14th Session. Open-ended Working Group on Ageing for the purpose of strengthening the protection of the human rights of older persons
Normative content related to right to health and access to health services

Contribution of the International Longevity Centre, Canada in collaboration with the World Psychiatric Association Section of Old Age Psychiatry and the International Psychogeriatric Association Advocacy and Public Awareness Committee

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Right to mental health and access to mental health services

Health is a holistic concept, inclusive of mental and physical health, well-being, and quality of life, amongst which mental health is prime. The World Health Organization (WHO) noted: "there is no health without mental health". The rights to healthcare and services are basic human rights guaranteed by the International Covenant on Economic, Social and Cultural Rights (Article 12) and the Universal Declaration of Human Rights (Article 25). These rights are equally owed to persons with disability, as enshrined within Article 25 the Convention on the Rights of Persons with Disabilities (CRPD) namely that all persons, including those with disability, are owed rights to the enjoyment of the highest attainable standard of free and affordable health care, as close as possible to their own communities, including in rural areas, without discrimination on the basis of disability.

One way in which member states discharge (or fail to discharge) their obligations under such treaties is through public health law and policy and Aged Care Acts. WHO has stated: 'A human rights-based approach to health provides a set of clear principles for setting and evaluating health policy and service delivery, targeting discriminatory practices and unjust power relations that are at the heart of inequitable health outcomes.' Understanding this, and the key regulatory role that public health law, aged care law and discrimination law can play in supporting realization of human rights is key to advocacy and action.

However, these measures still fall short of human-rights based legislative frameworks which must both articulate human rights standards and procedures for accountability that provide effective remedies for violations of those rights. This must be adjunctive to a UN convention on the rights of

older persons entailing enforcement mechanisms and monitoring bodies at national and international levels to ensure effective implementation of policies and laws addressing discrimination, inequality, and human rights, including the health and mental health of older people globally.

Older people living with mental health conditions (OPLWMC) are more likely to experience violations of rights to health by virtue of compounding intersectionality of mentalism and ageism, the latter being global and pervasive, particularly across health, where access is often limited on the basis of age per se rather than needs. Ageism is increasing, only fueled by the COVID-19 pandemic. Its impact is well-recognized and includes poorer physical and mental health, social isolation, loneliness, greater financial insecurity, decreased quality of life and premature death.

The key normative elements of the human right of older persons to the enjoyment of the highest attainable standard of physical and mental health include:
1. Transform Care Delivery: To inculcate critical attributes of kindness, compassion, and humane attention among all care providers for older persons to deliver RBCS, and open the doors to all types of preventive care- primordial (addressing social determinants of health and health disparities), primary (population at large), secondary (population at risk) and tertiary (in patients with aging-related conditions).

2. Create a Culture of Care: To transform workplaces and organizations to create a culture of care that is based on RBCS, to actively support the building and nurturing one-on-one and networks of relationships to promote RBCS toward older persons and caregivers.

3. Create Policy and Standards: To promote and administer RBCS for all caregivers and their organizations to meet recognized standards for RBCS. Failure to meet standards for RBCS will constitute "carelessness", and potentially negligence. Appropriate reward mechanisms for compliance as well as consequences for noncompliance will be clearly outlined along with regular audit procedures.

4. Engage diverse sectors and stakeholders to actively participate and make commitments to support the care and support system vision, mission, and goals.

5. *Promote the dignity and well-being* of older persons: To ensure that well-being and dignity of older persons is always promoted irrespective of gender, sexuality, culture and income.

The components of a culture of care promotion are:
1. Human-Rights approach: A human rights-based approach to mental health specifically aims at realizing the right to mental health and other health-related human rights. This approach aims to support better and more sustainable development outcomes by analyzing and addressing the inequalities, discriminatory practices (de jure and de facto) and unjust empower relations which are often at the heart of development problems. Under a human rights-based approach, development efforts are anchored in a system of rights and corresponding State obligations established by international law. These rights are translated into clinical practice as social determinants of health. Their implementation is mainly dependent of fair distribution of money, power, political will and resources at global, national and local levels. Planning health care for older persons should be guided by human rights standards and principles. The final aim of such an approach could be empowering rights-holders to effectively claim their health rights. Elimination of all forms of stigma and discrimination is at the core of a Human-Rights based care for older adults.

2. PRISM-based concept of care and support: Prism-based concept of care and support for older persons involves actively addressing and preventing various forms of discrimination, including but not limited to mentalism, ableism, sexism, racism, heterosexism, and classism. The approach is proactive, aiming to filter out all "isms" to ensure a comprehensive and inclusive form of care, thus addressing social determinants of health and mental disorders of aging. Together, these “isms” intersect resulting in poor quality of life which is compounded over the person’s entire life course.

3. Person Centered care approach: A person-centered care approach emphasizes addressing the mental health of each person within the context of their family and community. The primary goal is one of preserving, supporting, and protecting the person’s dignity and autonomy, by ensuring care and support in their home environment whenever feasible. This comprehensive care approach considers the patient's physical, psychological, spiritual, and social needs and strives to be truly person-centered.

4. Science and evidence based: care and support should be scientifically and medically appropriate and delivered according to the most recent best practices and state of the art care. Local resources and limitations should be identified in order to make the care services accessible (non-discriminating, being user-friendly and readily available, affordable and minimizing the geographical, cultural, religious, political and linguistic obstacles to obtaining care), responsive (care staff is one that listens to and understands the problems brought to its attention and acts promptly and appropriately) and acceptable (respectful of medical ethics and culturally appropriate, sensitive to age and gender and adapted to the person’s physical limitations). Lifestyle intervention (e.g., sleep, nutrition, exercise, substance use, spiritual care) to improve brain health can be tailored to the individual cultural beliefs to improve self-regulation, reduce stress, and improve cognitive and psychological functioning.

5. Systemic approach: such organization of care flexibly integrates all available services to ensure continuity of care and coordinates all levels of service providers including local, provincial and national governments and community organizations. Throughout a transdisciplinary approach it is intended to go beyond traditional professional boundaries to optimize the contributions of people with a range of personal and professional skills. Such an approach also facilitates collaboration with voluntary and other agencies to provide a comprehensive range of community orientated services.

6. Accountability based: care services accept the responsibility for assuring the quality of the service it delivers and monitors this in partnership with patients and their families. Such human right care must be ethically and culturally sensitive.