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PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

**Written statement* submitted by the World Network of Users and Survivors of
Psychiatry (WNUSP), a non-governmental organization in
special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2007]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Implications of the Convention on the Rights of Persons with Disabilities for people with psychosocial disabilities, law and mental health policy

The World Network of Users and Survivors of Psychiatry (WNUSP) wishes to draw the attention of the Human Rights Council to the Convention on the Rights of Persons with Disabilities, and its importance for our constituency of users and survivors of psychiatry. The Convention upholds the principle of individual autonomy, including the freedom to make one's own choices, for all people with disabilities (Article 3). To protect this freedom, the Convention requires States parties to recognize that people with disabilities enjoy legal capacity on an equal basis with others in all aspects of life, and to provide access to support in exercising legal capacity (Article 12).

The UN High Commissioner for Human Rights recognized the importance of legal capacity as the right to make one's own decisions in her report to the Human Rights Council on 17 January 2007, when she said:

The Convention reaffirms that persons with disabilities have the right to recognition everywhere as persons before the law and that they enjoy legal capacity on an equal basis with others... [T]he recognition of the legal capacity of persons with disabilities acknowledges that persons with disabilities can make decisions affecting their lives. Where necessary, States parties have to take appropriate measures to provide access to support for persons with disabilities so that they are able to take decisions on their own behalf. (U.N. Doc. A/HRC/4/75, paragraph 34.)

In addition, people with disabilities have equal rights to liberty and security of the person (Article 14), and health care must be provided on the basis of free and informed consent (Article 17). People with disabilities also have the right to live in the community with choices equal to others (Article 19) and to respect for the physical and mental integrity of the person (Article 17). These rights, now guaranteed to people with psychosocial disabilities without any discrimination, require changes in laws governing legal capacity, and in the way services are provided in the mental health system. In particular, guardianship, compulsory institutionalization and compulsory treatment must be prohibited. Instead of coercive mechanisms, support must be provided that respects the individual's will and preferences and is conducive to personal development.

International and national mental health policy must be based in human rights as articulated by the Convention, and incompatible standards such as the 1991 Principles on the Protection of Persons with Mental Illness can no longer be considered valid. All mental health services must be based on free and informed consent of the person concerned, and any doubts about a person's will and preferences must be resolved in the context of supported decision-making. Liberty may not be deprived on the basis of mental health status, and institutionalization must be ended as all people with disabilities have the right to live in the community.

World Network of Users and Survivors of Psychiatry also wishes to draw attention to the provision of Article 4.3 of the Convention, requiring close consultation with organizations of persons with disabilities. WNUSP member organizations exist in over 50 countries, in all parts of the world, and must be involved in implementation of the Convention. WNUSP continues to represent our constituency at the international level and welcomes opportunities to assist with implementation by providing human rights and policy expertise.
