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Does Justice Mind? Understanding the Links between Justice and Mental Health

Over the past two years, COVID-19 has deeply impacted mental health, both for individuals and entire communities, weakening trust between governments and people. This brief explores how justice systems and actors are interlinked with mental health and psychosocial wellbeing, and it makes the case for addressing the negative effects of these dynamics in a more systemized way.

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As the UN secretary-general's report *Our Common Agenda*¹ argues, the world is at an inflection point. The climate crisis increasingly shows its devastating reality, at the same time that public health, economic, social, and conflict crises—exacerbated by the COVID-19 pandemic—are putting pressure on the social contract between governments and people. The pandemic has magnified social inequalities and injustices, expanded the gap between the rich and the poor, and led to more divided and violent societies.

Justice for All and the Social Contract in Peril, which is the third briefing of the Pathfinders for Peaceful, Just and Inclusive Societies' series on Justice in a Pandemic, describes how the pandemic has fueled negative justice-related developments, including increases in debt, evictions, job losses, bankruptcies, domestic violence (in particular affecting women and children), reduced lack of access to resources and services for victims, and much more.

The pandemic's widespread impact on society has caused added a negative impact on the mental health of individuals and communities, weakening the trust between governments and societies.² This policy note summarizes two dimensions of how justice systems and actors are mutually interlinked with mental health and psychosocial wellbeing, which merits further exploration.

The two dimensions are **1) the impact of justice systems and actors on mental health and psychosocial wellbeing**, and **2) mental health issues as cause for interaction with justice systems**. By integrating these dimensions, national and international policy makers can address negative mental health by putting people at the center of justice.

“There comes a point where we need to stop just pulling people out of the river. We need to go upstream and find out why they’re falling in.”

Desmond Tutu

Introduction

As argued in the third briefing, the pandemic has increased reliance on justice systems and actors, ranging from regulating virus containment measures to dealing with the impact of these same measures, like domestic violence and economic problems. Recent research has increasingly shown how traumatic events, such as violence or stressful interactions with justice actors, can lead to serious mental health problems like post-traumatic stress disorder and depression. In parallel, literature demonstrates how people with mental health issues are already more likely to interact with justice systems.

Data shows how significant parts of populations from all around the globe suffer from mental health issues. According to 2021 statistics from Johns Hopkins Medicine,³ an estimated 26 percent of Americans aged 18 and older suffer from a diagnosable mental disorder in any given year. Women are nearly twice as likely to suffer from major depression than men. In Germany, it is estimated that 25 percent of the adult population suffers from negative mental health.⁴ In 2018, the South African College of Applied Psychology calculated that one in six South Africans suffer from negative mental health. When crime and traffic accidents are taken into account, it is estimated that about 60 percent of South Africans could be suffering from post-traumatic stress.⁵ In India in 2017, one in seven people were affected by various types of mental disorders.⁶

The 2019 *Justice for All* report by the Task Force on Justice highlights that 5.1 billion people lack meaningful access to justice and proposes to put people at the center of justice systems and justice at the heart of sustainable development.⁷ If we put people at the center of justice systems, and we know a significant number of these people face mental health issues, it seems self-evident to integrate and systematize mental health and psychosocial support (MHPSS) into justice policies, strategies, and programing.

It is encouraging to see that research and data on the interlinkages between justice systems and actors and mental health are rapidly increasing in high-income countries, showing the potential positive impact of recognizing and addressing people’s justice needs on the mental health and psychosocial wellbeing of individuals and communities. This research and data can inform policymaking and contribute to more adequate justice programming at the domestic level and in international support to justice and rule of law. By contrast, similar research and data is more difficult to find for low-income countries. Therefore, **this note recommends further research and the collection of data on these interlinkages, especially in low-income countries.**

This note takes the following interpretations of “justice systems,” “justice actors,” and “people-centered justice” as a starting point.

Justice systems are the legislative, institutional, and organizational systems and actors that exist in society to resolve and prevent people’s justice problems.⁸ These systems and areas can refer beyond formal systems. This paper understands *those who work in these systems* as **justice actors**, like judicial or police officers (formal system) or traditional elders or chiefs (informal system). This policy paper draws more on the interlinkages between formal justice systems and mental health than on informal systems, mainly because more substantial research and data was found on the former.

People-centered justice starts with an understanding of people’s justice needs and designs solutions to respond to them. It is delivered by a justice system that is open and inclusive, and that works in collaboration with other sectors such as health, education, housing, and employment. *People-centered justice places justice at the heart of sustainable development—as a lever for reaching the furthest behind, creating conditions for shared prosperity, and promoting peace and inclusion. It puts people at the center of justice systems and starts with an understanding of what works to meet their justice needs. Ultimately, it moves from justice for the few to justice for all—with a call for a transformation of ambition and a sustained effort to provide billions more people with access to justice.*⁹

The impact of justice systems and actors on mental health and psychosocial wellbeing

The interaction of people with justice systems and actors can heavily impact the mental health of individuals and communities. A 2021 Justice Needs and Satisfaction survey in the United States by the Hague Institute for the Innovation of Law found that 39 percent of **people with legal problems experienced a negative impact on their mental health.**¹⁰ Research from the 2017 UNDP report *Journey to Extremism in Africa*, shows that grievances and limited confidence towards governments are highly related to joining violent extremism. Of the reports’ 718 interviewees, 71 percent were **triggered by a government action to join a violent extremist group.** These government actions include the arrest or killing of a family member or friend by justice actors.¹¹

Traumatic events with justice actors, like experiencing police violence or stressful and oppressive interactions, can lead to serious mental health problems, such as post-traumatic stress disorder (PTSD) and depression. Ample evidence originates from the United States of America. A study on the impact of police actions on the mental health of Black Americans found significant associations between these interactions and psychotic experiences,

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psychological distress, depression, PTSD, anxiety, and suicidal ideation and attempts.¹² Another study found that people who reported more intrusive police contact experienced increased trauma and anxiety symptoms.¹³ People who reported fair treatment during encounters with law enforcement had fewer symptoms of PTSD and anxiety. Inmates who were exposed to the use of force during their arrest experienced a greater number of manic and depressive symptoms than inmates who were not exposed to the use of force by the police.¹⁴ A 2017 study by Sugie and Turney showed that “arrest is deleteriously associated with mental health, and arrest accounts for nearly half of the association between incarceration and poor mental health.”¹⁵ Sugie and Turney found similar associations across ethnicities but argue that due to ethnic disparities in contact during an arrest, criminal justice interactions exacerbate minority mental health inequalities. Results of their study showed that adolescents from disadvantaged areas have greater associations between contact with criminal justice and impact on their mental health. This is particularly the case in the event of arrest and incarceration.

Literature has increasingly demonstrated the **negative impact of incarceration on mental health**. A 2019 study from Bacak et al,¹⁶ which is among the first studies to provide quasi-experimental evidence on the mental health effects of the timing of incarceration, found that incarceration is more harmful at a younger age. According to Evans-Chase,¹⁷ incarcerated youth are a population at risk for poor social, behavioral, and developmental outcomes. Traumatic experiences during arrest and incarceration can stunt neurological growth of youth, negatively impacting the development of self-regulatory areas in the brain.

Incarceration affects more than the individual. Bowleg et al¹⁸ and Hatzenbuehler et al¹⁹ documented the negative impact of mass incarceration on the health not just of those incarcerated, but also of their families and of entire communities. According to Bowleg et al, “Police avoidance mediates the incarceration history and depressive symptoms pathway.” Negative police encounters may be traumatic and stressful both for the individual who experienced the trauma firsthand, as well as for communities observing police violence. In contexts with more negative police encounters and with more fear of incarceration, psychological responses can be exacerbated.

Revictimization may lead to serious mental health issues, too. Female survivors of domestic or sexual violence may find it difficult or intimidating to deal with male-dominated law enforcement and justice system agencies—let alone when these justice systems and actors are not supportive, or even hostile to claims of rape. It can be traumatizing to repeatedly recount or go through criminal justice procedures in which the perpetrator is present. Reincarceration can be a concern as people may relive traumas.

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Until recently, much of the conventional research on mental health and justice actors concentrated on how justice actors themselves have an increased risk for trauma-related symptoms and negative mental health—with reason, as they are often exposed to violence, confrontation, and traumatic incidents. **Mental health problems among law enforcement personnel** are associated with work environment, agency culture, inconsistent shift scheduling, and presumably higher exposure to traumatic events and subsequent post-traumatic stress disorder. Further research and more data could investigate the consequences of police officers experiencing mental health stigmatization in police organizations, which may contribute to the mental health issues of individuals with whom they interact. However, the effect of police interactions on community members may be more harmful, as indicated in a study by Galovski et al²⁰ on the Ferguson Protests. It showed that, based on group comparisons, community members reported more symptoms of PTSD and depression than law enforcement personnel.

Fair and effective justice journeys are critical for building and maintaining trust in societies. Only by understanding how people interact with justice systems and their actors, can people-centered justice services be provided to help achieve fair outcomes. Recognizing how traumatic, violent, and stressful interactions with justice actors can lead to serious mental health problems should be central in understanding people’s justice experiences all around the world. More often than not, justice actors lack the skills to address psychosocial issues during engagements. This chapter shows there is ample evidence in high-income countries of how traumatic interactions with the justice system often lead to a deterioration of mental health. More research and evidence-based data on these dynamics in low-income countries can further increase our understanding of people’s justice journeys. By integrating this evidence from both low- and high-income countries into the design of justice systems, mental health and psychological support can be systematized in the daily practice of justice actors.

Mental health issues as cause for interaction with justice systems

A vast amount of people that interact with justice actors **already have mental health issues**. A study in New York State matching approximately 600,000 people against public mental health records found a major mental illness diagnosis was associated with more than a 50 percent increase in the odds of a jail sentence for misdemeanor arrestees.²¹ The data shows an overrepresentation of people with mental illness in criminal justice systems. A study by Dierkhising et al²² reports that youth who have interacted with justice

systems have high rates of trauma exposure. Often, the trauma began early in life and persists over time.

A recent study by McMillan et al²³ found that almost 80 percent of women prisoners in Scotland have a history of significant head injury, **mostly resulting from domestic violence and abuse**. It is already recognized that women in prison are more vulnerable because of histories of abuse and problematic substance use, but the study demonstrates that histories of significant head injuries need to be included when developing criminal justice policy and interventions to reduce mental health morbidity. McMillan states “there is a need to recognize these vulnerabilities at an early stage, including at the first contact with the criminal justice system, to assess these women and provide long-term support.” This suggests a vicious cycle of negative mental health and criminal justice interactions.

Justice systems are broader than criminal justice alone, and mental health issues go beyond engagements with criminal justice systems. The *Justice for All* report showed how 1.5 billion people have justice problems they cannot resolve. **Debts, evictions, and parental separation or divorce** are just three of many examples of justice problems in the area of civil and administrative law with a potential negative impact on mental health.

A study by Hojman, Miranda, and Ruiz-Tagle,²⁴ using a sample of 10,900 Chilean households, found that depressive symptoms are higher for those who are **over-indebted**. People who transit from moderate to high debt levels face severe mental health challenges too. When debt levels reduce, the researchers saw a decrease in depressive symptoms as well. Another large longitudinal study among 8,400 young adults in the United States, analyzed by Sweet et al., showed that high financial debts are associated with “higher perceived stress and depression, worse self-reported general health, and higher diastolic blood pressure.”²⁵

Tsai and Huang²⁶ summarize how **evictions and the threat of losing a home** have severe negative effects on physical health (blood pressure), mental health (depression, anxiety, and suicide), and health-related behaviors (child maltreatment, smoking, and substance use). At the same time, they argue how mental health issues like substance use, aggression, and anxiety, are often catalysts for evictions—again we see a vicious cycle. A study by Muñoz et al²⁷ analyzed the perceived health status in Granada, Spain, of people in the process of eviction. The economic crisis of 2008 hit Spain particularly hard, and many people faced difficulties in paying rent or mortgages. People undergoing eviction processes were more likely to have poor physical and mental health.

Several perspectives shed different lights on **parental separation or divorce**. While separation or divorce can cause family instability, with a major

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health impact on children, breaking from unhealthy and violent marriages can also create positive change. It is important to keep in mind that the availability of divorce has opened the possibility for people to leave dysfunctional and abusive marriages. It has allowed people to find more compatible partners. At the same time, divorce introduces a great deal of stress in the lives of children.²⁸ An analysis by Uphold-Carrier and Utz²⁹ documented the long-term effects of parental divorce on a child's mental health and familial solidarity. According to the study, children who experienced parental divorce had a higher risk of depression. D'Onofrio and Emery³⁰ state that children of separated parents are overrepresented in the mental health system and argue for structured interventions offering psychosocial support to parents and children during parental separation or divorce. There are many ways to go through a divorce, and while all are complicated and painful, they may differ in impact. Where acrimonious divorces can have a high negative impact on children and parents, a healthier divorce can lead to positive change and less negative impact on children. Messy divorces are often a result of the inability of parents to resolve problems without deteriorating or escalating impact and due to their adversarial model, justice systems can contribute to further escalation. From a mental health perspective, it makes sense to argue that justice actors should strive to prevent escalation by providing guidance during the separation and supporting coping through grief and loss. When justice systems and actors put people at the center of separation processes, they may reduce or prevent justice and mental health problems in the short and long term.

The **impact of legal problems is even more substantial for those furthest behind**. A legal needs survey in Australia, which collected data from 20,000 Australian individuals, showed that disadvantaged individuals had more difficulties to resolve their legal problems, both financially and legally, which has a negative impact on their financial situation as well as their physical and mental health.³¹ It may be stating the obvious to deduce a downward spiral, while this vicious cycle could be broken by ensuring appropriate assistance to handle their legal problems.

Fortunately, there are examples of how justice systems or actors already recognize and address mental health issues, such as **access to justice centers** in Argentina,³² **one-stop centers** in the occupied Palestinian Territories,³³ **centers for victims** in Colombia³⁴ and El Salvador,³⁵ and **maisons de justice** in the Sahel. Some **specialized courts** acknowledge mental health, like South Sudan's Gender-Based Violence Court, which includes psychosocial support in its structures,³⁶ and a Colombian court ordering psychosocial programs for children and youth who were forcibly recruited by paramilitary forces during the civil war.³⁷ **Alternative dispute mechanisms** or **mediation efforts** sometimes make reference to the mental health of people. Moreover, it is promising to see how the **juvenile justice** system increasingly

studies the realms of brain development, cognitive development, and psychosocial and socio-emotional development. Other promising processes on justice for children include the 2011 renewal of the Convention on the Rights of the Child, which refers to protect the mental health of children,³⁸ and the establishment of a multi-agency initiative on Justice for Children in 2019. The initiative builds on the work of the earlier mentioned Task Force on Justice and made a call for action to ensure that all children live peaceful, just, and inclusive lives. Children require child-friendly and gender-sensitive justice systems that are specialized and meet their justice needs. This includes recognizing and taking steps to address the ways in which the approach of justice actors may contribute to the poor mental health of children.³⁹

Similar to the previous section, the research and data found was mostly conducted in high-income countries. This research shows how justice problems, including criminal, civil, and administrative problems, have a significant impact on the mental health and wellbeing of people and communities, and vice versa. People-centered justice starts with understanding of people's justice needs in order to design solutions to respond to them. The given data shows the need to include mental health in our understanding of people's needs and efforts to design responsive justice solutions. At the same time, this policy note found little evidence on the relationship between mental health issues and interaction with justice systems and actors in low- and (lower) middle-income countries and suggests the need for further empirical research on these dynamics.

Conclusion and recommendations

The linkages between mental health and justice systems are present but often not explicitly addressed or taken into account. This note brings together relevant research, shows the potential negative impact of justice systems and actors on the mental health and psychosocial wellbeing of people, and underscores how negative mental health can be a cause for interaction with justice systems.

There are various clear-cut examples of justice initiatives that recognize and address the mental health and psychosocial needs of people—for instance, one-stop-centers. At the same time, **there is a need for further research and more available data on the dynamics between justice systems and the mental health of people in low-income countries.** Literature on these dynamics in low-income countries is more difficult to find, where they are present but may only be captured in more anecdotal evidence.

More and better empirical evidence and data can contribute to influencing national justice strategies and programming that recognizes and addresses the mental health of people all around the world. When these strategies and programs put people and their needs at the center of justice, they should take

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into account mental health and psychosocial wellbeing as part of people's justice problems. In doing so, the negative effects of the dynamics between justice systems and actors and the mental health of people can be addressed in a more systematized way. In doing so, justice systems and actors can go upstream and find out why people are falling in the river.

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