**Human Rights Council**

**Mental Health and Human Rights**

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Chair, Committee on the Rights of Persons with Disabilities

Good afternoon, and thank you for the opportunity to participate in this forum. Ensuring the exercise of human rights for people with psychosocial disabilities is a critical area of law reform. This forum is an opportunity to build on the outcomes and recommendations of the 2018 consultation conducted by the Human Rights Council to identify strategies to promote human rights in mental health.

This has long been a complex area for law reform, because it has been dominated by a biomedical system that perceives people with psychosocial disabilities not as rights holders but as requiring treatment, management and control. The resulting denial of rights is framed as safeguarding, whether that is safeguarding for the person experiencing distress or safeguarding of the community where the person is perceived as dangerous.

The Convention on the Rights of Persons with Disabilities, the CRPD, provides the principles and standards that recognise people with psychosocial disabilities as rights holders, that impairment should not be the basis for the diminishment or limitation of human rights. The essential task is to ensure that all human rights and fundamental freedoms are applied equally to people with psychosocial disabilities, which means that mental health services and supports should be focused on facilitating and upholding these human rights, not limiting or diminishing them.

We have the opportunity for a new era in law reform where human rights are realised for people with psychosocial disabilities. Key to this is ensuring that law reform encompasses these critical elements:

1. The recognition of legal capacity for people with psychosocial disabilities, the dismantling of substitute decision-making mechanisms and the establishment of supported decision-making. This underpins a system where people with psychosocial disabilities are rights holders, autonomous and active participants in determining their own lives, and the mental health supports and services they need.
2. People with psychosocial disabilities and their representative organisations need to be recognised as mental health experts, as active participants in designing and implementing mental health supports, including through peer support, user-led mental health services, and co-designed mental health programs and responses. This requires active support and resourcing for representative organisations of people with psychosocial disabilities, and strategies, such as a Standing Consultative Mechanism made up of people with disabilities.
3. A prohibition of detention on the basis of impairment and explicit recognition of the principle of free and informed consent for health care. Involuntary commitment in mental health facilities and forced and coercive treatment denies human dignity and needs to be recognised as impermissible at international human rights law.
4. Protection of the security and personal integrity of people with psychosocial disabilities, including by eliminating the use of seclusion and restraints, such as shackling and other forms of physical, chemical and mechanical restraints. National Preventive Mechanisms need to be established and have oversight over places of detention where people with psychosocial disabilities are placed.
5. Community based alternatives to institutional settings, such mental health facilities and forensic hospitals. There is a need for effective deinstitutionalisation strategies and the establishment of person-centred community based support services to prevent and eliminate the institutionalisation of people with psychosocial disabilities.
6. Reform of legal processes to facilitate access to justice and to enable people with psychosocial disabilities to obtain appropriate redress and reparation.

There is significant guidance to assist States in the necessary law reform required to ensure that the human rights of people with psychosocial disabilities are respected, protected and fulfilled. This guidance includes the Committee’s General Comments on equal recognition before the law, living independently and being included in the community, equality and non-discrimination, women with disabilities, and participation of representative organisations as well as our Guidelines on liberty and security of persons with disabilities.

Law reform in this complex area is long overdue, and I thank the Human Rights Council for promoting this critical area of reform for people with disabilities. Without this legal reform there will be no transformation into a society where all human rights and fundamental freedoms are realised.

Thank you