Statement by Tina Minkowitz, Center for the Human Rights of Users and Survivors of Psychiatry

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**Recommendations for a Substantive Equality Approach to Article 27**

Thank you for giving me the floor to address recommendations.

* The Committee should refer to persons with psychosocial disabilities as a stand-alone sector of persons with disabilities.
* States should take a substantive equality approach to identify and remove barriers to full and equal enjoyment of the right to work and employment and the freedom from forced labor.
* Medicalization of psychosocial disability in the context of employment must be eliminated.
* Ability and fitness for employment should be demonstrated through performance, references, trial periods, in-depth interviews over time, and other means that allow employers and employees to determine suitability for a position.
* Questions about the existence of a past or present disability, history of involuntary hospitalization or institutionalization, or history of criminal arrest or conviction, must also be eliminated. There should be no requirement to account for one’s entire work history or life trajectory; applicants should be able to demonstrate their competence and qualifications by various means without prejudice.
* Disability pension and social protection schemes must not penalize persons with disabilities for pursuing employment. These schemes are required to comply with the right to an adequate standard of living and should overlap with persons with disabilities’ periods of employment, with grace periods and easy access to resumption of benefits in order to avoid precarity. No one should be penalized for informal labor to meet basic needs.
* Reasonable accommodation processes should be needs-based. Employees should be allowed to describe the need in their own terms, refrain from any unwanted disclosures, and collaborate with the employer to come up with a solution.
* Workplace health and safety standards must not single out persons with disabilities for risk assessment. Objective and reasonable standards should be created and applied taking an inclusive equality approach, informed by the needs and subjectivities of persons with all types of disabilities.
* Conflict in the workplace must not be medicalized or equated with violent conduct as a threat to safety. Restorative justice may be useful in the workplace so long as it is welcomed by all parties, is fair to all and does not entail medicalization or paternalism.
* Personal support in relation to job performance should be provided as personal assistance rather than instituting supported employment as a categorically distinct relationship to the workplace mediated by service providers.
* The obligation to eliminate all regimes of involuntary hospitalization, institutionalization, legal incapacitation and guardianship must be reiterated in the context of Article 27. Those regimes impoverish persons with disabilities and are conducive to forced labor, and reparations must address the right to work and employment.
* The Committee should take into account the severe impact of the pandemic on countries where a large part of the population is already living in extreme poverty, and on persons with disabilities in those countries, in formulating policy on Article 27 that is capable of reaching all persons with disabilities and leaving no one behind.