

The Implementation of Human Rights in Mental Health

Enhancing the Participation of Persons with Mental Health Problems in Court Proceedings

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BACKGROUND

The **United Nations Convention on the Rights of Persons with Disabilities (CRPD)**, adopted in 2006, aims to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. Persons with disabilities include those who have **mental impairments** which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. At the core of the CRPD are the concepts of self-determination, **participation**, dignity and inclusion.

Previous studies

- establish that people are more likely to accept directions of legal authorities when they are allowed to participate
- assert that the face-to-face interview between the person with the mental illness and the supervising authority is exceptional
- state that persons involved in involuntary placement and treatment proceedings experience a lack of consultation
- conclude that there is a need to consider what kinds of supports and accommodations persons with disabilities would need to enable them to participate in litigation

Article 12 CRPD

1. States Parties reaffirm that persons with disabilities have the right to **recognition everywhere as persons before the law** (...)
3. States Parties shall take appropriate measures to provide access by persons with disabilities to the **support** they may require in exercising their legal capacity

Article 13 CRPD

1. States Parties shall ensure effective **access to justice** for persons with disabilities on an equal basis with others, including through the provision of **procedural** and age-appropriate **accommodations** (...)

OBJECTIVE

To determine how people with mental health problems can best be **supported** and **accommodated** to effectively and fairly participate in litigation in order to assist countries in the implementation of articles 12 & 13 CRPD.

RESEARCH PLAN

Study 1: Implementation of human rights in mental health

Aim: to set out legal changes following or in anticipation of CRPD ratification and factors impacting on mental health laws

Methodology: review of legislation and literature

Conclusions:

Report on CRPD influenced legal changes across Europe

- main areas of reform: non-discrimination, accessibility, legal capacity, independent living, employment, political participation, consultation of DPOs, education, health
- lack of understanding of article 12 CRPD
- variety of involuntary placement and treatment laws

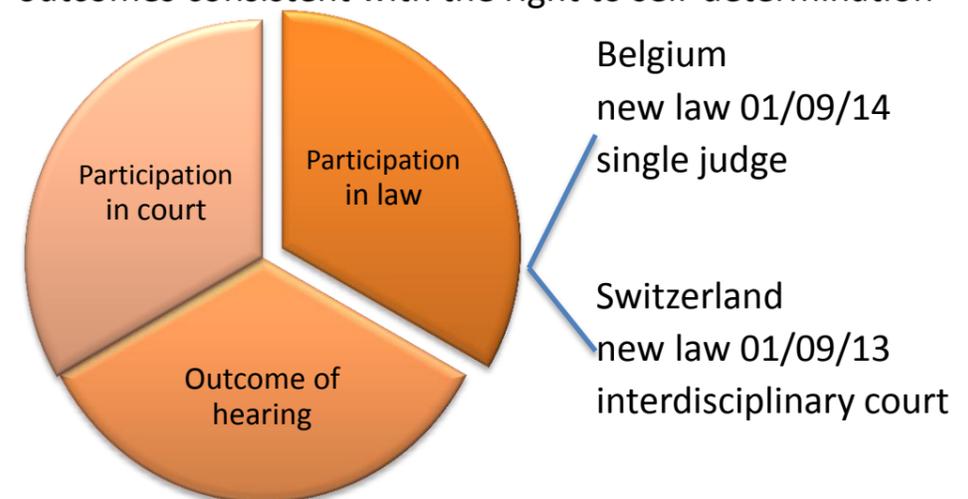
Factors impacting on mental health law

Legal traditions, cultural values, international law, political organisation, economic resources

Study 2: Participation in litigation

Aims:

- to identify factors influencing participation in litigation
- to determine whether an increased participation leads to outcomes consistent with the right to self-determination



Methodology: cross-jurisdictional comparative study through analysis of written materials, observation of hearings and interviews with judges

Study 3: Recommendations for implementation arts 12&13

RELEVANCE

As expressed in the **WHO Mental Health Action Plan 2013-2020**, there is a need to strengthen effective governance for mental health through the development or updating of national legislation, in order – according to the **EU Disability Strategy 2010-2020** – to ensure full economic and social participation of persons with disabilities.

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