The right of everyone to the highest attainable standard of mental health:
Developing the normative framework for a population-approach to mental well-being

Project partner: Dr Dainius Puras, the United Nations Special Rapporteur on the right to the highest attainable standard of mental and physical health

Project overview:
It is recognised that approximately one in four people will encounter a mental health problem at some point in their life with these rates of occurrence on the rise. Mental and other behavioural disorders account for 12 percent of the global disease burden, but national mental health budgets rarely rise above 1 percent of total health expenditure. Around the world, very few people have access to available or appropriate mental health care. Alarmingly, over 90 percent of countries have no mental health policies in place that address the mental health of children and adolescents. Many countries’ mental health legislation is also outdated and incompatible with human rights. The former Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health has stated mental health is one of “the most grossly neglected elements of the right to health.”

Since the establishment of the special procedure on the right to health, mandate holders have addressed elements of the right to mental health, particularly elaborating the scope and content of the right as it relates to persons living with intellectual and psychosocial disabilities. The current UN Special Rapporteur on the right to health seeks to build on this work by delivering a comprehensive thematic report on the right to mental health to the United Nations General Assembly in October 2017. A unique contribution of this report will be elaborating the normative scope and content of the right of everyone to mental health, particularly an articulation of States’ obligations to respect, protect, and fulfil the right to health regardless of an individual’s current mental health status. The Special Rapporteur wishes to explore the ways in which social, political, and economic structures impede the full and effective realisation of the right to mental health for all people. This includes a consideration of obstacles such as social violence, conflict/post-conflict settings, and outbreaks of disease epidemics, including HIV/AIDS and Ebola. This clinic project will produce research that will inform this thematic stream of the Special Rapporteur’s mandate.

Project outputs:
The project will produce a series of three progressive research outputs timed to support the development of the Special Rapporteur’s thematic report. The outputs are designed both to complement the UN Special Rapporteur’s thematic research process and to support the experiential learning of the clinic research team.

Output 1: Detailed table of authorities
Researchers will produce a table of authorities, cataloguing the relevant international law, normative guidance, and international standards and reports issued from international organisations and agencies related to the right to mental health.
Particular focus should be on literature and legal sources that elaborate the basis for a population-wide approach to mental health.

Output 2: 10 page briefing document
This briefing document will:
1. Explore the normative framework applicable to the right of everyone to mental health. The normative examination should incorporate a life course perspective to the issue.
2. Drawing on existing literature, identify and explore key social, political, and economic obstacles (e.g. violence, conflict/post-conflict settings, and disease) that should be included in the report and explain their relevance.

The output document should be structured to incorporate the following elements:

I. How the right to mental health has been elaborated to date, and how a population approach to the right to mental health expands current understanding of the right
II. Normative analytical framework
   a. Health care and other health services essential for mental well-being
   b. Underlying determinants of the right to mental health
   c. Equality and non-discrimination
   d. Core obligations
   e. Progressive realisation
   f. Participation
   g. Accountability
   h. Obligations of the State
III. Importance of a life course approach to the analysis
IV. Key social, political, and economic obstacles (1-2 sentences each, key literature cited)
V. Marginalised groups (1-2 sentences each, key literature cited)

Output 3: One-page case study document (1 output per researcher)
This research output will require Researchers to take the analytical framework developed in the previous task and apply it to a specific setting (ie people who use drugs, adolescents living in post-conflict settings, transgendered women engaged in sex work, etc)

Project timeline & activities:
This project is centered on key research and learning goals and three written deliverables.

Project Phase 1 (October-December 2015): Conducting collaborative literature review & documenting findings

Clinic participants will:
- Acquire basic legal and human rights research skills
• Undertake research of mental health human rights jurisprudence and international policy standards
• Critically assess literature on the right to mental health—identify gaps and opportunities for normative development
• Acquire skills to design and implement a research project timeline and strategy
• Complete a research project work plan
• Understand the scope of international work on the right to mental health
• Participate in a project partner discussion with the United Nations UN Special Rapporteur
• Understand various human rights/public health standard setting documentation and their uses to promote and strengthen the right to mental health
• Produce a compiled table of authorities by December 2015

Project Phase 2 (January-June 2015): Researching and drafting a legal briefing document

• As space permits, support and participate in a consultative workshop with the UN Special Rapporteur (early January)
• Complete comprehensive research for briefing paper
• Develop writing skills through regular supervisory and peer review exercises
• Collaborate regularly with team on research and writing tasks through team meetings and/or collaborative writing engagements
• Submit regular writing drafts of research and a full provisional draft outline to project partners for review (mid-February 2016)
• Complete a final, high quality briefing paper on the right to mental health (late March 2016)
• Independently draft and deliver four case studies applying previous research outputs (June 2016)
• Clinic funds permitting, attendance at the June 2016 Human Rights Council session with the Special Rapporteur

Bibliography

Right to mental health Clinic project reading list (provisional):

Principles of mental health law and policy / edited by Lawrence Gostin ... [et al.], Chapter 3: Lance Gable and Lawrence Gostin: Human Rights

WHO resource book on mental health, human rights and legislation / principal writers, Melvyn Freeman and Soumitra Pathare

Population mental health : evidence, policy, and public health practice / edited by Neal Cohen and Sandro Galea: "No health without mental health" : the global effort to improve population mental health / Mark Tomlinson, Leslie Swartz, Karen Daniels


Mental disability and the European Convention on Human Rights [electronic resource] / by Peter Bartlett, Oliver Lewis, and Oliver Thorold ; foreword by Sir Nicolas Bratza

Oxford textbook of community mental health / edited by Graham Thornicroft ... [et al.] International human rights and community mental health / Oliver Lewis and Peter Barlett

Expanding the Definition of the Right to Mental Health: Attending to Victims of Political Violence and Armed Conflict in Their Communities of Origin LISA J. LAPLANTE AND ROXANA CASTELLON

Juriprudential research should begin here: http://www.globalhealthrights.org/category/health-topics/mental-health/

Dudley et al (eds) Mental Health and Human Rights (OUP, 2012)

Review reports of Special Rapporteurs on right to health--available here: http://www.ohchr.org/EN/Issues/Health/Pages/SRRightHealthIndex.aspx