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DISCUSSION PAPER:
**A RIGHTS-BASED APPROACH
TO DISABILITY IN THE
CONTEXT OF MENTAL HEALTH**
SUMMARY NOTE

*The discussion paper is a supplement to the
MHPSS Technical Note (2019)*

CONTEXT

Over the last decade, mental health has become an important part of international discussions on global development. The 2030 Agenda for Sustainable Development contains specific references to mental health and substance abuse, which has led to several high-level political processes. Important voices are increasingly calling for the expansion of mental health services, as well as for a greater understanding of the impact of mental health on development and its role in achieving health, educational, social and economic outcomes, particularly in the case of children and adolescents.

At the same time, concerns have been raised about some of the foundations, approaches and human rights implications of the global mental health agenda. Different United Nations bodies and mechanisms have pointed out the need to ensure that mental health systems embrace a human rights-based approach. The Convention on the Rights of Persons with Disabilities (CRPD), adopted in 2006, has served as a catalyst for this new impetus for rethinking mental health from a human rights perspective.

A youth from Aceh, Indonesia poses with a sign that is part of a campaign to raise awareness of Mental Health Day, 10 October 2020.
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A RIGHTS-BASED APPROACH TO DISABILITY IN THE CONTEXT OF MENTAL HEALTH

The exercise of particular rights of persons with psychosocial disabilities and with intellectual disabilities has historically been denied or restricted in the context of mental health provision, namely the right to equal recognition before the law, the right to liberty and security, the right to live independently in the community, and freedom from non-consensual medical treatment and experimentation. All these rights and freedoms are inextricably linked to the full and effective enjoyment of the right to the highest attainable standard of health.

The CRPD challenges all these practices and introduces a human rights model of disability, which considers disability as a social construct and, thus, highlights the need to remove all societal structures, barriers and practices that limit the full and equal enjoyment of all human rights by all persons with disabilities. Persons with psychosocial and intellectual disabilities are recognized as equal members of a diverse humanity, with the same rights as everybody else.

Mental health and psychosocial support services should adopt and integrate the rights-based approach to disability and move away from practices contrary to the rights of persons with disabilities. Persons with psychosocial disabilities must enjoy the right to the highest attainable standard of health without discrimination and benefit from the right to health framework on an equal basis with everybody else, including freedoms, entitlements, underlying determinants of health and essential elements.

Mental health and psychosocial support policies and programmes must also respond to the heterogeneous needs of the disability community and seek to overcome the impact of the multiple, intersecting and aggravated forms of discrimination. The human rights approach to disability, in conjunction with the child rights approach, calls for seeing children and adolescents with disabilities as rights holders, entitled to exercise their rights and to actively participate in all matters that affect them.

HUMAN RIGHTS CHALLENGES IN THE PROVISION OF MENTAL HEALTH SERVICES

A number of human rights challenges affect the provision of mental health services, particularly the rights of people with psychosocial and intellectual disabilities.

■ **Biomedical approach to mental health**

A major concern is the prevalence of the biomedical model of mental illness, which emphasizes its biological factors rather than subjective and social ones. The biomedical framing gives priority to psychiatric diagnosis and pharmacological responses over other interventions, thereby risking to medicalize and pathologize social suffering and human diversity.

■ **Stigma and discrimination**

Stigma and prejudices against people with psychosocial disabilities or experiencing emotional distress affect their self-esteem, produce isolation and prevent them from seeking support. Furthermore, stigma may lead to discrimination, violence and social exclusion, negatively affecting peoples' lives in a variety of ways.

■ **Limited availability and access to quality mental health and psychosocial support**

Levels of public expenditure on mental health are still very low, particularly in low- and middle-income countries. Most investments go to long-term institutional care and psychiatric hospitals, often associated with gross human rights violations. The availability of interdisciplinary and community-based mental health and psychosocial support services as close as possible to people's own communities is insufficient.

■ **Extensive practice of coercion in mental health services**

Coercive practices in mental health facilities are not only common but rising. These practices can hinder processes of healing and recovery, and have a lasting negative impact on children and adolescents' mental health and well-being.

PROMOTING RIGHTS-BASED RESPONSES IN THE PROVISION OF MENTAL HEALTH AND PSYCHOSOCIAL SUPPORT

UNICEF can play a key role in promoting a rights-based approach to disability in mental health and psychosocial support provision, as a way to realize the right to mental health and the psychosocial well-being of children and young people.

■ Improving the law and policy response

The need to improve law and policy responses at the national and subnational levels is pressing. Mental health-related legislation needs to be reviewed in light of CRPD standards and to respect the rights of service users and persons with psychosocial disabilities on an equal basis with others. In addition, mental health strategies and policies need to ensure a community-based approach and encompass recovery-oriented interventions in order to ensure the availability, accessibility, quality and acceptability of mental health and psychosocial support programmes and services. Peer-led interventions deserve further attention and investment.

■ Interventions beyond mental health services

Social determinants have an impact on mental health and well-being. Ensuring a rights-based approach to mental health calls for addressing the individual needs of people, as well as the physical, psychosocial, political and economic environment that surround them. The rights to family life, freedom from violence, education, employment and living in the community are key to securing inclusion and improve mental health.

■ Accountability and monitoring

Accountability and monitoring are crucial to ensure that mental health and psychosocial support services are inclusive and respectful of human rights. They allow service users and persons with disabilities to know how States fulfil their obligations towards them and to claim redress when their rights have been violated.

■ Ending coercion in mental health

Promoting law and policy reform processes is needed to end coercion against service users and persons with disabilities receiving mental health care. Promising responses to eliminate coercion in mental health provision, including support services for persons experiencing crises and emotional distress, need to be further researched and increased. Promoting a process of deinstitutionalization of all children and adolescents with disabilities from all kinds of institutions should be a priority.

■ Improving participation

Children and adults with disabilities have the right to be consulted and actively involved in all decisions affecting them, including the implementation of mental health care services. They know best which barriers they face in the enjoyment of the right to mental health, and how this affects their lives. No policy should be decided without their direct and full involvement.

■ Awareness raising to address stigma and discrimination

Promoting positive perceptions and greater social awareness of persons with psychosocial disabilities and users of mental health services is needed, changing attitudes and combating negative stereotypes, labelling, stigma and discrimination against them.

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