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POUR LA SANTÉ MENTALE  
**WINNIPEG REGION**



**PUBLIC INTEREST LAW CENTRE**  
AN INDEPENDENT SERVICE OF LEGAL AID MANITOBA  
**CENTRE JURIDIQUE DE L'INTÉRÊT PUBLIC**  
UN SERVICE DE L'AIDE JURIDIQUE DU MANITOBA

**EQUALITY, DIGNITY AND INCLUSION: LEGISLATION THAT ENHANCES HUMAN RIGHTS FOR  
PEOPLE LIVING WITH MENTAL ILLNESS**

**MENTAL HEALTH AND HUMAN RIGHTS EVALUATION INSTRUMENT**

**Developed By:**

Christine Ogaranko, Principal Researcher  
Beverly Froese, Attorney, Public Interest Law Centre, Legal Aid Manitoba, Legal Researcher  
Nicole Chammartin, Executive Director, CMHA – Winnipeg, Project Manager

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It is important to note that since piloting the Evaluation Instrument in Nova Scotia, Manitoba and British Columbia the Evaluation Instrument has been revised based on the feedback received following the pilot process. As a result, the question numbers in the tables in the Final Report (see Appendix F) may no longer correspond to the actual Evaluation instrument.

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## **INTRODUCTION**

This Mental Health and Human Rights Evaluation Instrument ('Evaluation Instrument') has been developed for the purpose of evaluating the extent to which current provincial and territorial mental health legislation\*, policies\* and standards\* reflect the key principles and human rights of persons living with a mental illness. The principles and human rights outlined in the Evaluation Instrument are based on the UN Convention on the Rights of Persons with Disabilities (CRPD) and the Canadian Charter of Rights and Freedoms ('*Charter*').

The pertinent issues impacting persons living with a mental illness outlined in the Evaluation Instrument are based on a review of the literature, documents obtained from international and national sources, focus group sessions with stakeholders, interviews with key individuals and organizations, and the discussions with and written work of the Project's Consultation Group. The Consultation Group, comprised of people with lived experience, has contributed critical input and guidance into the Evaluation Instrument to ensure it accurately reflects the experiences of persons living with a mental illness and highlights the areas that are particularly vulnerable to human rights violations.

It is important to note that this instrument is only intended to evaluate provincial/territorial legislation, provincial/territorial mental health policies (including strategies and action plans), and provincial/territorial mental health standards. The evaluation of federal legislation such as the *Criminal Code*, and policies and service standards developed by mental health facilities and regional health authorities/districts are beyond the scope of this particular project. Furthermore, although this instrument attempts to address the complex range of implications for specific groups such as women, children/youth, and ethnoculturally diverse populations, their specific issues may require additional consideration beyond this instrument.

The goal of the evaluation is to identify the areas within the provincial/territorial laws, mental health policies and mental health standards that address aspects of human rights and the elements of human rights that are missing; to describe how human rights are realized in practice; and, to recommend how the law could be amended and what policy and standard could be developed that would better protect and enhance the rights of persons living with a mental illness. The evaluation results could form the basis for provincial and territorial action plans to address law reform and policy and standards development necessary to ensure meaningful realization of the human rights of persons living with a mental illness. As well, the results could be used in Canada's monitoring and reporting process required by the CRPD.



**Preamble from the Mental Health Commission of Canada:**

*Changing Directions, Changing Lives: The Mental Health Strategy for Canada* released by the Mental Health Commission of Canada (MHCC) in 2012 states Canada’s ratification of the United Nations Convention of the Rights of Persons with Disabilities (CRPD) provides a new touchstone for legislation, policies and regulations. The *Strategy* includes a strong focus on upholding the rights of people living with mental health problems and illnesses. It makes several recommendations for action including removing barriers to full participation in workplaces, schools, and other settings (Recommendation 2.3.1), reviewing and, where necessary, updating legislation and revising policies across jurisdictions and sectors to achieve alignment with the CRPD (2.3.3), reducing and eventually making seclusion and restraint virtually unnecessary (2.3.4), and supporting advocacy by people living with mental health problems and illnesses and their families (2.3.5). In addition, the *Strategy* makes recommendations that are relevant for upholding the social rights of people living with mental health problems and illnesses, such as access to treatment, housing and employment.

While this Project Report cannot be taken as representing the position of the MHCC, a key part of the MHCC’s role is to encourage debate and discussion amongst a broad range of stakeholders on important mental health policy issues. The MHCC welcomes other organizations with an interest in upholding the rights of people living with mental health problems and illnesses to build on the contribution of the research team, project team, and consultation group.

**While the MHCC shares a commitment to upholding the rights of people living with mental health problems and illnesses, the views expressed herein are solely those of the authors and cannot be taken as representing the positions of the MHCC.**

## **EVALUATION PROCESS**

### **Structure:**

It is strongly recommended that the process to complete the evaluation instrument consists of a facilitated small group format. It is further recommended that two individuals lead and co-facilitate the group discussion. In addition to the co-facilitators, another individual should be designated as the recorder of the group discussion.

### **Group Composition:**

The group should ideally consist of a maximum of 10-12 participants who have knowledge and experience with mental health legislation, policies and standards as well as human rights. Furthermore, the group should include participants who have expertise in the analysis of law, policy and standards as well as knowledge of any potential differences between intentions of these mechanisms and how they are implemented in practice. The participants should include at a minimum representatives from law (lawyers, judges), government (policy-makers), non-government (advocates), human rights organizations, health facilities/organizations (service providers including psychiatrists and community mental health workers), as well as persons living with a mental illness, and family members.

The experiences of persons living with a mental illness is critical to the evaluation, and as such, it is strongly recommended that they participate in the evaluation in a meaningful way. It may be desirable to establish a sub-group consisting only of persons living with a mental illness as a means of ensuring that critical issues are not over-looked.

### **Preparation:**

Following invitations to the selected participants, the co-facilitators should convene an initial meeting of the participants to develop a Terms of Reference. Within the Terms of Reference should be a description of the process to be followed to complete the Evaluation Instrument, such as the frequency of meetings, the process to arrive at a consensus regarding responses, and the procedures to follow when a consensus cannot be reached. The timeframe to complete the evaluation is also determined and it is recommended that the evaluation be completed within 6 months.

During the initial meeting, the group determines the laws, policies and standards that will be evaluated. Subsequently, copies of the law, policies and standards to be evaluated as well as the Evaluation Instrument are distributed to the participants to review prior to the commencement of the evaluation process.

All participants including the co-facilitators will receive brief training on human rights; mental health law, policies and standards; and instruction in completing the evaluation instrument. The training should include a practical component so that participants become comfortable in the application of the Evaluation Instrument.

## **INSTRUCTIONS TO COMPLETE THE EVALUATION INSTRUMENT**

There are 9 human rights principles and 18 human rights contained in the Evaluation Instrument. Each principle and right is defined and the definitions are taken directly from the CRPD. Following the definition is an interpretation of the principle or right that further defines key concepts in the definition within the Canadian context and at times draws from the *Charter* and Canadian case law. The experiences of persons living with a mental illness as they relate to each principle and right are described. The experiences serve to highlight how the principle or right can be addressed through legislation reform, and policy and standard development in order to better protect and advance the rights of persons living with a mental illness, and form the basis of the recommendations developed.

### **Steps to complete the Evaluation Instrument:**

**STEP 1:** Read the definition and interpretation of the principle or right, the pertinent issues impacting persons living with a mental illness, and the suggested ways in which the principle or right may be achieved.

**STEP 2:** If evaluating legislation, read the evaluation questions pertaining to the legislation. If evaluating policy, read the questions related to policy. If evaluating standards, read the questions related to standards.

**It is important to note that not all of the principles and rights have evaluation questions related to legislation, policies and standards. The reason is that not all principles and rights have implications for legislation, policies and standards. For example, the principles are broad, over-arching statements that are best reflected in legislation.**

**STEP 3:** With each evaluation question, note the key concepts contained in the evaluation questions and note the areas within the legislation, policy or standard where the concept is addressed.

**It is important to know that it may not be obvious in the legislation, policy or standard being evaluated of how the particular concept is addressed. For example, in evaluating legislation the principle or right may be addressed in many different way throughout the document. This is why it is so important to review the documents being evaluated thoroughly and also have participants with analytical experience in law, policy and standards included in the evaluation group.**

**STEP 4:** In the 'Elements Addressed, Elements Missing' section in the Evaluation Instrument and in point form, identify the elements in the legislation, policy or standard that reflect the principle or right in whole or in part, and elements of the principle or right that are not reflected at all.

It is important that the name and relevant section of the legislation, policy or standard being evaluated is included in the response for both 'Elements Addressed' and 'Elements Missing'. This is particularly important when multiple legislation, policies and standards are being reviewed. For example, "Mental Health Strategy, Part 1, Section 2, addresses this right by..." Also, when evaluating mental health legislation it is determined that a particular principle or right is addressed in legislation other than the one being evaluated, it is important to indicate the name of the Act and the relevant section where the principle or right is addressed.

**STEP 5:** Once the elements addressed and missing are identified, determine the applicable score by indicating with a check mark (✓) whether the legislation, policy or standard being evaluated addresses the concepts contained in the evaluation question in full, partially or not at all.

**Addressed in Full =** All key concepts contained in the evaluation question are addressed in the legislation, policy or standard being evaluated.

**Partially Addressed =** Some of the key concepts are addressed in the legislation, policy or standard and some of the concepts are not addressed.

**Not at All Addressed =** None of the key concepts are addressed in the legislation, policy or standard being evaluated.

It is important to note that at times the score that should be assigned to an evaluation question is not always clear. For many principles and rights, there are many related issues, some of which are controversial. The aim of the evaluation process is to reach some form of consensus for each evaluation question score. If this is not possible, then this should be documented in the Evaluation Instrument.

**STEP 6:** Following the designation of a score, the group describes how the legislation, policy or standard affects persons living with a mental illness in practice. For example, legislation may state that persons living with a mental illness must have access to timely mental health care (Right to Health), yet in reality the lengthy wait lists for mental health services may prevent timely access to care.

It is important to note that this section should not criticize particular services or individuals, but rather its purpose is to highlight gaps between legislation, policy or standards and practice which could be referenced in future initiatives for legislative reform and policy and standard development.

**STEP 7:** The final step of the evaluation is to outline the recommendations for each evaluation question based on the outcomes of Steps 3 – 6. The recommendations should be in point form, be as specific as possible, and include the following:

- If legislation is being evaluated, the elements that should be changed or added to legislation should be identified.
- If policy is being evaluated, the policies that should be developed are identified.
- If a standard is being evaluated, the standards that should be developed are identified.

**It is important to note that the recommendations can form the basis for any future planning to address human rights for persons living with a mental illness as well as contribute to the national reporting on the CRPD.**

**STEP 8:** Insert the score for each evaluation question into the summary tables located at the back of the Evaluation Instrument. By displaying the scores in this way illustrates at a broad level where human rights of persons living with a mental illness are protected and where actions are required.



## **GLOSSARY**

**Note:** All words/phrases defined in the Glossary are denoted with an \* throughout the instrument for ease of cross-referencing.

- Advance directive -** Also commonly known as "power of attorney for personal care" or "representation agreement". The essence of an advance directive is that it empowers a person while capable of making a decision to authorize another person to make decisions if he or she becomes incapable. The advance directive may also specify what decisions are included, for example treatment decisions, and how those decisions are to be made. (Canadian Mental Health Law and Policy, 2008)
- Barrier -** Barriers are physical and social obstacles that prevent persons living with a disability from accessing services; living independently in the community; and, fully participating in society. Often the focus is on barriers to the physical environment (for example, no ramp at the entrance to a building) and the social and attitudinal barriers experienced by persons living with an "invisible" disability such as mental illness are overlooked. The stigma and prejudice associated with mental illness is a significant attitudinal barrier that prevents persons living with a mental illness from full participation and inclusion, particularly in the areas of education, housing, employment and access to services.
- Capacity -** Refers specifically to the presence of mental ability to make decisions or to engage in a course of action. "Capacity" is a health concept that refers to individual levels of functioning. (WHO Resource Book on Mental Health, Human Rights and Legislation, 2005)
- Education -** Refers to formal education including kindergarten to grade 12, post-secondary including university and community colleges.
- Facility -** Refers to health care facilities that provide mental health services including psychiatric hospitals, psychiatric units of general hospitals, community residences such as group homes, and day treatment programs.
- Least intrusive -** Refers to intervention and treatment approaches directed towards persons living with a mental illness that are not forced upon the person and cause the least amount of psychological and physical discomfort.
- Least restrictive -** Refers to the environment that persons living with a mental illness receive services in which they are treated in a manner that respects each

person's individual worth, dignity, privacy and enhances their personal autonomy.

**Legal capacity -** Refers to when a person has capacity to exercise his or her legal rights, for example to sign contracts, to defend his or her rights in court, and make legal decisions such as giving or refusing consent to medical treatment.

**Legislation -** Legislation is law that has been enacted through the democratic process, for example, a provincial legislature or the federal Parliament. Legislation often sets out the general framework for achieving the purpose of the law and may give specific authority to a government department or agency to administer and implement the law. Legislation also sets out specific legal rights and obligations, grants authority to the government to make regulations\*, and creates enforcement and mechanisms and appeal procedures. Legislation enacted by the government is subject to the *Canadian Charter of Rights and Freedoms* and a law may be declared invalid by a court if it unjustifiably violates an individual's rights.

**Medical model of disability -** Refers to the view of disability that focuses on a person's impairment rather than on the social context and environment. The model places emphasis on a clinical and medical diagnosis and views the person as having a problem the needs to be fixed or cured.

**Mental illness -** Psychiatric conditions, usually characterized by impairment of an individual's normal cognitive, emotional, or behavioral functioning, and caused by physiological or psychosocial factors.

**Personal care decisions -** Refers to personal decisions including (a) deciding where and with whom to live, either temporarily or permanently; (b) refusing or consenting to medical or psychiatric treatment or health care; (c) decisions about daily living; and (d) decisions to commence, continue, settle or defend a claim or legal proceeding.

**Policy -** Policies are generally the government's interpretation of legislation and usually created internally. Policies are intended to provide guidance and direction to the government staff as to how the legislation is to be implemented and/or how services are to be provided on a day to day basis. For the purposes of this evaluation instrument, policies also include provincial or territorial mental health strategies and action plans.

- Property decisions -** Property decisions include but are not limited to decisions about (a) receiving, depositing and investing money; (b) purchasing, selling, or otherwise disposing of personal property; (c) transferring property; (d) executing homestead documents; (e) claims respecting property; (f) loans and promissory notes; (g) giving or receiving notices regarding property; (h) entering into a lease, transfer or assignment; and (i) performing a contract.
- Psychosocial -** Refers to a model of rehabilitation in which persons living with a mental illness develop goals towards fulfilling the social roles of their choosing, including but not limited to employee, student, parent, or tenant.
- Reasonable accommodation -** Refers to the necessary and appropriate modifications and adjustments to ensure that persons living with a disability can enjoy or exercise all human rights and fundamental freedoms on an equal basis with others. (Art. 2, CRPD) For example, reasonable accommodation can take the form of flexible hours or modified job duties at work or providing a note-taker or additional time to a student to write and exam.
- Recovery -** Recovery from mental illness is a personal, unique process of changing one's attitudes, values, feelings, goals, skills and/or roles. It is a way of living a satisfying, hopeful, and contributing life even with limitations caused by the illness. Recovery involves the development of new meaning and purpose in one's life as one grows beyond the catastrophic effects of mental illness. (W. Anthony, 1993)
- Regulation -** Regulations are made under the authority of legislation and typically provide additional details as to how the law is going to be implemented. Regulations are created by the government internally and they must be consistent with the purpose of the legislation.
- Restraint -** Refers to different methods of controlling a person's physical movements. Forms of restraint include physical restraint (for example, strapping a person to a bed), chemical restraint (for example, use of medication) and psychological restraint (for example, threatening to use physical or chemical restraint).
- Seclusion -** Refers to the act of removing a person from their environment and placing them in an area separate from others. Quite often the person will be taken to a room with no furniture and can be locked from the outside.

**Social model of disability -**

Refers to the view of disability that focuses on the social context and environment rather than on impairment and the individual. This model places emphasis on the environmental, social and attitudinal barriers that hinder full participation and inclusion by persons living with a disability. In others words, the problem is not that the person needs to be fixed or cured, but rather the problem is discrimination, exclusion and prejudice and the responsibility lies with society to remove all barriers.

**Standard -**

Standards in general are measurable minimum levels of what is considered to be accepted practice. Standards may be voluntary or involuntary or mandatory and are intended to promote consistency, safety and quality. For the purposes of this evaluation instrument, standards relate to the establishment and delivery of mental health services provided in mental health facilities and in the community.

**Substitute decision-making -**

Refers to personal and/or property decisions made on behalf of a person living with a mental illness who lacks capacity to make his or her own decisions. A substitute decision-maker may be named in an advance directive or may be appointed by a court. If a person does not have a relative or support person willing to make decisions on his or her behalf, the public trustee may be appointed as substitute decision-maker for the person.

**Supported decision-making -**

Refers to a process that assists persons living with a mental illness to exercise their legal capacity to make personal or property decisions. Supported decision-making is different from substitute decision-making because the person is making his or her own decision with support rather than having someone else making the decision for them. Supported decision-making\* may take different forms, for example the support person could explain the issues and choices available and, if necessary interpret the person's preferences. (UN Enable)

**Supported housing -**

Refers to a form of mental health service in which the person living with a mental illness is empowered to find, choose, and maintain their preferred housing

**Treatment -**

The care provided to persons living with a mental illness that is intended to improve the experiences of a persons with mental illness. It is often medically based, and can include the use of medication and therapy.

**Treatment plan -** Refers to a written document that outlines a person's goals and objectives and includes intentions as to how those goals and objectives will be met and the support required. Ideally it is developed with the person affected and used as a means of guiding a person's recovery.

**PRINCIPLE 1**

**Respect for inherent dignity, individual autonomy and independence, and the freedom to make one’s own choices. (Art. 3, CRPD)**

**Definition – (Monitoring the Convention on the Rights of Persons with Disabilities, UN, 2010)**

- “Inherent dignity” means the worth of every person. When the dignity of persons with disabilities is respected, their experiences and opinions are valued and are formed without fear of physical, psychological or emotional harm.
- “Individual autonomy” means to be in charge of one's own life and to have the freedom to make one's own choices. Respect for the individual autonomy of persons with disabilities means that persons with disabilities have, on an equal basis with others, reasonable life choices, are subject to minimum interference with their private life and can make their own decisions, with adequate support where required.

**Pertinent Issues for Persons Living with a Mental Illness\*:**

- Respect for the dignity, autonomy and independence of persons living with a mental illness is not always reflected in mental health legislation\*.
- Persons living with a mental illness often feel they are not treated with dignity, autonomy and respect by the mental health system.

**How is the Principle achieved?**

- Respect for the dignity, autonomy and independence of persons living with a mental illness is reflected in mental health legislation.
- All persons living with a mental illness should be treated with dignity and their right to autonomy and independence is respected.

**EVALUATION QUESTIONS**

**Legislation**

**PQ1. The legislation indicates that inherent dignity and individual autonomy of persons living with a mental illness must be respected.**

**PR1.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Principle in Practice:

Recommendation(s):

**PRINCIPLE 2****Non-discrimination and equality of opportunity. (Art. 3, CRPD)****Definition – (Monitoring the Convention on the Rights of Persons with Disabilities, UN, 2010)**

- “Non-discrimination” means that all rights are guaranteed to everyone without distinction, exclusion or restriction based on disability or on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, age, or any other status.
- “Equality” means creating societal conditions that respect difference, address disadvantages and ensure that all women, men, girls and boys participate fully on equal terms.
- Discrimination on the basis of disability means any distinction, exclusion or restriction which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise by persons with disabilities, on an equal basis with others, of all human rights and fundamental freedoms, and includes the denial of reasonable accommodation\*.

**Interpretation –**

- Section 15 of the *Charter* states that every individual has the right to equal protection and equal benefit of the law without discrimination on the basis of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. The Supreme Court of Canada has identified analogous grounds of discrimination, for example sexual orientation, citizenship and Aboriginal residence.
- The Supreme Court of Canada in *Andrews v. Law Society of British Columbia* held that “discrimination may be described as a distinction, whether intentional or not but based on grounds relating to personal characteristics of the individual or group, which has the effect of imposing burdens, obligations, or disadvantages on such individual or group not imposed upon others, or which withholds or limits access to opportunities, benefits, and advantages available to other members of society. Distinctions based on personal characteristics attributed to an individual solely on the basis of association with the group will rarely escape the charge of discrimination, while those based on an individual’s merits and capacities will rarely be so classed.”
- Laws and government action must not directly discriminate against or have an adverse impact on persons with disabilities, including persons living with a mental illness.
- A discriminatory law or government action is one that has the effect of perpetuating disadvantage or is based on negative stereotypes.
- The government is obligated to provide reasonable accommodation\* to persons with disabilities, including persons living with a mental illness, unless it can prove that not providing the accommodation is justified, for example that it would be an undue hardship.
- “Reasonable accommodation”\* refers to the necessary and appropriate modifications and adjustments to ensure that persons living with a disability can enjoy and exercise all human rights and fundamental freedoms on an equal basis with others (Art. 2, CRPD). For example, reasonable accommodation\* can take the form of flexible hours or modified job duties at work or providing a note-taker or additional time to a student to write an exam.

**Pertinent Issues for Persons Living with a Mental Illness\***

- Persons living with a mental illness experience discrimination in the community, including but not limited to the workplace, educational institutions, and housing.
- Persons living with a mental illness are subject to prejudice, stereotyping and stigma.
- Persons living with a mental illness do not have the equal opportunity to participate in all aspects of life, including but not limited to work, education\*, and leisure activities.
- Persons living with a mental illness sometimes need assistance, support or accommodation to have equality of opportunity.

**How is the Principle achieved?**

- Non-discrimination should be a cornerstone of mental health legislation.
- Mental health legislation should not directly discriminate against or have an adverse impact on persons living with a mental illness.
- Mental health legislation should not be based on negative stereotypes about persons living with a mental illness or perpetuate the historical disadvantage and marginalization of persons living with a mental illness.

**EVALUATION QUESTIONS**

**Legislation**

**PQ2. The legislation indicates that persons living with a mental illness have the right to equality of opportunity and must not be discriminated against on the basis of their mental illness, which includes the right to reasonable accommodation\*.**

**PR2.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Principle in Practice:

Recommendation(s):



### **PRINCIPLE 3**

#### **Full and effective participation and inclusion in society. (Art. 3, CRPD)**

##### **Definition – (Monitoring the Convention on the Rights of Persons with Disabilities, UN, 2010)**

- “Full and effective participation and inclusion” means that society, both in its public and in its private dimensions, is organized to enable all people to take part fully. Being fully included in society means that persons with disabilities are recognized and valued as equal participants. Their needs are understood as integral to the social and economic order and not identified as “special”. To achieve full inclusion, an accessible, barrier\*-free physical and social environment is necessary.

##### **Pertinent Issues Related to Persons Living with a Mental Illness\***

- Persons living with a mental illness have historically been, and continue to be, excluded from society and housed in institutional settings apart from the community.
- The deinstitutionalization movement in Canada saw the closure of some large mental health institutions, however the funding has not followed the individual to the community, resulting in insufficient community-based mental health services.
- The lack of sufficient funding for mental health services and stigma surrounding mental illness means that persons living with a mental illness continue to be ostracized in their communities.
- As a result, persons living with a mental illness are prevented from participating fully in society including employment, education\* and social activities.

##### **How is the Principle achieved?**

- The principle of full and effective participation and inclusion in society is reflected in mental health legislation.
- Persons living with a mental illness are recognized and valued as equal members of society.
- The needs of persons living with a mental illness are not considered to be “special”, but are seen as integral to the social and economic order.
- Full inclusion of persons living with a mental illness means that society is welcoming and accommodating, and that persons living with a mental illness can participate fully, without stigma or prejudice, in employment, education\* and social opportunities.

**EVALUATION QUESTIONS**

**Legislation**

**PQ3. The legislation recognizes that persons living with a mental illness are entitled to full and effective participation and inclusion in society and promotes the removal of barriers\* that prevent persons living with a mental illness from full and effective participation and inclusion.**

**PR3.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Principle in Practice:

Recommendation(s):

## **PRINCIPLE 4**

### **Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity. (Art. 3, CRPD)**

#### **Definition – (Monitoring the Convention on the Rights of Persons with Disabilities, UN, 2010)**

- “Respect for difference” involves accepting others in a context of mutual understanding. This incorporates the acceptance of disability as part of human diversity and humanity. Despite some visible or apparent differences, all people have the same rights and dignity.

#### **Interpretation**

- This principle reflects the social model of disability\* which refers to the view of disability that focuses on the social context and environment rather than on impairment and the individual. This model places emphasis on the environmental, social and attitudinal barriers\* that hinder full participation and inclusion by persons living with a disability. In other words, the problem is not that the person needs to be fixed or cured, but rather the problem is discrimination, exclusion and prejudice and the responsibility lies with society to remove all barriers\*.

#### **Pertinent Issues Related to Persons Living with a Mental Illness\***

- One person’s experience with mental illness is different from another’s, and as a result, the mental health services do not always respect the diversity among people living with a mental illness and recognize that every person’s experience with mental illness is different.
- Persons living with a mental illness are seen as being deficient or that there is something wrong with them rather than society seeing persons living with a mental illness as part of human diversity and humanity.

#### **How is the Principle achieved?**

- There is a culture of respect for difference and acceptance of persons living with a mental illness.

**EVALUATION QUESTIONS**

**Legislation**

**PQ4. The legislation reflects the principle of respect for difference and acceptance of persons living with a mental illness as part of human diversity and humanity.**

**PR4.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Principle in Practice:

Recommendation(s):

## **PRINCIPLE 5**

### **Accessibility. (Art. 3, CRPD)**

#### **Definition – (Monitoring of Convention on the Rights of Persons with Disabilities, UN, 2010)**

- “Accessibility” as it relates to persons living with a mental illness refers to the absence of barriers\* that prevent an individual from obtaining services and/or information.

#### **Pertinent Issues Related to Persons Living with a Mental Illness\***

- Persons living with a mental illness encounter a number of barriers\* that prevent them from obtaining services and information, including stigma, inaccessible information and absence of age-, gender-, and culturally sensitive services.
- Often accessibility is thought of only in the context of persons living with physical disabilities and not persons living with a mental illness. As a result, the barriers encountered by persons living with a mental illness are often over-looked.
- Stigma surrounding mental illness is a particularly pervasive and harmful attitudinal barrier. For example, many persons living with a mental illness are ashamed of having a mental illness and as a result, they are afraid to tell anyone and avoid seeking mental health services.

#### **How is the Principle achieved?**

- The barriers to accessing services and information are eliminated or reduced to the greatest extent as possible.
- For a service to be accessible to persons living with a mental illness, it should be known or advertised that it is welcoming of persons living with a mental illness, the staff are knowledgeable about mental illness and the service does not discriminate against persons living with a mental illness.
- For information to be accessible to persons living with a mental illness, it must be widely distributed in different formats, including plain language, and available in the person's language.
- Accessibility measures should address the age, gender and cultural appropriateness of the service.

**EVALUATION QUESTIONS**

**Legislation**

**PQ5. The legislation recognizes the principle of accessibility as it relates to mental health services and promotes the removal of barriers encountered by persons living with a mental illness.**

**PR5.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Principle in Practice:

Recommendation(s):

**PRINCIPLE 6**

**Equality between men and women. (Art. 3, CRPD)**

**Definition –**

- Men and women, boys and girls, and transgendered individuals must be able to access mental health services on an equal basis.
- Mental health services must address the particular needs of men and women, and boys and girls, and be gender-appropriate.

**Pertinent Issues Related to Persons Living with a Mental Illness\***

- Men and women, boys and girls, and transgendered individuals have different experiences related to mental health diagnoses and mental health treatment including hospital admissions.
- Mental health services are not consistently gender-appropriate or gender-sensitive.
- The particular needs of men and women, boys and girls, and transgendered individuals living with a mental illness are not consistently met. For example, there is a lack of resources for male survivors of abuse.

**How is the Principle Achieved?**

- Mental health legislation should address equality among men and women, boys and girls, and transgendered individuals in relation to access to mental health services and gender-sensitive services.

**EVALUATION QUESTIONS**

**Legislation**

**PQ6. The legislation addresses the principle of equality among men and women, boys and girls, and transgendered individuals living with a mental illness, including but not limited to equal access to mental health services and the provision of gender-sensitive mental health services.**

**PR6.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Principle in Practice:

Recommendation(s):

**PRINCIPLE 7**

**Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities. (Art. 3, CRPD)**

**Definition – UN Convention on the Rights of Persons with Disabilities**

- Children and youth living with a mental illness must enjoy the same fundamental human rights and freedoms on an equal basis with other children including the right to express their views freely and to be provided with age-appropriate assistance to realize that right.
- International human rights law recognizes that children and youth warrant particular consideration and protection given their particular vulnerability.

**Pertinent Issues Related to Persons Living with a Mental Illness\***

- The needs of children and youth living with a mental illness require additional consideration to ensure they are protected.
- Children and youth may need accommodation or support to achieve their human rights.

**How is the Principle Achieved?**

- The rights and protections for children and youth with mental illness are addressed in mental health legislation\*.

**EVALUATION QUESTIONS**

**Legislation**

**PQ7. The legislation recognizes that children and youth living with a mental illness are entitled to enjoy the same human rights and freedoms on an equal basis with others.**

**PR7.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Principle in Practice:

Recommendation(s):



**PRINCIPLE 8**

**Respect for cultural diversity, including language, values, beliefs and traditions.**

**Definition**

- This principle is intended to ensure that mental health services are designed to be culturally appropriate and to respect cultural diversity among persons living with a mental illness.

**Pertinent Issues Related to Persons with Mental Illness\***

- Aboriginal people living with a mental illness at times feel discouraged from accessing the mental health system because the services are not always culturally-appropriate.
- Aboriginal people are often thought of as one large group rather than many different groups with their own culture, language, beliefs and practices.
- For many Aboriginal people, culture and spirituality are inextricably linked and “culture” is not just a specific activity, for example, a sweat lodge ceremony.
- Recent immigrants and new Canadians often do not know how to access the mental health system and if they do, the services are not always culturally-appropriate.

**How is the Principle Achieved?**

- Mental health services respect cultural diversity and should be designed and delivered in a manner that takes into account a person's ethnic, religious and linguistic culture.

**EVALUATION QUESTIONS**

**Legislation**

**PQ8. The legislation reflects the principle of respect for cultural diversity of persons living with a mental illness including language, values, beliefs and traditions.**

**PR8.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Principle in Practice:

Recommendation(s):

**PRINCIPLE 9**

**Transparency and accountability.**

**Definition**

- The intention of this principle is to emphasize the need for a monitoring mechanism to ensure the human rights of persons living with a mental illness are protected and respected.

**Pertinent Issues Related to Persons Living with a Mental Illness\***

- The rights of persons are not consistently monitored to ensure that they are protected.

**How is the Principle Achieved ?**

- An oversight body should be established to monitor whether the rights of persons living with a mental illness in mental health facilities and in the community are protected.

**EVALUATION QUESTIONS**

**Legislation**

**PQ9. The legislation establishes a regulatory and oversight body to monitor whether the rights of persons living with a mental illness in mental health facilities and in the community are protected, for example by:**

- **conducting regular inspections of mental health facilities;**
- **maintaining statistics on the use of controversial treatments\*, such as electroconvulsive therapy (ECT);**
- **maintaining statistics on the use of restraint\* and seclusion\*;**
- **conducting reviews of community-based mental health services;**
- **reporting and making recommendations to the appropriate government minister(s) and the Legislature;**
- **publishing findings on a regular basis.**

**PR9.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Principle in Practice:

Recommendation(s):

## **RIGHT 1: Right to life**

### **Definition/Interpretation –**

Article 10 – Convention on the Rights of Persons with Disabilities

- The government reaffirms that every human being has the inherent right to life and must take all necessary measures to advance the effective enjoyment by persons with disabilities on an equal basis with others.

Interpretation –

- The term “effective enjoyment” refers to the quality of life experienced by persons with disabilities.
- Section 7 of the *Charter* guarantees the right to life. The Supreme Court of Canada in *Chaoulli v. Quebec (Attorney General)* has interpreted the right to life to include excessive wait times in the public health care system and lack of timely health care that can result in death.
- International human rights law recognizes additional considerations regarding the survival, protection and development of children.

### **Pertinent Issues Impacting Persons Living with a Mental Illness\***

- Persons living with a mental illness have an increased likelihood of living in poverty and experiencing physical health problems. Living in poverty is a right to life issue because of its life expectancy-reducing effects.
- Persons living with a mental illness have been criminalized or marginalized because of their mental illness, resulting in a lower quality of life.
- Persons living with a mental illness have undergone experimental treatment\* or other treatment\* that has a life-reducing impact.

### **How is the Right Achieved?**

- Quality of life is determined by individual choice and results in personal success and satisfaction with one’s quality of life.
- Mental health services are designed so that persons of all ages living with a mental illness are able to achieve an effective enjoyment of life on an equal basis with others.

**EVALUATION QUESTIONS**

**Legislation**

**Q1. The legislation recognizes the right to effective enjoyment of life by persons living with a mental illness on an equal basis with others.**

**R1.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Policy**

**Q2. Mental health policies/strategies/actions plans include opportunities for persons of all ages living with a mental illness to have a quality of life that is consistent with their preferences and wishes.**

**R2.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**RIGHT 2: Situations of risk and humanitarian emergencies**

**Definition/Interpretation**

Article 11 – UN Convention on the Rights of Persons with Disabilities

- The government must take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including but not limited to humanitarian emergencies and the occurrence of natural disasters.

**Pertinent Issues Impacting Persons Living with a Mental Illness\***

- Provincial or territorial emergency or natural disaster plans may not take into consideration the needs of persons living with a mental illness. For example, if there was a natural disaster and evacuation was necessary, there may not be any plan in place to ensure persons living with a mental illness are able to access medications or other treatment\*.

**How is the Right Achieved?**

- Provincial or territorial departments responsible for emergency and natural disaster planning work collaboratively with mental health service providers to ensure persons living with a mental illness are protected and safe in situations of risk, including humanitarian emergencies and natural disasters.

**EVALUATION QUESTIONS**

**Policy**

**Q3. Mental health policies/strategies/action plans set out the actions that will be taken to ensure emergency planning provides for the needs of persons living with a mental illness.**

**R3.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**RIGHT 3: Equal recognition before the law****Definition/Interpretation –****Article 12 – UN Convention on the Rights of Persons with Disabilities**

- The government reaffirms that persons with disabilities have the right to recognition everywhere as persons before the law.
- The government must recognize that persons with disabilities have legal capacity\* on an equal basis with others in all aspects of life.
- The government must take appropriate measures to provide access by persons with disabilities to the support they may require to exercise their legal capacity\*.
- The government must ensure that all measures that relate to exercising legal capacity\* provide for appropriate and effective safeguards to prevent abuse. These safeguards must ensure that measures relating to exercising legal capacity\* respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible, and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards must also be proportional to the degree to which such measures affect the person's rights and interests.
- The government must take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs, and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

**Interpretation –**

- This right addresses the appointment of a substitute decision-maker to make decisions on behalf of a person living with a disability.
- This right places emphasis on supported decision-making\* as the preferred alternative to substitute decision-making\*.

**Pertinent Issues Impacting Persons Living with a Mental Illness\***

- Some current laws give substitute decision-makers the authority to make personal care and property decisions\* when persons living with a mental illness are found to be incapable of making those decisions on their own.
- Some current laws allow substitute decision-makers to be appointed to make all decisions even though the person living with a mental illness has capacity\* to make some decisions on their own or with support. For example, a substitute decision-maker may be appointed for both personal care and property decisions\* even though the person living with a mental illness has capacity\* to make personal care decisions\*.
- Some current laws do not consistently recognize that persons living with a mental illness may have capacity\* to make decisions in some areas of their lives but not in others, for example, a person has capacity\* to make personal care decisions\* but not property decisions\*.
- Some current laws do not consistently promote supported decision-making\* over substitute decision-making\*.

### **How is the Right Achieved?**

- Persons living with a mental illness are recognized as equal persons before the law and presumed to have legal capacity\*.
- A person's right to exercise their legal capacity cannot be violated simply because they have a mental illness.
- The process to determine capacity\* to make decisions should take into account different types of decisions, for example, personal and property decisions\*, and the capacity\* to make those different types of decisions should be assessed separately.
- Unless otherwise necessary, an assessment of a person's decision-making ability should be conducted at the time decisions need to be made, not just in case decisions need to be made in the future.
- Advance directives\* are encouraged as a preferred approach to ensure the wishes of the person are known and will be respected in the event he or she lacks capacity\*.
- There should be resources and measures available to facilitate supported decision-making\* with persons living with a mental illness.
- Where possible, supported decision-making\* should be considered before substitute decision-making.
- If a substitute decision-maker is necessary, the process is as efficient and simple as possible without eliminating any of the necessary safeguards.
- If a substitute decision-maker is appointed, the appointment is time-limited and applies for only as long as is necessary.
- The appointment of a substitute decision-maker should be reviewed more often than on an annual basis.
- A substitute decision-maker is free of conflict of interest and undue influence and makes decisions that respect the rights, will and preferences of the person living with a mental illness.
- A court does not appoint a substitute decision-maker without sufficient reliable evidence that the person does not have capacity\* to make decisions on his or her own and supported decision-making\* is not possible.
- If appropriate in the circumstances, the decision to apply for an order appointing a substitute decision-maker is made in a collaborative process, for example involving the person, family and the person's support network.

**EVALUATION QUESTIONS**

**Legislation**

**Q4. The legislation recognizes the right of persons living with a mental illness to be recognized as persons before the law and the right to exercise legal capacity\* on an equal basis with others in all aspects of life.**

**R4.**

Addressed in Full	<input type="checkbox"/>		Elements Addressed in Legislation		Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•		•	
		•		•	
Not at all Addressed	<input type="checkbox"/>	•		•	

Realization of Right in Practice:

Recommendation(s):

**Q5. The legislation contains a presumption that persons living with a mental illness have the capacity\* to exercise their legal rights and make their own decisions.**

**R5.**

Addressed in Full	<input type="checkbox"/>		Elements Addressed in Legislation		Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•		•	
		•		•	
Not at all Addressed	<input type="checkbox"/>	•		•	

Realization of Right in Practice:

Recommendation(s):



**Q6. The legislation prohibits depriving the right of a person living with a mental illness to exercise his or her legal capacity simply because he or she has a mental illness. The legislation establishes a process and sets out clear and objective criteria to assess a person's capacity to make decisions about personal care and/or property.**

**R6.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q7. The legislation promotes advance directives\* as an option to ensure the wishes of the person living with a mental illness are known and respected in the event he or she lacks capacity\* to make decisions.**

**R7.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q8. The legislation recognizes that persons living with a mental illness may require support to exercise their legal capacity\* and establishes a mechanism to facilitate a supported decision-making\* process.**

**R8.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q9. The legislation sets out necessary and effective safeguards when substitute decision-makers are appointed to prevent abuse and to ensure the right of persons living with a mental illness to exercise their legal capacity\* is infringed as minimally as possible. Those safeguards include but are not limited to:**

- restricting to the greatest extent possible the circumstances in which a person's legal capacity\* and decision-making power may be deprived;
- unless otherwise necessary in the circumstances, assessing a person's capacity\* at or near the time decisions needs to be made;
- ensuring the substitute decision-maker is free from conflict of interest and undue influence and that decisions made respect the rights, choices and preferences of the person;
- ensuring the appointment of a substitute decision-maker is proportional and tailored to the person's circumstances, for example limited to a specific type of decision;
- distinguishing between different types of decisions, for example personal care and property decisions\*;
- ensuring the process to appoint a substitute decision-maker is as efficient and accessible as possible without eliminating any of the necessary safeguards;
- appointing a substitute decision-maker for the shortest time possible;
- terminating the appointment of a substitute decision-maker as soon as the person regains the capacity\* to make decisions;
- ensuring the appointment of a substitute decision-maker is subject to regular review by a competent, independent and impartial authority or judicial body.

**R9.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Policy**

**Q10. Mental health policies/strategies/action plans address a collaborative process to assessing a person's capacity\*, for example that involves not only the psychiatrist or physician, but the person affected, family, support network, and other mental health professionals and para-professionals working with the individual.**

**R10.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q11. Mental health policies/strategies/action plans guide the development and use of advance directives\* as the best method by which persons living with a mental illness can communicate their wishes and preferences, including but not limited to:**

- the period of time in which they are to be reviewed and potentially revised;
- the procedure for how health care professionals are informed that a person has an advance directive;
- under what circumstances the advance directive applies;
- establishing a process that is sufficiently resourced and accessible without eliminating any necessary safeguards and protections;
- planning is done according to the wishes of the person
- public awareness and education about advance directives is provided.

**R11.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q12. Mental health policies/strategies/action plans set out the procedures to implement and facilitate a supported decision-making\* process.**

**R12.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Standards**

**Q13. Mental health standards require that there is a process in place to develop and use advance directives\*.**

**R13.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q14. Mental health standards require that an option exists for a collaborative process to determine a person's capacity\*.**

**R14.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q15. Mental health standards require that supports be made available to a person who requires assistance in decision-making and that there are procedures to follow in this regard.**

**R15.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**RIGHT 4: Access to justice**

**Definition/Interpretation –**

Article 13 – UN Convention on the Rights of Persons with Disabilities

- The government must ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations.
- In order to help ensure effective access to justice for persons with disabilities, the government must promote appropriate training for those working in the field of administration of justice, including police and prison staff.

Interpretation -

- Access to justice includes many components, including but not limited to knowing your legal rights and being able to access and afford a lawyer.
- The right to “effective” access to justice includes but is not limited to a fair hearing by an independent and impartial tribunal, the right to participate in the hearing, the right to counsel, the right to an interpreter, the right to full disclosure, the right to make a full answer and defence, the right to a timely decision, the right to an effective remedy, the right to an appeal and review of the decision, the right to reasonable accommodation\*, and the right to age-appropriate supports.
- This right is relevant primarily to the following circumstances: (1) the process to appoint a substitute decision-maker; (2) hearings before a mental health review board, for instance regarding appeals of involuntary admission or involuntary treatment\* decisions; and (3) the process in place to hear complaints by persons living with a mental illness that their rights have been violated.

**Pertinent Issues Impacting Persons Living with a Mental Illness\***

- People who are involuntarily admitted to a mental health facility\* often do not know their legal rights and do not know how to contact a lawyer.
- Persons living with a mental illness in the community often do not know their legal rights or how to obtain legal advice and assistance.
- Many persons living with a mental illness often do not know where to go or how to make a complaint if they believe their human rights have been violated.
- The mental health review board system can be intimidating and it may be necessary to have an advocate or supports to help navigate the system.
- There is a lack of independent advocates for persons living with a mental illness to provide support and help them to navigate the system if their rights have been violated.
- Not all lawyers have sufficient knowledge about mental illness.

- Mental health review boards can make decisions that affect the liberty and security of the person, and this is complicated by the following factors:
  - Many people are forced to represent themselves at their hearings because they do not have a lawyer. It can be difficult for a person living with a mental illness in those circumstances and who is not represented by a lawyer to have a fair hearing and to present their case.
  - There are not enough lawyers who have experience doing mental health review board hearings, especially in rural or remote communities.
  - Provincial or territorial legal aid plans may not cover mental health review board hearings or other issues relevant to persons living with a mental illness. If a person does not have sufficient funds to retain a private lawyer, then he or she will not be represented. There is often distrust of the legal system by persons living with a mental illness, including distrust of police, courts and lawyers.

**How is the Right Achieved?**

- Persons living with a mental illness are informed of their rights and how to make a complaint if they believe their rights have been violated.
- Persons living with a mental illness have access to a competent person or body, independent of the mental health system, that can, if necessary, assist them to understand and exercise their rights.
- Specialized legal clinics and/or adequately funded legal aid plans are available to represent persons living with a mental illness, including but not limited to mental health review board hearings.
- All required procedural safeguards are in place to ensure a fair hearing.
- Education\* and training about mental illness and the human rights of persons living with a mental illness is provided for those who work in the legal system, including lawyers, judges, police and corrections staff.
- Independent and sufficiently resourced advocates in hospitals and in the community are available.

**EVALUATION QUESTIONS**

**Legislation**

**Q16. The legislation requires persons living with a mental illness to be informed, in writing and orally, as soon as possible after involuntary admission to a mental health facility\*, of their right to counsel.**

**R16.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q17. The legislation establishes an independent advocate to perform duties such as informing persons living with a mental illness of their legal rights and providing advocacy and support to assist them to exercise their legal rights.**

**R17.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q18. The legislation creates a specialized mental health review board to hear appeals and conduct reviews, including but not limited to the following:**

- **conduct time-bound periodic reviews of all involuntary admissions and long term voluntary admissions;**
- **hear appeals of involuntary admission decisions;**
- **hear appeals of involuntary treatment\* decisions;**
- **monitor individuals under an involuntary treatment order;**
- **authorize or prohibit intrusive and irreversible treatments\***

**R18.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):



**Q19. The legislation sets out specific requirements regarding the mental health review board, including but not limited to:**

- the specific qualifications required of board members;
- how board members are to be selected and appointed, including the chairperson;
- the composition of the panel, for example one member must be a lawyer, one must be a psychiatrist and one member must be a member of the community, and preferably a person living with a mental illness;

**R19.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q20. The legislation contains specific provisions to ensure fair hearings before the mental health review board, including but not limited to:**

- the right to a lawyer;
- the right to an interpreter;
- the right to attend, participate and be heard in the hearing;
- the right to timely and full disclosure prior to the hearing;
- the right to make a full answer;
- the right to present independent evidence, for example a second opinion or the evidence of other witnesses;
- the right to a timely decision, in writing, and a copy of the decision with written reasons;
- the right to appeal or review by a higher court.

**R20.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Policy**

**Q21. Mental health policies/strategies/action plans indicate that education\* and training about mental illness and the human rights of persons living with a mental illness is provided to those who work in the legal system, including but not limited to lawyers, judges, police and corrections staff.**

**R21.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q22. Mental health policies/strategies/action plans outline the procedures to be followed regarding access to an independent advocate to perform duties such as informing persons living with a mental illness who are in a mental health facility\* of their legal rights and providing advocacy and support to assist them to exercise their legal rights.**

**R22.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q23. Mental health policies/strategies/action plans outline the procedures to be followed when informing a person who has been involuntarily or voluntarily admitted to a mental health facility\* of their rights.**

**R23.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q24. Mental health policies/strategies/action plans outline the procedures to be followed to inform a person accessing mental health services in the community about their rights and how to assist them to understand and exercise those rights.**

**R24.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q25. Mental health policies/strategies/action plans indicate that information about a person's rights are provided in an accessible format and takes into consideration factors, including but not limited to:**

- a person's age, gender and culture;
- a person's education\* and literacy level;
- whether the person needs an interpreter;
- other forms of communication, for example Braille, sign language or large font.

**R25.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Standards**

**Q26. Mental health standards require that education and training about mental illness and the human rights of persons living with a mental illness be provided to those who work in the legal system, including but not limited to lawyers, judges, police and corrections staff.**

**R26.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q27. Mental health standards require that an independent advocate be available to assist persons living with a mental illness to understand and exercise their rights.**

**R27.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q28. Mental health standards require persons living with a mental illness who are voluntarily or involuntarily admitted to a mental health facility\* or who access mental health services in the community are informed of their rights.**

**R28.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**RIGHT 5: Liberty and security of the person****Definition/Interpretation –**

## Article 14 – UN Convention on the Rights of Persons with Disabilities

- The government must ensure that persons with disabilities, on an equal basis with others:
  - Enjoy the right to liberty and security of the person;
  - Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability must in no case justify a deprivation of liberty.
- The government must ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with human rights law and must be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation\*.

## Interpretation –

- Article 14 requires that, among other things, mental health facilities are monitored to ensure that no one is placed there on the basis of their disability, including mental illness, unless with their free and informed consent.
- Persons with mental illness have the right to refuse treatment\*, the right to make decisions of fundamental importance, and the right to make decisions about their own body.
- Section 7 of the *Charter* guarantees the right to liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.
- The Supreme Court of Canada has said that “liberty” means freedom from physical restraint\*, for example confinement in a prison or mental health facility\*. The term “security of the person” has been interpreted by the Supreme Court of Canada to include the right to control one's own body, for example by refusing medical treatment, and the right to make decisions that are fundamental to a person's identity. Security of the person also includes protection against government-imposed psychological stress, for example excessive wait times for surgery or other medical procedures that cause unnecessary pain or stress.

**Pertinent Issues Impacting Persons Living with a Mental Illness\***

- The right to liberty and security of the person is one of the most contentious in the CRPD for the reason that some people believe that involuntary admission and treatment\* is necessary in order to prevent harm to the person or others and prevent further deterioration of their illness while others believe that involuntary admission and treatment\* is never justified.
- In some jurisdictions, the criteria for involuntary admission has been broadened to include “substantial mental or physical deterioration”. Some believe this is a violation of a person's right to liberty and security of the person because it makes it easier to involuntarily admit a person and/or involuntarily treat a person.
- Involuntary admission and treatment\* are almost always traumatizing for the individual.
- The decision that an individual meets the criteria for involuntary admission should not rest

entirely on the opinion of one psychiatrist.

- The views of family members may conflict with the views of the person living with a mental illness regarding care, treatment\* and support. Some people believe that family members too often want the person living with a mental illness to be involuntarily admitted or involuntarily treated. Others believe that involuntary admission or involuntary treatment\* is in the person's best interests and it would be cruel or inhuman not to admit and treat the person. There is at times conflict between the individual's right to liberty and security of the person and families who are providing care and support to persons living with a mental illness. These differences are sometimes fueled by the following beliefs:
  - Some people believe that family members are often excluded by the medical professionals from decisions regarding the care and treatment\* of persons living with a mental illness.
  - Families are often the only source of support for a person living with a mental illness. Many families believe they do not have sufficient resources and support to provide the best care and support to the person living with a mental illness.
  - Some people believe families can exert too much influence on the decisions made by a person living with a mental illness and are not acting in the person's best interests or respecting the person's wishes.
- Advance directives\* are viewed by some as a mechanism that ensures a person's wishes are carried out regarding admission to a mental health facility and treatment\*.

#### **How is the Right Achieved?**

- The treatment of persons living with a mental illness occurs in the least restrictive\* environment possible and with the least restrictive or intrusive treatment possible.
- Treatment\* is provided to a person living with a mental illness ideally with his or her consent and if the person does not have capacity\* to make treatment decisions, ideally with the involvement and authorization of a person's support network as part of a supported decision-making\* process, or the authorization of a substitute decision-maker.
- A person should be informed of the reasons for involuntary admission and the right to appeal.
- The criteria regarding involuntary admission are clearly outlined.
- If a psychiatrist's decision is to involuntarily admit a person, a second separate assessment should be conducted to verify the findings.
- If a person is admitted involuntarily to a mental health facility\*, the reasons for doing so should be in writing and sufficiently detailed and clearly articulated.
- Advance directives\* are promoted and encouraged to ensure a person's wishes are known and will be respected particularly regarding admission to a mental health facility and treatment\* decisions.
- In circumstances when a person does not have capacity\* to make decisions, and if an advance directive\* exists, the person's wishes as outlined in the advance directive\* should be respected.

**EVALUATION QUESTIONS**

**Legislation**

**Q29. The legislation recognizes that persons living with a mental illness have the right to liberty and security of the person and the right not to be deprived of those rights unlawfully or arbitrarily.**

**R29.**

Addressed in Full	<input type="checkbox"/>		Elements Addressed in Legislation		Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•		•	
		•		•	
Not at all Addressed	<input type="checkbox"/>	•		•	

Realization of Right in Practice:

Recommendation(s):

**Q30. The legislation promotes the principle of least restrictive\* environment with respect to the treatment of persons living with a mental illness. For example, the legislation promotes voluntary admission to mental health facilities and persons who are voluntarily or involuntarily admitted return to the community as soon as possible with appropriate supports.**

**R30.**

Addressed in Full	<input type="checkbox"/>		Elements Addressed in Legislation		Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•		•	
		•		•	
Not at all Addressed	<input type="checkbox"/>	•		•	

Realization of Right in Practice:

Recommendation(s):



**Q31. The legislation establishes a separate process for a mental health assessment apart from the involuntary admission process that includes the following: the person can only be detained for a brief and time-bound period; the assessment must be done as soon as possible; and the individual is discharged immediately if he or she does not meet the involuntary admission criteria and does not want to be voluntarily admitted.**

**R31.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q32. The legislation sets out clear and objective involuntary admission criteria.**

**R32.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q33. The legislation establishes a thorough process to ensure the person in fact meets the involuntary admission criteria. For example by requiring two independent psychiatric opinions; by requiring more than a cursory examination or observation of the person; by requiring the decision-maker to make all reasonable efforts to gather as much relevant and accurate information possible.**

**R33.**

	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full	<input type="checkbox"/>		
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q34. The legislation provides for separate processes and criteria as it relates to involuntary admission and treatment decisions.**

**R34.**

	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full	<input type="checkbox"/>		
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q35. The legislation requires persons to be immediately informed of the reason for their involuntary admission and their right to appeal involuntary admission decisions. If it is not possible to inform the person immediately, then the legislation requires the persons to be given that information as soon as reasonably possible and all reasonable efforts must be made to ensure the person understands the information.**

**R35.**

	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full	<input type="checkbox"/>		
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q36. The legislation requires a person’s support network or representative to be informed of his or her involuntary admission unless it is against the person's wishes or not providing that information is otherwise justified.**

**R36.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q37. The legislation requires a person's status to be changed from involuntary to voluntary as soon as he or she no longer meets the involuntary admission criteria.**

**R37.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q38. The legislation requires persons who are voluntarily admitted to a mental health facility\* to be:**

- **advised upon admission that they have the right to refuse treatment;**
- **advised upon admission that they have the right to leave at any time upon request; and**
- **discharged upon request.**

**R38.**

		Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full	<input type="checkbox"/>		
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Policy**

**Q39. Mental health policies/strategies/action plans require that involuntary treatment decisions should take into account at least the following:**

- address specific clinical signs and symptoms;
- be proportionate to the person's state of health;
- form part of a written treatment plan;
- be documented;
- where appropriate, aim to enable the use of treatment acceptable to the person as soon as possible.

**R39.**

		Elements Addressed in Policy	Elements Missing in Policy
Addressed in Full	<input type="checkbox"/>		
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Standards**

**Q40. Mental health standards require that mental health assessments are conducted by persons qualified to do so and that a process is followed.**

**R40.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q41. Mental health standards require that the determination of a person’s involuntary admission includes an assessment conducted by second medical practitioner.**

**R41.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**RIGHT 6: Freedom from torture or cruel, inhuman or degrading treatment or punishment****Definition/Interpretation**

Article 15 – UN Convention on the Rights of Persons with Disabilities

- No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.
- The government must take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

Interpretation –

- This right guarantees humane treatment of persons living with a mental illness and includes but is not limited to: conduct of staff and service providers; the actual or threatened use of restraint\* and/or seclusion\*; medical or surgical procedures such as sterilization or psychosurgery; other intrusive procedures or treatments such as clinical trials or experimental procedures or treatment; and conditions of mental health facilities.
- Section 12 of the *Charter* prohibits cruel and unusual treatment or punishment. This includes such things as: (1) punishments or treatment that is so excessive so as to “outrage the standards of decency”; (2) treatment or punishment that is barbaric in itself, for example, lobotomy; (3) punishment that is grossly disproportionate to the offence; and (4) the actual physical conditions in a mental health facility\*.

**Pertinent Issues Impacting Persons Living with a Mental Illness\***

- Intrusive and irreversible medical procedures or surgeries in the treatment of mental illness should be prohibited.
- The use of Electroconvulsive Therapy (ECT) in the treatment of mental illness is viewed by some as effective and by others as controversial. Persons who have undergone ECT are not always told of its potentially severe side effects.
- Seclusion\* is sometimes used as a form of punishment. At times, decisions to use seclusion and/or restraint\* are made arbitrarily or out of convenience for staff.
- Some people believe seclusion is never justified and should not be considered as a form of treatment for mental illness.
- Some mental health facilities have substandard conditions, e.g. lack of private rooms.
- There is a lack of consistent monitoring of the conditions in mental health facilities and mental health community-based services as it relates to inhuman and degrading treatment.

**How is the Right Achieved?**

- The use of seclusion\* and/or restraint\* practices should be restricted by specific criteria for their use and alternative practices are developed and promoted.
- Psychosurgery and other irreversible procedures should be prohibited with persons with involuntary status in mental health facilities.
- There should be criteria that restricts the use of ECT including free and fully informed consent.
- Participation in medical or scientific experimentation should be prohibited without a person's free and fully informed consent.
- The conditions of mental health facilities and community-based services should be monitored for elements of inhuman and degrading treatment.

**EVALUATION QUESTIONS**

**Legislation**

**Q42. The legislation indicates that persons living with a mental illness have the right to be free from torture or cruel, inhuman or degrading treatment or punishment.**

**R42.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q43. The legislation expressly prohibits psychosurgery and other irreversible medical procedures or surgeries on persons with involuntary status in mental health facilities.**

**R43.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q44. The legislation expressly regulates and restricts the use of ECT, including but not limited to specifying the need for free and fully informed consent.**

**R44.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q45. The legislation prohibits medical or scientific experimentation on persons living with a mental illness without their free and fully informed consent.**

**R45.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q46. The legislation expressly defines the terms “seclusion”\* and “restraint”\* and expressly regulates their use, including but not limited to:**

- prohibiting their use as a means of punishment;
- confirming their use is to be avoided to the greatest extent possible, for example by restricting their use to when it is the only means available to prevent immediate harm to the person or others and it is not prolonged beyond the time period for which it is necessary;
- their use is supervised by staff and documented by staff;



- the person's personal representative and/or support network is advised if they are used, unless the person's wishes are otherwise;
- promotes their reduction and use of alternative practices.

**R46.**

	Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full <input type="checkbox"/>		
Partially Addressed <input type="checkbox"/>	•	•
Not at all Addressed <input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q47. The legislation requires minimum conditions and standards be maintained in mental health facilities and other residential facilities to ensure a safe, therapeutic and hygienic environment.**

**R47.**

	Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full <input type="checkbox"/>		
Partially Addressed <input type="checkbox"/>	•	•
Not at all Addressed <input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Policy**

**Q48. Mental health policies/strategies/action plans set out actions to reduce the use of restraint\* and seclusion\* with a goal of eliminating its practice and promoting the use of alternative practices, including but not limited to:**

- reducing the use of seclusion\* and restraint\* in mental health facilities using a multi-method approach;
- replacing seclusion\* and restraint\* with alternative methods;
- providing training regarding alternative methods to restraint\* and seclusion\*;

- **involving mental health service users in the facility’s\* plan to reduce the use of restraint\* and seclusion\* practices.**

**R48.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q49. Mental health policies/strategies/action plans require inspections and monitoring of mental health facilities and community-based mental health services by an independent and authoritative body for potentially degrading and inhuman practices.**

**R49.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Standards**

**Q50. Mental health standards require that conditions be maintained in mental health facilities for a safe, therapeutic and hygienic environment.**

**R50.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q51. Mental health standards require that the use of restraint\* and seclusion\* is documented and monitored; that each instance that restraint and seclusion is used is followed by a debriefing with the staff and person involved; and that members of an individual’s support network are informed of the incident with the consent of the person.**

**R51.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q52. Mental health standards require that alternative practices to seclusion and restraint are developed and used within mental health facilities.**

**R52.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**RIGHT 7: Freedom from exploitation, violence and abuse****Definition/Interpretation**

Article 16 – UN Convention on the Rights of Persons with Disabilities

- The government must take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.
- The government must also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, among other things, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. The government must ensure that protection services are age-, gender- and disability-sensitive.
- To prevent the occurrence of all forms of exploitation, violence and abuse, the government must ensure that all facilities and programs designed to serve persons with disabilities are effectively monitored by independent authorities.
- The government must take all appropriate measures to promote the physical, cognitive and psychological recovery\*, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery\* and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.
- The government must put in place effective legislation and policies, including but not limited to women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

Interpretation –

- This right applies to mental health facilities, people’s homes and the community.
- This right includes protection from sexual and economic exploitation and abuse, forced labour, drug and human trafficking, as well as chronic neglect in mental health facilities and in the community.

**Pertinent Issues Impacting Persons Living with a Mental Illness\***

- There is a need for gender and age sensitive support for persons living with a mental illness and their families and support networks in instances when exploitation/violence/abuse has occurred.
- There is an absence of an independent organization that regularly monitors mental health facilities and community-based mental health services for instances of exploitation, violence and abuse.
- There is a need for effective advocates within facilities/institutions as well as community-based services.
- There is a need for education, services and support for families and support networks in the prevention and occurrence of exploitation, violence and abuse.

**How is the Right Achieved?**

- Legislation and policies should address the prevention of exploitation, violence and abuse.
- Independent advocates should be present and consistently monitor mental health facilities and community-based practices that provide services to persons living with a mental illness.
- Gender-sensitive support services and information about these services should be available for persons living with a mental illness who have experienced exploitation, violence or abuse.

**EVALUATION QUESTIONS**

**Legislation**

**Q53. The legislation recognizes that persons living with a mental illness are particularly vulnerable to exploitation, violence and abuse both in mental health facilities and in the community and requires all appropriate measures to be taken to:**

- Prevent and protect persons living with a mental illness from all forms of exploitation, violence and abuse;
- Promote the physical, cognitive and psychological recovery, rehabilitation and social integration of persons living with a mental illness who become victims of exploitation, violence or abuse;
- Ensure that instances of exploitation, violence or abuse against persons living with a mental illness are identified, investigated and, where appropriate, prosecuted.

**R53.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Policy**

**Q54. Mental health policies/strategies/action plans set out the actions that will be taken to protect persons living with a mental illness from exploitation, violence and abuse, including but not limited to:**

- information and education about how to avoid, recognize and report exploitation, violence and abuse;
- advocates within mental health facilities and in the community; and
- independent monitoring of mental health facilities and community-based services.

**R54.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q55. Mental health policies/strategies/action plans set out the actions to be taken to support the physical, cognitive and psychological recovery, rehabilitation and social integration of persons living with a mental illness who become victims of any form of exploitation, violence or abuse.**

**R55.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Standards**

**Q56. Mental health standards require that measures such as the provision of information, the presence of advocates, and monitoring of mental health facilities and community-based services exist to prevent the exploitation, violence and abuse of persons living with a mental illness.**

**R56.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q57. Mental health standards require that supports exist to assist persons living with a mental illness who become victims of any form of exploitation, violence or abuse.**

**R57.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):



**RIGHT 8: Living independently and being included in the community**

**Definition/Interpretation**

Article 19 – UN Convention on the Rights of Persons with Disabilities

- The government recognizes the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including but not limited to ensuring that:
  - a. Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;
  - b. Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
  - c. Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

**Pertinent Issues Impacting Persons with Mental Illness\***

- Persons living with a mental illness should be viewed as persons with whole lives, including having families and children, and participating in the community.
- The right to live independently in the community is premised on access to a range of mental health services and support.
- Choice of residence is challenging due to a lack of affordable housing. For example, a growing trend is rental housing owners making major renovations to buildings and then increasing the rent or converting the units to condominiums, resulting in mass evictions and homelessness.
- Community residents are often opposed to housing for persons living with a mental illness because of a “not in my backyard” attitude.
- The ability to live independently in the community is dependant on some form of income assistance benefits or sufficient income. Transportation costs, for example, can be a significant barrier\* to being able to participate in the community.
- It is a challenge for people living in rural/remote areas to access mental health services and they often have to leave their home communities to do so.
- The provision of support in the person’s home is necessary for some to live successfully in the community.

**How is Right Achieved?**

- Persons living with a mental illness are acknowledged as having the right to live independently in the community with choices equal to others.
- Full inclusion in the community means access to education\*, housing, work, training, health care, social integration, and cultural, spiritual and leisure activities.
- Full inclusion and participation of persons living with a mental illness in the community includes but is not limited to:
  - The opportunity to choose where they will live and with whom they will live;
  - Access to a range of housing options;
  - A range of in-home and other residential and community support services necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
  - Accessible and responsive community services and facilities that are available to the general public.

**EVALUATION QUESTIONS**

**Legislation**

**Q58. The legislation recognizes the right of persons living with a mental illness to live in the community, with choices equal to others, and requires effective and appropriate measures to be taken to facilitate their full inclusion and participation in the community.**

**R58.**

		Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full	<input type="checkbox"/>		
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Policy**

**Q59. Mental health policies/strategies/action plans set out as a priority the actions to be taken to facilitate inclusion of persons living with a mental illness in the community, including but not limited to:**

- **Persons living with a mental illness have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;**
- **Persons living with a mental illness have access to a range of housing options, including subsidized housing and supported housing\* options, and assistance to find, get and keep housing of their choice;**
- **Persons living with a mental illness have access to a range of in-home, residential and other community support services, including but not limited to personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;**
- **Community services and facilities for the general population are available on an equal basis to persons living with a mental illness and are responsive to their needs.**

**R59.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Standards**

**Q60. Mental health standards require that mental health services follow a client-centred approach that facilitates the involvement of individuals in choosing their preferred housing, services, and supports.**

**R60.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

## **RIGHT 9: Freedom of expression and opinion, and access to information**

### **Definition/Interpretation**

Article 21 – UN Convention on the Rights of Persons with Disabilities

- The government must take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, including and not limited to:
  - a. Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;
  - b. Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;
  - c. Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
  - d. Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;
  - e. Recognizing and promoting the use of sign language.

Interpretation -

- Section 2 of the *Charter* guarantees freedom of conscience and religion, freedom of thought, belief, opinion and expression, freedom of peaceful assembly and freedom of association.

### **Pertinent Issues Impacting Persons Living with a Mental Illness\***

- Persons living with mental illness do not always feel comfortable in advocating for their rights for fear that there will be negative repercussions.
- Information regarding mental health legislation, policies and standards is not consistently available and accessible to persons living with a mental illness.

### **How is the Right Achieved?**

- Persons living with a mental illness should be able to openly and actively advocate for their human rights.
- Accessible information should be available to persons living with a mental illness, their support network and the public pertaining to mental health legislation, policies and standards.

**EVALUATION QUESTIONS**

**Legislation**

**Q61. The legislation recognizes the abilities of a person living with a mental illness to exercise his or her rights to freedom of expression and opinion, freedom of conscience or religion, and the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice.**

**R61.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Policy**

**Q62. Mental health policies/strategies/action plans set out the actions to ensure information on mental health legislation, policies and standards is consistently available and accessible to persons living with a mental illness.**

**R62.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Standards**

**Q63. Mental health standards require that information regarding mental health legislation, policy and standards is consistently available and accessible to persons living with a mental illness.**

**R63.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**RIGHT 10: Respect for privacy**

**Definition/Interpretation**

Article 22 – UN Convention on the Rights for Persons with Disabilities

- No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.
- The government must protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

**Pertinent Issues Impacting Persons Living with a Mental Illness\***

- There is sometimes conflict between a person's right to privacy and the wishes of families to access personal health information if they are providing care or support to the person.
- In some mental health facilities\*, there is a lack of privacy to communicate with family, friends and a person's support network, for example private visiting space and private telephone access.
- Some persons admitted to a mental health facility\* feel their privacy is violated when they are excessively monitored.

**How is the Right Achieved?**

- Personal health information is considered confidential and is only collected, processed and communicated with the express consent of the person.
- Exceptions to the general rule regarding confidentiality are as limited as possible.
- The preferences of a person living with a mental illness with respect to the sharing of information regarding treatment, care and support with family members or others is respected.
- An individual's privacy is protected when admitted to a mental health facility\*, including but not limited to a private room, private storage space, and private space for visits and telephone conversations, and uncensored correspondence.
- An individual's privacy is protected when he or she accesses mental health services in the community.



**EVALUATION QUESTIONS**

**Legislation**

- Q64. The legislation sets out how a person's personal health information will be protected, including but not limited to:**
- a presumption that a person's information is confidential and may only be disclosed with his or her express consent;
  - exceptions to the presumption of confidentiality are as limited as possible and sufficient safeguards are in place to ensure a person's privacy is infringed as minimally as possible;
  - there is a timely process in place by which a person, or his or her representative, may request access to their personal health information;
  - a person is allowed to insert written comments into his or her personal health file;
  - written reasons are provided to an applicant if personal health information is not going to be disclosed;
  - there is a right to appeal decisions regarding the disclosure of personal health information to a higher court.

**R64.**

		Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full	<input type="checkbox"/>		
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

- Q65. The legislation contains effective and meaningful sanctions for breaching the right to privacy of a person living with a mental illness.**

**R65.**

		Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full	<input type="checkbox"/>		
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Policy**

**Q66. Mental health policies/strategies/action plans address the right to privacy in mental health facilities, including but not limited to privacy prior to and during admission (voluntary or involuntary), a private room and private storage space, uncensored correspondence, and privacy for visits and telephone conversations.**

**R66.**

	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full	<input type="checkbox"/>		
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q67. Mental health policies/strategies/action plans address the right to privacy when accessing mental health services in the community, including but not limited to a private meeting room and protection of personal health information.**

**R67.**

	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full	<input type="checkbox"/>		
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Standards**

**Q68. Mental health standards require record-keeping procedures be in place to ensure personal, health and rehabilitation information is as protected as possible and accessible to as few people, agencies and departments as possible.**

**R68.**

	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full	<input type="checkbox"/>		
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q69. Mental health standards require that the privacy and sharing of personal health information is included in an advance directive\*.**

**R69.**

	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full	<input type="checkbox"/>		
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**RIGHT 11: Respect for home and family****Definition/Interpretation****Article 23 – UN Convention on the Rights of Persons with Disabilities**

- The government must take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:
  - The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
  - The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;
  - Persons with disabilities, including children, retain their fertility on an equal basis with others.
- The government must ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, and adoption of children; and in all cases the best interests of the child must be paramount. The government must render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.
- The government must ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, the government must undertake to provide early and comprehensive information, services and support to children with disabilities and their families.
- The government must ensure that a child is not separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.
- The government must, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

**Interpretation –**

- The family is considered to be a fundamental group unit of society and “the custodian of morals and traditional values recognized by the community.” The family is entitled to protection by the government and the government should support the establishment and development of families.
- This right also includes common law relationships (heterosexual and same sex), same sex marriage, and same sex parents.
- This right also includes rights upon breakdown of a marriage or common law relationship, for example relating to custody of children, spousal and child support, and division of property.

**Pertinent Issues Impacting Persons Living with a Mental Illness\***

- In some instances, parents living with a mental illness have lost custody of their children on the basis of having a mental illness.
- Parents living with a mental illness and parents whose child(ren) have a mental illness at times require specialized support services.
- Some people do not have family but they have friends or other support people they consider to be their family.
- Diverse parenting styles, for instance because of cultural differences, are not taken into consideration in the assessment of a person’s ability to parent.

**How is the Right Achieved?**

- Persons living with a mental illness have the right to marry or have a common law relationship, to have sexual relationships and to be parents.
- Provincial child welfare staff should be informed about mental illness and do not apprehend children solely because the parent or the child has a mental illness.
- Adequate and appropriate support should be provided to family members, including but not limited to parents or spouses living with a mental illness, and parents or other family members of a child living with a mental illness.

**EVALUATION QUESTIONS**

**Legislation**

**Q70. The legislation recognizes the right of persons living with a mental illness to respect for home and family, including but not limited to the right to marry, to have relationships, and to be parents.**

**R70.**

	Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full <input type="checkbox"/>		
Partially Addressed <input type="checkbox"/>	•	•
Not at all Addressed <input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Policy**

**Q71. Mental health policies/strategies/action plans set out the actions to be taken to provide assistance and support to parents living with a mental illness to perform their child-rearing responsibilities.**

**R71.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Standards**

**Q72. Mental health standards require that adequate assistance is available to support parents living with a mental illness.**

**R72.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**RIGHT 12: Education****Definition/Interpretation**

## Article 24 – UN Convention on the Rights of Persons with Disabilities

- The government must recognize the right of persons with disabilities to education\*. With a view to realizing this right without discrimination and on the basis of equal opportunity, the government must ensure an inclusive education\* system at all levels and life long learning directed to:
  - The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
  - The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
  - Enabling persons with disabilities to participate effectively in a free society.
- In realizing this right, the government must ensure that:
  - Persons with disabilities are not excluded from the general education\* system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
  - Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
  - Reasonable accommodation\* of the individual's requirements is provided;
  - Persons with disabilities receive the support required, within the general education\* system, to facilitate their effective education\*;
  - Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.
- In order to help ensure the realization of this right, the government must take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training must incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.
- The government must ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, the government must ensure that reasonable accommodation\* is provided to persons with disabilities.

**Pertinent Issues Impacting Persons Living with a Mental Illness\***

- Persons living with a mental illness are at times denied equal access to education\* programs.
- Persons living with a mental illness at times require support to complete education\* and training programs.
- Persons living with a mental illness at times require assistance and support to access education\* and training programs.

**How is the Right Achieved?**

- Persons living with a mental illness should have equal access to education\*.
- Support to access education and training programs, such as supported education programs, should be provided.
- Reasonable accommodation\* is provided to meet the educational needs of children, youth and adults living with a mental illness.

**EVALUATION QUESTIONS**

**Policy**

**Q73. Mental health policies/strategies/action plans set out the initiatives to support persons living with a mental illness in realizing their right to education.**

**R73.**

	Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full <input type="checkbox"/>		
Partially Addressed <input type="checkbox"/>	•	•
Not at all Addressed <input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Standards**

**Q74. Mental health standards require that support is provided to children, youth and adults living with a mental illness to participate in education\* programs.**

**R74.**

	Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full <input type="checkbox"/>		
Partially Addressed <input type="checkbox"/>	•	•
Not at all Addressed <input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):



**RIGHT 13: Health****Definition/Interpretation****Article 25 – UN Convention on the Rights of Persons with Disabilities**

- The government recognizes that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. The government must take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, the government must:
  - Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programs as provided to other persons, including in the area of sexual and reproductive health and population-based public health programs;
  - Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;
  - Provide these health services as close as possible to people’s own communities, including in rural areas;
  - Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, among other things, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;
  - Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;
  - Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

**Pertinent Issues Impacting Persons Living with a Mental Illness\***

- Obtaining timely access to necessary health care and mental health services can be challenging for persons living with a mental illness.
- There is at times inconsistent follow-up for persons living with a mental illness entering the medical system. For example, a person may be prescribed medication by his/her doctor but there is no follow-up appointment or care to determine if the medication is effective.
- Persons living with a mental illness are often labelled with a diagnosis and that label follows them as they seek different medical and mental health services.
- Persons living with a mental illness at times have been “black-listed” from the mental health system, meaning that they have been labelled as “difficult to serve” and denied access to services on this basis.
- Health and mental health services are not always located close to a person's community, including in rural and remote areas. This is particularly so for Aboriginal people who are often required to leave their communities to access health and mental health services.
- The delivery of mental health services is inconsistent across the provinces and territories.

- Treatment plans are often developed primarily medical professionals rather than in a collaborative manner with the person and his/her family or support network.
- “Best practice” does not necessarily reflect the individual experience.
- There should be services available as a person transitions from an inpatient setting to the community.
- Often there is not a seamless transition from childhood to adulthood in the mental health system.

### **How is the Right Achieved?**

- Persons living with a mental illness enjoy the highest attainable standard of health without discrimination on the basis of their mental illness.
- Mental health services reflects the principles of recovery\*, self-empowerment, least restrictive\*, least intrusive\* and most effective.
- Quality health care and mental health services are provided on a timely basis to persons living with a mental illness, including follow up appointments and as a person transitions from an inpatient setting to the community.
- Health care and mental health services are provided as close to the person's community as possible, including in rural and remote areas.
- Health care services include mental health promotion, early assessment and early intervention.
- Persons living with a mental illness, regardless of their age, are involved in the development of a treatment plan.
- There should be mental health services available to youth who are transitioning to adult mental health service system.
- Health care professionals receive training and education regarding the human rights of persons living with a mental illness.
- Evidence-based practices are implemented while at the same time acknowledging individual differences among persons living with a mental illness.
- The quality of mental health services (inpatient, outpatient and community-based) is consistently monitored and evaluated.

**EVALUATION QUESTIONS**

**Legislation**

**Q75. The legislation recognizes that persons living with a mental illness have the right to enjoyment of the highest attainable standard of physical and mental health without discrimination on the basis of their mental illness.**

**R75.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Policy**

**Q76. Mental health policies/strategies/action plans set out the actions that will be taken to ensure that persons living with a mental illness have access to a range of mental health services that take into account the needs of different groups, and that reflect the principles of least restrictive, least intrusive, and self-empowerment.**

**R76.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q77. Mental health policies/strategies/action plans guide the provision of mental health services within the primary health care system, particularly as it pertains to follow-up medical services.**

**R77.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q78. Mental health policies/strategies/action plans set out the actions that will be taken to ensure mental health services include mental health promotion, early assessment and early intervention.**

**R78.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q79. Mental health policies/strategies/action plans set out the actions that will be taken to ensure that mental health services are provided as close as possible to the person's community, including in rural and remote areas.**

**R79.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q80. Mental health policies/strategies/action plans set out the actions that will be taken to ensure the person and his or her support network is involved to the greatest extent possible in the development of a treatment plan.**

**R80.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q81. Mental health policies/strategies/action plans set out the actions that will be taken to ensure health professionals receive education and training about the human rights of persons living with a mental illness.**

**R81.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q82. Mental health policies/strategies/action plans set out the actions that will be taken to ensure there is a seamless transition for youth living with a mental illness to the adult mental health system.**

**R82.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q83. Mental health policies/strategies/action plans set out the measures that will be taken to ensure there is consistent monitoring and evaluation of the quality of mental health services.**

**R83.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Standards**

**Q84. Mental health standards require specific time frames, including but not limited to mental health assessments, initial triage, diagnosis, file reviews, and wait times for community supports.**

**R84.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q85. Mental health standards exist for the collection of accurate data to support measurement of the quality of mental health services.**

**R85.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q86. Mental health standards address the requirement that services are to be flexible, and a range of services are available to meet the different needs of persons living with a mental illness.**

**R86.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**P87. Mental health standards outline the service components necessary to transition from child and adolescent mental health services to adult mental health services.**

**P87.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q88. Mental health standards require that persons living with a mental illness are involved as much and where possible in the development of their treatment plan.**

**R88.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•



Realization of Right in Practice:

Recommendation(s):

## **RIGHT 14: Habilitation and rehabilitation**

### **Definition/Interpretation**

Article 26 – UN Convention on the Rights of Persons with Disabilities

- The government must take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, the government must organize, strengthen and extend comprehensive habilitation and rehabilitation services and programs, particularly in the areas of health, employment, education\* and social services, in such a way that these services and programs:
  - Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;
  - Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.
- The government must promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.
- The government must promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

Interpretation

- The term ‘habilitation’ refers to provision of support to persons to learn to carry out the activities of daily living.
- The term ‘rehabilitation’ refers to the provision of support to persons to facilitate the process of re-learning the skills needed to carry out the activities of daily living.

### **Pertinent Issues Impacting Persons Living with a Mental Illness\***

- Some persons living with a mental illness require assistance to attain their goals in the social roles of their choosing, for example tenant, student, or employee.

### **How is the Right Achieved?**

- Support should be available and provided to persons living with a mental illness to assist with the development of skills necessary to fulfill the social roles of the person’s choosing.
- The focus should be on providing support in a manner that empowers persons living with a mental illness.

**EVALUATION QUESTIONS**

**Policy**

**Q89. Mental health policies/strategies/action plans set out the actions that will enhance a person’s ability to access habilitation and rehabilitation services that can assist in attaining goals related to the social roles of the person’s choosing, such as student, employee and tenant.**

**R89.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Standards**

**Q90. Mental health standards require that habilitation and rehabilitation are available to assist persons living with a mental illness to attain the goals related to fulfilling the social roles of their choosing.**

**R90.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**RIGHT 15: Work and employment****Definition/Interpretation****Article 27 – UN Convention on the Rights of Persons with Disabilities**

- The government recognizes the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. The government must safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation\*, to, among other things:
  - Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
  - Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;
  - Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
  - Enable persons with disabilities to have effective access to general technical and vocational guidance programs, placement services and vocational and continuing training;
  - Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;
  - Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
  - Employ persons with disabilities in the public sector;
  - Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programs, incentives and other measures;
  - Ensure that reasonable accommodation\* is provided to persons with disabilities in the workplace;
  - Promote the acquisition by persons with disabilities of work experience in the open labour market;
  - Promote vocational and professional rehabilitation, job retention and return-to-work programs for persons with disabilities.
- The government must ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

**Pertinent Issues Impacting Persons Living with a Mental Illness\***

- Persons living with a mental illness are often discriminated against and prevented from obtaining employment based on their disability.
- Persons living with a mental illness sometimes require reasonable accommodation\* in order to fulfill the requirements of their job.
- Persons living with a mental illness are not always paid the same as others for their work or work of equal value.
- Persons living with a mental illness are often under-employed.
- Persons living with a mental illness are at times vulnerable to harassment and bullying in the workplace.

**How is the Right Achieved?**

- Persons living with a mental illness should be able to realize their right to work under just, equitable and satisfactory conditions.
- Persons living with a mental illness should be provided with support to find and maintain employment, for example a supported employment program.
- Persons living with a mental illness should be provided with reasonable accommodation\* in the workplace.
- Persons living with a mental illness should be paid the same salary or wage as others for the same work.
- Persons living with a mental illness should be able to work in a safe environment free from harassment and bullying and mechanisms exist to investigate and prosecute complaints.

**EVALUATION QUESTIONS**

**Policy**

**Q91. Mental health policies/strategies/action plans set out actions that will be taken to assist persons living with a mental illness to obtain paid work; to provide reasonable accommodation; to ensure the same salary or wage as others for the same work; and, promote a safe work environment with equal access to mechanisms to investigate and prosecute complaints.**

**R91.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Policy	Elements Missing in Policy
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Standards**

**Q92. Mental health standards exist to measure the availability of services to assist persons living with a mental illness in finding, keeping and maintaining paid employment.**

**R92.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Service Standard	Elements Missing in Service Standard
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**RIGHT 16: Adequate standard of living and social protection**

**Definition/Interpretation**

Article 28 – UN Convention on the Rights of Persons with Disabilities

- The government recognizes the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.
- The government recognizes the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:
  - To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;
  - To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programs and poverty reduction programs;
  - To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the government with disability-related expenses, including adequate training, counselling, financial assistance and respite care;
  - To ensure access by persons with disabilities to public housing programs;
  - To ensure equal access by persons with disabilities to retirement benefits and programs.

**Pertinent Issues Impacting Persons Living with a Mental Illness\***

- Persons living with a mental illness often live in poverty and do not have an adequate standard of living.
- Many persons living with a mental illness who are not able to work require adequate financial assistance to meet their basic needs, for example food, clothing and housing.
- Disability insurance/pension is at times very difficult to access for persons living with a mental illness.
- Social assistance rates are too low and insufficient to cover basic necessities.

**How is the Right Achieved?**

- Persons living with a mental illness should be able to access social security, social assistance and other forms of social insurance for themselves and their families.
- Persons living with a mental illness should have equal access to public disability insurance and pensions.

**EVALUATION QUESTIONS**

**Standards**

**Q93. Mental health standards require that persons living with a mental illness are able to receive social assistance and other forms of social insurance for themselves and their families.**

**R93.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q94. Mental health standards require that persons living with a mental illness are able to access public disability insurance and pensions.**

**R94.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):



**RIGHT 17: Participation in political and public life****Definition/Interpretation**

Article 29 – UN Convention on the Rights of Persons with Disabilities

The government must guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

- Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, among other things, by:
  - Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
  - Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
  - Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
- Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
  - Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
  - Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

**Pertinent Issues Impacting Persons Living with a Mental Illness\***

- Persons living with a mental illness and mental health service users are not consistently involved in the development of legislation\*, policies and standards that affect their lives.
- Persons living with a mental illness are not consistently invited to voice their concerns within the political sphere.
- Political parties or organizations might not include persons living with a mental illness due to stigma or stereotypes.

**How is the Right Achieved?**

- Persons living with a mental illness should be involved in the development of legislation, policy and service standards.
- Persons living with a mental illness should be encouraged to become involved in public affairs and public life.
- Persons living with a mental illness should be invited to become involved with non-governmental organizations or form and join organizations and associations of persons living with a mental illness.
- Persons living with a mental illness should be invited to represent persons living with a mental illness at international, national, regional and local levels.
- Reasonable accommodations\* and support required by persons living with a mental illness to realize this right should be provided.

**EVALUATION QUESTIONS**

**Policy**

**Q95. Mental health policies/strategies/action plans set out the actions that will be taken to encourage and facilitate the meaningful involvement of persons living with a mental illness in the development of legislation, policies and service standards.**

**R95.**

Addressed in Full	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q96. Mental health policies/strategies/action plans set out the actions that will be taken to encourage and facilitate the meaningful involvement of persons living with a mental illness in non-governmental organizations or organizations and associations of persons living with a mental illness.**

**R96.**

	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full	<input type="checkbox"/>		
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**Q97. Mental health policies/strategies/action plans set out the actions that will be taken to encourage and facilitate the meaningful involvement of persons living with a mental illness as representatives of persons living with a mental illness at international, national, regional and local levels.**

**R97.**

	<input type="checkbox"/>	Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full	<input type="checkbox"/>		
Partially Addressed	<input type="checkbox"/>	•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**RIGHT 18: Participation in cultural life, recreation, leisure and sport****Definition/Interpretation**

## Article 30 – UN Convention on the Rights of Persons with Disabilities

- The government recognizes the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:
  - Enjoy access to cultural materials in accessible formats;
  - Enjoy access to television programs, films, theatre and other cultural activities, in accessible formats;
  - Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.
- The government must take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.
- The government must take all appropriate steps to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier\* to access by persons with disabilities to cultural materials.
- Persons with disabilities must be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.
- With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, the government must take appropriate measures:
  - To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;
  - To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;
  - To ensure that persons with disabilities have access to sporting, recreational and tourism venues;
  - To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;
  - To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

**Pertinent Issues Impacting Persons Living with a Mental Illness\***

- Persons living with a mental illness at times do not feel welcome to participate in cultural, recreational, leisure and sport activities.

**How is the Right Achieved?**

- Cultural, recreational, leisure and sport activities should actively include persons living with a mental illness.

**EVALUATION QUESTIONS**

**Policy**

**Q98. Mental health policies/strategies/action plans set out the actions that will be taken to ensure persons living with a mental illness are able to realize their right to participate in cultural, recreational, leisure and sport activities on an equal basis with others.**

<b>R98.</b>		Elements Addressed in Legislation	Elements Missing in Legislation
Addressed in Full	<input type="checkbox"/>		
Partially Addressed	<input type="checkbox"/>	•	•
		•	•
Not at all Addressed	<input type="checkbox"/>	•	•

Realization of Right in Practice:

Recommendation(s):

**SUMMARY TABLE OF EVALUATION RESULTS: PRINCIPLES****Instructions:**

Please summarize the evaluation responses by placing a check mark (✓) in the corresponding column: Addressed in Full; Partially Addressed; and Not at all Addressed.

<b>Principle Statements</b>	<b>Addressed in Full</b>	<b>Partially Addressed</b>	<b>Not at All Addressed</b>
<b>1.</b> Respect for inherent dignity, individual autonomy and independence, and the freedom to make one's own choices			
<b>PR1</b>			
<b>2.</b> Non-discrimination and equality of opportunity			
<b>PR2</b>			
<b>3.</b> Full and effective participation and inclusion in society			
<b>PR3</b>			
<b>4.</b> Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity			
<b>PR4</b>			
<b>5.</b> Accessibility			
<b>PR5</b>			
<b>6.</b> Equality between men and women			
<b>PR6</b>			
<b>7.</b> Respect for evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities			
<b>PR7</b>			
<b>8.</b> Respect for cultural diversity, including language, values, beliefs and traditions			
<b>PR8</b>			
<b>9.</b> Transparency and accountability			
<b>PR9</b>			
<b>Total</b>	<b>/9</b>	<b>/9</b>	<b>/0</b>

**SUMMARY TABLE OF EVALUATION RESULTS: RIGHTS**

**Instructions:**

Please summarize the evaluation responses by placing a check mark (✓) in the corresponding column: Addressed in Full; Partially Addressed; and Not at all Addressed.

Right Statements	Addressed in Full	Partially Addressed	Not at All Addressed
<b>1. Right to life</b>			
R1			
R2			
<b>2. Situations of risk and humanitarian emergencies</b>			
R3			
<b>3. Equal recognition before the law</b>			
R4			
R5			
R6			
R7			
R8			
R9			
R10			
R11			
R12			
R13			
R14			
R15			
<b>4. Access to justice</b>			
R16			
R17			
R18			
R19			
R20			
R21			
R22			
R23			
R24			
R25			
R26			
R27			
R28			
<b>5. Liberty and security of the person</b>			
R29			
R30			
R31			
R32			
R33			
R34			
R35			
<b>Sub-total</b>	<b>/35</b>	<b>/35</b>	<b>/35</b>

Right Statements	Addressed in Full	Partially Addressed	Not at All Addressed
R36			
R37			
R38			
R39			
R40			
R41			
<b>6. Freedom from torture or cruel, inhuman or degrading treatment or punishment</b>			
R42			
R43			
R44			
R45			
R46			
R47			
R48			
R49			
R50			
R51			
R52			
<b>7. Freedom from exploitation, violence and abuse</b>			
R53			
R54			
R55			
R56			
R57			
<b>8. Living independently and being included in the community</b>			
R58			
R59			
R60			
<b>9. Freedom of expression and opinion, and access to information</b>			
R61			
R62			
R63			
<b>Sub-total</b>	<b>/28</b>	<b>/28</b>	<b>/28</b>

Right Statements	Addressed in Full	Partially Addressed	Not at All Addressed
<b>10. Respect for privacy</b>			
R64			
R65			
R66			
R67			
R68			
R69			
<b>11. Respect for home and family</b>			
R70			
R71			
R72			
<b>12. Education</b>			
R73			
R74			
<b>13. Health</b>			
R75			
R76			
R77			
R78			
R79			
R80			
R81			
R82			
R83			
R84			
R85			
R86			
R87			
R88			
<b>14. Habilitation and Rehabilitation</b>			
R89			
R90			
<b>15. Work and employment</b>			
R91			
R92			
<b>16. Adequate standard of living and social protection</b>			
R93			
R94			
<b>17. Participation in political and public life</b>			
R95			
R96			
R97			
<b>18. Participation in cultural life, recreation, leisure and sport</b>			
R98			
<b>Sub-total</b>	<b>/35</b>	<b>/35</b>	<b>/35</b>
<b>Total</b>	<b>/98</b>	<b>/98</b>	<b>/98</b>



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