

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

**Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health**

**Expert meeting on the deprivation of liberty of persons with disabilities on the basis of disability**

**7 September 2015**

**United Nations Office at Geneva (Palais des Nations)**

Building C, Room IV (3rd floor)

 8-14 Avenue de la Paix, Geneva, Switzerland

Concept note

1. **Background**

The right to liberty and security of the person is a fundamental right that all persons with disabilities shall enjoy on an equal basis with others, as enshrined in Article 14 of the Convention on the rights of persons with disabilities (CRPD). According to the Committee on the Rights of Persons with Disabilities, article 14 does not allow for any exceptions to detain persons with disabilities on the grounds of their actual or perceived disability, or based on the perceived danger of persons to themselves or to others or on the need for care and treatment.[[1]](#footnote-1)

In practice, however, persons with disabilities are often deprived of their liberty precisely on these grounds, rather than for having committed a crime. Deprivation of liberty in this context often takes the form of forced institutionalization, involuntary hospitalization, forced treatment and medication, psychiatric detention and other forms of detention of persons with disabilities. Among all persons with disabilities, persons with psychosocial and intellectual disabilities, as well as persons with severe and multiple disabilities, are particularly at risk of being subjected to these violations, often due to the perception or presumption that they may pose a risk to themselves or others, or that they are unable to care for themselves and lack alternative support. These practices have a direct link and detrimental impact on the right to health of persons with disabilities.

Given the gravity, extent and prevalence of these violations all over the world, often accompanied by social acceptance, the Special Rapporteur on the rights of persons with disabilities and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health decided to organize a one-day expert meeting focusing on the deprivation of liberty of persons with disabilities on the basis of disability or in the context of forced institutionalization.

The expert meeting will take place on 7 September 2015 at the **United Nations Office at Geneva** (Palais des Nations), in **room IV** (Building C, third floor) from approximately 09h00 to 18h00. A detailed agenda of the meeting will be shared in the second half of August 2015.

1. **Objectives and expected outputs**

The objectives of the expert meeting are to:

1. Provide a platform to exchange views, share experiences and discuss challenges related to the obligation to abolish disability-specific forms of deprivation of liberty, including in the context of forced institutionalization in psychiatric and non-psychiatric settings, their impact on the right to health, and the interconnection with the enjoyment of other human rights such as the rights to legal capacity, to be free from arbitrary and unlawful detention and from torture and other ill-treatment, to live independently and be included in the community, and to social protection;
2. Identify concrete solutions to implement alternatives to disability-specific forms of deprivation of liberty that respect an individual’s human dignity, will and preferences (e.g., legislative, judicial, and administrative measures to release individuals from detention and forced treatment, to immediately stop these practices at a systemic level, and to implement de-institutionalization and community-based services).

The expert meeting will focus on the following themes:

* International legal framework and State obligations, including immediate ones (e.g., release from detention, cease any forced treatment) and obligations subject to progressive implementation;
* National legislation and policies on mental health, forced institutionalization and deprivation of legal capacity;
* Exchange of good practices on strategies for de-institutionalization and community-based services, including non-medical options and peer support practices;
* Alternatives to force treatment in cases of emergency.

The main findings of the Expert Meeting will inform future reports of the Special Rapporteur on the rights of persons with disabilities and of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

They will also be used in the formulation of specific recommendations to Member States, UN entities, healthcare professionals, organizations of persons with disabilities (DPOs), academia, and other stakeholders in the framework of the Special Rapporteurs’ work.

1. **Participants**

This one-day meeting will convene approximately 20 international experts, including international judges and lawyers, healthcare professionals, former/current special procedures mandate-holders, members of treaty body committees, representatives of DPOs, civil society, and other practitioners, with experience in the areas of deprivation of liberty, mental health and the rights of persons with disabilities.

The meeting will be held in English (no interpretation available). Accessibility arrangements will be provided as required.

1. **Methodology**

The meeting will be organized around two main segments.

Following a brief introduction of the framework provided by the United Nations Convention on the Rights of Persons with disabilities, the first part of the meeting will provide an overview of existing psychiatric and non-psychiatric **forms of deprivation of liberty** based on actual or perceived disability, such as detention at home, in “prayer camps”, in psychiatric hospitals and other specialised institutions. Discussions will focus on borderline practices and difficult situations, while remaining within the realm of the Convention.

In the second part of the meeting, experts will discuss possible suitable solutions to address **support and conflict resolution needs**, which respect the human dignity of persons with disabilities.

A facilitator will moderate the discussions throughout the day. Each thematic issue will be introduced by a short presentation by an expert, who will highlight existing challenges, lessons learnt and illustrate good practices from her/his perspectives, thus providing a basis for the subsequent interactive discussion. Discussions will be based on pre-identified guiding questions for each theme.

1. See CRPD concluding observations to State Parties’ initial reports (e.g.; CRPD/C/SLV/CO/1, para. 32; CRPD/C/DNK/CO/1, para. 36; CRPD/C/BEL/CO/1, para. 27). [↑](#footnote-ref-1)