



Center for the Human Rights of  
Users and Survivors of Psychiatry

## **Statement on Autonomy and Independence, 9<sup>th</sup> Session of the Open Ended Working Group on Ageing**

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The rights of older persons with disabilities need to be made explicit in normative standards on autonomy and independence.

The independent living model applies to the situation of older persons with disabilities equally as to younger persons. However, due to ageism, policies for older persons with disabilities remain focused on institutionalization, under the concept of long-term care. This is unacceptable.

The prospective convention should ensure that a range of community living options are made available to all older persons along with support and accessibility measures related to any disabilities they may have. It should guarantee the right to freely choose or invent their living arrangement and support services according to the person's own will and preferences. Deprivation of liberty in any service facility must be abolished by law, and forced drugging with antipsychotics is never justified whether for medical reasons or overt purpose of control. States must eliminate institutional forms of care for older persons with disabilities and instead provide supports and services to people where they choose to live, whether that be individual housing, shared housing or housing with family members. The right to respect for intimate relationships, friendships and support networks, for personal habits and choice of surroundings, and for personal dimensions of life such as sexual orientation, must be guaranteed. Older persons with disabilities have a right to human assistance as well as that of service animals and assistive devices; complex human support cannot be replaced by robotics.

The right to legal capacity is indispensable for older persons with disabilities to enjoy autonomy and independence. The prospective convention should incorporate key elements of the framework for universal legal capacity established in General Comment No. 1 of the Committee on the Rights of Persons with Disabilities. In particular, it should provide that all older persons have a right to enjoy and exercise legal capacity at all times in all aspects of life. Neither disability nor the concept of mental capacity can justify restriction of the legal capacity to make one's own decisions. It should specify the obligation of states to eliminate substitute decision-making regimes and to guarantee that support and accommodations are made available to those who need them in exercising their legal capacity, without obligating anyone to accept unwanted support. Support

measures are defined by making the effort to determine and follow the person's will and preferences in all matters, making a best interpretation of will and preferences if it is not feasible to determine with certainty. Advance planning for support arrangements should begin at an early stage, to evolve with the person's needs and in accordance with their will and preferences. States should inform older persons about their right to maintain their autonomy and have needed support, and provide effective remedies against any limitation of their autonomy by public or private actors.

A legally binding convention can enhance and clarify the rights of older persons with disabilities, and ensure that arrangements for independent living and the exercise of legal capacity are tailored to their needs as older persons. Older persons with disabilities need to be included as experts in the development of binding norms. Thank you.