

Justice for children in humanitarian action: The Philippines and Typhoon Haiyan

SUMMARY

On 8 November 2013, one of the most powerful typhoons on record, Typhoon Haiyan (known locally as Yolanda) made landfall in the Philippines causing widespread devastation.¹ Of the 14.1 million people affected, an estimated 5.9 million were children. Child protection practitioners noted that in the immediate aftermath of Haiyan, justice for children was not prioritised and was essentially not addressed,² although some connected child rights issues such as education received attention.³

Comprehensive existing judicial framework

Prior to Haiyan, a comprehensive legal framework protected children in the Filipino justice system. Following Haiyan, an act addressing emergency relief, child protection and the promotion of the rights of the child in emergencies was drafted. It has yet to be ratified. In preventing crimes against children in humanitarian action, it stresses “heightened surveillance against child trafficking, child labour, child prostitution and violence against children”, and addresses the replacement of lost or damaged legal documents.

20,000 children in the Philippines currently in conflict with the law

During and after the disaster, pre-existing challenges continued to persist alongside new challenges. Child protection actors noted an increase in the number of children in conflict with the law, as well as child victimisation, especially sexual violence. It is currently estimated that 20,000 children in the Philippines are in conflict with the law. Over 50% of crimes for which children are charged are minor offences such as petty theft and violation of curfews. Most cases are ultimately settled out of court or dismissed because witnesses fail to appear at trial.





Existing judicial framework

The judicial framework for children before Haiyan

Before Haiyan, laws had been enacted to ensure the protection of children⁴ within the justice system. Following the ratification of the Convention on the Rights of the Child (CRC), the Philippines passed the Republic Act (RA) No. 7610 - The Special Protection for a Child Against Abuse, Exploitation, and Discrimination (1992).⁵ The Committee for the Special Protection of Children has the responsibility for monitoring and implementing the act, and is guided by principles enshrined in the CRC including the “best interest of the child, non-discrimination, respect for the views of the child [and] the right of the child to life”. The goal of the act is to ensure the legal protection of children “within a child sensitive justice system.”⁶

In 2006, the Juvenile Justice and Welfare Act (JJWA) – RA 9344 was passed to address issues related to children at risk and children in conflict with the law. It increased the age of criminal responsibility in the Philippines to 15 years, and moved the juvenile justice system towards a restorative rather than punitive system. The act was revised in October 2013 just prior to Haiyan.⁷ The revised Juvenile Justice Welfare Act – RA 10630, aiming to strengthen the juvenile justice system and appropriate adequate funds,⁸ is implemented at the level of local government. As such, local government officials determine whether or not its execution is prioritised. Challenges with the amendment include its operationalization the establishment of Regional Juvenile Justice and Welfare Committees, the establishment of short-term residential care (Bahay Pag-asa)⁹ in provinces and highly urbanised cities, and the increase of the capacity of the Juvenile Justice and Welfare Council.¹⁰

New act drafted to address emergency relief and child protection

Justice for children initiatives following the typhoon

Following Typhoon Haiyan, an act addressing emergency relief and protection of children in disaster and other emergency situations was drafted. The act, which has yet to be ratified, focuses on the timely provision of emergency relief and protection for children, who are in general disproportionately affected by disasters. The Explanatory Note accompanying the draft act references Typhoon Haiyan, along with the 2013 earthquake in Bohol and Cebu as a motivation. It states as one of its goals as the provision of safety and security to affected children and the promotion of the rights of the child.¹¹ In preventing crimes against children following emergency situations, it stresses “heightened surveillance against child trafficking, child labour, child prostitution and violence against children.”¹² Anecdotal evidence suggests that post-Haiyan there was a noticeable increase in child prostitution and child trafficking.¹³ The draft act also addresses the issue of replacement of legal documents, which is of prime importance for children in contact with the law. The destruction of court records seems to have been registered as a major problem after Haiyan. It is proposed that missing or destroyed legal documents of children can be restored through the Philippine Statistics Authority. According to the provisions of the draft act, submissions for reconstitution or replacement of legal documents would be honoured within two weeks, and copies of replaced documents would be sent to the appropriate government agency for information and for guaranteeing on-going access to



20,000 children in the Philippines in conflict with the law: 50% for minor offences

social services for children impacted by the emergency.¹⁴

Major justice-related issues affecting children during and after the emergency

Pre-existing challenges continued to persist alongside new challenges brought on by the disaster. It is currently estimated that 20,000 children in the Philippines are in conflict with the law.¹⁵ Over fifty per cent of crimes for which children are charged are minor offences such as petty theft and violation of curfews.¹⁶ Most cases are ultimately settled out of court or dismissed because witnesses fail to appear at trial.¹⁷

According to one child protection practitioner, since Typhoon Haiyan hit, there has been an increase in the number of cases of children in conflict with the law within small municipalities,¹⁸ as well as a rise in the victimisation of children.¹⁹ According to the global and national Education Cluster and Child Protection Working Group joint assessment, a general increase in sexual violence against children in the Philippines was noted after the emergency.²⁰ Post-Haiyan sexual abuse reported by girls included those perpetrated by male adults related or known to the victims such as uncles, stepfathers, cousins or friends.²¹ Additionally, there has been a noticeable surge in the number of street children and child prostitutes (often with the knowledge of their families).²²

Significant damage to judicial infrastructure

Haiyan caused significant destruction to the justice infrastructure including court houses, equipment and detention centres, slowing down an already sluggish judicial system.²³ This situation is compounded by the fact that there is no dedicated court system addressing juvenile cases. Rather, family court judges with extensive case backlogs are further saddled with juvenile dockets.²⁴

Diversion remains an under-utilised mechanism, as police and prosecutors at the local level are frequently unaware of the laws governing diversion and their respective roles in the process.²⁵ While it is expected that local government social workers collaborate with community leaders in issues of diversion, in reality, lack of training hinders its use. However, in Cebu City and Baguio City, NGOs are partnering with local governments to champion diversion and ensure that city ordinances exist to support national juvenile justice laws.²⁶ Post-Haiyan, UNICEF worked with local leaders at the community (barangay) level providing training for the Barangay Councils for the Protection of Children. These trainings included how to approach cases of children in conflict with the law.²⁷

Funding for justice for children initiatives remains scarce

Funding for justice for children initiatives in general remains scarce. Since Haiyan, there is more technical support and dedicated funding for the activities of the Juvenile Justice and Welfare Council.²⁸ As well, municipalities such as Carigara and Lyte are working to repair infrastructure and to train government and village authorities on relevant acts including RA 10630 and how to address issues of children in contact with the law. Overall though, practitioners are of the view that funding has not increased considerably.²⁹ While justice for children remains a



Child protection and juvenile justice systems were underprepared for the disaster

concern to the government, it is still a highly under-resourced area.³⁰

Prior to and since Haiyan, gender mainstreaming in justice for children has been relatively absent.³¹ However, UNICEF is attempting to address the challenge, for example through mainstreaming gender in its design of the case management protocol.³²

Anecdotal evidence suggests increase in number of children in contact with the law as result of emergency, but lack of data

Conclusions

Typhoon Haiyan highlighted the urgent need for better preparedness around child protection in general and justice for children in particular in the Philippines. Ms. Loretta Anne Rosales, Chairperson of the Commission on Human Rights of the Philippines said, "Access to justice should become a critical part of future disaster risk, resilience and reduction efforts in the Philippines". There is anecdotal evidence to suggest that there has been an increase in the number of children in contact with the law as a consequence of the emergency. However no formal study exists to ascertain the extent of change. Currently there is no disaggregated data (by sex and age) to allow a targeted response to the needs of girls and boys in different age groups.

Act addressing emergency relief and child protection an important step

The draft act addressing emergency relief and protection of children in disaster and other emergency situations seems to be a lesson that has been learned from recent disasters and will be an important step to address the situation of children in contact with the law after emergencies once in force and put into practice.

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