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Conceptualizing the Social Determinants of Mental Health Within an International Human Rights Framework: A Focus on Housing and Employment

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Abstract

The social determinants of health and international human rights law share many overlapping concerns and goals in promoting human well-being. However, so far they have been developing largely in silos, resulting in calls for greater interdisciplinary collaboration. The purpose of this paper is to explore how the social determinants of health—specifically mental health—can fit within international human rights law conceptually and practically. I argue that the social determinants of mental health and international human rights law are mutually reinforcing. Both are necessary to realize the right to the highest attainable standard of health and its incorporation into domestic law and policy. International human rights law provides an indispensable universal and legally binding framework to realize both the right to health and the social determinants. Likewise, the social determinants enrich and expand international human rights law and challenge it to go further in responding to inequality, power imbalances, and the lifelong impact of adverse childhood experiences (especially in light of the early onset of mental ill-health). I use housing and employment as examples of how to deepen this conceptual and practical relationship.

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Introduction

The social determinants of health and mental health draw attention to the way in which structural social and systemic factors—such as the distribution of power, resources, and money—and the daily social and environmental conditions in which people live impact their health, mental health, and lifespan.[1] While there are many different models of the social determinants of health and mental health, they generally include life circumstances such as poverty, education, unemployment, work stress, violence, adverse childhood experiences, housing insecurity, neighborhood, and environmental factors.[2] (Henceforth, I will refer the social determinants of health and mental health in general as "the social determinants"; and if I am referring to a specific social determinant, I will simply name it—e.g., housing). While access to medical care is itself an important social determinant, the social determinants go well beyond the health sector to reach almost every aspect of life.[3] Indeed, there is interest in many subsets of social determinants, including the commercial, political, economic, historical, cultural, and legal determinants.[4]

The social determinants were originally intended to be developed within the framework of international human rights law, although this did not eventuate.[5] Therefore, over the past 20 to 30 years the bodies of scholarship around the social determinants and around international human rights law have been developing in parallel, passing each other like "ships in the night."[6] While many of the major reports on the social determinants give a nod to human rights values, they engage with human rights only briefly and superficially and have been criticized for not being developed within an international human rights framework.[7] In fact, many epidemiology and public health experts still often prefer the language of "ethics" and health equity over human rights and the scientific basis of the social determinants.[8] Similarly, while the human rights literature often mentions the social determinants, it tends to focus on the right to health, health systems, and the more limited "underlying determinants of health" necessary to support health, such as safe water, sanitation, and nutrition.[9] (For the purposes of this paper, I use the term "social determinants of health" rather than the "underlying determinants of health" to recognize that all determinants are in fact moderated by society.) Separate disciplinary silos, a lack of exploration of common ground for interdisciplinary cooperation, and a lack of interdisciplinary interest and expertise have led Yvette Maker and Bernadette McSherry to recently call for greater collaboration between the social determinants and human rights fields.[10] Others have looked to create a conceptual public mental health framework that combines the social determinants, health and human rights, and the social model of disability to guide law and policy development.[11]

Against this backdrop, the purpose of this paper is to further navigate and deepen the relationship between the social determinants of mental health and international human rights law with the aim of promoting better conceptual, legal, and practical integration between the two. I begin by exploring how the social determinants can fit within international human rights law, including through the realization of the right to health, and how the two fields can enhance each other. I then explore the relationship between the social determinants and human rights in greater detail in relation to two important social determinants—housing and employment—to begin building an integrated conceptual literature. I argue that human rights and the social determinants of mental health are mutually reinforcing and provide a bridge between the world of science and the world of law and policymaking.

Why focus on mental health?

While physical health, mental health, and well-being are all closely intertwined, for the purposes of this paper I have decided to focus on mental health because mental ill-health has a high prevalence, affecting 970 million people worldwide.[12] It is the leading cause of years lived with disability.[13] It can (unlike most physical conditions) result in detention in hospital and coercive treatment; and often, treatments have debilitating and permanent side effects or may not be effective.[14] Given that psychiatric treatment can often lead to poor out-

comes and the overuse of coercion in the mental health system, which many people report as damaging, greater exploration of social and legal approaches to prevent mental ill-health (including the aggravation of existing mental health conditions) and the promotion of well-being is warranted.

Within mental health and human rights discourse following the entry into force of the Convention on the Rights of Persons with Disabilities in 2008, the focus has been on civil and political rights, particularly the abolition of mental health laws that authorize the use of involuntary detention and psychiatric treatment.[15] While debates about the future of mental health law are ongoing and have resulted in what some commentators have called an "impasse," the narrow focus on abolishing involuntary detention and psychiatric treatment can have the effect of overshadowing the potential of the convention as a whole to secure the right to the highest attainable standard of mental health and how human rights can be a driver of wider social transformation.[16] Arguably, focusing on citizenship and nondiscrimination has drawn attention away from the indivisibility of rights and the importance of persons with mental ill-health (the vast majority who will never experience coercion) being able to claim and enjoy their socioeconomic rights and right to mental flourishing.[17] Further, recent reviews, such as the Wessely Report in the United Kingdom, have concluded that it may not be possible to avoid mental health crises or reduce coercion in psychiatry without paying attention to social determinants such as discrimination and housing.[18] Indeed, addressing the social determinants and understanding how they relate to coercive systems of psychiatric treatment is reflected in recent recommendations for mental health law reform and a revision of psychiatry that involves shifting away from a purely individualist and biomedical understanding of mental ill-health to a social model.[19]

However, I note that the social determinants of health and *mental* health are currently conceptualized as being almost identical.[20] Indeed, until the last five to ten years, the social determinants of mental health were simply incorporated into the social determinants of health, rather than being conceived of separately.[21] Nevertheless, the same social and environmental stressors are detrimental to both physical and mental health, with the effects usually being evident in a person's mental health before later becoming manifest in their physical health.[22] That said, Handerer and colleagues have found that the social determinants of mental health are often considered to be more indirect and mediated by psychological factors (e.g., bullying and relationships), whereas the social determinants of health are sometimes regarded as being more direct and physical (e.g., exposure to toxic chemicals).[23]

Bringing together the social determinants of mental health and human rights: Why and how?

The social determinants and international human rights law are not without their critics.

International human rights law has been criticized for being overly legalistic and individualistic and for failing to address growing inequality.[24] Similarly, the social determinants have been criticized as being too broad and not taking into account the ability of individuals to create their own niches.[25] Nevertheless, both approaches can do much to improve each other and potentially overcome at least *some* of these limitations.

How human rights enriches the social determinants

The benefits of using an international human rights framework for the social determinants have been extolled in detail in the health and human rights literature, so I will only briefly reiterate them. The key strength of international human rights law is that all states that are members of the United Nations have ratified at least one of the nine key conventions, and 80% have ratified four or more conventions, giving this body of law widely accepted moral force, legitimacy, and universal reach.[26] In addition, there are regional human rights systems for Europe, Africa, and the Americas, and human rights have been incorporated into many domestic constitutions (although for the purposes of this

paper I will focus on the international system). Human rights are also universal in the sense that they apply to all persons simply by virtue of being human, even if all people do not yet universally enjoy their human rights.[27]

International human rights law transforms diffuse claims made in the social determinants literature based on "ethics" and "justice" into *legally binding* obligations on states according to well-developed and widely accepted principles—for example, the indivisibility and interdependence of all human rights; processes to balance competing rights and rights holders; ways to deal with evidence, uncertainty, and resource constraints; the inclusion of marginalized and vulnerable groups; and community consultation and participation.[28] International human rights law recognizes that human rights are inherently political and a source of struggle, as opposed to the social determinants literature, which treats advances in health equity as a purely technical or bureaucratic task that has failed to gain widespread implementation.[29]

As noted by a former Special Rapporteur on the right to health, Paul Hunt, and his colleague Gunilla Backman:

> *There are numerous health movements and approaches, including health equity, primary health care, social determinants, and so on. All are very important. But it is misconceived to regard human rights as yet another approach with the same status as the others. Unlike ethics, the right to the highest attainable standard of health is not optional and, unlike ethics, it recurs throughout all other approaches. The right to the highest attainable standard of health is the only perspective that is both underpinned by universally recognized moral values and reinforced by legal obligations.*[30]

Thus, international human rights law creates a framework to shape clear norms and standards through existing treaties that can be used for advocacy and for guiding states in law and policy development. Such standards and norms allow international bodies to monitor and measure compliance and implementation by setting benchmarks, conducting impact assessments, and requiring continuous improvement.[31] Therefore, international human rights law contains many processes for accountability—judicially and through various international institutions and forums—including accountability for governments' non-responses to human rights problems.[32] There is rhetorical power in individuals and groups being able to conceive of themselves as rights bearers with entitlements rather than wishes.[33] Human rights-based approaches to health can empower health workers and their communities to claim their health-related rights as something that they are *owed* and to frame problems and injustices as human rights violations requiring state action.[34] In addition, human rights frameworks are supported by established civil society organizations experienced in grassroots advocacy which are essential for the realization of health gains.[35]

In particular, the broad definition of the right to health articulated in the Universal Declaration of Human Rights links health with an adequate standard of living and reinforces the social determinants.[36] This is further supported by the International Covenant on Economic, Social and Cultural Rights in which the right to health in article 12 includes the "improvement of all aspects of environmental and occupational hygiene" and the prevention of occupational diseases. Similarly, the Committee on Economic, Social and Cultural Rights recognizes that "the right to health is closely related to and dependent upon the realization of other human rights … including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and movement."[37] While the social determinants correspond with all human rights, some rights in the covenant of particular significance for mental health are the right to an adequate standard of living; the right to social security, protection, and assistance for families; the right to education; the right to housing; and the right to employment.[38] Therefore, state action on the social determinants is a precondition for realizing the right to health and mental health. It also includes the realization of civil and political rights such as the prevention of violence and

discrimination.[39]

Accordingly, conceptualizing the social determinants within a human rights framework strengthens both approaches.

How the social determinants enrich human rights

Likewise, the social determinants fit nicely within international human rights law. Arguably, the biggest contribution of the social determinants to international human rights law is that the social determinants raise the stakes of human rights so that injustice is not merely a matter of moral outrage but a matter of life and death that is visible in patterns across populations and measurable for individuals in clinical social determinants assessments. That is, human rights violations have real health and mental health consequences. Further, the social determinants demonstrate that those violations do not have to be large one-off events but can also be cumulative in both type and quantity, so that many smaller human rights violations and their impact on human dignity can add up over a lifetime to damage a person's health, mental health, and longevity.[40] They can also be intergenerational.[41]

In particular, the treatment of children and young people—due to their vulnerability and developing brains, nervous, and immune systems—can have serious effects on lifelong mental health and well-being; indeed, two-thirds of mental disorders occur before the age of 24 years.[42] Adverse childhood experiences can be broadly defined as "inconsistent, stressful, threatening, hurtful, traumatic, or neglectful social interchanges experienced by fetuses, infants, children, or adolescents."[43] They can include poverty, hunger, abuse, neglect, family dysfunction, having a parent with a mental ill-health such as postnatal depression, discrimination, maltreatment, and bullying.[44] Thus, the social determinants underscore the importance of taking a life-course approach and increase the urgency of realizing the human rights of children and families and in creating stable and nurturing environments.[45]

The social determinants provide the scientific evidence to demonstrate that the whole international human rights framework, including non-health rights, is actually integral to mental health. Thus, the social determinants reinforce the importance of social, economic, and cultural rights as "true" human rights and the effects of the wider psychosocial context on health and mental health so that states' human rights obligations are not limited to individualized treatments and the availability of psychotropic medications.[46] The social determinants help demonstrate the interrelationship and indivisibility of rights and how civil and political rights and socioeconomic rights are dependent on each other (discussed further below). Persons with mental ill-health are disproportionately affected by many social determinants, having significantly lower education, higher unemployment, higher homelessness, and greater involvement with the criminal justice system than the rest of the population.[47] However, action on the social determinants will also have wider benefits in improving the mental health of all persons, including those without psychosocial disabilities.[48]

The social determinants place an emphasis on understanding the *causes* of poor health and mental health and *prevention*, primary care, and early intervention, helping to move away from a narrow understanding of health focused on tertiary and crisis interventions such as medical treatment.[49] As noted by former Special Rapporteur on the right to health Dainius Pūras:

> *There exists an almost universal commitment to pay for hospitals and medications instead of building a society in which everyone can thrive. Regrettably, prevention and promotion are forgotten components of mental health action.*[50]

Social determinants research also challenges narrow human rights conceptions of equality and discrimination by demonstrating how health, mental health, and longevity are distributed within societies along "social gradients" where health, mental health, and longevity gradually deteriorate from those at the top of the social hierarchy to those at the bottom.[51] Because the social gradient is steeper in more unequal societies, it is not enough to just address the poverty and powerlessness of

those at the bottom—instead, there must be a focus on how *relative* wealth makes a difference to the health, mental health, and well-being of whole populations.[52] Thus, the social determinants draw attention to the way social power structures impact health and mental health, going beyond human rights concerns about "minimum floors" being respected to the need for wealth redistribution.[53] In particular, social determinants research has revealed the health and mental health impact of the dismantling of the welfare state and of austerity measures on human rights. As Michael Marmot and colleagues note, the rollback of the state in Britain—as demonstrated by a reduction in public expenditure from 42% of GDP to 35% between 2010 and 2020—has been regressive, with serious and measurable consequences for health and social inequity and unexpected increases in mortality among those most affected by the cuts.[54]

The social determinants also highlight the health and mental health effects of the failure of international human rights cooperation in relation to the sharing of resources between richer and poor countries.[55] Rather than replicating broken, under-resourced, and coercive mental health systems, addressing the social determinants to prevent mental ill-health and promote well-being can be a cost-effective and efficient use of mental health resources in high-, medium-, and low-income countries to help realize the right to the highest attainable health and mental health.[56]

Further, social determinants research draws attention not just to the mitigation of socially determined risk factors for poor health and mental health outcomes but also to the enhancement of resilience factors that are necessary to build positive mental health and well-being. The emphasis on positive factors enriches human rights by creating a focus that goes beyond preventing harm and looks at actions the state can take beyond the "minimum core" to enable mental flourishing. While there have been many specific social determinants programs designed to target particular determinants—for instance, improving education for poor and disadvantaged families—these do not always move from pilot to large-scale rollouts.[57] A human rights approach provides a way of creating a scientifically backed and morally grounded international legal framework where social determinants and human rights can be incorporated and embedded into all domestic laws and policies as a whole-of-society intervention.[58]

Even though the social determinants and international human rights law probably cannot overcome neoliberalism without a radical change to the social and international world order, the social determinants complement, further develop, and extend the relationship between mental health and human rights. Together, they create an impetus toward reducing inequality, increasing wealth redistribution, and strengthening the welfare state as necessary to prevent mental ill-health and promote well-being.

Below, I take a deeper look at how human rights and the social determinants fit together in relation to two examples: housing and employment.

Housing

While the right to housing is included in a number of human rights instruments at the international, regional, and constitutional level, the most well-known and authoritative basis for the right is as part of the right to an adequate standard of living enshrined in article 11 of the International Covenant on Economic, Social and Cultural Rights.[59] Understanding of the right to housing has been further developed by the Committee on Economic, Social and Cultural Rights, the body responsible for monitoring the implementation of the treaty, in its General Comment 4.[60] The right to housing is more than a right to shelter; it includes "the right to live somewhere in security, peace and dignity."[61] According to the committee, the right to housing is made up of seven factors: (1) legal security of tenure (protection against forced eviction), (2) availability of services, materials, facilities, and infrastructure (e.g., water, energy, sanitation), (3) affordability (cost does not compromise the ability of people to meet other needs), (4) habitability (protection from the elements and physical safety), (5) accessibility (nondiscrimination and housing that caters to

special needs), (6) location (near transport, education, employment, and essential services), and (7) cultural adequacy (respects cultural identity and diversity).[62] The committee takes a neutral position in relation to whether housing is owned by the state or private sectors, as long as states do whatever is necessary to fulfill the right in the shortest possible time.[63] While the committee recognizes that the right to housing is linked to disease, mortality, and morbidity, it does not explicitly recognize the mental health impact of poor or unaffordable housing and homelessness (discussed below).[64] Although the right to housing as formulated by the committee has been criticized as being limited by "sufficiency"-based on minimum standards, it has been enormously valuable as a rallying cry for social movements seeking to realize the right.[65] The committee's formulation has also been criticized as being too weak to respond to the financialization of housing and the lack of housing affordability as homes have increasingly become an investment rather than a place to live, hindering the progressive realization of this right.[66]

The history of mental asylums and ongoing institutionalization means that the right to housing is of particular importance to people with disability. Article 28 (right to an adequate standard of living) of the Convention on the Rights of Persons with Disabilities requires state parties to ensure that people with disability have access to public housing programs without discrimination. Similarly, article 19 requires that people with disability be given support to live independently and with persons of their own choosing. In countries such as the United States, homelessness is strongly linked to mental ill-health and is used by authorities to gain public support to justify involuntary detention and treatment.[67] "Housing First" programs that allow persons with mental health and drug abuse problems to obtain housing without onerous conditions around treatment are often regarded as the gold standard, although they are not without their challenges, and people often need to seek treatment to remain housed over the long-term.[68] That said, studies indicate that housing programs are more successful if they also provide access to a range of mental health and social support services; arguably, such services are part of housing accessibility.[69]

The effects of poor housing and housing instability on physical health—including respiratory conditions due to poor air quality, cognitive delays due to exposure to neurotoxins, and accidents and injuries due to structural defects—are well documented.[70] In addition, the social determinants of mental health reinforce the right to housing by illustrating the bidirectional relationship between housing and mental ill-health. That is, persons who experience housing insecurity are more likely to suffer mental ill-health, and persons with mental ill-health are more likely to suffer from housing insecurity.[71] The social determinants enrich the right to housing by drawing attention to the psychological impacts of homelessness, housing insecurity, overcrowding, and poor housing quality in contributing to and aggravating mental ill-health. For instance, persons with housing affordability problems have worse mental health than those who do not.[72] Further, the social determinants highlight the adverse and *cumulative* mental health effects of the stress created by *prolonged* housing disadvantage, insecurity, and unaffordability.[73] In addition, living in substandard housing (whether as an owner or renter) is closely linked to depression and housing unaffordability stress.[74]

Social determinants research also illustrates the connection between housing, neighborhoods, and poor mental health, with areas that lack maintenance, social cohesion, and safety associated with increases in depression.[75] Therefore, the right to housing, a socioeconomic right, is intimately connected with exposure to neighborhoods with greater violence and higher crime rates and the right to security of the person, a civil and political right.[76] Further, social determinants research indicates how unaffordable housing is connected to adverse childhood experiences, with domestic violence being a major cause of homelessness and housing instability for victims.[77] Similarly, early childhood trauma is a risk factor for homelessness, housing instability, and mental ill-health among young adults.[78] The research also indicates that access to publicly subsidized housing (despite the

neutrality of General Comment 4) and living in areas with built green spaces are positively associated with mental health.[79]

Employment

The relationship between employment, employment conditions, and workers' health, mental health, and well-being has long been a central concern of international human rights law. The United Nations Charter provides that the United Nations shall promote international stability and well-being through "higher standards of living, full employment, and conditions of economic and social progress and development."[80] The Universal Declaration of Human Rights also provides a number of work-related rights, including choice of employment, fair pay and conditions, protections from unemployment, limits on work hours, rights to leisure, nondiscrimination in the workplace, and the right to form trade unions.[81] The International Covenant on Economic, Social and Cultural Rights provides for fair remuneration and just and favorable conditions such as continuous improvement in workplace health and safety (which would also include protection from mental health injuries).[82] The Sustainable Development Goals also recognize "economic growth, full and productive employment and decent work for all," although the focus on economic growth has been criticized as prioritizing neoliberalism and overshadowing workers' rights.[83] The International Labour Organization, a specialist branch of the United Nations focused on monitoring and improving employment conditions, has developed a "decent work" agenda and numerous "soft law" instruments setting employment standards on matters such as working hours, fair pay, job security, and occupational health and safety.[84] In addition, the International Labour Organization's social protection floors link worker protection and social security, including for sickness and unemployment.[85] Further, the Convention on the Rights of Persons with Disabilities requires that people with disability have equal rights to safe and healthy work.[86] These rights ensure that workers, often with little bargaining power, are selling only their labor, not the health and integrity of their bodies and minds—or, at worst, their lives.

These employment rights are, however, reinforced and expanded on by the social determinants, which demonstrate how unemployment and working conditions can impact workers' health and mental health. This is not just in relation to workplace accidents but in relation to how daily working conditions can impact long-term health, mental health, and well-being outcomes. Social determinants research has identified a number of psychosocial hazards that contribute to physical health conditions such as heart disease, high blood pressure, high cholesterol, diabetes, cancer, and mental health conditions such as anxiety, depression, and posttraumatic stress disorder.[87] Long-term unemployment in particular has been linked to serious mental ill-health and suicide, underlining the importance of employment rights in protecting people from unemployment—and the *fear* of unemployment—caused by job insecurity.[88] Psychosocial hazards such as excessive workloads (especially with low levels of control), effort-reward imbalance, bullying, harassment and discrimination, vicarious trauma, and insecure work illustrate how mental ill-health can often be caused by human rights violations.[89] However, social determinants research, by revealing the social gradient within the workplace hierarchy, also extends human rights by highlighting the need to address extreme power imbalances and structural and systemic factors in addition to simply improving work conditions.[90] Further, the social determinants show how human rights interrelate and how different violations can compound. For instance, unemployment and low incomes have effects on child development, housing, education, food, social networks, social equality, and mental health, creating poverty traps and cycles of disadvantage.

Conclusion

While the social determinants and health and human rights have long had similar concerns and goals, they have tended to develop along different trajectories, with only limited and often begrudging

integration. However, there is growing recognition of the benefits of interdisciplinary collaboration and conceptual alignment. In this paper, I have focused on the social determinants of mental health to argue that the social determinants fit well within an international human rights framework and that both perspectives are mutually reinforcing. While both approaches are not without critics, international human rights law and the right to the highest attainable standard of health contribute a well-established moral and legally binding framework that is universally accepted to structure advocacy, guide law and policy development, monitor and set goals for implementation, and establish accountability. There is power in claiming rights as entitlements rather than relying on ethical arguments.

Further, as observed by Lisa Montel the social determinants and human rights correspond so closely that "when we talk about the social determinants of health, we are talking about human rights."[91] Conversely, as demonstrated by the examples of housing and employment, the social determinants not only coalesce with international human rights law but enhance and extend how those rights are conceptualized, in addition to reinforcing the indivisibility of different rights. The social determinants provide the scientific evidence and raison d'être to support human rights claims. The social determinants challenge human rights to be more ambitious than the "minimum core" and to aim higher than sufficiency by shining a light on the health and mental health consequences of unequal power structures and hierarchies, providing a compelling justification for wealth and power redistribution. The social determinants reorient international human rights law and the right to health and mental health toward prevention and early intervention and toward creating a society in which all people can thrive, rather than relying on medication and individualized medical treatment as the dominant social response to mental ill-health and disease. In addition, the social determinants underscore the urgency of addressing the human rights of children (and the families who support them) in taking a life-course approach. Thus, the social determinants and health and human rights are mutually reinforcing and enriching, and the relationship between them is worthy of future exploration and conceptualization.

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