children**, including assisting in their schooling and extra-curricular activities. **Disabled children** also go to school together with other children in the Maldives, but they attend a special class with special teachers. The Government is committed to and working on strengthening education for **children with special needs**.

### **X.6. Persons with Disabilities**

**Maldivian citizens with disabilities** are among the most marginalised people in society. A study conducted in 2008 found that 25 per cent of **children with disabilities** in Haa Alifu and Haa Dhaal never left their homes.

The 2008 Constitution prohibits discrimination based on **mental or physical disability** and also clarifies that special assistance or protection to disadvantaged individuals or groups, or to groups requiring special social assistance shall not be deemed to be discrimination. This provision provides the constitutional basis for a number of steps being taken to promote and

protect the rights of **disabled persons**. The most important of these steps are the formulation of a comprehensive **Disabilities Bill** and a more specialised Bill on Mental Health.

The **Disabilities Bill** was developed over a three-year period following consultations with **disabled persons** throughout the Maldives. The draft policy is heavily based on the CRPD. It foresees that creation of a Council that will be entrusted with compiling a national database on the **disabled**, protecting their rights, overseeing monitoring centres, formulating guidelines for their operation of such centres, addressing complaints and compiling an annual report. The draft law also: requires the establishment of **special education centres for disabled persons**; requires State schools to have facilities for the **disabled** and to ensure that no **disabled person** is denied an education; requires that **disabled persons** be afforded special protection in the workplace and to ensure that **disabled persons** are not discriminated against in the job market; and requires that public spaces such as parks and supermarkets provide access facilities, such as ramps, for **disabled persons**. Finally, under the Bill, the Government commits to providing financial assistance of a minimum of US\$155 a month to all **disabled persons**, while persons found guilty of harassing or mocking **disabled persons** are liable to be fined between US\$389 to US\$778.

The Bill was passed by the People's Majlis on 21 December 2009; however it was subsequently criticized by Care Society, Handicap International, the Association for Disabilities and Development, the Maldives Deaf Association and other NGOs supporting the rights of **disabled persons**, as not being fully consistent with the CRPD. Taking note of these concerns, on 6 January 2010, the President of the Maldives vetoed the Bill and sent it back to the Ministry of Health and Family for revision. The Bill will be re-tabled during 2010.

A general policy on **disability** is in its final draft form. The policy has been developed after consulting with **persons with disabilities** throughout the country. The policy relies on the **Convention on the Rights of Persons with Disabilities** as its framework and repeats its general principles, refers to most of the rights in the Convention and includes national monitoring mechanisms in line with the Convention. The policy identifies a national coordination mechanism, as well as the Human Rights Commission as the monitoring body – both elements being in line with the Convention.

A second policy on mental health is in the initial draft stage. One of the main positive aspects of the policy is the recognition of the need for “informed consent” for treatments. This is an important step forward, given that many **persons with mental disabilities** have had treatments forced on them. It also recognises a paradigm shift from institutional care to community-based rehabilitation as an important step towards protecting the rights of **people with disabilities**. It also outlines an institutional framework that establishes treatment services in the remote areas, thereby increasing accessibility to essential rehabilitative services to those in need.

The Care Society, an NGO formed in 1998, actively works to combat discrimination against **children with disabilities**. The NGO has been sponsored by UNICEF since 2000. **Disability** awareness is a recent development in the Maldives. Traditionally, **children with disabilities** are kept within the family and away from the wider community. Social stigma continues to influence the treatment of **children with disabilities** and similarly it is rare to see a **disabled person** in any form of employment.

Local NGOs claimed in 2005 that there were thousands of **persons with disabilities** due to high levels of malnutrition during pregnancy. The Government has established programmes and provided services for **persons with disabilities**, including special educational programmes for **persons with hearing and vision disabilities**. **Persons with disabilities** are usually care for by their families, and when family care is unavailable, they are placed in the Home for People with Special Needs, under the Ministry of Health and Family, that also

hosts elderly persons. When requested, the Government provided free medication for all **persons with mental disabilities** in the islands, but follow-up care was infrequent.

[List of Issues](#)

No references to persons with disabilities.

**ANNEX- Disability references in treaty body Concluding Observations with respect to the Maldives**

**CRC Committee Concluding Observations, CRC/C/MDV/CO/3, 2007**

23. The Committee welcomes the establishment of “Maldives Info” and it notes with appreciation the efforts of the Ministry of Gender and Family to gather information, in collaboration with the United Nations Children’s Fund (UNICEF), on the situation of children and the significant improvements in data collection, particularly in Malé. Nevertheless, the Committee regrets the lack of a national data collection system in respect of all areas covered by the Convention, which limits the State party’s capacity to adopt adequate policies and programmes and assess the impact of policies adopted, in particular with regard to children living in atolls which are isolated. The Committee notes with concern that the progress in data collection is impeded by the lack of adequately trained personnel and insufficient coordination between State authorities and child welfare agencies.

24. The Committee recommends that the State party:

(a) Intensify its efforts to establish a national central database on children and develop indicators consistent with the Convention in order to ensure that data are collected on all areas covered by the Convention and that they are disaggregated, for example, by age, sex, urban and remote areas, and by those groups of children who are in need of special protection (i.e. children living in underserved geographical areas, children with disabilities, children born out of wedlock, child victims of violence, abuse and exploitation, malnourished children, child victims of substance abuse, children in conflict with the law, etc.);

7. The Committee notes the State party’s efforts to address various concerns and recommendations (CRC/C/15/Add.91) made upon the consideration of the State party’s initial report (CRC/C/8/Add.33 and 37) through legislative measures and policies. However, some of the concerns it expressed and recommendations it had made regarding, inter alia, the State party’s reservations, harmonization of domestic legislation to fully comply with the provisions and principles of the Convention, discrimination against children with disabilities, children born out of wedlock and girls, the prevention of ill-treatment of children, including sexual abuse, the prevalence of malnutrition, the issue of drug abuse and the administration of juvenile justice, have not been sufficiently addressed.

8. The Committee urges the State party to make every effort to address the recommendations issued in the concluding observations on the initial report that have not yet been implemented, and to address the list of concerns contained in the present concluding observations on the combined second and third periodic report. It also recommends that the State party ratify or accede to relevant Hague conventions and conventions of the International Labour Organization (ILO) regarding the rights of the child.

37. The Committee remains concerned about the de facto discrimination faced by children with disabilities. It notes with concern that children with disabilities have limited access to social and health-care services and that they have very few opportunities for inclusive education. In addition, the Committee shares the State party’s concern that social stigma continues to influence the treatment of children with disabilities and limits their ability to participate in society.

38. The Committee recommends that the State party, taking into account the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's General Comment No. 9 (2006) on the rights of children with disabilities (CRC/C/GC/9), prevent and prohibit all forms of discrimination against children with disabilities and ensure equal opportunities for their full participation in all spheres of life by implementing the Section 5 of Law No. 9/91 and other relevant provisions of domestic laws. The Committee further recommends that the State party include disability aspects in all relevant policymaking and national planning.

#### Children with disabilities

65. The Committee is encouraged by the State party's efforts to draft a National Disability Policy with several stakeholders. However, it is concerned that efforts aimed at detecting disabilities and providing early-intervention services for children with disabilities may not be adequate in the State party. It notes with concern that the lack of adequate and appropriate services, financial resources as well as specialized, trained personnel continues to be a significant obstacle with respect to the full enjoyment of all human rights and fundamental freedoms by children with disabilities. It also notes with concern that the few services available are neither standardized nor adequately monitored or evaluated. The Committee regrets that a very limited number of children with disabilities are included in the mainstream education. In addition, it notes with concern that civil society organizations providing recovery services do not have adequate human, technical and financial resources.

66. The Committee recommends that the State party, taking into account the Committee's General Comment No. 9 (2006) on the rights of children with disabilities (CRC/C/GC/9), take all necessary measures:

- (a) To collect adequate statistical data on children with disabilities and use such disaggregated data in developing a comprehensive and specific national policy on disability which promotes equal opportunities of persons with disabilities in society;
- (b) To provide children with disabilities with access to adequate and standardized social and health services, including early-intervention, psychological and counselling services, and to adequate physical environment, information and communication;
- (c) To monitor and evaluate the quality of services for children with disabilities and raise awareness about all services available;
- (d) To ensure that public education policy and school curricula reflect in all their aspects the principle of full participation and equality and include children with disabilities in the mainstream school system to the extent possible and, where necessary, establish special education programmes tailored to their special needs;
- (e) To support and expand the Community Rehabilitation Program (CBR) in collaboration with CARE Society and other civil society organizations in order to encourage and assist island communities to establish their own rehabilitation programs and parent support groups;
- (f) To ensure that professionals working with and for children with disabilities, such as medical, paramedical and related personnel, teachers and social workers are adequately trained;
- (g) To sign and ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol;
- (h) To seek technical cooperation with, among others, UNICEF and WHO.