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MENTAL HEALTH AND HUMAN RIGHTS OF PEOPLE ON THE MOVE

The COVID-19 pandemic has simultaneously shed light on and exacerbated many of the world's most persistent problems. One of these is the unfulfilled promise, as enshrined in international law, of the right of refugees and migrants to the highest attainable standard of not only physical health – but also mental health.

THE PANDEMIC'S EFFECTS ON MENTAL HEALTH

In May 2020, the UN Refugee Agency, UNHCR, stated that the pandemic was already "triggering a mental health crisis" among refugees and other displaced people.[1] UNHCR identified as contributing factors people's fear of infection, quarantine and isolation measures, stigma, discrimination, loss of livelihoods as well as uncertainty about the future. Similarly, the International Organization for Migration drew attention to the disproportionate effects of the pandemic on displaced people, who are rendered vulnerable by factors such as their fragile social support structures, impaired access to health and social services, precarious housing, and a risk of exploitation and abuse.[2]

Of course, it is not only refugees and migrants whose mental health and access to relevant services have been affected by the pandemic. In June 2020, the UN Special Rapporteur on the right to health, Dainius Pūras, stated that the pandemic has aggravated the "historical neglect of dignified mental health care."[3] He observed that this has happened at the same time that such care is even more urgently needed, with social distancing, economic decline, unemployment, and domestic and other violence driving a rise in anxiety and mental distress.

MENTAL HEALTH NEEDS OF REFUGEES AND MIGRANTS

The mental health profiles of refugees and migrants can often be significantly different and greater than those of citizens and long-term residents. Some people arrive in a new country after surviving terrible ordeals at home and during their journeys to safety. This can have immediate and sometimes lasting effects on both their physical and mental wellbeing. And, after arriving, people often endure racism and other forms of discrimination, denial of essential services, xenophobia, hostility, language barriers, unemployment and poverty.

Although migration can be an extraordinarily challenging process, this experience is often over-pathologized, resulting in a patronizing attitude towards refugees, asylum-seekers and migrants. People who suffer mental distress when confronted with danger and hardship in the migration context are exhibiting normal human reactions to their experiences. "To view these responses," the Special Rapporteur on the right to health has observed, "within the medical framework of 'trauma', 'disorder' or 'illness' traps individuals in a narrative that limits the richness and possibility of their human story. It is concerning how that framework can lead to paternalism, thereby undervaluing and undermining the inherent power and agency of individuals as active participants in their mental health and empowered rights holders, as opposed to passive recipients of care."[4]

[1] UNHCR, "UNHCR urges prioritization of mental health support in coronavirus response," 14 May 2020, https://www.unhcr.org/news/press/2020/5/5ebcfd784/unhcr-urges-prioritization-mental-health-support-coronavirus-response.html.
[2] International Organization for Migration, "IOM Reiterates Importance of Addressing Mental Health Impacts of COVID-19 on Displaced and Migrant Populations," 9 June 2020, https://www.iom.int/news/iom-reiterates-importance-addressing-mental-health-impacts-covid-19-displaced-and-migrant.
[3] OHCHR, "COVID-19 has exacerbated the historical neglect of dignified mental health care, especially for those in institutions: UN expert," 23 June 2020, https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25988&LangID=E
[4] Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, *Right to mental health of people on the move*, UN Doc. A/73/216, 27 July 2018, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/73/216, para. 32.

Available evidence on the mental health needs of refugees and migrants as compared to citizens presents a mixed picture. Different studies have shown a wide variation in the rates of mental illness among refugees and migrants.[5] The World Health Organization (WHO) has reported that "there is no clear and consistent evidence of higher prevalence of psychotic, mood or anxiety disorders in refugees and migrants at arrival compared with the host populations. The only disorder for which substantial and consistent differences in comparative prevalence have been reported is post-traumatic stress disorder."[6] In Europe, the WHO has identified a high proportion of alcohol and drug abuse, depression and anxiety among the region's migrant populations.[7] By contrast, in Canada, the rate of so-called mental disorders for newcomers is often slightly lower than that of the general population.[8] For depression, studies have found a prevalence ranging from 5% to 44% in refugee and migrant groups, compared to 8% to 12% in the general population.[9] The situation in camp contexts is more acute than outside of camps. For instance, in the chronically under-resourced and overcrowded facilities on the Greek island of Lesbos, Médecins Sans Frontières (MSF) has identified "extremely high needs for mental health support on the island."[10]

INADEQUATE PRIORITISATION AND SUPPORT FOR THE MENTAL WELLBEING OF PEOPLE ON THE MOVE

There is very little data on the effective availability of mental health services for people on the move, which is itself a problem that requires remedying. But from what information is available, it is evident that these services are inadequate. In 2015, per capita government funding for all mental health services ranged from USD 0.10 in both Africa and South East Asia, to USD 11.80 in the Americas and USD 21.70 in Europe.[11] That same year, for low-income and lower-middle income countries, the per capita median government mental health expenditure was USD 0.02 and USD 1.05 respectively.[12] Because the vast majority (85%) of the world's refugees live in low- or middle-income countries,[13] most of these people's mental health needs are likely unmet, given how little money is being spent overall on services. This is further reinforced by the findings in a June 2020 evaluation of public health programming done by UNHCR globally, where the organization identified integrated mental health services as a gap for refugees.[14] As for migrants, immigration status is often a basis for determining access to health care, and the World Health Organization reports that many migrants are denied such access.[15] Another serious problem is the fact that high-income countries are failing to support less wealthy nations in their efforts to support the mental health of the people on their territories; between 2007 and 2013, only 1% of the world's budget for international health aid was devoted to mental health.[16]

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[5] World Health Organization, *Mental health promotion and mental health care in refugees and migrants: Technical guidance*, 2018, http://www.euro.who.int/__data/assets/pdf_file/0004/386563/mental-health-eng.pdf?ua=1, p. 5.

[6] World Health Organization, *Mental health promotion and mental health care in refugees and migrants: Technical guidance*, 2018, http://www.euro.who.int/__data/assets/pdf_file/0004/386563/mental-health-eng.pdf?ua=1, p. 5.

[7] World Health Organization, *Poverty and social exclusion in the WHO European Region: health systems respond*, 2010, https://www.euro.who.int/__data/assets/pdf_file/0006/115485/E94018.pdf, p. 258.

[8] Laurence J. Kirmayer, Lavanya Narasiah, Marie Munoz, Meb Rashid, Andrew G. Ryder, Jaswant Guzder, Ghayda Hassan, Cécile Rousseau and Kevin Pottie, "Common mental health problems in immigrants and refugees: general approach in primary care," *Canadian Medical Association Journal*, 183 (12), September 2011, https://doi.org/10.1503/cmaj.090292, p. 960.

[9] World Health Organization, *Mental health promotion and mental health care in refugees and migrants: Technical guidance*, 2018, http://www.euro.who.int/__data/assets/pdf_file/0004/386563/mental-health-eng.pdf?ua=1, p. 5.

[10] Médecins Sans Frontières, *A Dramatic Deterioration for Asylum Seekers on Lesbos,* July 2017, https://msf.gr/sites/default/files/msfpublications/msf_report_vulnerable_lesvos_en.pdf, p. 5.

[11] World Health Organization, *Mental Health Atlas*, 2017, https://apps.who.int/iris/bitstream/handle/10665/272735/9789241514019-eng.pdf?ua=1, p. 26.

[12] World Health Organization, *Mental Health Atlas*, 2017, https://apps.who.int/iris/bitstream/handle/10665/272735/9789241514019-eng.pdf?ua=1, p. 27.

[13] Susan Fratzke and Camille Le Coz, "Strengthening Refugee Protection in Low- and Middle-Income Countries," *Migration Policy Institute*, February 2019, https://www.migrationpolicy.org/research/refugee-protection-low-middle-income-countries, p. 3.

[14] UNHCR, *Global Report 2019*, June 2020, http://reporting.unhcr.org/download?origin=microsite&file=gr2019/pdf/GR2019_English_Full_lowres.pdf#_ga=2.254393992.1039227812.1594110412-453459094.1550228729, p. 202.

[15] World Health Organization, *Promoting the health of refugees and migrants: Draft global action plan, 2019–2023*, 25 April 2019, https://apps.who.int/gb/ebwha/pdf_files/WHA72/A72_25-en.pdf?ua=1, p. 3.

[16] Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, *Right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, UN Doc. A/HRC/35/21, 28 March 2017, https://undocs.org/A/HRC/35/21, para. 39. Also see Amnesty International, *"Our Hearts Have Gone Dark": The Mental Health Impact of South Sudan's Conflict*, AI Index AFR 65/3203/2016, 6 July 2016, https://www.amnesty.org/en/documents/afr65/3203/2016/en/.

It is crucial to note that underfunding for mental health services is a gap for everyone, and not just refugees and migrants. The global community has collectively failed to ensure adequate levels of funding for mental health services. In 2015, national governments' mental health expenditure was less than 2% of the global median of overall government health expenditure, while global median mental health expenditures stood at only USD 2.50 per capita.[17]

Indeed, Apostolos Veizis, Director of MSF's Medical Operational Support Unit in Greece, underlines the importance of a holistic approach to mental health for people on the move, by ensuring that services also encompass host communities, as many local populations are also underserved.[18]

MIGRATION POLICIES AND PRACTICES: MAKING A DIFFICULT SITUATION WORSE

Not only are most states neglecting to provide adequate mental health services for people on their territory, many countries – particularly the most wealthy and those hosting the smallest populations of refugees – are actively pursuing migration policies that exacerbate the suffering of people on the move.

In Greece, Apostolos Veizis, Director of the Medical Operational Support Unit at MSF-Greece, explains: "The conditions on the Greek islands mean that people who were not previously vulnerable become vulnerable, and those who were already vulnerable become more so. This situation makes it clear, once again, that the migration policies generated by the EU-Turkey deal of 2016 are creating unnecessary suffering and putting many lives in danger."[19] Under the terms of this agreement, asylum-seekers who arrive on the Greek islands must be returned to Turkey, whilst Turkey agreed to stop people from leaving its territory for Europe, In exchange, the EU has given Turkey billions of dollars in support. But the relocation of people from the Greek islands to the rest of Europe has been extremely slow, resulting in very poor and shockingly overcrowded conditions – over 600% as of mid-2020.[20] The deal itself, according to MSF, has had a direct impact on the mental suffering of refugees trapped on the Greek islands, as hundreds of consultations on Lesbos and Samos demonstrated a "marked deterioration in people's mental health status immediately after the [deal's] implementation."[21]

And in Australia's deliberatively punitive offshore processing regime in Nauru, MSF reported that the anguish among the island nation's refugee population is among the most severe that the organization has ever seen.[22] Amnesty International's research raised similar concerns, leading the organization to argue that this regime's deliberate and systematic cruelty amounts to torture under international law.[23]

In the United States, Amnesty International reached a similar conclusion about the government's policy of separating migrant children from their parents and detaining them in overcrowded facilities, stating: "The severe mental suffering that officials have intentionally inflicted on these families for coercive purposes, means that these acts meet the definitions of torture under both US and international law."[24]

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[17] World Health Organization, *Mental Health Atlas*, 2017, https://apps.who.int/iris/bitstream/handle/10665/272735/9789241514019-eng.pdf?ua=1, p. 26.
[18] Phone interview, 2 September 2020.
[19] Phone interview, 2 September 2020.
[20] Amnesty International, "Greece: Urgently protect refugees from COVID-19," n.d., https://www.amnesty.org/en/get-involved/take-action/greece-refugees-coronavirus-covid-19/.
[21] Médecins Sans Frontières, *One Year on from the EU-Turkey Deal: Challenging the EU's Alternative Facts*, 2017, https://msf.gr/sites/default/files/msfpublications/report_euturkeydeal_en.pdf, p. 13.
[22] Médecins Sans Frontières, *Indefinite Despair: The tragic mental health consequences of offshore processing on Nauru*, December 2018, https://www.msf.org.uk/sites/uk/files/indefinite_despair_nauru_report_dec_2018.pdf, p. 4.
[23] Amnesty International, *Island of Despair: Australia's "Processing" of Refugees on Nauru*, 17 October 2016, https://www.amnesty.org/en/documents/asa12/4934/2016/en/.
[24] Amnesty International, "USA: Policy of separating children from parents is nothing short of torture," 18 June 2018, https://www.amnesty.org/en/latest/news/2018/06/usa-family-separation-torture/.

But even less vicious forms of detention are known to cause mental distress, with the impact on children being particularly severe. And yet over 100 countries continue to routinely detain children for immigration purposes.[25]

MENTAL HEALTH AND HUMAN RIGHTS

Instead of actively pursuing damaging migration policies and failing to adequately fund mental health services, states should ground their approach to refugees' and migrants' wellbeing in the human rights law and standards that they are bound by.

International law is unequivocal in the right of refugees and migrants to enjoy, without discrimination, the highest attainable standard of mental and physical health. This right is enshrined in the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), one of the most widely ratified international instruments in the world.[26] The ICESCR is complemented by other instruments, such as the *Convention on the Rights of Persons with Disabilities*, the *Convention for the Elimination of All Forms of Discrimination against Women* and the *Convention on the Rights of the Child*.

As with any social or economic right, certain aspects of the right to the highest attainable standard of mental health are subject to progressive realization, dependent upon a country's means – this includes both the state's own resources and international cooperation and assistance. However, certain obligations do apply immediately, for instance the prohibition of discrimination, including on the grounds of national original, birth or legal status. This includes people with an irregular or undocumented migration status.

International experts have already developed useful guidance about how to implement this right in practice, placing human rights at the heart of mental health policies and strategies. The UN Special Rapporteur on the right to health has affirmed that in order for states to fulfil the right to health of people on the move, they should develop: a national mental health strategy that includes migrants and refugees; a concrete plan to form a coordination mechanism that will address the health and wellbeing of people on the move, which includes the people themselves; and a road map that moves away from coercive treatment and towards equal access to mental health services.[27] For refugees who have not yet reached a place of safety but are still in emergency situations, the Inter-Agency Standing Committee has developed practical and detailed guidelines.[28]

CONCLUSION

The world's governments have failed to prioritize people's mental wellbeing, despite its undisputed importance, and have neglected to provide adequate funding and services for refugees and migrants. What's more, many governments are actively pursuing migration policies that exacerbate the serious existing mental health challenges for people on the move.

States must anchor their policies and practices in the international human rights norms that bind them. This means at least three things. First, they must ensure that their health policies fully integrate refugees and migrants, ensuring their right to the highest attainable standard of not only physical but also mental health. Second, wealthier states must provide adequate support to lower income states in their efforts to respect, protect and fulfil the right to health of people in their jurisdictions, including people on the move. Third, states must refrain from migration policies and practices that violate human rights and cause mental distress, such as separating families and detaining children.

The COVID-19 pandemic is a grave challenge to all of humanity, threatening not only our livelihoods but our very lives. At the same time, it provides us as a global community with an urgent impetus to reshape our societies in order to be more healthy, inclusive and fair for all.

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[25] Laura C.N. Wood, "Impact of punitive immigration policies, parent-child separation and child detention on the mental health and development of children," *BMJ Paediatrics Open*, 2018, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6173255/pdf/bmjpo-2018-000338.pdf, p. 1.
[26] 171 State Parties as of 4 September 2020, https://indicators.ohchr.org/.
[27] Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, *Right to mental health of people on the move*, UN Doc. A/73/216, 27 July 2018, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/73/216.
[28] Inter-Agency Standing Committee, *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, June 2007, https://www.who.int/mental_health/emergencies/guidelines_iasc_mental_health_psychosocial_june_2007.pdf.