Participation and the Practice of Rights Project

Rights in Action: Changing Mental Health Services

28th November 2007

Findings of the International Panel

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Introduction

On 28th November 2007, an international panel was convened to hear evidence presented by members of the Public Initiative on the Prevention of Suicide (PIPS) and Reaching Across to Reduce Your Risk of Suicide (RAYS) on a set of prioritized issues they and other mental health service users face in accessing mental health care in North Belfast, an economically-deprived area that, according to national statistics, suffers one of the highest rate of suicide and self-harm in Northern Ireland. The evidence was gathered, organized, and presented using a participatory human rights-based approach to health. This means that those individuals who are most affected by health service delivery failures are directly involved in the identification, monitoring, and implementation of effective solutions to such failures. Such a participatory approach is crucial to ensuring the full realization of the right to the highest attainable standard of physical and mental health ('the right to health') for all persons within a State's jurisdiction.[1]

The international panel heard clear and convincing evidence on the failings of health authorities to fulfil the right to health, and specifically the right to mental health, in Northern Ireland. The most powerful evidence came from the personal testimonies of mental health service users and their families. These testimonies were presented to the panel either directly by forum participants, via short DVD films, or in the results of a baseline survey of users, entitled 'Experiences of Mental Health Services Users in Belfast: A Baseline Survey.' They were accompanied by detailed descriptions of current legislative and policy efforts to address the delivery of mental health services in Northern Ireland. Such evidence painted a powerful picture: Of a government that recognizes the crisis of mental

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[1] International Covenant on Economic, Social and Cultural Rights, Article 12 (1) "The States Parties to the present Covenant recognise the right to everyone to the enjoyment of the highest attainable standard of physical and mental health."

health service delivery within its jurisdiction, and that has formally committed to addressing it through legislative undertakings, but that has yet to take the specific, concrete, targeted measures necessary to ensure that the right to health is meaningful in practice for users of mental health services in North Belfast.

The panel's findings from the evidence hearing, together with its specific recommendations are set out below. The panel's comments and recommendations seek to encourage a process of mental health decision-making that is both fully participatory and genuinely responsive to locally-identified needs. They are therefore intended to be of use to those working in the health care system in Northern Ireland as well as to mental health service users and their families. We conclude that a process of sustained and active engagement between health authorities and mental health service users, such as the PIPS/RAYS group, is necessary for effectively ensuring the right to health for all service users. Such engagement must accord with the core principles, values, and precepts of international human rights law, in particular non-discrimination, equality, full civil society participation, and the real availability of public accountability mechanisms.

1. Human Rights Obligations of Governments and Public Officials

The government of Northern Ireland has undertaken to ensure the right to health for all persons within its jurisdiction. This obligation has been undertaken pursuant to a variety of human rights treaties, most immediately the International Covenant on Economic, Social and Cultural Rights (ICESCR). That treaty, ratified by the United Kingdom in 1976, enshrines in Article 12 "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."[2] To ensure the full realization of that right, Article 2 of the Covenant commits all governments of ratifying states to "take steps" through "all appropriate means" to achieve the right. As the UN Committee on Economic, Social and Cultural Rights has affirmed:

> *The Covenant clearly imposes a duty on each State to take whatever steps are necessary to ensure that everyone has access to health facilities, goods, and services so that they can enjoy, as soon as possible, the highest attainable standard of physical and mental health.*

This means that all national ministries, departments and agencies, and all of their local counterparts, bear a legal duty to take concrete, decisive, and appropriate measures to ensure the full realization of the right to health for all persons within their respective jurisdictions. In the health context of Northern Ireland, this includes most immediately the Department of Health, Social Services and Public Safety (DHSSPS), the four Health and Social Services Boards, and the more locally-directed Health and Social Care Trusts, which provide direct care through their hospitals, community care, and social services.

At the evidence hearing, the PIPS/RAYS rights group correctly identified the government, and more specifically the Department of Health and its agencies, as the primary duty-bearers responsible

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[2] Ibid.

for ensuring the right to the highest attainable standard of physical and mental health. In discharging this obligation, the panel wishes to emphasize that it is the Minister for Health, as head of the executive department in charge of health, who may be held directly to account for ensuring that appropriate steps are taken within the Health Ministry and throughout the health system to secure this right on behalf of all health service users.

The duty to take appropriate steps to achieve the full realization of the right to health is multi-faceted and multi-dimensional. It includes not only the duty to refrain from taking measures that directly injure or restrict the right to health of particular individuals or groups, but also the affirmative duty to take positive, concrete measures to ensure constant improvements in the *availability* of health services, facilities, and goods; their *accessibility* to all individuals and groups (physically, economically, legally, and informationally); their cultural and ethical *acceptability* to all groups; and their scientific and medical *quality*.[3]

The panel underscores that the government is duty-bound under international human rights law to engage in constant performance-monitoring, gauging and assessing its progress (or lack of progress) with respect to each of the above four "essential elements" of the right to health. As the UN Committee on Economic, Social and Cultural Rights has affirmed, governments and their agencies are under a human rights obligation to:

> *"monitor the actual situation with respect to each of the rights on a regular basis and [thus be] aware of the extent to which the various rights*

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[3] General Observation No. 14, para. 12 ("The right to health in all its forms and at all levels contains the following interrelated and essential elements, the precise application of which will depend on the conditions prevailing in a particular State party: (a) *Availability*….(b) *Accessibility*….(c) *Acceptability*….(d) *Quality*.")

> *are, or are not, being enjoyed by all individuals…under its jurisdiction."*[4]

Such knowledge and diagnosis of the existing situation is the first essential step towards promoting the right to health, as it provides the basis for the elaboration of clearly stated and carefully targeted policies designed to remedy identified health care deficiencies and to ensure that constant improvements are in fact being made.[5] Indeed, as the UN Rapporteur on the Right to Health states:

> *"One of the most urgent steps which many States need to take to facilitate the realisation of the right to health of persons with mental disabilities…is to enhance monitoring and accountability at the national and international levels."*[6]

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[4] CESCR General Comment No. 1. para. 3.
[5] Ibid. para. 4.
[6] E/C.4/2005/51, para. 68.

2. “Progressive Realization” and Obligations of Immediate Conduct

The duty of “progressive realization” is often held up as a limit on the duties of government to achieve the right to health, used to justify official failures to take action in the field of economic, social and cultural rights. It is critical to underscore, however, that this duty—which applies as fully to civil and political rights, as social rights—refers principally to outcomes or results in the enjoyment of rights. That is, it represents a clear-sighted recognition that, given resource constraints and competing duties in a democratic society, the full realization by all individuals of any given right can rarely be achieved immediately, but rather will take time, effort, and coordination on many different levels and fronts. It is for that reason that measurement of the duty of progressive realization of any given right generally focuses on outcome indicators that can track results in the enjoyment of a right over time.

All rights, however, also include corresponding obligations of *conduct*, **which are of immediate effect**. The Committee on Economic, Social and Cultural Rights explains:

> *“While the Covenant provides for progressive realisation and acknowledges the constraints due to the limits of available resources, it also imposes various obligations which are of immediate effect.”*[7]

Among these obligations of immediate effect is the undertaking in article 2.1 of the ICESCR to ‘take steps’ towards the full realization of protected rights, which “in itself, is not qualified or limited by other considerations.”[8] As applied to the right to health, the Committee has underscored that “[s]uch steps must be deliberate, concrete and targeted towards the full realization of the right to health.”[9]

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[7] CESCR General Comment No. 3, para. 1; CESCR General Comment No. 14, para. 30.
[8] CESCR General Comment No. 14, para. 30; *see also* CESCR General Comment No. 3, para. 2.
[9] CESCR General Comment No. 14, para. 30.

States therefore cannot invoke the duty of "progressive realization" in an effort to avoid taking specific, concrete actions with respect to improving health services. Rather, the key question becomes what steps are in fact "appropriate" to the local circumstances. As the Committee recognizes:

> *The most appropriate feasible measures to implement the right to health will vary significantly from one State to another. Every State has a margin of discretion in assessing which measures are most suitable to meet its specific circumstances. The Covenant, however, clearly imposes a duty on each State to take whatever steps are necessary to ensure that everyone has access to health facilities, goods and services so that they can enjoy, as soon as possible, the highest attainable standard of physical and mental health.*[10]

It is precisely because each measure a State must take to achieve the right to health cannot be defined *a priori* that international human rights law imposes process requirements on States for purposes of accurately identifying necessary steps in collaboration with civil society. These include, most notably, (1) performance monitoring, (2) outcome-indicator disaggregation, and (3) effective community participation in setting priorities, identifying appropriate indicators, making decisions, and planning, implementing, monitoring, and evaluating health-related policies and strategies.

The panel commends the PIPS/RAYS group for taking the initiative to insist on its proper role in helping to define the indicators and benchmarks that define the "appropriate" policies the Department of Health is required to take immediately in North Belfast. It also commends the PIPS/RAYS group for identifying benchmarks that

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[10] Ibid. para. 53.

are eminently reasonable in scope and attentive to the fact that full achievement of the health improvements they seek can not ordinarily be achieved immediately, even if concrete, deliberate and targeted "steps" toward that end are immediately required.

The panel recommends that the Ministry of Health and other relevant health authorities work closely with the PIPS/RAYS group and other mental health service users to identify, implement, monitor and review the most appropriate targeted policies for remedying the service delivery problems the group has identified. Services users will be able to provide valuable first-hand insights into the policies that rob them and their families of dignity and impede their enjoyment of the highest attainable standard of physical and mental health. They are thus uniquely situated to work collaboratively with health authorities to rectify problem areas by identifying effective steps and measures the government can and should undertake.

3. Importance of Service Users Identifying Performance Indicators and Benchmarks

In facilitating the process of performance monitoring with respect to the right to health, the UN Special Rapporteur on the Right to Health has identified three sets of indicators that governments should establish and monitor: process indicators, outcome indicators, and structural indicators.[11] The panel notes that these indicators are increasingly being adopted by monitoring bodies and tribunals around the world with respect to their own periodic reporting requirements.[12]

It also notes, however, that the trend has been to assume that governments will identify their own performance indicators, drawing in particular on the indicator-identification work of international bodies such as the UN specialised agencies and regional bodies. Governments are then expected to monitor themselves with respect to the chosen indicators, reporting periodically to international bodies on their progress in achieving corresponding improvements.

The panel notes that this process, while important in key respects, is not fully consistent with the human rights-based approach to health, which requires the active and informed participation of individuals and communities in policy decisions that affect them. Experience shows that when governments are left to measure progress against their own choice of indicators, those measurements often do not coincide with the real concerns and priorities of local populations. That is, the process runs the risk of measuring the wrong things. **For this reason, the panel underscores the vital importance of ensuring that local communities participate actively in the process of defining human rights performance indicators and in**

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[11] *See, e.g.*, Report of the Special Rapporteur on the Right to Health, Paul Hunt, on health systems and human rights-based approach to health indicators, UN Doc. E/CN.4/2006/48, submitted to the Commission on Human Rights on 3 March 2006.

[12] Most recently by the Inter-American Commission on Human Rights with respect to monitoring fulfilment of the rights guaranteed in the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights.

monitoring and revising them over time. Only in this way will indicators genuinely correspond to local populations' experiences with rights deprivations, and hence truly serve as a metric for human well-being in our diverse communities.

The panel **commends the work of the PIPS/RAYS rights group** in identifying a set of indicators that correspond directly and immediately to the rights deprivations recurrently experienced by mental health service users in North Belfast. The work of the PIPS/RAYS rights group directly evidences the benefit that can be derived by having health service users identify the components of the right to health as it relates to them and setting in place a system to monitor the progress of its realisation.

It recommends that the health authorities, starting with the Minister for Health, work closely with the group to ensure that real improvements to the right to health are experienced by mental health service users throughout Northern Ireland. To this end, the panel believes the example provided by the PIPS/RAYS rights group is capable of broad replication elsewhere and **recommends that it should be actively embraced by national health authorities.**

4. PIPS/RAYS Rights Group Human Rights Indicators

The PIPS/RAYS rights group presented a number of human rights indicators to the panel by which they proposed to measure whether the right to the highest attainable standard of health is being made a reality in North Belfast. These indicators were developed through the use of a baseline survey on the experiences of mental health service users in Belfast.

Through the use of that survey and other fact-gathering methods, the PIPS/RAYS group identified a long list of deficiencies and failings in mental health services in Belfast. Using a human rights-based analysis, they then narrowed these down to four priority areas, each of which met two significant and strategic guidelines:

- The deficiency inhibited or impeded the effective realization of the right to health for a large number of mental health service users.
- Core improvements could be realistically and easily achieved with small but critical changes in the way the mental health system operated.

The resulting *indicators* of the right to mental health identified by the PIPS/RAYS group as priorities for action included the following:

(1) lack of follow-up appointments on discharge from hospital for persons with severe mental health issues,

(2) inadequate provision of medical information by general practitioners,

(3) lack of information on and access to complaints mechanisms; and

(4) lack of opportunities for participation in mental health decision-making.

With the assistance of the Participation and Practice of Rights Project, the group then identified a set of *benchmarks*, representing the level of improvement that could reasonably be expected to be achieved in six months and one year, respectively, if the indicators were in fact taken seriously by public health authorities. Each of the chosen indicators, together with their corresponding benchmarks, is considered below.

a) Availability of Essential Mental Health Services: Follow-Up Appointments

A core element of the right to health is the availability of public health and health-care services.[13] Correspondingly, the first indicator identified by the PIPS/RAYS group measures the number of follow-up appointments received by mental health service users following discharge from a hospital for severe mental illness or recent history of self-harm. These follow-up appointments are of crucial importance given that statistically such individuals are at high risk of suicide or self-harm. Forum participants stressed that such follow-up appointments often serve as a “life-line” for such persons at this most vulnerable time. In accordance, National NHS Guidance on the issue states that patients at risk of harming themselves or others, or who are suffering a serious mental illness should receive follow-up within one week.[14]

Notwithstanding, the baseline research of the PIPS/RAYS rights group found that 87% of the mental health service users they surveyed had not even received a follow up appointment following discharge from hospital within one week.

The panel finds that remedying this unnecessary deficiency would not take significant resources, and yet would have a tremendous impact on protecting the right to life and health of many people at risk of self-harm and/or suicide in North Belfast, a demographic that experiences the highest levels of

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[13] General Comment No. 14, 12 (a)

[14] Recommendation from Safety First: Five Year report of the National Confidential Inquiry into Suicide and Homicide by People with Mental Illness, Dept of Health, United Kingdom, 2001 (“All discharged patients who have severe mental illness or a recent (less than three months) history of deliberate self-harm should be followed up within one week.”).

suicide in Northern Ireland. The panel also finds that the benchmarks set by the PIPS/RAYS group are eminently reasonable. The group proposes in a year the number of people receiving follow up appointments within one week of discharge should be increased to 87% within one year. **The panel recommends that the PIPS/RAYS benchmarks should be embraced by the Minister for Health as an urgent priority**.

The panel recognises the National Guidance that those with severe mental illness or recent history of self-harm should receive a follow-up appointment within a week. The Mater's guidance states that care plans should contain follow up arrangements. **The panel strongly urges the Minister to work with the group to ensure that mental health patients discharged from hospital receive an appointment before they leave in order to fulfil their right to access health care. This is a low-cost and simple requirement but one which would be of considerable benefit to vulnerable individuals**.

As a further action, **the panel recommends that the Minister of Health, as the primary duty-bearer, issues a directive to regional hospitals, including the Mater Hospital in Belfast, to change their hospital guidelines so that they provide not that "All discharged patients who have severe mental illness or a recent history of deliberate self harm *should* be followed up within a week," but rather that they "*must*" be followed up within a week**. The Hospital administration should then be urged or directed to take targeted training action to ensure that all practitioners are aware of this Hospital requirement, that they know that administrative sanctions will follow if they do not adhere to it, and that administrative sanctions are in fact imposed on any practitioner who unjustifiably fails to fulfil the Hospital mandate.

b) Access to Adequate Information: Informed Medical Decision-making

The panel recalls that the right to information, as a core predicate to the right to free and informed consent to health care interventions, is an integral part of the right to health. International standards affirm that receipt of information is inextricably linked to accessing healthcare and that "*accessibility* includes the right to seek, receive, and impart information and ideas concerning health issues."[15]

At the same time, health care interventions can not be deemed **acceptable** where appropriate information is not provided to the patient. Receipt of such information protects against unwarranted infringements of a patient's autonomy and integrity interests, ensuring that he or she can make free and informed decisions about all health care interventions that impact her physical and mental wellbeing. In this respect, the panel reaffirms that the right to receipt of appropriate medical information by health care practitioners is necessary to protect not only an individual's autonomy interests, but also those to physical and mental integrity.

Given the importance of ensuring that general practitioners are sufficiently trained in mental health issues to provide appropriate information to mental health service users on their conditions and treatment options, the panel was alarmed at the PIPS/RAYS group's findings that found only 36% of mental health users surveyed reported that they were satisfied with the information they received from general practitioners on mental health issues and only 38% were satisfied with the information received on medications prescribed to them. **The panel recommends that the Health Ministry and Department take up the group's benchmarks as a matter of priority**, working to increase the number of satisfied mental health service users to 45% (information on mental health issues) and 50% (information on prescribed medication) within six

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[15] General Comment, No. 14, paragraph 12 (b).

months, and to 60% and 70%, respectively, within one year.

The panel recognizes that the government of Northern Ireland appreciates the need for expanded training of general practitioners in depression awareness and in suicide prevention. As such, it has developed a Depression Awareness Training Programme for general practitioners, and has recognized "appropriate suicide awareness/prevention training [as] a priority for all front line health service staff, in particular primary care staff."[16]

Nevertheless, the action research of the PIPS/RAYS rights group has identified a key reason why that training has not translated into better outcomes in clinical contexts: It has experienced a very low uptake, with only 13.9% of GPs in the Health Board area covering North Belfast having undertaken the training by October 2007,[17] despite the existence of locum cover. In his report of 11 February 2005 to the United Nations Commission on Human Rights (now Human Rights Council), the UN Special Rapporteur on the Right to Health stated:

> *"General practitioners, and other primary care providers, should be provided with essential mental health care and disability sensitization training to enable them to provide front-line mental and physical health care to persons with mental disabilities."*[18]

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[16] Protect Life: A Shared Vision, The Northern Ireland Suicide Prevention Strategy and Action Plan, 2006-2011. The Depression Awareness Training Programme was initiated in 2004, as part of the 2003-2008 five year action plan for the Promoting Mental Health strategy.

[17] According to figures received from the Department of Health in October 2007 in response to a request under the Freedom of Information Act.

[18] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Commission on Human Rights, 61st Session, E/CN.4/2005/51

The low uptake of GP training is clearly indicative that something in this process is going wrong. **The panel recommends that the Minister of Health take decisive action to ensure that all general practitioners do in fact take the required training course.** A wide variety of positive and negative incentives could be implemented, all of which would constitute an “appropriate step” in fulfilling the right to health of mental health users in Belfast and in achieving the identified benchmarks as quickly as possible.

The panel also recommends that mental health service users be involved in assessing the content of the training program, in contributing to its expansion if necessary, and in monitoring continued uptake and satisfaction with its results. Such involvement will ensure that the key pieces of information deemed necessary by users of the mental health system with respect to treatment options are taken into account, while allowing useful tracking of both the measures adopted by health authorities to achieve the right to health and the outcomes of those measures as evaluated by mental health service users.

c) Accountability: An Effective Complaints System

The panel wishes to underscore that, as affirmed by the UN Committee, “Any person or group victim of a violation of the right to health should have access to effective judicial or other appropriate remedies”[19] The Committee has also stated that administrative remedies, such as the Health Service complaints system should take into account human rights standards on the right to health in their decision-making. In addition, the Committee identifies the essential characteristic of administrative remedies as “accessible, affordable, timely and effective”.

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[19] General Comment No. 14, para. 59

During ‘Rights in Action: Changing Mental Health Services’ the panel heard testimony from members of the group with experience in using the health services complaints system. Evidence was presented relating to the inaccessibility of the current complaints procedure, and concerns over its inability to make changes as a result of lessons learned. **The key role an effective complaints process can play in highlighting and addressing mental health service shortcomings cannot be over-emphasised.**

The panel notes that the PIPS/RAYS rights group contributed to the public consultation in 2006 on reforms to the current complaints system, and that new proposals are forthcoming. **The panel recommends that both the indicators selected in relation to the complaints process and the corresponding human rights standards must be taken into account in any endeavours to improve this service.**

d) Participation: An Informed Voice in Health Care Decision-making

The panel was encouraged to hear the PIPS/RAYS rights group identify the right to participate as the most important indicator they had identified for measuring the effective achievement of the right to health. The Committee on Economic, Social and Cultural Rights has underscored the absolute importance of people’s participation in securing the right to health, concluding that:

> *“the right of individuals and groups to participate in decision-making processes, which may affect their development, must be an integral component of any policy, programme or strategy developed to discharge governmental obligations under article 12. Promoting health must involve effective community action in setting priorities, making decisions, planning, implementing and evaluating strategies to achieve better health. Effective provision of health services can only be*

> *assured if people's participation is secured by States."*[20]

Notwithstanding, the PIPS/RAYS group has found that almost 80% of mental health service users rate their participation in mental health service decision-making as "not involved." **The panel recommends that the Minister of Health prioritize actions aimed at increasing the opportunities for participation in mental health service decision-making by mental health service users.**

In this respect, the PIPS/RAYS group has highlighted the difference between the human rights requirement of participation and the diluted version of consultation often experienced by groups such as theirs. Consultation processes which do not allow affected groups to impact and shape decisions that are made fall far short of participation. According to the UN Rapporteur on the Right to Health, participation must enable groups to affect processes:

> *"…at all stages of the development, implementation and monitoring of legislation, policies, programmes and services relating to mental health and social support, as well as broader policies and programmes, including poverty reduction strategies, that affect them."*[21]

The UN Rapporteur goes on to state that government should affirmatively solicit the input of persons with mental health problems, their families and representative organisations. It is necessary to assess whether the current arrangements put in place by government are adequate to secure participation of affected groups in policy making, above and beyond consultative structures that do not allow groups to be actively involved in core decisions. **The panel recommends a review of the**

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[20] CESCR General Comment No. 14, para. 54
[21] E/CN.4/2005/51

current formal mechanisms for “participation” in order to ascertain whether the international obligations and the Minister’s own commitments to put service users at the heart of the health service can be met through them. If they cannot, new mechanisms must be envisioned and put into operation to ensure that mental health service users can effectively participate in the decision- and policy-making processes that affect them.

The panel emphasises that such participation is crucial if States are to meet their obligations under the right to health. In order to determine what measures they must take to implement the right to health, **States must establish a constant dialogue with health care users who can help them identify and address the most pressing issues relating to their right to health.**

5. Identifying and addressing the needs of vulnerable or marginalised groups

The panel wishes to underline the importance of, and commend the work undertaken by, the PIPS/RAYS rights group to identify those mental health service users who are facing particular disadvantage and are in need of particular attention. Evidence was provided during 'Rights in Action: Changing Mental Health Services' on the high incidence of suicide in areas characterised by income deprivation, including North Belfast, in which the suicide rate is almost twice that of Northern Ireland as a whole. Indeed, evidence indicates that in Northern Ireland suicide rates in economically deprived areas are twice that in non-economically deprived areas, and that three of the most economically deprived wards in Northern Ireland are located in North Belfast.

Throughout their monitoring the PIPS/RAYS rights group plan to collect information by age and gender to reflect the realities behind the particularly high suicide rate among youth and, particularly, young males.

The UN Special Rapporteur stated in his report on Mental Disability:

> *"Under international human rights law, States not only have an obligation to prohibit discrimination, they also have a positive obligation to ensure equality of opportunity for the enjoyment of the right to health by persons with mental disabilities."*[22]

This obligation encompasses special measures for particular groups when required. However, **the panel is concerned that the work of the PIPS/RAYS rights group to address the situation of the most disadvantaged does not appear to be mirrored by policy makers.** The panel was concerned to hear evidence at the Mental Health Forum concerning the decision by the Department of Health not to subject

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[22] E/CN.4/2005/51

the Protect Life Suicide Strategy to an equality impact assessment. Under s75 of the Northern Ireland Act, public authorities including the Department of Health are under an obligation to pay due regard to promoting equality of opportunity in all their functions among those of different age, religious belief, political opinion, racial group, marital status or sexual orientation, and also between men and women, persons with a disability and persons without, and persons with dependents and persons without.

Among the requirements under s75 is the obligation for public authorities to carry out equality impact assessments to gauge the effect of their policies on the affected groups. Notwithstanding, the Protect Life Suicide Strategy did not undergo an equality impact assessment. According to evidence presented at the Mental Health Forum, the Equality Impact Assessment is a tool which can be used to target and positively address the inequalities between groups, and so this omission is disappointing. The panel hopes that this can be partially addressed by thorough monitoring of the impact of the Protect Life Suicide Strategy on each of the named group, in order to evaluate its success and to discharge government obligations under s75 of the Northern Ireland Act 1998 and international human rights law. As the UN Rapporteur on the right to health states:

> *“One of the most urgent steps which many States need to take to facilitate the realisation of the right to health of persons with mental disabilities…is to enhance monitoring and accountability at the national and international levels”*[23]

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[23] E/C.4/2005/51, para. 68

6. Appropriate Health Care Budgeting

The panel likewise notes that monitoring and disaggregation is critical for engaging in targeted and appropriate health care budgeting. It was concerned to learn in the evidence hearing of the significant gaps in mental health service provision in North and West Belfast. In particular, it was reported that, despite the increased needs, there are fewer mental health practitioners in the North and West Belfast area than elsewhere in Northern Ireland. At the same time, North and West Belfast mental health services experienced an equity deficit of 2.5 million compared to the average level of investment across the Health Board’s area in 2005.

The panel was also concerned to learn of the low budgetary amounts allocated to mental health services throughout Northern Ireland.

It recommends that the Minister of Health take a close and systematic look at differential spending levels and differential needs across the region, taking civil society inputs directly into account. It also recommends that mental health service users be actively involved in decision-making affecting budgetary allocations in the health sector.

7. Institutional Mechanisms for Service-User Participation

As stated at the outset, the panel has been struck by the innovative and determined work carried out by the PIPS/RAYS rights group in their efforts to improve mental health services for all. The panel heard evidence of forthcoming legislation which will enshrine into law the obligation to seek out the views of mental health service users and to show how these views were used in policy-making. In addition the panel has been made aware of the commitment given by the Minister for Health on many occasions to ensure that the views and experiences of service users are sought and heard when decisions are made. As a result of the sustained effort made by the PIPS/RAYS rights group, tangible and achievable changes have been identified which could have real impact on improving the experiences of mental health service users and progressively realising the right to health. Ultimately the changes identified could save lives.

As the group moves forward with its work, the panel recommends the creation of a formal institutional mechanism connecting this community level work with government health-care decision making processes. Such a mechanism would reinforce the human rights obligation of government and its agencies to be accountable, and to ensure that the right of health service users to participate in making decisions, and planning and implementing strategies to achieve better health is integrated into day to day practice.

Governments and its agencies are under a human rights obligation to:

> *"monitor the actual situation with respect to each of the rights on a regular basis and is thus aware of the extent to which the various rights are, or are not, being enjoyed by all individuals…under its jurisdiction"*[24]

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[24] CESCR General Comment No. 1. para. 3

The creation of a mechanism which will enable the experience and expertise of the PIPS/RAYS rights group to truly inform and shape decision making processes, beyond current consultative processes is essential to move the process forward and potentially provide a best practice example that can be emulated around the world.

Biographies of International Panel Members

Christian Courtis, International Commission of Jurists, Geneva

Christian Courtis is the Legal Officer for Economic, Social and Cultural Right for the International Commission of Jurists, Geneva. He holds a Bachelor in Law and a Law degree from the University of Buenos Aires, Argentina, and a LL.M. degree from the University of Virginia, U.S.A.

He is a law professor at the University of Buenos Aires Law School, and invited professor at ITAM Law School, Mexico City. He has acted as consultant for the World/Pan-American Health Organisation, UNESCO and the UN Division for Social Development. He was a lawyer for a human rights NGO in Argentina, Centro de Estudios Legales y Sociales (CELS), legal counsel for the Argentine Senate, and legal clerk for the Buenos Aires Suprema Court. He has worked in legal reform issues in Latin American, Caribbean and African countries. He was a legal adviser at the Argentine senate and a law clerk for the Buenos Aires Supreme Court. He has published books and articles on human rights, constitutional law, legal theory and sociology of law.

Camilla Parker, Mental Health and Human Rights Specialist, UK

Camilla Parker is a legal and policy specialist in mental health, disability and human rights. She is a consultant to the Open Society Mental Health Initiative (MHI). MHI seeks to promote the human rights and social inclusion of people with mental health problems and/or learning disabilities in Central and Eastern Europe and the former Soviet Union. Her publications include: *Developing mental health policy: a human rights perspective* in *Mental Health Policy and Practice across Europe,* editors Martin Knapp et al, McGraw Hill, Open University Press (2007) and *Independent Living and the Commission for Equality and Human Rights,* Disability Rights Commission January 2007.

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