

Consultation on Human Rights and Mental Health

“Identifying strategies to promote human rights in mental health”

Concept note

Date and venue: 14-15 May 2018, Room XVI, *Palais des Nations*, Geneva, Switzerland

Objectives: This consultation will address the human rights of persons with mental health conditions and psychosocial disabilities, in particular persons using mental health services. Participants will discuss all relevant issues and challenges pertaining to the fulfilment of a human rights perspective in mental health, the exchange of best practices and the implementation of technical guidance in this regard.

The consultation will explore individual and structural measures that contribute to combat discrimination, stigma, prejudice, violence, abuse, social exclusion and segregation, unlawful or arbitrary institutionalization, overmedicalization and treatment practices that fail to respect their autonomy, will and preferences.

At this consultation, participants will discuss:

- The impact of current mental health practices on the dignity, autonomy and the enjoyment of the rights of persons with mental health conditions and psychosocial disabilities
- The available data and research on mental health and human rights, particularly in regards to discrimination, stigma, violence, coercion and abuse
- The gaps between existing policies and services and human rights law
- The multiple and intersecting forms of discrimination in the context of mental health, including on the basis of gender, HIV/AIDS or in humanitarian and other crisis situations.

In order to improve the human rights situation in the context of mental health through system-wide strategies, participants will discuss:

- How can structural reforms contribute to promote human rights in mental health, including deinstitutionalization, community-based support and respect for autonomy, will and preferences?
- How can human rights education and training for health workers, police, law enforcement officers, prison staff and other relevant professions, with a special focus on non-discrimination, free and informed consent and respect for the will and preferences of all contribute to promoting respect for human rights in mental health services and supports?

In order to identify strategies to improve access to human rights-based mental health services and supports, participants will share experiences, lessons learned and good practices in promoting respect for human rights in first response actions and beyond. The consultation will also discuss present practices and strategies to combat discrimination, stigma, violence, coercion and abuse.

Co-Chairs: **H.E. Mr. Pedro Nuno Bártolo**, Permanent Representative of Portugal
H.E. Ms. Maria Nazareth Farani Azevêdo, Permanent Representative of Brazil

High-level opening: **Ms. Yeni Rosa Damayanti**, Chair, Indonesian Mental Health Association, Indonesia
Mr. Zeid Ra'ad Al Hussein, United Nations High Commissioner for Human Rights
Dr. Tedros Adhanom Ghebreyesus, Director-General, World Health Organization
Mr. Guy Ryder, Director-General, International Labour Organization
H.E. Mr. Pedro Nuno Bártolo, Permanent Representative of Portugal
H.E. Ms. Maria Nazareth Farani Azevêdo, Permanent Representative of Brazil

Panellists:

- **Ms. Catalina Devandas Aguilar**, Special Rapporteur on the rights of persons with disabilities
- **Dr. Dainius Pūras**, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
- **Mr. Nils Melzer**, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- **Mr. Tim Martineau**, Deputy Executive Director a.i., UN Joint Programme on HIV/AIDS (UNAIDS)
- **Dr. Michelle Funk**, Coordinator, Mental health policy and service development, World Health Organization (WHO)
- **Ms. Mónica Ferro**, Director, Geneva Office of the UN Population Fund (UNFPA)
- **Ms. Nina Ferencic**, Senior Regional Adviser on Adolescent Health, Development and Participation and on HIV/Aids, UN Children's Fund (UNICEF)
- **Ms. Magda Milena Osorio Montealegre**, Head of the Mental Health and Psychological Support Unit, ICRC
- **Ms. Bhargavi Davar**, Convenor, TCI Asia, India
- **Mr. Vincent Girard**, Research & Innovation, Mental health & Exclusion, ARS PACA, France
- **Dr. Roberto Mezzina**, Director of the Mental Health Department, Trieste, Italy
- **Mr. Michael Njenga**, Africa Disability Forum, Kenya
- **Ms. Kriti Sharma**, Disability Rights Researcher, Human Rights Watch, USA
- **Ms. Olga Runciman**, Psychologist, Psycovery, Denmark
- **Dr. Alberto Minoletti**, Chief of Mental Health Unit, School of Public Health, University of Chile
- **Mr. Peter McGovern**, Psychiatrist, Akershus University Hospital, Norway
- **Dr. Amalia Gamio**, Independent human rights expert on the rights of persons with disabilities, Mexico
- **Ms. Dganit Tal-Slor**, Director of Community Health, Community Access, USA
- **Professor Sashi P. Sashidharan**, University of Glasgow, Institute of Health and Wellbeing

Outcome: The debate will seek to identify challenges, good practices and strategies to promote human rights in the context of mental health, including in combating discrimination, stigma, violence, coercion and abuse. Following the consultation, OHCHR will prepare a report on its outcome, identifying strategies to promote human rights in mental health policies and services and to eliminate discrimination, stigma, violence, coercion and abuse in this regard, including through education and the training of all stakeholder groups.

Mandate: In its resolution 36/13 (paragraphs 15 to 18), the Human Rights Council requested the United Nations High Commissioner for human rights to organize a consultation to discuss all relevant issues and challenges pertaining to the fulfilment of a human rights perspective in mental health, the exchange of best practices and the implementation of technical guidance in this regard, including the initiatives of the World Health Organization on mental health and human rights, such as QualityRights. The Council also

requested the High Commissioner to prepare a report on the outcome of the consultation, to be presented to it, at its thirty-ninth session, in which he identifies strategies to promote human rights in mental health and to eliminate discrimination, stigma, violence, coercion and abuse in this regard, including through education and training of all stakeholder groups.

This resolution calls upon States to abandon all practices that fail to respect the rights, will and preferences of all persons, on an equal basis, and that lead to power imbalances, stigma and discrimination in mental health settings. It further acknowledges that Convention on the Rights of Persons with Disabilities laid the foundation for a paradigm shift in mental health and created the momentum for deinstitutionalization and the identification of a model of care based on respect for human rights that, inter alia, addresses the global burden of obstacles in mental health, provides effective mental health and community-based services and respects the enjoyment of legal capacity on an equal basis with others.

The above mentioned resolution builds up on resolution 32/18 (paragraphs 3 and 4), in which the Human Rights Council requested the High Commissioner to prepare a report on the integration of a human rights perspective into mental health and the realization of the human rights and fundamental freedoms of persons with mental health conditions or psychosocial disabilities.

In this report (A/HRC/34/32), the High Commissioner recommended a number of policy shifts, which would support the full realization of the human rights of those populations, such as the systematic inclusion of human rights in policy and the recognition of the individual's autonomy, agency and dignity. Such changes cover measures to improve the quality of mental health service delivery, to put an end to involuntary treatment and institutionalization and to create a legal and policy environment that is conducive to the realization of the human rights of persons with mental health conditions and psychosocial disabilities.

Format: After the high-level opening, the consultation will be organized around 4 sessions. Each session will begin with a panel of invited speakers, followed by questions and answers and, time allowing, questions and statements from the floor.

Interpretation will be provided in the six United Nations official languages (Arabic, Chinese, English, French, Russian and Spanish).

Accessibility: In an effort to render the Human Rights Council more accessible to persons with disabilities and to promote their full participation in the work of the Council on an equal basis with others, resolution 36/13 requested that the panel will be made fully accessible to persons with disabilities. During the debate, international sign interpretation and real-time captioning will be provided. In room XVI, ten seats will be made available for participants using wheelchairs. Hearing loops are available for collection from the Accessibility focal point at the Secretariat desk. Oral statements may be embossed in Braille from any of the six official languages of the United Nations, upon request and following the procedure described in the "Accessibility guide to the Human Rights Council for persons with disabilities".¹

Background: The right to the highest attainable standard of physical and mental health is a fundamental human right indispensable for the exercise of other human rights. The right to health is recognized, either explicitly or implicitly, in several human rights instruments, including the Universal Declaration for Human Rights (art. 25), the International Covenant on Economic, Social and Cultural Rights (ICESCR) (art. 12), the Convention on the Rights of the Child (art. 24), the Convention on the Rights of Persons with Disabilities (art. 25) and the Convention on the Elimination of All Forms of

¹Available on <http://www.ohchr.org/EN/HRBodies/HRC/Pages/Accessibility.aspx>

Discrimination against Women (arts. 10 (h), 11 (1) (f), 11 (2), 12 and 14 (2) (b)). It is an inclusive right encompassing both timely and appropriate health care and the underlying determinants of health.² In the case of mental health, determinants include low socioeconomic status, violence and abuse, adverse childhood experiences, early childhood development and whether there are supportive and tolerant relationships in the family, the workplace and other settings.

The right to health contains freedoms (such as the freedom to control one's health and body and the right to be free from interference, torture and non-consensual medical treatment) and entitlements (such as the right to a health system that provides equality of opportunity for people to enjoy the highest attainable level of health).³

Research and practice shows that ensuring the enjoyment of human rights in mental health contexts require more than the traditionally allocated resources under health perspectives. Forced treatment and institutionalization in mental health institutions it's been proven to impact the enjoyment of human rights and most often results from a number of determinants connected to stigma, discrimination and lack of community-based support and inclusion in society. Consequently, the international human rights framework includes not only health-related rights but also those connected to social protection, including housing, work and employment, and those connected to a broader set of services such as personal support, community-based interventions, among others.

At the same time, several human rights and principles need to be respected in the context of mental health such as equality and non-discrimination, the rights to life, liberty and security of person, the equal right to live independently and be included in the community and the right to equal recognition before the law, and that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In this sense, States should update or repeal, as appropriate, all existing laws, including legislation on employment, equality and non-discrimination, social protection, housing and education, to ensure that persons with psychosocial disabilities, with mental health conditions and users of mental health services are not discriminated against and have the same opportunities on an equal basis with others.⁴

The consultation also falls within the general principles reflected in the Convention on the Rights of Persons with Disabilities, namely respect for inherent dignity, individual autonomy and independence, and full and effective participation and inclusion in society. Reference should also be made in this context to the Committee on the Rights of Persons with Disabilities general comment No. 5 (2017) on living independently and being included in the community.

² See Committee on Economic, Social and Cultural Rights, general comment No. 14, paras. 4 and 11.

³ Ibid., para. 8.

⁴ See HRC resolution 36/13, preambular paragraphs 9, 10, 11 and 13. See also OHCHR report on Mental health and human rights ([A/HRC/34/32](#)), para 39

Background documents:

- [Human Rights Council resolution 36/13](#) on Mental health and human rights
- [Human Rights Council resolution 32/18](#) on Mental health and human rights
- Report of the OHCHR on Mental health and human rights ([A/HRC/34/32](#))
- CRPD General Comments 1 (Equal recognition before the law), 3 (Women and girls with disabilities), 4 (Right to inclusive education), 5 (Right to independent living) and 6 (Equality and non-discrimination)
- OHCHR web page with [studies, reports and papers on disability](#)
- Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health ([A/HRC/35/21](#)).
Mandate's web page:
<http://www.ohchr.org/EN/Issues/Health/Pages/SRRRightHealthIndex.aspx>
- Mandate's web page on the Right to Mental Health:
<http://www.ohchr.org/EN/Issues/Health/Pages/RightToMentalHealth.aspx>
- Reports of the Special Rapporteur on the rights of persons with disabilities
 - [legal capacity reform and supported decision-making \(A/HRC/37/56\)](#)
 - [access to rights-based support for persons with disabilities \(A/HRC/34/58\)](#)
 - [disability-inclusive policies \(A/71/314\)](#)
 - [the right of persons with disabilities to social protection \(A/70/297\)](#)
- Web page of the Special Rapporteur on the rights of persons with disabilities:
<http://www.ohchr.org/EN/Issues/Disability/SRDisabilities/Pages/SRDisabilitiesIndex.aspx>
- Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment ([A/HRC/22/53](#))
- Web page of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment:
<http://www.ohchr.org/EN/Issues/Torture/SRTorture/Pages/SRTortureIndex.aspx>
- WHO QualityRights Tool Kit:
http://www.who.int/mental_health/policy/quality_rights/en/