**Consultation on Human Rights and Mental Health**

***“Identifying strategies to promote human rights in mental health”***

**14 – 15 May 2018, Room XVI, *Palais des Nations*, Geneva, Switzerland**

**Concluding Remarks of Special Rapporteur on Torture**

**Prof. Nils Melzer**

Excellences, Ladies and Gentlemen, dear friends and colleagues,

During the past two days, we have discussed many issues related to mental health, including a broad range of difficulties and abuse experienced by persons with psycho-social disabilities. As you know, my mandate is focused on the prohibition of torture and other cruel, inhuman and degrading treatment or punishment. Obviously, not everything that is problematic or even unlawful necessarily amounts to torture or other ill-treatment. This does not mean that these other problems of violations are not serious. They are. But we also have to be aware that some of the abuse suffered in the area of mental health do amount to torture and other ill-treatment and, therefore, must be considered as some of the most serious crimes that can be committed on this planet.

Therefore, during my tenure, I will continue the work of my predecessors towards mainstreaming mental health issues in the work of my mandate, in my declarations, reports and individual interventions, but also during my country visits, most notably by including visits to mental health institutions and mental health section in prisons and correctional centres in the standard programme of such visits.

While a long list of recommendations could be made, I here would like to present 7 of the most central recommendations from the perspective of my mandate:

* + - 1. States should abolish legislation authorizing the institutionalization of persons with disabilities on the grounds of their disability without their free and informed consent. And states should also continue establishing effective, independent, and multidisciplinary mechanisms for the supervision and regular review of any decision to institutionalize persons with psycho-social disabilities. Also, independent human rights monitors (e.g. national human rights institutions, national anti-torture preventive mechanisms, civil society) should regularly monitor institutions where persons with disabilities may reside.
      2. In addition, States should adopt legislation that recognizes the legal capacity of persons with disabilities and must ensure that, where required, they are provided with the support needed to make informed decisions.
      3. Community living, with support, should not solely be encouraged as a policy development it has to be considered an internationally recognized right, and states must facilitate de-institutionalization, particularly by introducing in social welfare law a clear categorization of various forms of assisted living that may be available to persons in need.
      4. States should issue clear and unambiguous guidelines in line with international human rights standards on what is meant by “free and informed consent”, and that such information be communicated in an accessible format adequate to their particular disability.
      5. Prison staff and guards should receive adequate training and sensibilization to understand and respond to specific mental health issues in a timely and appropriate manner and to develop positive communication and interaction with prisoners to identify warning signs.
      6. Prison health care staff must ensure that medical assessments include screening for mental health conditions and the risk of suicide and self-harm, that there is continuity of care, including the transmission of files in cases of transfer, and close links with community healthcare services.
      7. Finally, and perhaps most importantly, violence and abuse perpetrated against persons with disabilities should be recognized and reframed as torture or other cruel, inhuman or degrading treatment or punishment, in order for victims and advocates to be afforded stronger legal protection and redress for violations of human rights.

Ladies and Gentlemen, I am not an expert in mental health. However, in almost twenty years of work with victims of war, violence and torture, I have learned that the human mind is vulnerable and that, sometimes, what we describe as mental illness may be the healthiest reaction to an insane environment. So mental illness or disability is not simply "some else's problem". It is our problem and concerns all of us collectively. Most importantly, however, it concerns each and everyone of us personally. For at the source of most of the problems and abuse related to mental health is discrimination. And the primary source of discrimination is always our own fear and tendency to reject what we cannot understand and identify with, be it a particular disabilty, a particular language, or a particular religion, sexual orientation or cultural background. The decisive question at the core of all this is always the same: what kind of society do we want to create? Do we want an inclusive society or an exclusive one? If we choose an exclusive one, we will start digging trenches, building walls and fences and split up, dissect and compartimentalize our societies, and marginalize and discriminate against each other until all that is left is fear, distrust and violence. If we go down that route, torture and other ill-treatment will be the inevitable result. Personally, I have only one vote, but my choice is clear: I want an inclusive society. And I know that all of you have made the same choice. That is why we are all here today. So I thank you sincerely and warmly for all the work you are doing everyday in order to create that inclusive society which will be the only viable response to the manifold challenges our world faces today.

Thank you!