Course Slides

Mental health, disability and human rights

WHO QualityRights training – humanitarian edition

Legal capacity and the right to decide

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Topics covered in today's training

Module 2. Mental health, disability and human rights

Topic 1. Understanding discrimination and denial of rights
Topic 2. Understanding disability from a human rights perspective
Topic 3. The Convention on the Rights of Persons with Disabilities (CRPD)
Topic 4. The link between MHPSS principles and the CRPD
Topic 5. Article 11 – Situations of risk and humanitarian emergencies
Topic 6. Article 19 – Living independently and being included in the community
Topic 7. Article 12 – Equal recognition before the law

Module 3. Legal capacity and the right to decide

Topic 1. Understanding the right to legal capacity (equal recognition before the law in practice)
Topic 2. Supported decision-making and advance planning

Becoming a QualityRights changemaker: working on our Action Plans

Learning outcomes

At the end of Day 2 you will understand:

- the concepts of discrimination and denial of rights;
- the concept of disability;
- how the CRPD is central to respecting, protecting and fulfilling rights for people with disabilities;
- how the principles of MHPSS work are closely linked to the CRPD;
- how to apply CRPD knowledge to real-life scenarios and identify rights violations for people with disabilities, including in the humanitarian context;
- how to respect and uphold people's rights, including in the humanitarian context, and how to include people with disabilities in humanitarian project design and implementation;
- supported decision-making and advance planning.

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Module 2.
Mental health, disability and human rights

Topic 1. Understanding discrimination and denial of rights

Exercise 2.1 Rights of people with psychosocial, intellectual or cognitive disabilities

Can everyone enjoy the same rights?

- **Do you think people with psychosocial, intellectual or cognitive disabilities are able to enjoy the rights in the UDHR?**

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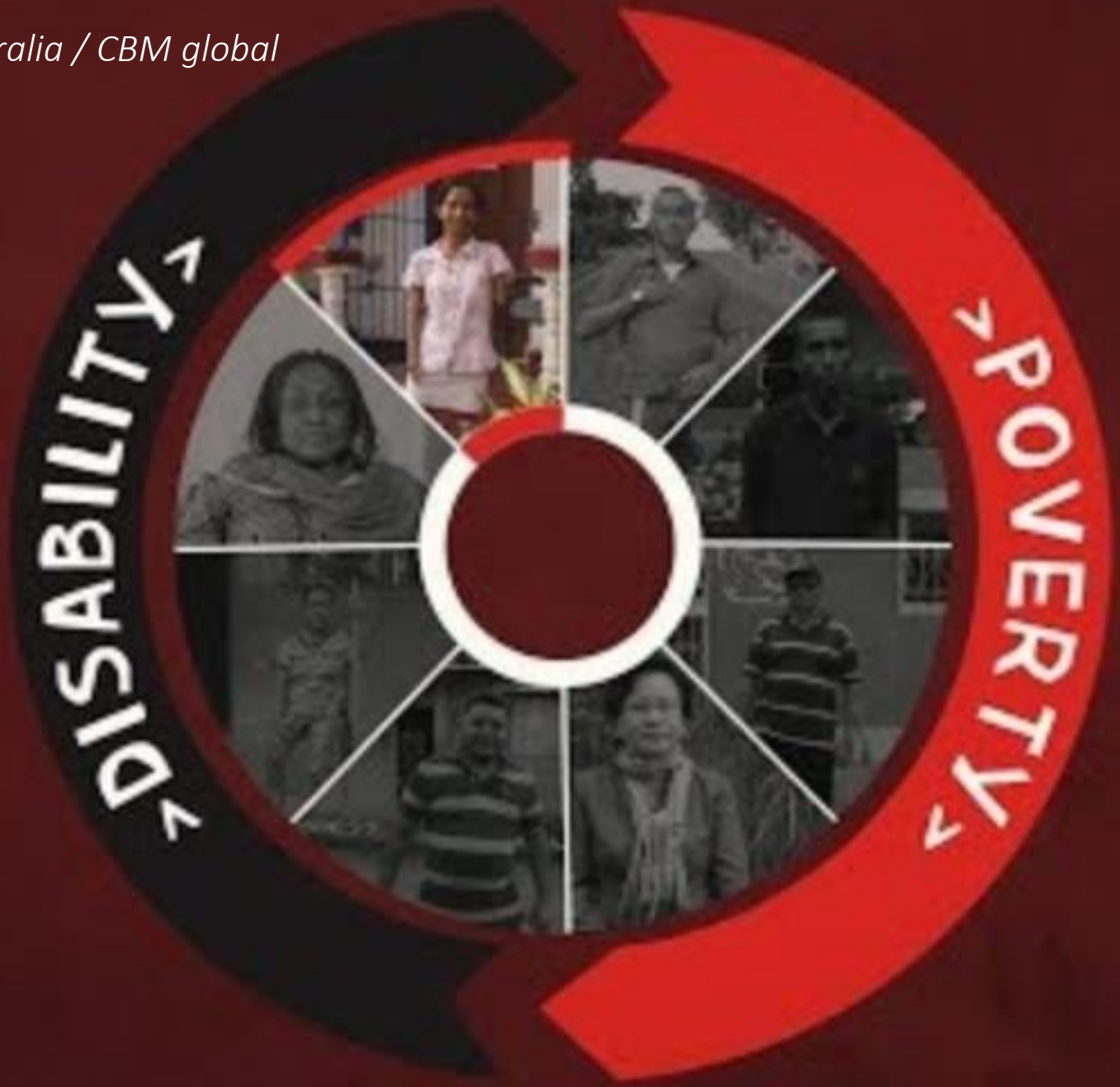
Video: **The Cycle: EXPLAINED.**

End the Cycle CBM / CBM Australia / CBM global



Exercise 2.1 Rights of people with psychosocial, intellectual or cognitive disabilities

Exploring discrimination

- **What do you understand by the word “discrimination” ?**

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Presentation. Defining discrimination

Discrimination means any distinction, exclusion or restriction on the basis of characteristics such as race, gender, sexual orientation, disability etc. which has the purpose or effect of impairing or nullifying the recognition, enjoyment of exercise, on an equal basis with others, of human rights and fundamental freedoms in political, economic, social, cultural, civil or any other fields

This definition is adapted from the Convention on the Rights of Persons with Disabilities (CRPD)

- **Simple definition of discrimination** - when some people are treated differently from others because of one or more characteristics they have or are perceived to have and, as a consequence, are deprived of their human rights.

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Defining discrimination

Discrimination has complex causes at various levels. To fight discrimination:

- misinformation, prejudice and the fear of difference must be tackled;
- *institutionalized discrimination* or *systemic discrimination* must be addressed;
    - Systemic discrimination includes discriminatory laws, policies, discrimination embedded in the health or social system, poverty and power inequalities in society.

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Exercise 2.2 That's not who I am!

- **How are people with psychosocial, intellectual or cognitive disabilities often perceived by society?**

- **What are some common labels or stigmatizing words used in relation to people with psychosocial, intellectual or cognitive disabilities?**

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Exercise 2.2 That's not who I am!

- Many people with psychosocial, intellectual or cognitive disabilities refuse to be defined or limited by a label or diagnosis. They achieve lives that are as fulfilling and successful as anyone else's.

- Others may internalize the negative views that society holds towards them; they may feel ashamed and blame themselves, and this can become a barrier to achieving their aspirations.

- This can be called 'internalized oppression' or 'self stigma', and can prevent people from asserting their rights and obtaining redress for mistreatment and discrimination.

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Exercise 2.3 Understanding institutionalized discrimination

Plenary discussion

- **Can you give examples of laws, policies and other systemic issues in the humanitarian or low resource context where you work that prevent people with psychosocial, intellectual or cognitive disabilities from enjoying their rights?**

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Topic 2. Understanding disability from a human rights perspective

Exercise 2.4 Understanding disability from a human rights perspective

- Make a list of **physical**, **attitudinal**, **communication**, **social** or **legal** barriers facing people with disabilities, including people with psychosocial, intellectual or cognitive disabilities.
- Think specifically about barriers in humanitarian and low resource settings.
- Discuss what impact these barriers might have on individual people.

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Exercise 2.4 Understanding disability from a human rights perspective

- People with disabilities, including people with psychosocial, intellectual or cognitive disabilities, face multiple barriers in their everyday life.
- Facing all these barriers every day is what makes it difficult for many people with disabilities to live a fulfilled life. The problem is often the barriers, not the impairment or health condition itself.
- This is why the human rights model of disabilities has been developed.
- In humanitarian settings, people with disabilities, who are already disadvantaged, face heightened vulnerabilities and safety risks.
- It is crucial to address their needs in humanitarian response activities.

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Presentation. Different models of disability

The charity model of disability:

- sees people with disabilities as helpless victims who depend on others;
- relies on others' goodwill and benevolence to 'care for' and 'protect' people with disabilities;
- assumes people with disabilities lack capacity to participate in their communities by themselves, disempowering them.

Despite much change in MHPSS **we must be alert to the charity model in humanitarian and MHPSS responses**. International and local NGOs have a history, even if well-intentioned, of using the charity model in their fundraising and service delivery.

- There is discussion, debate and action among international humanitarian and global health organizations to:
    - acknowledge histories of racism, colonisation and past use of the charity model;
    - reflect on previous versus current ways of working;
    - restructure models to put the people they support first, with specific attention to their participation, inclusion and human rights.

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Different models of disability

The medical model of disability:

- considers disability only as a health condition needing treatment;
- sees people with disabilities as different from normal people;
- and since the problem is believed to be with the person, the aim is to cure and make them normal again.

While many health interventions are important, desirable and helpful, relying solely on the medical model approach is problematic for many reasons.

- In humanitarian and MHPSS settings, international and local NGOs have a history of focusing on people's medical conditions or impairments.
- In mental health, practitioners often refer to the ***biopsychosocial model.***
  - In practice, the *bio* strongly dominates the biopsychosocial model, and too much emphasis is put on the biological causes of mental health conditions.
  - This approach often fails to place responsibility on society to remove social barriers.
  - It also usually fails to adequately consider human rights.

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Different models of disability

The social model of disability:

- understands disability as resulting from the interaction between people with actual or perceived impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others (adapted from the preamble to the CRPD).
    - Disability results when barriers prevent inclusion in the community.
    - The problem originates from society rather than from the person's actual or perceived impairment.
    - It is up to society to remove barriers and to accommodate human diversity.
    - Disability (as it is understood in the social model) can be overcome by enabling all people to participate equally in society.

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Different models of disability

The human rights model of disability:

- recognizes that disability is caused by barriers in society;
- recognizes that people with disabilities are equal to others and are **entitled** to equal rights and opportunities;
- recognizes that barriers that prevent people with disabilities from participating fully in society and from enjoying their rights are **discriminatory**;
- states that **people with disabilities have the right to have these barriers removed and can claim their rights** (this is the main difference between the human rights and social models);
- does not mean that health services are not useful;
- does support people's right to access quality health services on the basis of their free and informed consent.

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Different models of disability

Different models in practice

Situation	Charity model	Medical model	Social model	Rights-based model
Young woman using a wheelchair	"What a pity, this woman is bound to a wheelchair, she'll never be able to marry, have children and care for her family. Maybe we can find her a nice care home where she can live and meet other people."	"Oh, this poor woman, she should go to a doctor and discuss if there is a therapy which could enable her to walk again, like everybody else."	"The community really should build ramps in front of public buildings, so that people like her can participate in social life."	"She has a right to take part in social activities, and the government should remove obstacles that make it difficult for her to be with other people in society."

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Exercise 2.5 The different models in practice

Situation	Charity model	Medical model	Social model	Rights-based model
Old man with a psychosocial disability, living in a care home in a town which is about to be evacuated due to war and violence approaching the town				

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Exercise 2.5 The different models in practice

Situation	Charity model	Medical model	Social model	Rights-based model
Old man with a psychosocial disability living in a care home in a town about to be evacuated due to war	"Look at this poor confused man; he seems to be mentally retarded; we're going to move him to another part of the country where he can be cared for and kept safe."	"Perhaps we can give him some medicine or treatment to make him more calm and happier for his journey. If we sedate him he will feel better."	"Let's work with him and the people he trusts (e.g. family and support workers) to support him to understand and decide about the evacuation, including where, with whom etc he should go."	"Where does he want to move to? Let's go and ask him!"

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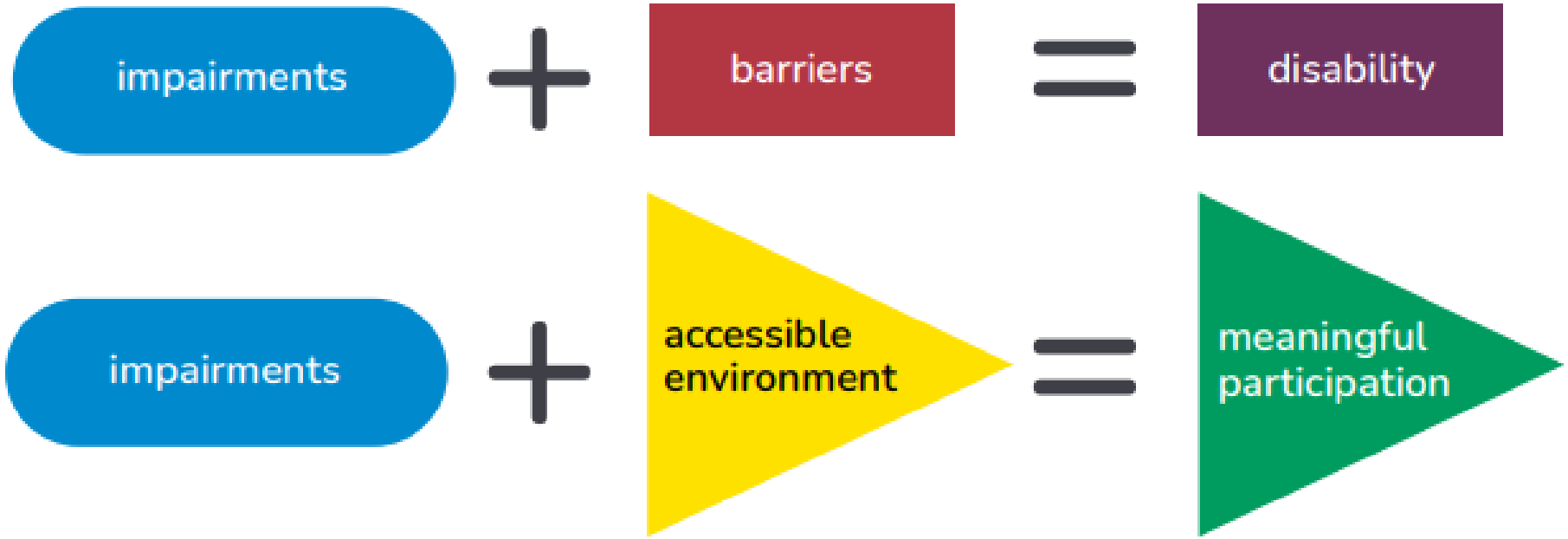
Exercise 2.5 The different models in practice

Summary



Break

15 minutes

Exercise 2.6 Models of disability where you work

Plenary discussion

1. In the countries and communities where you work, what model is predominantly used to explain psychosocial, intellectual and cognitive disabilities? What do people think about people with these disabilities?

2. What model(s) are you using predominantly in your work? And what are the benefits/downfalls of using it?

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Exercise 2.7 Changing the model in the humanitarian sector

Anti-racism: When you picture Doctors Without Borders, what do you see?
Medecins Sans Frontieres

Exercise 2.8 Models of disability in the humanitarian sector – MHPSS response

Watch the video about Samar's experience.

1. Where in the video could you identify the different models?
2. Do parts show the medical model perspective?

Imagine you are going to set up an MHPSS response in a displaced persons camp in Syria.

3. What aspects would you want to replicate, because they align with social and human rights models?
4. What additional components, aligned with the social and human rights models, could be included?

Video: Building sustainable mental health systems during and after emergencies. WHO: https://www.youtube.com/watch?v=R66xYAMh5P8&t=218s

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Topic 3. The Convention on the Rights of Persons with Disabilities

Exercise 2.9 What is the CRPD?

Quiz to recap learning from the WHO QualityRights emodule

- **Which key points of the CRPD do you know?**

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Exercise 2.10 The eight guiding principles of the CRPD

Identify the eight guiding principles from these twelve boxes

A. Respect for inherent dignity, individual autonomy	B. Guardianship	C. Non-discrimination	D. Sheltered workshops
E. Full and effective participation and inclusion in society	F. Respect for difference and diversity	G. Equality of opportunity	H. Special schools
I. Accessibility	J. Equality between men and women	K. Institutionalisation	L. Respect for the evolving capacities of children with disabilities

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Exercise 2.11 Recap of the CRPD

ARCH Disability Law Centre.
https://archdisabilitylaw.ca/advancing-the-un-crpd/

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Credit: Include us! CBM Australia / CBM Global

Topic 4. The link between MHPSS principles and the CRPD

Presentation. Guiding principles of MHPSS action and coordination

As we go through some of the key articles of the CRPD, think about how they align with the core principles of MHPSS coordination and action:

- Promote human rights and equity.
- Ensure participation of local affected people and communities
- Do no harm.
- Build on available resources and capacities.
- Integrate with other services so that MHPSS is not a stand-alone programme.
- Ensure multi-layered supports (as demonstrated by the MHPSS intervention pyramid)

… and make sure everything is accessible to everyone.

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Guiding principles of MHPSS action and coordination

Ensure multi-layered support (the IASC intervention pyramid)

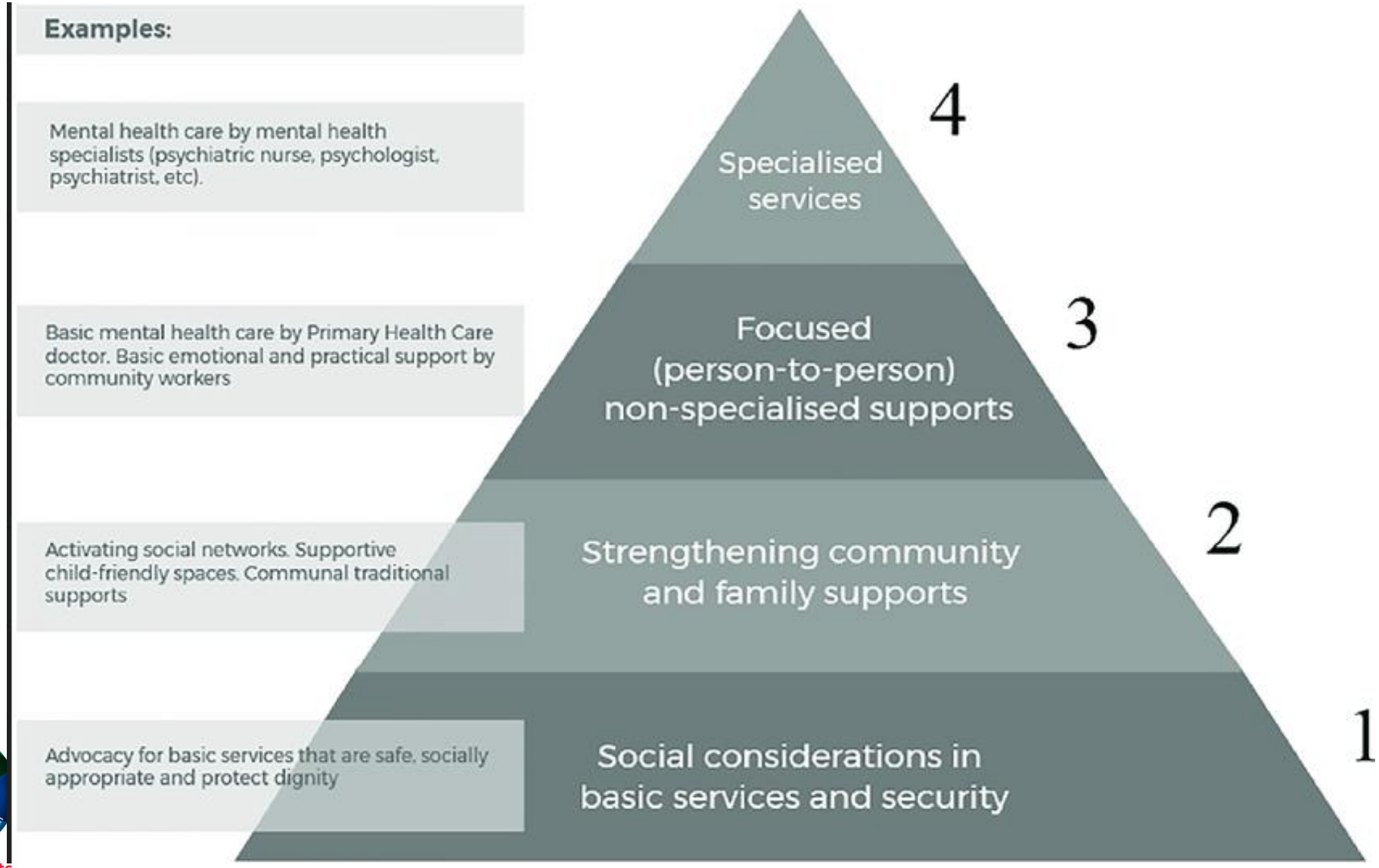

Image credit: Ubels et al. (2022). The social outcomes of psychosocial support: A grey literature scoping review. SSM – Mental Health, 2, Article 100074. doi.org/10.1016/j.ssmmh.2022.100074

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Topic 5. Zooming in on Article 11. Situations of risk and humanitarian emergencies

Presentation. Zooming in on article 11

https://www.youtube.com/watch?v=Nef5RbBpOB0

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Zooming in on Article 11

Situations of risk and humanitarian emergencies

The CRPD explicitly states that it applies in humanitarian emergencies:

"State Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disaster"

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Presentation. Zooming in on Article 11

Situations of risk and humanitarian emergencies

- Natural disasters, humanitarian crises, and armed conflict disproportionately impact people with disabilities.
- Discrimination and a lack of consideration of their specific needs, including protection, can create barriers to food, shelter, health care and emergency evacuation.
- This can lead to further disabilities for people already living with disabilities. It can also mean a further group of people with newly acquired disabilities.
- Humanitarian aid must include disability-inclusive plans, policies, and procedures - considering needs of people with disabilities in emergency preparation, disaster management, and reconstruction.
- MHPSS actors must include ALL people with disabilities in programming, advocate for their needs in humanitarian responses, and address discrimination.

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Water day 2018 - Disability inclusion Greece. The International Federation of Red Cross and Red Crescent Societies (IFRC)

Exercise 2.12 Barriers experienced by people with psychosocial disabilities in humanitarian emergencies

Plenary discussion

- **What violations of Article 11 (direct or indirect) have you witnessed or been told about during your work in humanitarian contexts?**

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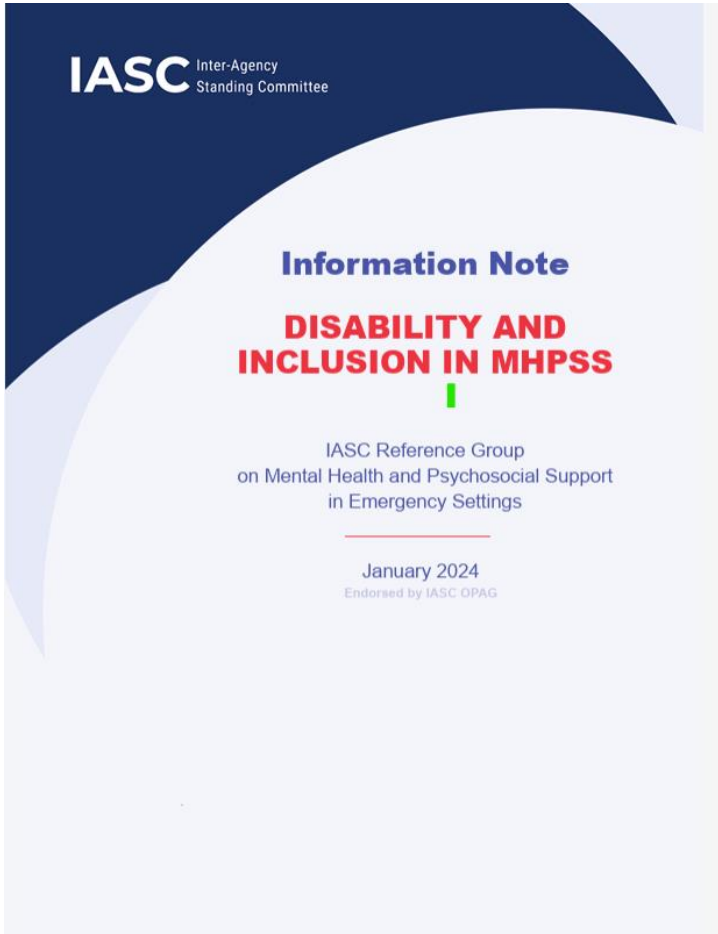
Exercise 2.12 Barriers experienced by people with psychosocial disabilities in humanitarian emergencies

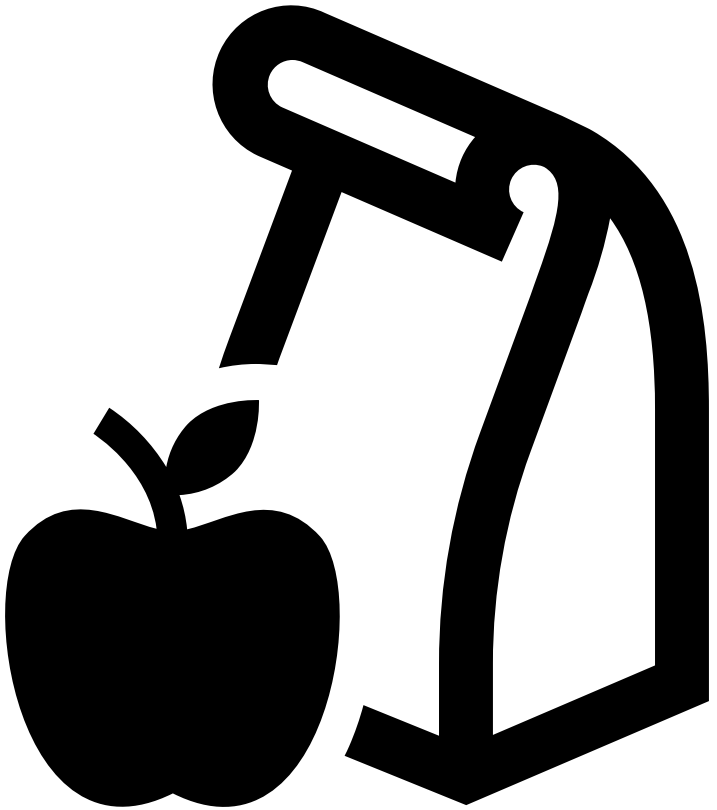
Disability inclusion in MHPSS in emergencies

- Including people with disabilities in preparedness and humanitarian response includes, of course, MHPSS.

- The IASC MHPSS Reference Group has published a comprehensive Information Note on Disability and Inclusion in MHPSS.



Lunch



Topic 6. Zooming in on Article 19 The right to live independently and be included in the community

Presentation: CRPD Article 19. Living independently and being included in the community

States Parties to this Convention recognize 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

People with disabilities have the right to live like other people and to have the same choices in life.

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CRPD Article 19. Living independently and being included in the community

States who are Parties to this Convention recognize 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. This is done by including by ensuring it's three key dimensions:

1. **Choice.** 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.
2. **Support.** 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.
3. **Availability of community services and facilities.** Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

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CRPD Article 19. Living independently and being included in the community

Article 19 and humanitarian emergencies

- During disasters and emergencies, the right of every person to live independently and be included in the community is jeopardized by community disruption. Community services are often stretched further, **leaving people with disabilities at even greater risk**
- Interventions in humanitarian settings must therefore crucially consider, plan and advocate ways to secure the three elements of Article 19.

Videos

- South Sudan: people with disabilities left out of humanitarian assistance. Human Rights Watch. 2017 https://www.youtube.com/watch?v=WDRiNz3TYDE&t=2s
- Ukraine: life of people with disabilities in war conditions. UATV English 2022 https://www.youtube.com/watch?v=DrQjhKmshPg

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Topic 7. Zooming in on Article 12. Equal recognition before the law

Presentation. Zooming in on Article 12. Equal recognition before the law

Summary of the article

The law must recognize that people with disabilities have rights and responsibilities like anyone else (they have *legal capacity*).

People with disabilities:

- have the same rights as everybody else and must be able to use them;
- must be able to act under the law, which means they can engage in transactions and create, modify or end legal relationships - they can make their own decisions and others must respect their decisions.

When it is hard for people to make decisions on their own, they have the right to receive support.

- The support should respect the rights of the person and what the person wants.
- It should not be in the interest of or benefit others.
- Supporters should not influence the person to make decisions they do not want to make.
- There should be the right amount of support for what the person needs.
- The support should be for as short a time as possible.
- It should be checked regularly by a trusted authority.

Cont….

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Zooming in on Article 12 Equal recognition before the law

Cont…

Countries must protect the equal rights of people with disabilities:

- to have or be given property;
- to control their money;
- to borrow money;
- not to have their homes or money taken away from them.

Article 12 embodies the legal aspects of living independently, exercising autonomy and having the freedom to make one's own choices.

- A central paradigm shift is from substituted decision-making to supported decision making.
- It is closely linked with Article 19 and the right to live independently.

In your region, can people with psychosocial disabilities decide important things in their life? Or are the decisions taken by their families/guardians etc.? What do you think is the impact of this?

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Module 3.
Legal capacity and the right to decide

Topic 1. Understanding the right to legal capacity (equal recognition before the law in practice)

Credit: What is Article 12 and Legal Capacity? Mental Health Europe

Presentation. The right to legal capacity

Distinguishing between legal capacity and mental capacity

Legal capacity

- It is a basic human right for everyone.
- It means the right to make your own decisions.
- It includes:
  - **legal standing** – rights recognized
  - **legal agency** – acting on those rights.
- It is essential for enjoying all other rights.

Mental capacity

- It means a person's ability to make a specific decision.
- It involves understanding, reasoning, and communication.
- Mental capacity can change over time or by situation

Confusions and violations

- Legal and mental capacity are often wrongly treated as the same thing.
- People thought to have impaired decision-making may lose legal capacity.
- Losing legal capacity leads to substituted decision-making.

Under the CRPD everyone keeps the right to decide: support replaces substitution.

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The right to legal capacity

Settings where the right to legal capacity is denied

People are often denied the right to legal capacity:

- within communities
- at home
- within health, mental health and social services.

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Exercise 3.1 The right to legal capacity

Plenary discussion

What do the current laws say about legal capacity in the countries where you work?

In what settings are people's right to legal capacity denied within the regions where you work?

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Presentation. The right to legal capacity in humanitarian contexts

- The video at the beginning of this topic proposed supported decision-making as a way to uphold the right to legal capacity.
- However, very few humanitarian projects facilitate supported decision-making for people with psychosocial, intellectual or cognitive disabilities. If they do, they are most likely to be in contexts that are stable or well resourced. Their approaches may not be easily applicable where we work.
- Nonetheless, we can apply the underlying principles of supported decision-making. Next, we will think about new ways to implement supported decision-making and advanced planning in humanitarian services
- Implementing practices that uphold the right to legal capacity are relevant in MHPSS services, but also in all sectors and all services across humanitarian responses, and are an important step in inclusion for people with disabilities.

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Topic 2. Supported decision-making and advance planning

Exercise 3.1 Supported decision-making

Plenary discussion

Read the handouts provided on supported decision-making.

- What do you understand about supported decision-making?
- What are the main take-aways from your read?

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Presentation. Advance planning – content of advance plans

- Advance planning is a form of supported decision-making. **Advance plans**, sometimes also called **living wills** or **advance directives,** can help ensure a person's will and preferences are respected.
- In them, people give written directives about what they do or don't want for future situations when they may find it difficult to make or communicate their will and preference. They might include:
    - a description of desired support
    - designated supporters and/or advocates
    - recovery options and treatments, including refusal of healthcare options
    - place of care or respite, including choosing to receive support at home
    - directives concerning day-to-day life and obligations (for example, children, bills, pets etc.).
- If the advance plan is intended as a legal document, it needs to state in which situation it comes into effect, and in which situation it ceases.

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Advance planning – uses

- Advance planning can have two functions:
  - If a person has difficulty in expressing themself, those providing support and care can refer to the advance plan as a communication tool find out the person's wishes and preferences.
  - In some countries, advance plans are used as a legal document in which the person authorizes or refuses certain actions/options in the future.
- Advance planning may be useful to everyone, with or without a disability, especially during times when people may be having difficulties in making or communicating decisions.
- Advance plans are not static. People's views, will and preferences may evolve, and people can and do change their minds about things. Plans should be reviewed regularly.

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Advance planning – beyond medical choices

- In humanitarian settings, advance plans can be used not only for routine and emergency mental health care but also for people to outline their needs and wishes during humanitarian responses (such as evacuations).
- In urgent situations, people's needs and wishes risk being deprioritized. Advance planning helps ensure they are recognized and respected.

- WHO QualityRights Tool: Person-centred recovery planning for mental health and well-being has a template for an advanced plan (Part 4). https://www.who.int/publications/i/item/9789241516822

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Break

15 minutes

Exercise 3.2 Supported decision-making and advance planning in humanitarian contexts

- What could be challenging in introducing supported decision-making /advanced planning into humanitarian services, including MHPSS services?

- Think about your project: how could you implement or advocate for supported decision-making in general (and advance planning specifically)?

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QualityRights Changemakers and Action Plans

Presentation. QualityRights changemakers

Meet Cultivation for Users Hope - Liberia

- One important practice to ensure the rights enshrined in the CRPD are protected, is to support and empower people with lived experience to advocate for themselves, and to include them in your organization, projects, programmes or services (for example as peer supporters or disability advisors).
- We will show a video about *Cultivation for Users Hope,* a peer support network civil society organization in Liberia. CfUH was established and is run by mental health service users to support and advocate for people with lived experience of mental health conditions.
- CfUH is working together with organizations such as MSF and the Ministry of Health in community-based health facilities to support other service users with advice, support groups and livelihood projects.

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Cultivation for Users Hope. Medecins Sans Frontiers
they were advancing in their recovery,

QualityRights changemakers

(Additional information and future resources)

- CfUH, and organizations like it, made up only of mental health service users, are sometimes known as **organizations of persons with disabilities (OPDs)**.
- OPDs are non-state organizations (civil society organizations) seeking change that advances their members' interests. They are usually established to respond to unmet needs. Self-representation and leadership of and by people with disabilities is the most crucial aspect.
- The members define the mission and activities, which might include:
  - advocating for the rights of people with disabilities
  - lobbying for law reform and human rights-based approaches to mental health
  - providing peer support for members and others, individually or in groups.
- If you are interested in supporting OPD development, WHO has developed training and guidance: https://www.who.int/publications/i/item/who-qualityrights-guidance-and-training-tools

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Exercise 3.3 People with lived experience where you work

Discussions in pairs

- **What mechanisms/spaces are available in your work setting for people with lived experience to be meaningfully included in activities, in improving the relevance and quality of the work and defending human rights according to the CRPD?**
- **What other practices/mechanisms/guidelines/activities do you have to ensure the rights outlined in the CRPD are upheld inside or outside your services - including the right to decide?**

Add the key points you develop in this exercise to the flip chart you developed as a group on Day 1, in collaboration with your colleagues).

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Continue your QualityRights Action Plan

In groups of 3–5, discuss feasible actions your project could take in the next 6 months to promote the CRPD, with specific focus on **disability inclusion** and **the right to decide (legal capacity)**.

- Think about the **resources** needed and possible **challenges** and ways to **address** these.
- When identifying actions, consider:
  - how to involve people with lived experience and support their advocacy
  - what levels of change (project, organizational, advocacy) are required
  - what **support or backing** you might need at **organizational and advocacy levels** to deal with the legal context and implications of disability inclusion.

- Record ideas on your Action Planner.
- Optionally, share key points on your group flipchart.

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Daily wrap up and rapid end of day evaluation

Please provide some quick first impressions on how you found module two on *Mental health, disability and human rights*, and the first part of module three on *Legal capacity and the right to decide* (we will continue this module in the next session). You'll have the opportunity to give more detailed feedback at the end of the entire course too.

- What is/are the most important point(s) you learnt from today's training?
- Any remarks? Wishes for tomorrow?

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