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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Australia, Austria, Belgium,* Brazil, Bulgaria, Croatia,* Denmark, Finland,* France,* Georgia,* Germany, Greece,* Italy, Lithuania,* Luxembourg,* Malta,* Monaco,* Mozambique,* Paraguay,* Peru, Philippines, Poland, Portugal,* San Marino,* Slovakia, Spain, Sweden,* Thailand,* Turkey* and Ukraine: draft resolution

43/... Mental health and human rights

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Guided also by the Universal Declaration of Human Rights and by all relevant international human rights treaties, in particular, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities,

Reaffirming Human Rights Council resolution 32/18 of 1 July 2016 and 36/13 of 28 September 2017 on mental health and human rights and its resolutions on the rights of persons with disabilities,

Welcoming the Sustainable Development Goals, including Goal 3, on ensuring healthy lives and promoting well-being for all at all ages, and its specific and interlinked targets,

Acknowledging that the promotion and protection of human rights and the implementation of the 2030 Agenda for Sustainable Development are interrelated and mutually reinforcing,

Welcoming the consultation on human rights and mental health,¹ organized by the United Nations High Commissioner for Human Rights on 14 and 15 May 2018 pursuant to Human Rights Council resolution 36/13, which, inter alia, identified strategies to promote human rights in mental health,

* State not a member of the Human Rights Council.

¹ See A/HRC/39/36.



Welcoming also the political declaration of the third high-level meeting of the General Assembly on the prevention and control of non-communicable diseases,²

Welcoming further the discussion held by the Joint United Nations Programme on HIV/AIDS on the theme of mental health and HIV/AIDS: promoting human rights, an integrated and person-centred approach to improving adherence to antiretroviral therapy, well-being and quality of life, during the thematic segment of the forty-third meeting of its Programming Coordinating Board in December 2018,

Welcoming the World Health Organization QualityRights initiative and its comprehensive package of training and guidance materials on how to implement a human rights and recovery approach in the area of mental health in line with the Convention on the Rights of Persons with Disabilities and other international human rights standards of November 2019,

Welcoming also the adoption at the Thirty-third International Conference of the Red Cross and Red Crescent, held in Geneva from 9 to 12 December 2019, of resolution 33IC/19/R2 on addressing mental health and psychosocial needs of people affected by armed conflicts, natural disasters and other emergencies,

Reaffirming that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing,

Reaffirming also that all human beings are born free and equal in dignity and rights, and recognizing that these rights derive from the inherent dignity of the human person,

Reaffirming further that everyone has the right 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, which includes the enjoyment of legal capacity on an equal basis with others, and that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Recalling the general principles reflected in the Convention on the Rights of Persons with Disabilities, namely respect for inherent dignity, individual autonomy and independence, non-discrimination, and full and effective participation and inclusion in society,

Reaffirming the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and emphasizing that mental health is an integral part of that right,

Welcoming the work of the treaty bodies and the special procedures of the Human Rights Council relating to issues of mental health and human rights, and taking note of their respective general comments and reports,

Reaffirming the right of everyone to be guaranteed the full enjoyment of their human rights and fundamental freedoms, without discrimination of any kind,

Deeply concerned that persons with mental health conditions or psychosocial disabilities, including persons using mental health services, continue to be subject to, inter alia, widespread, multiple, intersecting and aggravated discrimination, stigma, stereotypes, prejudice, violence, abuse, social exclusion and segregation, unlawful and arbitrary deprivation of liberty and institutionalization, overmedicalization and treatment practices that fail to respect their autonomy, will and preferences.

Equally concerned that such practices may constitute or lead to violations and abuses of their human rights and fundamental freedoms, sometimes amounting to torture or other cruel, inhuman, or degrading treatment or punishment,

Equally concerned also that suicide is the second leading cause of death in young people aged from 15 to 29 years, and is among the top 20 leading causes of death worldwide, and acknowledging that suicide attempts and self-harm must be addressed through prevention

² General Assembly resolution 73/2.

strategies and support services that promote and respect human rights and fight stigma and discrimination,

Recognizing the need to protect, promote and respect all human rights in the global response to mental health-related issues, and stressing that mental health and community services should integrate a human rights perspective so as to avoid any harm to persons using them and to respect their dignity, integrity, enjoyment of legal capacity on an equal basis with others, choices and inclusion in the community,

Emphasizing that States should ensure that persons with mental health conditions or psychosocial disabilities, in particular persons using mental health services, have access to a range of support services, including peer support, that are based on respect for human rights in order to live independently, be included in the community, exercise their autonomy and agency, participate meaningfully in and decide upon all matters affecting them and have their dignity respected, on an equal basis with others,

Reiterating how important it is for States to adopt, implement, update, strengthen or monitor, as appropriate, laws, policies and practices to eradicate any form of discrimination, stigma, violence and abuse in the context of mental health,

Recognizing the particularly important role that psychiatry and other mental health professions should have, alongside, inter alia, government institutions and services, actors within the justice system, including the penitentiary system, civil society organizations and national human rights institutions, in taking measures to ensure that practices in the field of mental health do not perpetuate stigma, discrimination and social exclusion, coercion, overmedicalization and institutionalization that lead to violations or abuses of human rights,

Acknowledging that the 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 models of care and support based on respect for human rights that, inter alia, address the underlying determinants of mental health, provide effective mental health and community-based services and psychosocial support, reduce power asymmetries in mental health settings and respect the enjoyment of autonomy on an equal basis with others,

Reaffirming that the right to the enjoyment of the highest attainable standard of physical and mental health is an inclusive right that encompasses tackling the underlying determinants of health through interventions, policies and programmes that protect persons from key risk factors of poor health,

Recalling that, according to the Constitution of the World Health Organization, health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity,

Acknowledging that good mental health and well-being cannot be defined by the absence of a mental health condition or psychosocial disability but rather by an environment that enables individuals and populations to live a life of dignity, with full enjoyment of their rights, in the equitable pursuit of their potential, and that values both social connection and respect through non-violent and healthy relationships at the individual and societal levels, and recognizing that discriminatory laws, policies, practices and attitudes undermine the social structures required to support well-being and inclusion,

Concerned that there is a continuing lack of parity between physical and mental health reflected in the marginalization of mental health within health policies and budgets or in medical education, research and practice, and stressing the importance of investing more on mental health promotion through a multisectoral approach that is based on respect for human rights and that also addresses the underlying social, economic and environmental determinants of mental health,

Reaffirming the right of refugees and migrants to the enjoyment, without discrimination, of the highest attainable standard of physical and mental health, and *underscoring* the vulnerable situations that can have a negative impact on the mental health of persons on the move,

Recognizing that women and girls with mental health conditions or psychosocial disabilities at all ages, in particular those using mental health services, face an increased vulnerability to violence, abuse, discrimination and negative stereotyping, and underscoring the need to take all appropriate measures to ensure access to mental health and community services that are gender-sensitive,

Acknowledging the intersections between mental health and HIV and that the multiple or aggravated forms of discrimination, stigma, violence and abuse often faced by people living with, presumed to be living with or affected by, HIV/AIDS and members of key populations have negative consequences on their enjoyment of the highest attainable standard of mental health and underlining the importance of improving psychosocial well-being and the quality of life of people affected and living with HIV through the implementation of community-, evidence- and human rights-based and people-centred policies and programmes in the context of HIV prevention, diagnosis, treatment and comprehensive care services,

Convinced that the Human Rights Council, in fulfilling its responsibility for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner, has an important role to play in the area of mental health and human rights, to foster constructive international dialogue and cooperation, and to promote human rights education and learning, and also advisory services, technical assistance, capacity-building and awareness-raising,

Acknowledging the leadership of the World Health Organization in the field of health and also the work that it has carried out to date to, inter alia, integrate a human rights perspective into mental health, and recalling the commitment of States to implement by 2030 the Organization's comprehensive mental health action plan,

1. *Takes note with appreciation* of the report of the United Nations High Commissioner for Human Rights on mental health and human rights on the consultation on human rights and mental health held in Geneva on 14 and 15 May 2018;³

2. *Also takes note with appreciation* of the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on the critical role of the social and underlying determinants of health in advancing the realization of the right to mental health;⁴

3. *Further takes note with appreciation* the reports of the Special Rapporteur on the rights of person with disabilities on the right of persons with disabilities to equal recognition before the law;⁵

4. *Takes note with appreciation* of the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on questions arising in relation to the notion of "psychological torture" under human rights law;⁶

5. *Reaffirms* the obligation of States to protect, promote and respect all human rights and fundamental freedoms and to ensure that policies and services relating to mental health comply with international human rights norms;

6. *Urges* States to take active steps to fully integrate a human rights perspective into mental health and community services, and to adopt, implement, update, strengthen or monitor, as appropriate, all existing laws, policies and practices, with a view to eliminating all forms of discrimination, stigma, stereotypes, prejudice, violence, abuse, social exclusion, segregation, unlawful or arbitrary deprivation of liberty and institutionalization, and overmedicalization within that context, and to promote the right of persons with mental health conditions or psychosocial disabilities to live independently, to full inclusion and effective participation in society, to decide upon matters affecting them and to have their dignity respected on an equal basis with others;

³ Ibid.

⁴ A/HRC/41/34.

⁵ A/HRC/37/56 and A/HRC/40/54.

⁶ A/HRC/43/49.

7. *Also urges* States to promote a paradigm shift in mental health, inter alia, in the fields of clinical practice, policy, research, medical education and investment, through the promotion of community-, evidence- and human rights-based and people-centred services and supports that protect, promote and respect the enjoyment of the rights, autonomy, will and preferences of all persons, including by providing a range of voluntary supported decision-making mechanisms, such as peer support, and safeguards against abuse and undue influence within support arrangements, over a model based on the dominance of biomedical interventions, coercion, medicalization and institutionalization;

8. *Calls upon* States to abandon all practices and treatments that fail to respect the rights, autonomy, will and preferences of all persons on an equal basis with others, and that lead to power imbalances, stigma, discrimination, harm and human rights violations and abuses in mental health settings;

9. *Also calls upon* States to ensure that persons with mental health conditions or psychosocial disabilities, including users of mental health services, have access to justice on an equal basis with others, including through the provision of procedural and age-appropriate accommodations;

10. *Urges* States to address the underlying social, economic and environmental determinants of health and to address holistically the range of barriers arising from inequality and discrimination that impede the full enjoyment of human rights in the context of mental health;

11. *Strongly encourages* States to develop cross-sectoral strategies for the promotion of mental health that include public policies to prevent inequality, discrimination and violence in all settings and promote non-violent and respectful relationships between members of societies and communities, and increase mutual trust between authorities, individuals and civil society;

12. *Urges* States to adopt prevention strategies to address depression and suicide, such as public health policies that respect human rights and focus on tackling determinants, enhancing life skills and resilience, promoting social connection and healthy relationships, and avoiding overmedicalization;

13. *Calls upon* States to take all the measures necessary to ensure that health professionals provide care and support of the same quality to persons with mental health conditions or psychosocial disabilities, in particular persons using mental health services, as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of these persons through training and the promulgation of ethical standards for public and private health care;

14. *Strongly encourages* States to support persons with mental health conditions or psychosocial disabilities to empower themselves in order to know and demand their rights, including by promoting health and human rights literacy, to provide human rights education and training for health and social 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, confidentiality and privacy, and to exchange best practices in this regard;

15. *Encourages* States to promote the effective, full and meaningful participation of persons with mental health conditions or psychosocial disabilities and their organizations in the design, implementation and monitoring of law, policies, services and programmes relevant to realizing the right of everyone to the enjoyment of the highest attainable standard of mental health;

16. *Recognizes* the need to promote the mainstreaming of a human rights perspective into mental health in all relevant public policies;

17. *Encourages* States to provide technical support and capacity-building through international cooperation to countries that develop and implement policies, plans, laws and services that promote and protect the human rights of persons with mental health conditions or psychosocial disabilities, in accordance with the present resolution, in consultation with, and with the consent of, the countries concerned;

18. *Requests* the High Commissioner to organize in 2021, and no later than the seventy-fourth session of the World Health Assembly, a one-day consultation to discuss the best ways to harmonize national laws, policies and practices relating to mental health with the norms of the Convention on the Rights of Persons with Disabilities;

19. *Also requests* the High Commissioner to provide the above-mentioned consultation with all the services and facilities necessary to fulfil its activities, including by making the discussions fully accessible to persons with disabilities;

20. *Further requests* the High Commissioner to invite to the consultation Member States and all other stakeholders, including relevant United Nations bodies, agencies, funds and programmes, in particular the World Health Organization, the special procedures of the Human Rights Council, in particular the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the rights of persons with disabilities and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the treaty bodies, national human rights institutions and civil society;

21. *Requests* the High Commissioner to invite persons with mental health conditions or psychosocial disabilities, including persons using mental health services, and their organizations, and to ensure their active participation in the consultation, mindful of the central role they play and their historical exclusion from decision-making processes;

22. *Also requests* the High Commissioner to prepare a report on the outcome of the consultation, with recommendations for States and all other relevant stakeholders, including health professionals, on ways to harmonize, as appropriate, laws, policies and practices relating to mental health with the norms of the Convention on the Rights of Persons with Disabilities and on how to implement them, and to present the report to the Human Rights Council at its forty-ninth session;

23. *Decides* to remain seized of the matter.
