

# Non-communicable diseases, mental health and human rights

## ADVOCACY MESSAGES



April 2024



## INTRODUCTION – HUMAN RIGHTS

Human rights are inalienable, universal, indivisible and interdependent. Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms.<sup>1</sup> Human rights should be implemented with a vision that is inclusive, allowing for the participation of each and every human being and encompassing all rights: economic; social; cultural; civil and political.



## NON-COMMUNICABLE DISEASES, MENTAL HEALTH AND THE RIGHT TO HEALTH

The right to health is a fundamental human right. Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes **‘the right of everyone to the enjoyment of the highest attainable standard of physical and mental health’**. The steps to be taken by the States Parties to achieve the full realization of this right shall include those necessary for the prevention, treatment and control of epidemic, endemic, occupational and other diseases.<sup>2</sup>

Member States of the United Nations have recognized the need for effective measures to prevent and control non-communicable diseases (NCDs) in order to contribute to the realization of the right to health. The Political Declaration of the High-level Meeting of the General Assembly on the Prevention and Control of Non-communicable Diseases, adopted by the UN General Assembly in 2011, recognized the urgent need for greater measures at global, regional and national levels to prevent and control non-communicable diseases in order to contribute to the full realization of the right of everyone to the highest attainable standard of physical and mental health.<sup>3</sup>

The right to health is closely related to and dependent upon the realization of other human rights, as contained in the International Bill of Rights, including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and movement. These and other rights and freedoms address integral components of the right to health.<sup>4</sup>

The right to accurate information, as well as to privacy and confidentiality of personal information (including health information), are related human rights essential to the realization of the right to health:

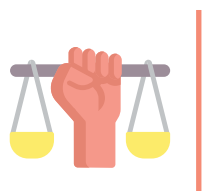
- The right to information requires States to protect its citizens from misinformation such as misleading advertising that trivializes the risks of health harms from tobacco use, harmful use of alcohol and unhealthy diets and promotes consumption of these products.
- Quality data is key to identifying priorities in the context of noncommunicable diseases, including data on populations or regions most at risk through implementing a human rights- based approach to Data and ensuring privacy, confidentiality and use of personal health information.<sup>5</sup>

The respect, protection and fulfilment of human rights requires the full and effective participation of affected communities in the development and implementation of public health measures, including:

- Participation of affected communities facilitates public health responses that are relevant to the context and ensures that interventions reach the most affected communities. This involves effective community action in setting priorities, making decisions, planning and implementing and evaluating strategies to achieve better health.<sup>6,8</sup>

Persons with lived experience of NCDs and mental health conditions, and those providing them with care and support, need to be fully and effectively involved in co-developing and implementing policy, legislation, services and training programmes related to NCDs and mental health to ensure these are person-centred, meet their needs and align with international human rights standards.

Further, it is well established that effective responses to noncommunicable disease and mental health require leadership, coordinated multi-stakeholder engagement for health both at government level and with a wide range of actors, with such engagement and action including, as appropriate, health-in-all policies and whole-of-government approaches across sectors such as health, agriculture, communication, education, employment, energy, environment, finance, food, foreign affairs, housing, justice and security, legislature, social welfare, social and economic development, sports, tax and revenue, trade and industry, transport, urban planning and youth affairs and partnership with relevant civil society and private sector entities.<sup>7,11</sup>



## HUMAN RIGHTS, NCDS AND MENTAL HEALTH IN THE SDGs

The Preamble of the 2030 Agenda states that the Sustainable Development Goals (SDGs) seek to realize the human rights of all and to achieve gender equality and the empowerment of all women and girls. They are integrated and indivisible and balance the three dimensions of sustainable development: the economic, social and environmental.

Achieving SDG Target 3.4 to reduce by one-third pre-mature mortality from NCDs through prevention and treatment, and promote mental health and wellbeing, involves addressing mental health and specific NCD risk factors as well as the broader economic, social and environmental determinants of health and to 'leave no one behind' in the implementation of the SDGs. UN Agencies are called on to:

- Support Member States to ensure that international human rights standards and principles inform implementation of the 2030 Agenda, including empowering people and communities by creating platforms for civil society participation, as well as taking human rights-based, approaches to data collection, disaggregation, monitoring, and reporting.<sup>8,11</sup>
- Encourage the full use of human rights mechanisms, including the Universal Periodic Review, human rights treaty body reviews and Human Rights Council Special Procedures country and thematic reports, as well as national human rights institutions, to contribute to SDG implementation, particularly at the national and local levels.<sup>5,8</sup>
- Encourage the full implementation of all SDGs and targets with a view to contributing to the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, recognizing that the human rights agenda and SDGs implementation are mutually supportive<sup>14</sup> efforts to support the design of policies that identify and engage the most hard-to-reach and excluded groups, recognizing and responding to the structural drivers of multiple and intersecting deprivations and sources of discrimination that limit opportunities and make it harder to escape poverty, live with dignity and enjoy the right to health, without discrimination.<sup>13,15</sup>



# NCD AND MENTAL HEALTH RISK FACTORS AND HUMAN RIGHTS

Human rights approaches can be used to address the major risk factors for NCDs and mental health.

It should also be borne in mind that biological differences, gender roles, and social marginalization and discrimination expose women, men and specific populations to different NCD risks, and influence whether people can modify their NCD risk behaviors and determine the success of NCD interventions.<sup>16,19</sup>

## 1. Tobacco use

- a. The WHO Framework Convention on Tobacco Control (WHO FCTC) is an international treaty that reaffirms the right of all people to the highest standard of health. It is a powerful international instrument set to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure. Its 182 Parties are empowered to protect public health by enforcing smoke-free public places, tobacco advertising and sponsorship bans, a ban of sales to and by minors, tobacco taxes, product packaging and ingredient regulation, and promoting cessation of tobacco use and treatment for nicotine dependence.<sup>20</sup>
- b. The preamble of the WHO FCTC recalls the right to health under the ICESCR, WHO Constitution, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. Calling for a comprehensive, multisectoral application of tobacco control measures, the Convention proposes tailored protections for those who are most vulnerable to tobacco: women, children, indigenous peoples and the economically vulnerable. The Guidelines for implementation of Article 8 (Protection from Exposure to Tobacco Smoke) and of Article 12 (Education, Communication, Training and Public Awareness) of the WHO FCTC are explicitly grounded in fundamental human rights and freedoms.

## 2. Harmful use of alcohol

- a. Focusing on equity. Population-wide rates of drinking of alcoholic beverages are markedly lower in poorer societies than in wealthier ones. However, for a given amount of consumption, poorer populations may experience disproportionately higher levels of alcohol-attributable harm. There is a great need to develop and implement effective policies and programmes that reduce such social disparities both inside a country and between countries. Such policies are also needed in order to generate and disseminate new knowledge about the complex relationship between harmful consumption of alcohol and social and health inequity, particularly among indigenous populations, minority or marginalized groups and in developing countries.<sup>21</sup>
- b. The Global Strategy to Reduce the Harmful Use of Alcohol, endorsed during the Sixty-third session of the World Health Assembly in 2010, provides guidance to Member

States and the WHO Secretariat on ways to reduce the harmful use of alcohol, including a portfolio of policy options that could be considered for implementation and tailored as appropriate at the national level. The guiding principles of the Global Strategy reflect several human rights principles and rights, for example Principle 5 reflects participatory policymaking, Principle 6 reflects the right to access health services and Principles 5 and 7 call for protections for those most vulnerable to alcohol related harms including children.<sup>22</sup> The Global Strategy recognizes the complex relationship between harmful consumption of alcohol and social and health inequity, particularly among indigenous populations, minority or marginalized groups and in developing countries. It notes that poorer populations may experience disproportionately higher levels of alcohol-attributable harm and the need for development and implementation of effective policies and programmes that reduce such social disparities both inside a country and between countries.<sup>21</sup>

- c. The Global Alcohol Action Plan to effectively implement the global strategy to reduce the harmful use of alcohol as a public health priority was endorsed by the Seventy-fifth World Health Assembly in May 2022. It recognizes protection from alcohol-related harm and access to prevention and treatment of alcohol use disorders as part of the right to health. It incorporates a human rights approach as an operational action-oriented guiding principle.<sup>23</sup>

### 3. Unhealthy Diets

In addition to the right to health, rights to food and adequate nutrition, nutrition information and consumer protection may be relevant to measures to address unhealthy diets, depending on the national context.

- a. The right to health framework requires States to take measures to prevent diet-related NCDs and provide equal and timely access to primary health care. Thus, in order to ensure the three types of obligations under the right to health, namely to respect, protect and fulfil it, States should not only provide nutritious food, but also institute measures in all areas of policymaking to reduce the burden of diet-related NCDs.<sup>24</sup>
- b. The right to adequate food, which includes adequate nutrition, is a universal right guaranteed to all. Premature deaths resulting from non-communicable diseases linked to bad diets are deaths that can be avoided, and States have a duty to protect in this regard. This pleads in favour of broad-based national strategies for the realization of the right to food that address the full range of factors causing malnutrition. States should protect the right to adequate food by adopting measures that reduce the negative impacts on public health of the existing food systems.<sup>25</sup>
- c. NCDs are a major challenge of this century highly rooted on overweight, obesity and unhealthy diets. As part of their right-to-health duties, States should address the diet-related NCDs preventable risk factors and promote frameworks whereby the food and beverage industry convey accurate, easily understandable, transparent and comprehensible information on their products. Front-of-package warning labelling regulations are much needed in this regard.<sup>26</sup>
- d. The human right to food describes the right to quantitatively and qualitatively adequate and sufficient food and provides a compass for action. Its realization is essential to achieving the SDG2030 agenda, including to end malnutrition in all its forms and improve health and well being for all. It is indivisible, interrelated and interdependent

to all human rights, particularly the right to health and the right to safe, clean, healthy and sustainable environments. It is part of the human right to an adequate standard of living, hence part of the right to life.<sup>30</sup>

- e. Human rights-based approaches (HRBA) are fundamental to addressing the burden of malnutrition in a fair, equitable and sustainable manner, leaving no one behind. HRBA's are grounded in the foundation of international human rights law which provides the legal basis and moral impetus to advance the nutrition and health agenda. HRBA provide guidance to States to address malnutrition and diet-related NCDs. Of particular relevance are the right to food and the right to health.<sup>30</sup>

## 4. Insufficient Physical Activity

Regular physical activity is a key protective factor for the prevention and management of NCDs, (those who meet recommended levels of physical activity have a 20–30% reduced risk of premature death), benefits mental health and improves children's educational attainment.<sup>26</sup>

- a. Given that the foundational principles of good public health and effective health promotion are to enable, mediate and advocate for all people to achieve the highest possible level of health, it is necessary to invest in building systemwide capacity, skills and competencies within all workforces and sectors related to enabling physical activity in all its forms.<sup>27</sup>
- b. The General Conference of UNESCO observed in the International Charter of Physical Education, Physical Activity and Sport that the practice of physical activity and sports is a fundamental right for all.<sup>4,28</sup>
- c. The Committee on the Rights of the Child noted that Article 6 (of the Convention on the rights of the Child) highlights States parties obligations to ensure the survival, growth and development of the child, including the physical, mental, moral, spiritual and social dimensions of their development. The many risks and protective factors that underlie life, survival, growth and development of the child need to be systematically identified in order to design and implement evidence-informed interventions that address a wide range of determinants during the life-course.<sup>29</sup>

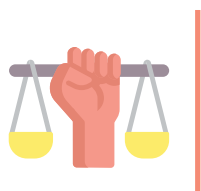
## 5. Mental Health

- a. Certain individuals and groups in society may be placed at a significantly higher risk of experiencing mental health conditions including persons living in poverty, persons living with chronic health conditions, minority groups, indigenous populations, older persons, people experiencing discrimination and human rights violations, lesbian, gay, bisexual, and transgender persons, prisoners, and people exposed to conflict, natural disasters or other humanitarian emergencies.<sup>10</sup>
- b. Furthermore because of stigma and discrimination, persons with mental conditions often have their human rights violated and many experience restrictions on the rights to work and education, as well as reproductive rights and the right to the highest attainable standard of health. They can be denied the right to marry and found a family, the right to vote and to participate effectively and fully in public life, and the right to exercise their legal capacity on other issues affecting them, including their treatment

and care. They may also be subject to physical and sexual abuse, neglect, and harmful and degrading treatment practices in health services.<sup>10</sup>

- c.** In light of these widespread human rights violations and discrimination, WHO's Comprehensive Mental Health Action Plan 2013 – 2023 calls for a human rights response to this situation, emphasizing that all actions and measures in the area of mental health need to align with international human rights standards.
- d.** Training and capacity building on mental health and human rights are required to ensure that health and care workforce understand and respect the rights of persons that they serve, and that persons with mental health conditions have the knowledge and skills to claim their rights.<sup>30</sup>
- e.** Promoting human rights in mental health involves actions to strengthen and align the policy and legislative environment with international human rights standards, in particular the UN Convention on the Rights of Persons with Disabilities and should explicitly safeguard the rights of people to make care and treatment decisions for themselves, based on the right to exercise legal capacity on an equal basis with others.<sup>31</sup>
- f.** Ensuring access to community-based mental health services aligned with international human rights standards is also critical, to ensure that services use alternatives to coercive responses, respect legal capacity, promote participation, community inclusion and person-centred, recovery approaches.
- g.** Crucially, it also involves the use of strategic communication for network building, full and effective participation of people with mental health conditions and their organizations in decision-making processes, enhancing mental health and human rights literacy, undertaking widespread advocacy and awareness raising to tackle stigma and discrimination and promote positive attitude and practice change in the area of mental health.





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