1. **From your specific perspective and experience, please tell us how either at the local, national and/or regional level the right to mental health in different areas of a persons’ life has effectively been realized by ensuring the autonomy, independence and dignity of the rights-holders. What legislative and/or policy tools or other measures, if any, were used to this end?**

The right to mental health is progressively being recognized in Kenya. This is evidenced in the numerous policies and action plans that have been developed recently. Over the past ten years, Kenya has adopted a Mental Health Policy, a Mental Health Action Plan, a Kenya Mental Health Investment Case, and a Suicide Prevention Strategy (2021-2026), and all of these aim to realize the right to mental health in Kenya.

A key reform was made through the amendment of Kenya’s 1989 Mental Health Act in 2022. The Kenya National Commission on Human Rights notes however, that although the amendments to the Mental Health Act have incorporated a more human rights lens to mental health care, it still has several gaps. KNCHR is currently working on reviewing these provisions through the review of the Mental Health Policy. Positively, the Commission is represented at the Kenya Board on Mental Health, which was created through the amendments to the Act.

One of the key positives introduced through the amendments is the strong emphasis on community based mental health care in line with Article 19 and 25 of the CRPD. We know that community-based mental health services, rather than institutionalization, are key in ensuring the autonomy, independence and dignity of persons with psychosocial disabilities. So as much as there are still questionable gaps in the Amendment Act, the recognition and support for community based-mental health care services presents an opportunity to realize the right to mental health.

The integration of mental health services into primary health care has been particularly successful in counties like Nairobi and Mombasa, where local clinics offer psychosocial support services, raise awareness on the availability of and importance of seeking mental health services, thereby reducing the need for hospitalization. Community health volunteers also play a critical role in supporting the right to mental health. The Community Health Volunteers Facilitators Manual on non-communicable diseases one of which is mental health launched by the Ministry of Health aims to equip community health volunteers with the capacity to promote mental health at the community level through interventions such as identifying and supporting community re-integration for persons with psychosocial disabilities.

The Commission is pushing for the decriminalization of attempted suicide so that people can seek mental health services at the community level instead of being arrested. We have seen people willing to talk about the importance of decriminalizing attempted suicide and the value of access to care within the community. Through the quality rights initiative, the KNCHR was able to assess psychiatric facilities and map organizations of and for persons with psychosocial and intellectual disabilities in Kenya. The key challenge however is the implementation of the recommendations from these assessments and mapping reports due to funding constraints.

One of the members of the mental health network under the Commission is running a home-based intervention on community-based mental health care in Kilifi County, one of the counties in Kenya with the highest prevalence of mental health cases. This initiative provides home-based mental health care services to persons who are unable to physically go to health clinics due to transportation costs, critical conditions, or other disabilities. During home visits, awareness creation is also done to dispel myths and misconceptions regarding mental health conditions and to raise awareness to available caregivers on the support they need to give to the person with a mental health condition. As a result more people in Kilifi County are now more aware of mental health conditions and do not attribute them to misconceptions such as witchcraft.

1. **Which specific recommendations for States and other relevant stakeholders do you have, including suggestions of effective policy tools for the implementation of a human rights perspective to mental health?**

States should first abolish any legal provisions that permit the use of coercion in mental healthcare and continue to advocate for the recognition in law and practice for the recognition of legal capacity.

But legal reform is not enough. Noting that coercive practices persist due to the failure of States to fulfil their human rights obligations towards persons with psychosocial disabilities, it is necessary for them to adopt a multi-sectoral approach that addresses the conditions that allow coercive practices to take place. These include stigma towards persons with disabilities and the belief that they are dangerous and coercion is a “necessary evil”. Secondly, the unavailability of community-based services, resource constraints in mental health institutions in terms of low numbers of professional workers vis a vis the number of patients, which makes them resort to coercive practices, among others. One of the key policy tools that States could use is the WHO Quality Rights E-training that could target professionals working in mental health facilities. States should also carry out policy reforms that promote community-based approaches to mental health and deinstitutionalization.

States should strengthen NHRIs to monitor and collect data under article 33 of the UNCRPD.

States should decriminalize attempted suicide and other provisions criminalizing behaviors associated with mental health crises.

Last but not least, they should provide support beyond mental health services. We know that mental health outcomes are directly linked to the social determinants of health, so a human rights-based approach to mental health would seek to address social factors such as access to education and employment, social protection and protection from violence and discrimination.

1. **In your view, which should be the next steps in OHCHR’s work on mental health (e.g. thematic research, a more operational focus or else)?**

Need to do a thematic research on the outcomes of the trainings under the Quality Rights Initiative and legislative reforms. This should be done in partnership with NHRIs.