

## Right to Health Through Education: Mental Health and Human Rights\*

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**T**HE WORLD HEALTH ORGANIZATION (WHO) is a specialized United Nations agency responsible for providing leadership on global health matters. At the time of its creation in 1948, health was defined as being “a state of complete *physical, mental, and social* well-being and not merely the absence of disease or infirmity.” However, in reality the main focus of global health work has predominantly been on physical health with much less focus given on mental and social health. Yet there is compelling evidence that mental health problems are one of the leading causes of sickness, disability, and even premature mortality in certain age groups.<sup>1</sup> Indeed hundreds of millions of people worldwide are affected by mental, behavioral, neurological and substance use disorders. For example, estimates made by WHO in 2002 showed that one hundred fifty-four million people globally suffer from depression and twenty-five million people from schizophrenia; 91 million people are affected by alcohol use disorders and fifteen million by drug use disorders.<sup>2</sup> Another WHO report reveals that fifty million people suffer from epilepsy and twenty-four million from Alzheimer disease and other dementias.<sup>3</sup> About 877,000 people die by committing suicide every year.<sup>4</sup>

In addition it is well known that the human rights of the poorest and most marginalized people in society are most often violated or neglected, and people with mental disabilities are certainly no exception. Indeed, all

over the world people with mental disabilities experience severe and systematic human rights violation. They are denied employment, education, housing and access to health care as well as civil liberties such as the right to vote. Even within the health care context people with mental disabilities experience wide-ranging abuses, with many people being locked away indefinitely in psychiatric institutions where they are exposed to inhuman or degrading treatment, including physical, sexual and mental abuse and neglect.<sup>5</sup>

Human rights education can play a significant role in reversing this situation. Human rights and health have strong linkages, and lack of information and knowledge on the former will generally have a negative affect on the latter. Unfortunately, the potential value of human rights education to public health has not yet been fully realized.

This article aims to clarify the important synergy between health and human rights, give a brief introduction to the work of WHO in this field and introduce one successful public health and education initiative in the South-East Asia region in which both mental health and human rights have been successfully brought together in the area of human rights education: The International Diploma in Mental Health Law and Human Rights, offered at the Indian Law Society (ILS) Law College, Pune, India in collaboration with the World Health Organization. The Diploma is a first of its kind in Asia and a good example of higher-level human rights education in Asia. The recent entering into force of the United Nations Convention on the Rights of Persons with Disabilities (CRPD)<sup>6</sup> is a significant step forward in the promotion and protection of the rights of people with mental disabilities and will have an important impact on how relevant policies and laws are formulated in the future. The establishment of the Diploma, which aims to educate key national mental health actors on the CRPD and other international human rights standards, is therefore particularly timely.

### **Synergies between Health and Human Rights**

The first reference to “right to health” at an international level was provided by the Constitution of the WHO. The WHO Constitution recognized in 1948 “the enjoyment of the highest attainable standard of health” as “one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.”<sup>7</sup> One of the most fun-

damental sources on the right to health is Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in which the right to health is defined as “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” Article 25 of the CRPD expands this, stating that “persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability.” Several other international human rights treaties also recognize the right to health.<sup>8</sup>

International human rights law requires governments to ensure that legislation and policies, which will lead to accessible and affordable health care for all, are put in place in the shortest possible time. The right to health is not restricted to access to health care, but also extends to other underlying determinants of health, such as access to clean water and food, adequate sanitation and housing, healthy working conditions and access to health-related education and information.

Health and human rights interact in several different ways. Firstly, human rights violations such as torture, gender-based violence or harmful traditional practices can result in poor mental and physical health.

Secondly, the realization of human rights can reduce vulnerability to ill health. The right to information guarantees that people are aware of their health rights and can access scientifically valid health data on different health topics. The right to education also indirectly affects health as educated people are generally better informed to make health-related decisions and are more likely to be able to afford healthier lifestyles.<sup>9</sup> Human rights education is very important in this context. To stand up for their right to health and the right of others, people need to know and understand what their rights are. For example, health policy guaranteeing free antiretroviral drugs to HIV-positive persons is of little use if people are not aware of this right. Likewise, a mental health law that aims to promote free and informed consent to treatment is unlikely to curb coercive treatment practices if neither mental health professionals nor service users are aware of this right.

Thirdly, health and other policies can promote or violate human rights.<sup>10</sup> For instance, national reproductive health policies or programs that exclude certain groups of people are discriminatory. Similarly health insurance schemes that specifically exclude payment for mental health care or offer lower levels of coverage for shorter periods of time violates the right to health as it is discriminatory and creates economic barriers to access-

ing mental health services. Conversely, health or mental health policies that encourage autonomy, as well as social, health and other support services for people with mental disabilities are likely to promote a number of fundamental rights enshrined in the CRPD and other human rights instruments, such as the right to health, to liberty and security of person, to protection of physical and mental integrity, to exercise legal capacity, and to live independently and be included in the community. It is thus of utmost importance that those in the position of planning and implementing laws and policies have a profound understanding of human rights.

### **Work of WHO in Health and Human Rights**

Although human rights are still somewhat neglected in development cooperation efforts, they have slowly started to emerge in the global development arena since the 1990s and are increasingly being integrated into programs of work of the different UN organizations. Within WHO, human rights were first integrated into HIV/AIDS work, where linkages to human rights were particularly apparent. In 2003 WHO, along with other UN organizations, signed a document entitled “UN Common Understanding on a Human Rights-based Approach to Development Cooperation”,<sup>11</sup> which states that human rights must constitute the objective and guiding principle of all development cooperation, and that the capacities of duty-bearers (governments, local authorities) to meet their obligations and of rights-holders (individuals) to claim their rights must be strengthened.

Today the human-rights-based approach is employed in a number of projects and programs within WHO headquarters, regional offices and at the country level.<sup>12</sup> In short, WHO aims through its human rights work to:

- Strengthen the capacity of WHO and its Member States to integrate a human-rights-based approach to health
- Advance the right to health in international law and international development processes
- Advocate for health-related human rights.

At the regional and country levels WHO supports governments in the implementation of the human-rights-based approach to national health policies and programs. WHO can, for instance, provide human rights training to ministries of health and to other stakeholders such as national human rights institutions. Health and human rights training is also offered to pub-

lic health and human rights practitioners, representatives of government ministries, national institutions, civil society and UN staff members through an e-learning course organized by WHO and InWent Capacity Building International Germany. Human-rights-related advocacy materials have also been produced and research conducted on specific health and human rights topics. In the South-East Asia Region, WHO human rights advocacy has focused on environmental health, HIV/AIDS and maternal and neonatal health.

WHO also has plans to support health and human rights education in secondary schools in the region, using DVD *Health - My Right* and published cartoons *Right to Health* and *HIV/AIDS, Stand up for Human Rights* as teaching materials in the classroom.

Another important initiative in the area of human rights education is the launch of the International Diploma in Mental Health Law and Human Rights at the ILS Law College in Pune. The one-year diploma course is organized with the support of the ILS in collaboration with WHO Geneva.

### **Legislation and Education to Pave Way for Human Rights**

Although education is largely recognized as one of the key ingredients for development, the value of *human rights* education specifically as a tool for development has not yet been fully understood or utilized. Through human rights education, which raises awareness on the rights of persons with mental disabilities as well as government obligations to respect, protect and fulfill these rights under international law, we can first and foremost change people's attitudes and eradicate prejudices and ignorance that are the root cause of violations and non-realization of human rights. A fully fledged human rights approach is not just about focusing on state action or taking steps based on an understanding of human rights violations. A profound human rights approach also means addressing the actions of non-state actors, addressing cultural and social practices, gender perceptions and economic inequalities.<sup>13</sup> Since education plays a significant role in handing down values and attitudes, human rights education is of utmost importance in the promotion and realization of the right to health and other human rights.

Human rights education can also ensure that national decision makers and other influential stakeholders are better equipped to draft, adopt and implement national legislation and policies that reflect international

human rights laws and principles. As noted above the presence of mental health legislation or policy in itself does not guarantee respect for human rights. In some countries, for instance, legislation is extremely outdated and violates rather than promotes or protects human rights. The *WHO 2005 Mental Health Atlas*, for example, indicates that only 16.7% of countries in the South-East Asia Region have enacted legislation since 1990.<sup>14</sup> Against this backdrop human rights education is imperative for the formulation of human rights oriented mental health policies and laws. Indeed, progressive policies and laws can: prevent violations and discrimination and promote human rights; encourage autonomy and liberty of people with mental disabilities; promote access to mental health, social and other support services to enable people to lead fulfilling lives in the community, and; ensure that people with mental disabilities have access to legal mechanisms to exercise and protect their rights.

The entry into force of the CRPD is an important milestone for public mental health work from a human rights perspective. Its rapid and ongoing ratification by Member States points towards an increasing empathy and involvement with mental health policy and law reforms at the country level. In this context the International Diploma in Mental Health Law and Human Rights comes at a crucial time and represents an important resource for advocacy and learning.

### **The International Diploma in Mental Health Law and Human Rights**

The International Diploma in Mental Health Law and Human Rights, launched in October 2008, is a result of collaboration between WHO headquarters and the ILS in Pune, India. In 2005, WHO published the *Resource Book on Mental Health, Human Rights and Legislation* to guide countries in amending and adopting human-rights-based mental health legislation for the promotion and protection of rights of persons with mental disabilities. Early experience suggested that while many countries found the Resource Book a useful guide for this purpose, the lack of trained professionals was a significant barrier to effectively converting guidance into action. In addition, in the light of the coming into force of the CRPD in 2008, there was an urgent need to raise awareness on the Convention and provide guidance on its implications in relation to future national mental health policy, legislation, services and practice.

The ILS Law College, affiliated to the University of Pune, is recognized as one of the premier institutions for quality legal education in India since its inception in 1924. Its prime objective is to impart socially relevant legal education in order to promote the principles of justice, liberty and equality. The College is known for the innovative teaching methods it has employed for many decades. As early as 1949, the College established its Moot Court Society which aimed to impart practical legal education to students. Mock parliamentary sessions were held to provide law students training in political leadership and parliamentary procedure. The College also initiated a program known as 'Towards Conscious Legal Education' (TCLE) with thirteen Diploma Courses such as on Human Rights and Law, Feminist Jurisprudence, as well as Child and Law. Considering the role of law and lawyers as instruments of social reform, the College lays emphasis on providing students with a first-hand experience of social realities. In 1976 it established its Legal Aid Center with a view to imparting practical training skills to students and creating awareness about social issues. The activities of the Legal Aid Center include providing advice to disadvantaged clients, legal literacy, and undertaking research on various socio-legal issues.

The purpose of the ILS's International Diploma Course on Mental Health Law and Human Rights is to build capacity of key actors in countries to promote the rights and improve the lives of people with mental disabilities. The course equips students with the knowledge and understanding of the CPRD and other international human rights standards as they relate to people with mental disabilities, enabling them to contribute to international and national advocacy efforts, create increased attention to mental health and human rights issues on the national agendas and also influence national legislative and policy reform processes to bring them in line with international human rights law.

The course is targeted at mental health professionals, law professionals, mental health service users, policy-makers and planners, government officials, lawyers, human rights defenders, and family members of people with mental disabilities.

The one-year Diploma Course includes two short residential sessions. The first residential session is at the start of the course and lasts two weeks while the second residential session is at the end of the course and lasts one week. In between residential sessions students are required to complete a series of course modules, and assignments online and also undertake a sub-

stantial project under the supervision of an assigned faculty member. The modules cover the following topics:

- Basic understanding of mental health and mental health conditions
- Basic understanding of law and legal systems
- CPRD and other key international human rights standards relating to mental health
- Policy and legislative framework for mental health
- The Right to Health—promoting access to mental health care
- Key rights of mental health service users, families and carers
- Involuntary admission and treatment in the context of the CPRD
- Criminal law and mental disability
- From exclusion to inclusion: Rights in the community
- Drafting, adopting and implementing mental health legislation.

The Diploma Course is taught by a faculty of renowned international experts in the area of mental health and human rights. Experts include mental health professionals, lawyers, mental health service users, experts in the area of disability rights and human rights defenders from around the world.

### **The Experience So Far**

The inaugural class of 2008 comprised twenty-three students from seventeen (mainly developing) countries. Students from this first intake graduated in October 2009 at a ceremony presided by Mr. Anand Grover, UN Special Rapporteur on the Right to Health. October 2009 also marked the first residential session for the nineteen students from fifteen countries who registered for the 2009-2010 academic year of the Diploma Course. Course participants have included health and mental health professionals, government officials, lawyers, social workers, policy-makers and legislators, mental health service users/survivors and their families. The Course has enjoyed very high approval ratings from the students with 80% saying the Course exceeded their expectations and the rest stating that it fully met expectations.

Some student-graduates made the following comments on the Diploma Course:

I enjoyed, learned, thought about what I learnt, reconfirmed, discussed... It opened my vision to areas I had never seen, looked at many issues and ideas differently. I changed many of my beliefs... I am thankful to the faculty and co-coordinators for giving



me an opportunity to learn and interact with them. I learnt with the belief that I can make CHANGES even if small and change lives and help people... WE CAN DO IT.

thank you so much for this great experience, it was stressful but incredible informing (sic)

This course has exceeded my expectations. I have learnt an immense amount and made wonderful contacts and friends. Thank you for its creation - I will spread the word on its high standards and quality.

Extremely well supported program. Impressed with all aspects. Learning was interactive, high quality and fun.

The course, which receives more than seventy applications each year, has a capacity to admit thirty students per year. The majority of applications are from applicants who have the potential to make effective use of the course and act as agents of change in their own countries. The ILS runs the course on a non-profit basis and the costs of the course to date have been met entirely by student fees.

The course organizers actively encourage international agencies to fund students to attend this course. In the past two years, international agencies such as the OSI Mental Health Initiative, the Government of New Zealand, WHO Country Offices in Jordan and Palestine territory, WHO Regional Office for the Eastern Mediterranean (EMRO) and the Pan American Health Organization (PAHO) have sponsored students to attend this course.

## Conclusion

In recent years, both mental health as a public health issue and human rights as a cross-cutting issue affecting public health have slowly captured the attention of many governments, donors, international institutions and civil society. The entry into force of the CRPD also represents an important step forward in the promotion and protection of people with mental disabilities.

In spite of this progress, many countries still have extremely outdated mental health legislation, and this, in addition to the general lack of awareness on human rights, has meant that the rights of persons with mental disabilities still fail to get the required attention. In order to realize human

rights for them, fundamental changes in society are needed to bring about a profound understanding and respect for the human rights of all persons. This needs to be supported and reinforced by the development and enforcement of a corpus of human rights compliant legislations and policies. While the rapid ratification by States of the CRPD certainly point to a commitment in this direction, many countries still lack trained professionals to raise awareness and provide guidance on mental health policy, legislation, services and practice.

The International Diploma on Mental Health Law and Human Rights, which is offered at the ILS College in Pune, India since 2008, is significant both because it is one of the pioneering human rights education curriculums at an advanced level in the region, and because it focuses on this much neglected area of mental health. Ultimately, there is the hope that the Diploma will help to establish an ever-increasing skilled pool of experts that are able to bring about positive and meaningful change in the area of mental disability rights in countries across the world.

The International Diploma is a good example of higher-level human rights education in the field of mental health and is one of the first of its kind to be supported by WHO in the South-East Asia Region. Recognizing the importance of human rights education, and the need to expand this to other areas of health and to all levels of society, the WHO Regional Office for South-East Asia is supportive of the efforts of its Member States in bolstering public health efforts with relevant human rights education. Health related human rights education is indispensable to public health, as health goals can only be realized if people are aware of their rights and if health professionals, policy-makers, and other influential stakeholders are able to understand and promote these rights.

\*DISCLAIMER: The authors alone are solely responsible for the views expressed in this publication. The views expressed in this publication do not necessarily represent the decisions, policy or views of the World Health Organization.

## Endnotes

<sup>1</sup>Miranda JJ and Patel, V., *Achieving Millennium Development Goals: Does Mental Health Play a Role?*, [www.pubmedcentral.nih.gov/articlerender.fcgi?artid=1201694](http://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=1201694)

<sup>2</sup>*Revised Global Burden of Disease (GBD) 2002 estimates* (Geneva: World Health Organization, 2004), [www.who.int/healthinfo/bodgbd2002revised/en/index.html](http://www.who.int/healthinfo/bodgbd2002revised/en/index.html)

<sup>3</sup>*Neurological disorders: public health challenges* (Geneva: World Health Organization, 2006)

<sup>4</sup>*World Health Report 2003. Shaping the future* (Geneva, World Health Organization, 2003).

<sup>5</sup>*Mental Health and Development: Targeting People with Mental Health Conditions as a Vulnerable Group* (World Health Organization, available in 2010) and *Human Rights and Health, Persons with Mental Disabilities* (Washington: Pan American Health Organization, 2008)

<sup>6</sup>*Convention on the Rights of Persons with Disabilities*, adopted by the United Nations General Assembly in December 2006, [www.un.org/disabilities/documents/convention/convoptprot-e.pdf](http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf)

<sup>7</sup>The Constitution of WHO was approved by the International Health Conference in New York in July 1946 and ratified by a majority of UN member states on April 7, 1948. This marked the official establishment of WHO.

<sup>8</sup>International treaties and conventions (in chronological order) relevant to health & human rights

1. ILO Convention (No. 29) concerning Forced Labour (1930);
2. United Nations Charter (1945);
3. Convention on the Prevention and Punishment of the Crime of Genocide (1948);
4. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949);
5. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (1949);
6. Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (1949);
7. Geneva Convention relative to the Treatment of Prisoners of War (1949);
8. Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949), and the Protocol Additional to the Geneva Conventions relating to the Protection of Victims of International Armed Conflicts (Protocol I) (1977) and the Protocol relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (1977);
9. Convention relating to the Status of Refugees (1950) and its Protocol (1967);
10. Convention (No. 105) on Abolition of Forced Labour (1957);
11. International Convention on the Elimination of All Forms of Racial Discrimination (1963);
12. International Covenant on Economic, Social and Cultural Rights (1966);
13. International Covenant on Civil and Political Rights (1966) and its two Protocols (1966 and 1989);
14. Convention on the Elimination of All Forms of Discrimination Against Women (1979) and its Protocol (1999);
15. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984);
16. Convention on the Rights of the Child (1989);
17. Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries (1989);

18. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990);

19. Convention (No. 182) on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999);

20. Maternity Protection Convention (No. 183, 2000);

Source: *25 Questions and Answers on Health and Human Rights* (Geneva: World Health Organization, 2002), page 29.

<sup>9</sup>Better Health is Linked to Education, *AORN Journal*, (September 2002) [http://findarticles.com/p/articles/mi\\_m0FSL/is\\_3\\_76/ai\\_91805685/](http://findarticles.com/p/articles/mi_m0FSL/is_3_76/ai_91805685/)

<sup>10</sup>Gostin L. "Human Rights of Persons with Mental Disabilities: The European Convention of Human Rights," *International Journal of Law and Psychiatry*. Volume 23(2), 2000/125-159 at 127.

<sup>11</sup>The "UN Statement on Common Understanding on Human Rights-based Approach to Development Cooperation and Programming" was adopted by the UNDG in 2003 to ensure that all UN agencies consistently apply human rights-based approach to development work at global, regional and country levels. [http://www.undp.org/governance/docs/HR\\_Guides\\_CommonUnderstanding.pdf](http://www.undp.org/governance/docs/HR_Guides_CommonUnderstanding.pdf)

<sup>12</sup>WHO has headquarters in Geneva, Switzerland, six regional offices and 145 country offices that cover 159 Member States. In the Asia-Pacific Region there are two regional offices. The Regional Office for South-East Asia is based in New Delhi and covers eleven countries. The Regional Office for the Western Pacific is based in Manila and covers twenty-seven countries.

<sup>13</sup>*Claiming the Millennium Development Goals: A Human Rights Approach* (New York and Geneva: The United Nations, 2008) p. 11.

<sup>14</sup>*Mental health atlas 2005* (Geneva, World Health Organization, 2005)

## Note

Admissions for the academic year 2010-11 opened in January 2010. The organizers hope to encourage more international agencies and governments to sponsor students to attend the course in the coming year.

Prospectus for the International Diploma is available online at [www.mentalhealthlaw.in/content/international-diploma-mental-health-law-human-rights](http://www.mentalhealthlaw.in/content/international-diploma-mental-health-law-human-rights).

The website also has an application form which prospective students can complete online. More information can also be obtained from the course coordinator, Dr. Soumitra Pathare ([incarnapune@gmail.com](mailto:incarnapune@gmail.com)).

Links to publications and learning materials:

The Convention on the Rights of Persons with Disabilities [www2.ohchr.org/english/law/disabilities-convention.htm](http://www2.ohchr.org/english/law/disabilities-convention.htm)

WHO MIND Mental Health and Human Rights website [www.who.int/mental\\_health/policy/legislation/en/index.html](http://www.who.int/mental_health/policy/legislation/en/index.html)

International Diploma in Mental Health Law and Human Rights website: [www.mentalhealthlaw.in/](http://www.mentalhealthlaw.in/)

WHO publications on health and human rights [www.who.int/hhr/activities/publications/en/index.html](http://www.who.int/hhr/activities/publications/en/index.html)