



**Center for the Human Rights of
Users and Survivors of Psychiatry**

CRPD Indicators

The following indicators were devised to provide additional detail and experiential expertise as a complement to the CRPD Committee's Reporting Guidelines.

They do not attempt to present a final judgment, rather the best effort of CHRUSP and colleagues in the Campaign for the Absolute Prohibition of Commitment and Forced Treatment, to set out standards for implementation of relevant provisions of the Convention on the Rights of Persons with Disabilities.

They present a vision of transformation that may be useful to human rights defenders who want to assess their own country's or another country's laws and policies, and/or reform initiatives. They may also be useful for those who want to draft law and policy reforms.

We have benefited by studying law reform initiatives and alternative practices that we are aware of in different parts of the world, but are limited by our particular knowledge and perspectives. We look forward to comments and feedback from all regions by users and survivors of psychiatry/people with psychosocial disabilities and allies that will help us to continue to improve and refine. We are also interested in similar projects by other groups led by users/survivors/persons with psychosocial disabilities that can supplement our own, and that are similarly in support of absolute prohibition.

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1. Article 12

Law recognizes capacity to act of all adults.	
No restrictions can be placed on an adult's capacity to act.	
Free and informed consent can only be given by the person concerned and not by a third party.	
Notaries, courts, health care providers, financial services and other actors involved in the exercise of legal capacity must ensure that their processes are accessible, offer and provide accommodations, and cooperate with individuals' chosen support arrangements.	
Mechanisms exist to facilitate the creation of arrangements for support in exercising legal capacity that respect the autonomy, will and preferences of the person concerned.	
<ul style="list-style-type: none"> • Everyone who desires support in exercising legal capacity is entitled to have such arrangement facilitated at no cost. 	
<ul style="list-style-type: none"> • Outreach is conducted to offer support, at all times with respect for the person's autonomy, will and preferences. 	
<ul style="list-style-type: none"> • Support arrangements can only be created, maintained and ended based on the will of the person concerned. 	
<ul style="list-style-type: none"> • Accommodations and support are defined by the person and acceptable to the person. 	
Safeguards are designed as follows:	
<ul style="list-style-type: none"> • to educate rights-holders and duty-bearers about decision-making rights, including duty to respect the person's autonomy, will and preferences. 	
<ul style="list-style-type: none"> • to provide advocacy support and redress against the failure of any duty bearer to respect an individual's decision-making, and/or against the denial, abuse or malfunctioning of any processes or mechanisms related to the exercise of legal capacity, including support arrangements, facilitation mechanisms, outreach, and accommodations. 	
First responders, health care providers, and other relevant actors must respect the decision-making of adults at all times, including in crisis situations and emergencies.	
When, after significant effort, it is not feasible to determine the person's will and preferences, a best interpretation of will and preferences will be made.	
<ul style="list-style-type: none"> • Determination of will and preferences accepts all forms of intentional communication. 	
<ul style="list-style-type: none"> • Significant effort includes giving effect to accommodations and support. 	
<ul style="list-style-type: none"> • Interpretation requires ongoing interaction and is never applied in opposition to intentional communication. 	
Best interests principle is not applied to adults, for reasons of protection, security, or otherwise.	

<p>Effective remedies are provided for failure to respect legal capacity and decision-making, and for denial of support or accommodations or inadequate access to support and accommodations.</p>	
<p>Process:</p>	
<ul style="list-style-type: none"> • Reforms of law, policy, and practices are enacted to abolish all forms of substitute decision-making and to implement and enforce universal adult legal capacity and access to support that respects the person’s autonomy, will and preferences. 	
<ul style="list-style-type: none"> • All measures are designed, implemented, and assessed in close collaboration with users and survivors of psychiatry and persons with psychosocial disabilities, and their representative organizations, who are actively involved in setting the agenda, training and briefing government personnel, and serving in an expert capacity throughout the process. 	

2. Article 14

All instances of detention based on an actual or perceived mental health condition, or other actual or perceived impairment, are recognized as arbitrary detention for all purposes in relevant law and policy, and all such detention regimes are prohibited by law.	
No legal authorization exists for deprivation of liberty, or for any violation of the security of the person, based in whole or in part on any actual or perceived impairment. In particular:	
<ul style="list-style-type: none"> • No legal authorization exists for deprivation of liberty in mental health services or facilities, for any duration. 	
<ul style="list-style-type: none"> • No legal authorization exists for involuntary hospitalization or involuntary treatment, in mental health services or in general health care. 	
<ul style="list-style-type: none"> • No legal authorization exists for a substitute decision-maker to consent to hospitalization, institutionalization or treatment. 	
<ul style="list-style-type: none"> • No legal authorization exists for deprivation of liberty based on actual or perceived impairment, or actual or perceived variations in decision-making skills, alone or in combination with other criteria such as risk to oneself or others. 	
<ul style="list-style-type: none"> • No legal authorization for deprivation of liberty based on protection of the person concerned. 	
<ul style="list-style-type: none"> • No legal authorization exists for any other form or ground of deprivation of liberty that disproportionately or prejudicially affects persons with disabilities, or that subverts the prohibition of disability-based detention. 	
A person who is detained or treated without their free and informed consent in violation of Articles 5, 12 and/or 14 has access to an immediate and effective remedy to be released.	
Everyone has the right to be provided with desired mental health services and/or other supports based on their free and informed consent, and to refuse any unwanted services without penalty, including in emergency or crisis situations.	
<ul style="list-style-type: none"> • No threats, coercion, intimidation, incentives, disincentives, undue influence, or deception may be applied to obtain a person's consent to mental health services or other services provided to persons with disabilities, or to prevent them from leaving a facility or refusing a service. 	
<ul style="list-style-type: none"> • Devices and assistance are provided when either or both are needed by an individual to come and go freely from a residential or treatment facility. 	
Criminal justice provisions in law provide for the right of everyone to have a fair trial to determine responsibility and penalties, without discrimination based on actual or perceived impairment, or actual or perceived variations in decision-making skills.	

<ul style="list-style-type: none"> • Accommodations and support are provided in the exercise of these rights. 	
<ul style="list-style-type: none"> • No one is declared incompetent to exercise the right to a fair trial. 	
<ul style="list-style-type: none"> • No one is declared incompetent to be held criminally responsible. 	
<ul style="list-style-type: none"> • Diversion and restorative justice measures are equally available to persons with disabilities and do not include measures that require compliance with mental health treatment. 	
Legal provisions related to arrest and detention of any kind contain:	
<ul style="list-style-type: none"> • No separate standards for detention based on actual or perceived impairment. 	
<ul style="list-style-type: none"> • An obligation of non-discrimination based on disability or other factors, including reasonable accommodation. 	
The right to humane treatment in detention settings is guaranteed equally to persons with disabilities, including reasonable accommodation and incorporating the rights and principles in CRPD as they apply to situation of detention.	
<ul style="list-style-type: none"> • No one can be involuntarily transferred to a mental health facility or unit. 	
<ul style="list-style-type: none"> • No one can be subjected to involuntary treatment. 	
<ul style="list-style-type: none"> • Everyone has the right to be provided with desired mental health services and/or other supports based on their free and informed consent, and to refuse any unwanted services without penalty. 	
Law provides for effective enforceable remedies and reparation for violations, including immediate release from any form of impairment-based detention, and immediate cessation of any involuntary treatment.	
Process:	
<ul style="list-style-type: none"> • Reforms of law, policy, and practices are enacted to abolish all forms of impairment-based detention including all mental health commitment and forced treatment, to eliminate discrimination in the criminal justice system and other forms of permitted detention, and to provide effective remedies for violations. 	
<ul style="list-style-type: none"> • All measures are designed, implemented, and assessed in close collaboration with users and survivors of psychiatry and persons with psychosocial disabilities, and their representative organizations, who are actively involved in setting the agenda, training and briefing government personnel, and serving in an expert capacity throughout the process. 	

3. Articles 15, 16, 17

Forced interventions in mental health services, and other disability-specific forms of violence, exploitation and abuse, are defined as indicated below and recognized as torture and other ill treatment for all purposes under relevant legislation.	
<ul style="list-style-type: none"> Forced interventions are understood to include the administration of psychiatric medication, electroshock, or psychosurgery, or placement in a psychiatric treatment facility or institution, against a person's will or without the free and informed consent of the person concerned, and the use of restraints or solitary confinement. 	
<ul style="list-style-type: none"> Mechanisms are functioning to define and recognize other disability-specific forms of violence and abuse as torture and other ill-treatment, including psychiatric and other medical practices and treatments that are consistently found to produce serious harm. 	
Forced interventions in mental health services, and other disability-specific forms of violence and abuse, are prohibited by law, without exception.	
<ul style="list-style-type: none"> Criminal penalties cover forced interventions and other disability-specific forms of violence and abuse, and these penalties are not precluded by defenses (such as third party consent to medical treatment or doctrine of medical necessity). 	
National torture prevention mechanism (NPM) applies CRPD standards under Articles 12, 14 and 15.	
<ul style="list-style-type: none"> Promotes reform of law and policy to abolish forced interventions, protect the right to free and informed consent including the right to refuse treatment, and guarantee the right of adults to have their decision-making respected at all times, including in crisis situations. 	
<ul style="list-style-type: none"> Identifies and condemns each instance of forced intervention as a violation of the right to be free from torture and other ill-treatment, and calls for the release of victims and cessation of all violations against them. 	
Remedies and reparation are provided individually and collectively to victims of forced interventions in mental health services and other forms of disability-specific violence and abuse.	
<ul style="list-style-type: none"> Includes all forms of reparation: satisfaction, guarantees of non-repetition, restitution, compensation and rehabilitation, as defined in UN Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law. 	
<ul style="list-style-type: none"> Includes symbolic and practical measures acceptable to survivors, to mark change in policy and move forward. 	

<ul style="list-style-type: none"> Existing statutory protection (e.g. domestic violence) and compensation schemes (e.g. anti-discrimination, victims compensation) are reformed to ensure they apply to forced interventions and other disability-specific violence and abuse in all settings. 	
<p>Process:</p>	
<ul style="list-style-type: none"> Remedies and reparation are provided for by law on an ongoing basis to all victims of disability-specific forms of violence. 	
<ul style="list-style-type: none"> With respect to systematic violations or a pattern of violations, law and policy are developed to create a targeted initiative to overturn and abolish all laws, policies, practices and customs that have sustained the violations. 	
<ul style="list-style-type: none"> All measures are designed, implemented, and assessed in close collaboration with users and survivors of psychiatry and persons with psychosocial disabilities, and their representative organizations, who are actively involved in setting the agenda, training and briefing government personnel, and serving in an expert capacity throughout the process. 	

Articles 19 and 25

Access to support is an enforceable right.	
Support is defined by the person and acceptable to the person.	
<ul style="list-style-type: none"> • Budget is under person's control. 	
<ul style="list-style-type: none"> • Person chooses supporters freely. 	
<ul style="list-style-type: none"> • Kind of support is determined by the person. 	
<ul style="list-style-type: none"> • Forms of support that are desired but not yet available will be developed to meet expressed needs. 	
All forms of support, including temporary and long-term residential support, adhere to standards to ensure they do not amount to institutional care.	
<ul style="list-style-type: none"> • Supporters respect personal autonomy and decision-making at all times. 	
<ul style="list-style-type: none"> • Supporters respond to expressed needs and do not take charge of the person's goals or activities. 	
Forms of support can include (but are not limited to):	
<ul style="list-style-type: none"> • Crisis support and respite (residential and non-residential options). 	
<ul style="list-style-type: none"> • Advocacy and mediation in conflicts with authorities or others. 	
<ul style="list-style-type: none"> • Harm reduction approaches to self-harm and suicide, that fully respect personal autonomy and decision-making. 	
<ul style="list-style-type: none"> • Outreach to offer support, that respects at all stages the person's right to engage further or refuse. 	
<ul style="list-style-type: none"> • Personal assistance by one or more persons, with any tasks or support needs defined by the person and mutually agreed. 	
<ul style="list-style-type: none"> • Mutual support relationships and groups. 	
<ul style="list-style-type: none"> • Support arrangements created in context of family or community relationships. 	
<ul style="list-style-type: none"> • Mentoring by elders or any chosen advisers. 	
<ul style="list-style-type: none"> • Assistance in accessing medication, making decisions about medication, and withdrawing from medication. 	
<ul style="list-style-type: none"> • Any other form of support defined by the person and mutually agreed by chosen supporters. 	
All forms of support are implemented with a feminist gender perspective, and feminist support by women for women is available.	
Mental health services are distinguished from support.	
<ul style="list-style-type: none"> • Support is entirely determined by mutual agreement. 	
<ul style="list-style-type: none"> • Mental health services are those services provided by mental health professionals according to their professional standards. 	
<ul style="list-style-type: none"> • Support and mental health services are both offered without any requirement to use one in order to access the other. 	
<ul style="list-style-type: none"> • No diagnosis or assessment is required for support. 	

Mental health services include both medical and non-medical approaches.	
Medical and non-medical mental health services can only be provided with free and informed consent of the person concerned.	
<ul style="list-style-type: none"> • Interactive process based on results desired by person. 	
<ul style="list-style-type: none"> • Refusal must be respected as exercise of legal capacity. 	
<ul style="list-style-type: none"> • No exceptions to requirement to respect consent or refusal of person concerned. 	
<ul style="list-style-type: none"> • Best interpretation of will and preferences is applied only when after significant effort, it is not feasible to determine the person's will and preferences (see under Article 12). 	
<ul style="list-style-type: none"> • Duty is imposed on service providers to refrain from any undue influence, coercion or incentives aimed at inducing consent. 	
<ul style="list-style-type: none"> • Duty is imposed on service providers to provide information in both technical and easy to read formats, on nature of proposed treatment, adverse effects and risks, likelihood of achieving results desired by the person. 	
<ul style="list-style-type: none"> • Duty is imposed on service providers to discuss all options available related to the desired results, including non-medical and medical approaches, avoiding services, and possibility of support outside mental health services. 	
<ul style="list-style-type: none"> • Duty is imposed on service providers to seek decision from the person concerned, not from any supporters. 	
Effective remedies are available to enforce the right to support.	
Process:	
<ul style="list-style-type: none"> • Laws, policies, and practices are enacted to create an enforceable right to support and to develop and finance services where needed to meet support needs. 	
<ul style="list-style-type: none"> • Laws, policies, and practices are enacted to ensure free and informed consent in mental health services, and to ensure that services are available, affordable and acceptable to meet expressed needs. 	
<ul style="list-style-type: none"> • All measures are designed, implemented, and assessed in close collaboration with users and survivors of psychiatry and persons with psychosocial disabilities, and their representative organizations, who are actively involved in setting the agenda, training and briefing government personnel, and serving in an expert capacity throughout the process. 	