

Geneva, 1 September 2014

Oral statement at the Global Consultation on the Right to Challenge the Lawfulness of Detention before Court of the Working Group on Arbitrary Detention

### **PANEL 3: CRIMINAL DETENTION OF AUTISTIC PERSONS**

Thank you, Mister Chair.

Our NGO, Autistic Minority International, headquartered in Geneva, is the first and only autism self-advocacy organization active at the global political level. We aim to combat bias and prejudice and advance the interests of an estimated seventy million autistics, one percent of the world's population, at and through the UN, WHO, and human rights treaty bodies. Myself, I was diagnosed with Asperger's syndrome, a condition on the autism spectrum, only as an adult, at the age of 38.

Unfortunately, the public discourse on autism is dominated by negative stereotypes. For example, the media regularly blame school shootings on the perpetrators having been on the autism spectrum, mostly without any evidence to substantiate such a claim. Googling "autistics are" currently results in autocomplete suggestions such as "autistics are dangerous" and "autistics are evil". Fact is, autistics are much more likely to become the victims of crime.

When autistic persons come into contact with the criminal justice system this is often the result of a lack of autism awareness. Challenges and severity vary widely between individuals, but generally include difficulties in social communication, such as understanding, and using, facial expressions, body language, tone of voice, and non-literal language, unusual speech, apparent lack of empathy, and anxiety. Autistics may dislike touch and react violently when stopped and searched by police. They may not comprehend police officers' commands or what is expected of them. They may experience sensory overload and have a so-called meltdown. They may resist arrest. They very likely will avoid eye contact and appear suspect to officers unfamiliar with autism.

Action must be taken to ensure that autistics are not disadvantaged in interactions with police and court proceedings due to our condition and misunderstandings that may arise when autistic symptoms are judged by non-autistic standards, and that we are not treated unfairly or more harshly by police officers and court officials because of prevailing prejudice.

Awareness must also be raised of so-called high-functioning autism and Asperger's syndrome among police, prosecutors, judges, and the wider legal community with regard to Internet-related crimes such as hacking, particularly when it comes to those of us who

have a quasi-obsessive "special interest" in computers and information technology and lack a full understanding of the consequences or legal implications of their actions.

Autistic detainees, whether diagnosed, undiagnosed, or misdiagnosed, may find the legal and bureaucratic obstacles and hurdles involved in challenging their arrest or detention insurmountable. Ours is an often invisible disability. Nevertheless, we require support and reasonable accommodations to exercise our rights before court. Also, disability-related adjustments must be made to account for our particular vulnerability whilst being held in a place of detention.

Thank you.

Erich Kofmel, President  
Autistic Minority International

### **Background information**

In 2007, the United Nations General Assembly declared 2 April World Autism Awareness Day. On that day in 2013, UN Secretary-General Ban Ki-moon wrote: "This international attention is essential to address stigma, lack of awareness and inadequate support structures. Now is the time to work for a more inclusive society, highlight the talents of affected people and ensure opportunities for them to realize their potential."

In 2012, the United Nations General Assembly unanimously adopted resolution 67/82 "Addressing the socioeconomic needs of individuals, families and societies affected by autism spectrum disorders, developmental disorders and associated disabilities". In this resolution, the UN member states recognize "that the full enjoyment by persons with autism spectrum disorders [...] of their human rights and their full participation will result in significant advances in the social and economic development of societies and communities" and stress "the important contribution that non-governmental organizations and other civil society actors can make in promoting human rights for [...] all individuals with autism spectrum disorders [...] and their integration in societies". The GA voices its concern "that persons with autism spectrum disorders [...] continue to face barriers in their participation as equal members of society" and calls this "discrimination" and "a violation of the inherent dignity and worth of the human person".

Autistic self-advocacy is about more than disability rights. Autism is a distinct culture and identity. The only one we know. Regardless of where in the world we live, autistics are more like each other than like the people surrounding us. Autism is a neurological difference that is both genetic and hereditary. There is no cure, and we do not believe that a cure will ever be found. The autistic minority includes those diagnosed with Asperger's syndrome and various other conditions on the autism spectrum as well as those children and adults who remain undiagnosed.

Autistic Minority International welcomes contact from and is open to collaboration with UN member states, the UN system, the wider NGO community, autism charities run by non-autistics, researchers particularly in the social sciences and international law, the private sector, and individuals.