

Disrupting Harm

Evidence from 13 countries on the context, threats, and children's perspectives of online child sexual exploitation and abuse.

Detailed Analysis of Access to Justice and Legal Remedies in the Philippines
Interviews with Children and Caregivers

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This report is a summary of preliminary data collected for this research project. The perspectives contained herein represent the individuals interviewed and surveyed. Support from the Fund to End Violence Against Children does not constitute endorsement.

Introduction

In total, three semi-structured interviews were carried out with children and young people (all female) ranging from 13 to 25 years of age—all of whom were survivors of OCSEA. In addition, the three respective caregivers for these survivors were interviewed, reflecting on their experiences seeking justice, as well as the experiences of seeking justice for one additional case, the younger sibling of one of the survivors, who has also sought justice for OCSEA.

While it was the intention of the research team to collect a sample of 10 children and 10 parents or caretakers, a number of significant issues in the field locations prevented the sample from being completed. Some of these issues were:

1. Due to COVID-19 restrictions affecting the Philippine National Ethics Committee, the initial Ethical Approval was significantly delayed.
2. Due to International COVID-19 restrictions, international consultants were unable to travel to the Philippines for in-person fieldwork, thus local consultants and experts were identified, trained and brought onto the research team to conduct in-person activities.
3. Due to COVID-19 policies adopted by local Philippines implementing partners, social workers with local partnering organisations were unable to hold face-to-face meetings with any current or former clients.
4. Due to further COVID-19 domestic travel restrictions within the Philippines, the newly recruited local consultants were prevented from traveling outside of their local areas, causing further delays.
5. Due to the aforementioned barriers/delays, a methodology change was required to accommodate updated domestic COVID-19 restrictions in the Philippines, allowing local consultants to utilise virtual meeting software to meet children, and to amend previously identified child protection risks and mitigation strategies to fit these changes.
 - o The updated methodology was resubmitted to the Philippine National Ethics Committee, through an accelerated process, to review and re-approve the updated methodology.
6. Due to struggles among implementing partners to practically navigate updated COVID-19 restrictions, and after the re-approval of the methodology, the research team encountered further delays.
7. Due to impending deadlines, and after multiple extensions on the larger project, amid more than a year of effort in building the specific sample, an end date was set and the recruitment process was closed, leaving the team with an interview sample of three children and three parents.

Overview of cases

Of the three children involved in interviews, all three had a case related to the production of child sexual abuse material through live-streaming Online Child Sexual Exploitation. Defendants in all cases were charged as per section three of RA9208, the Anti-Trafficking in Persons Act of 2003. This form of OCSEA is most commonly identified and addressed throughout the Philippine child protection sector¹ and has been a major focus of the NGO partner involved in serving the cases reflected in this sample.

In the broadest of terms, the justice-seeking process was fairly similar in all three cases, and was marked by similar and significant social, economic and emotional challenges which lasted for years. These are compounded by poverty and, at times, a lack of understanding (among the victims and their families) of the process and rationale for the legal and ‘protective’ actions taken. Further, respondents did not choose to seek justice out of their own accord, with respondents recounting the justice process as an obligation or requirement, mandated by public officials. While respondents expressed criticism for police and local government officials, all were largely grateful for the support and skill of the NGO involved, as well as of the attorneys that represented them.

With regard to victim’s compensation, all cases (either child or caregiver) indicated awareness of the possibility (or rumoured possibility) of compensation, but this was not a process that anyone seemed to clearly understand. More specifically, no one understood seeking compensation as a legal right. Further, due to cultural dynamics – particularly within rural communities— in the Philippines, asking for money or any form of compensation is extraordinarily difficult and often a source of stigma and shame (‘nakahiya’), even among families struggling with significant poverty.

For the most part, children and their families seemed to be removed from the justice process. Throughout the interviews, justice is described as something that was done to them, not something that they actively understood, sought, or were a part of with any degree of agency. Children described their time in the justice system as a compulsory process, which requires detention and separation from their families and loved ones. Once within the system, children and families seem to be largely unaware of the justice process and maintain that they are simply doing what is required of them. The children themselves largely recalled the community intervention, their conversations with their lawyers, and memories of their often-brief time spent before a judge. Because of this disconnect, respondents seemed to have little awareness of how the offender was charged, or other specific details of the case.

¹ UNICEF Philippines, Terre des Hommes. (unpublished). Live-streaming Online Child Sexual Exploitation in the Philippines (Regions III and IV)

Access to the Justice System and Reporting the Crime

Respondents in this sample range from 13-19 years of age and were between the ages of 10 and 15 years old when they were exploited. While cases reflected in this sample took place between 3-5 years prior to interviews, all respondents had only completed the justice process within the past year and had each spent a number of years in government custody during the justice process. For all respondents, accessing justice began with an official ‘rescue’ response by the government for live-streaming OCSEA. This involves a coordinated government action usually involving the Philippine National Police and/or the National Bureau of Investigation, the social welfare officer from the Local Government Unit or, in some instances, a Department of Social Welfare and Development social worker, a prosecutor, and, if applicable, personnel from the Department of Labor and Employment to check labour law violations. Prior to conducting a rescue operation, law enforcement agencies inform the child welfare officer from the Local Government Unit or, in some cases, the Department of Social Welfare and Development, who assists the law enforcement officials carrying out the operation. Following the operation, the child is referred to the Department of Social Welfare and Development.²

In all cases, children described between 4-6 officers (sometimes uniformed and sometimes plainclothes) accompanied by a social worker, being involved in the ‘rescue operation’. In some cases, this was an NGO social worker (involved in the case) or a local government (Barangay) social welfare officer. Most of the protocols used seem to be designed for the raid of a brothel or cyber-den and conjure imagery of rescue from immediate danger—thus justifying the speed and force of the intervention. However, none of the children interviewed in this sample stated having been in any immediate danger. Rather, one was eating a meal in a shopping mall with her caregiver, one was attending school, and another was at home with her older sister when they were ‘rescued’. All respondents recalled being taken with only the clothes they were wearing, having their personal electronics confiscated, and even being held overnight at times, before being interviewed by police. All respondents recalled a significant amount of trauma and chaos associated with the ‘rescue’ operation.

The Department of Social Welfare and Development is the lead agency tasked to respond to the needs of victims of exploitation and violence and provide the care framework for children who have experienced OCSEA. Most victims of OCSEA receive support through the Department of Social Welfare and Development, including accommodation (rehabilitation centres) and psychosocial support, for an average of 6 months. After this period, an assessment is done to determine what further support a victim needs. From there, victims either stay at the Department of Social Welfare and Development centres, are transferred to longer-term shelters or are moved back into their communities. This was the process for all respondents in the present sample, all of whom were transferred to longer term shelters where they stayed for a few years before their cases were heard and resolved.

Children’s decision on reporting abuse

² UNICEF Philippines, Terre des Hommes. (unpublished). Live-streaming Online Child Sexual Exploitation in the Philippines (Regions III and IV)

It became clear throughout the interviews that children and parents did not, in fact, choose to go to the police voluntarily, nor did they actively seek help. All respondents described being targeted by police as a part of various “Rescue Operations”, conducted by local law enforcement, in conjunction with an NGO that provides legal aid for victims of trafficking and exploitation. Respondents described being found by police in various, often public displays of government action, in children’s homes, in their school and in other public places. In each case, the child described being targeted by police, and involuntarily brought to have a sworn statement taken. Following their interactions with the police, children described being separated from their families and brought to shelter facilities where they often spend years at a time.

One child recalled:

“Ah, no, I did not go to the police. I was just notified by my best friend (who was in jail at the time). She told me that I have a case and that I was the person responsible for filing that case. I was preparing myself for work, in a place that is close to our home. When all of a sudden, they just told me that the “Barangay” (a local village government unit) wants to talk with me and that both the National Bureau of Investigation from Manila and the Department of Social Welfare and Development persons are also there” (RA4-PH-1-A-Child).

Similarly, another child described being targeted in a ‘rescue operation’ while eating with her mother in a mall restaurant. She described being detained by five police officers, who were accompanied by a social worker. The respondent described feeling scared to see the officers, although many of them were in civilian clothing. The respondent was separated from her mother and taken to an NGO. The respondent stated: *“I was so afraid, and my heart began to beat so fast” (RA4-PH-3-A-Child).*

Another respondent recounted being taken from her home by uniformed officers and being afraid because she did not know who they were, or where and why she was being taken. She stated:

“...when they came, they did not say anything. They just took us...They brought me to the police station. They brought me to an office where a lady took my testimony... I told my story to a woman... I told them I don’t know anything—I had no idea what was going on. Sometime after that, they asked me if I knew what was happening, or why they were taking me...I began to think, to wonder the reason why they are doing [this]. But mostly, I was so scared” (RA4-PH-1-A-Child).

Further concerns are raised regarding the rights of child victims who turn 18 as well. For instance, one child was exploited when she was 15, however the “rescue” operation did not take place for another three years, until after she had already turned 18. The young person’s mother, who was not implicated in the exploitation, and whose younger daughter was also exploited in the same case, described trauma and confusion as she reflected on the experiences of her children as they were being ‘rescued’:

“Of course, I asked them, “Why will you take my children away from me?” Of course, I was very startled (because) it was my first time to experience something like that. I had no idea why they needed to take my children. The National Bureau of Investigation had a very long explanation, (which) I could not understand. They said they need to take my children to a better place” (RA4-PH-1-A- Parent).

In addition to the lack of agency and mishandled communications with the child and family, the older child (who was 18 at the time) recalled being initially given false information about what would be required of her. She was told that she only needed to go with law enforcement to ‘provide a statement’, she quickly learned that she would not be returning home when she was met by officials at the Barangay hall who took her into custody. She recalled:

“I went. I was told to go to the Barangay hall. It was early in the afternoon and I was about to go to work. They told me that I needed to go before lunch. They said they will just get my statement. I did not fully understand. Everything went so fast. They just told me to get into that vehicle” (RA4-PH-1-A- Child).

Based upon the three cases, children (and young adults) seem to be automatically taken into custody as a standard practice, when they are found to have experienced OCSEA. Interviews overwhelmingly show a justice-seeking process in which children have little-to-no agency, as they and their families are acted upon by powerful outside forces. However, due to these acute experiences, and the resulting (perhaps inevitable) focus of the children’s narratives, forming a rights-based analysis of how those children ‘chose’ or ‘decided’ to access justice becomes both challenging and redundant.

Children’s feelings about first encounters with the police

Confusion and fear are common themes throughout children’s first experiences of being offered access to justice. Descriptions of first encounters with law enforcement shared by the interviewed children seemed more consistent with the apprehension of a criminal for questioning, than the provision of access to justice for a child who has been the victim of a crime. For instance, in two cases, children initially feared that they were being arrested for their exploitation. Initial encounters with police were largely described as ‘frightening’ and ‘traumatic’ experiences. While police were generally described as being kind or neutral actors, the ‘rescue’ process, and the subsequent process of detention while the case was being processed (which can last for years) seems to have left the children with feelings of confusion, fear, guilt, shame, frustration and anger.

One young person, who was 18 at the time (but had been exploited while she was still in her adolescence), stated being detained while in a public place, interviewed by police and then taken into government custody against her will:

“Of course, I was very scared. That was the number one feeling that I experienced. And I was worried because I still needed to work and they just took me to that place. I was scared not knowing where they were taking me. I was so upset, angry, at them because they just took me without proper explanation...I was not able to tell [my employers] that I will be absent from work. I was also not able to say goodbye to my family. My family was angry at me. They said that everything is my fault. I was so down at that particular time” (RA4-PH-1-A-Child).

She described frustration at the officer’s unwillingness to communicate with her clearly about why she was being detained. She recalled:

“...they talked with me while we were on the way. They told me that they will take me to a “safe place.” In my mind, I was asking ‘Why the rush? Why is there no explanation?’ I was hoping that they could have asked me properly if that was OK with me. While they were talking, I was so upset at them...At the time, because they just took me immediately, I was not able to prepare anything. I was not able to pack my clothes or say goodbye to my family or place of work. The process was not very clear and not properly done” (RA4-PH-1-A-Child).

Once at the police station, she described inaccurate and unclear communication from police, which turned into fear for her livelihood, as her phone was confiscated and she was unable to inform her employer that she would not be able to work. She stated:

“They just told me that they will come back the next day so they can get my statement. I did not realise that they had to confiscate my cell phone. My employer was also angry because they are afraid that they might be involved in my case. What was painful for me was when they just took me without proper procedures. Everything was in a rush” (RA4-PH-1-A-Child).

In all three cases, the children’s descriptions of the justice-seeking process recount children being the objects of the process, not subjects. Typically, after a ‘rescue’ operation the child will be placed in a government-run or NGO-run shelter within the region. According to field teams, government facilities are usually the default option for children after being taken into custody, but if they are at full-capacity (which is commonly the case because government shelters receive all types of abuse and exploitation cases), the rescued children will be placed in NGO-run shelters. One child (RA4-PH-1-A-Child) and her sister both started in a government facility after the ‘rescue’ operation. They were both placed in separate, regional, government (Department of Social Welfare and Development)-run shelters, located in different provinces due to their differences in age.

The children and parents interviewed did not describe themselves as agents of their own lives, who chose to seek justice. Rather, they recalled themselves more as implicated parties who had been swept up in an external justice-seeking process, over which they had no control or choice afforded them. For all respondents, outside of the rescue operation itself, the years spent in government shelters were often the most vivid and lasting memories of the justice-seeking process. Respondents described a significant amount of lasting social and emotional trauma, and crippling economic impacts to families associated with the often years spent receiving ‘rehabilitation’ services in government shelters. For respondents, this trauma seemed to be compounded by the responses of police and

Barangay officials during “rescue” operations, which seem to have left the children and their families with very little agency and understanding of what was happening to them.

Some of the social impacts include being removed from their “comfort zones”, including schools, friends and families, and placed into a whole new and confusing environment, compounding their fears. One child, who was passed between three different shelters recalled:

“At first, I was so bored, and then later, I felt so confused because in every place, it meant that I would need to adjust again to new people” (RA4-PH-3-A- Child).

Emotional impacts largely seemed to be related to the activities of police in communities, being uprooted from their home, brought by the police (who are strangers) to a place they did not know, being given unclear information about why they were being “arrested” (from their perspective), being interrogated, being transferred to another unfamiliar location, meeting more strangers, being separated from their families and having any personal communication devices taken from them— many procedures of which are commonly performed during a criminal investigation. These impacts are significant for both children and their families. One caregiver recalled confusion which turned into panic as she realised that the police would take her child away.

“I had no knowledge of [OCSEA], that this is what's happening, and that it is illegal. I only learned of this when people from the Department of Social Welfare and Development came to us. They were from (a provincial city in Luzon), they took my children to separate homes. The younger was brought to [two separate centres in separate regions of Luzon...that's why I [told them], ‘take me with my children, but one of them said, ‘no, you cannot come. They just said, ‘You can visit your children. So they gave me the address where I can see my children” (RA4-PH-1-A- Caregiver).

However, the mother was not able to see her child much over the three and a half years that she was in government custody. This was largely because she could not afford the bus fare for the 14-hour ride into the city where her daughter was located. This caused a great deal of social, emotional and economic pain and stress, which rippled through the child’s family.

This mother’s experience also underscores the notable economic impacts commonly described by respondents. The mother explained:

“I was not able to visit her much. I was thinking of my younger child. But I was only able to visit her a few times. The number one reason is [that] I did not have enough money. I lack money. Whatever money I earn from selling, I save to pay for my way to [to the city where she was being kept]. [But] the fare is so expensive. I needed to ride a van... where I will pay about 150 pesos (\$3 USD) one way. I save up my money so I can visit my child, so she can be happy even for a while. When I visit her, she will say, ‘you will leave me again’; I want to leave this place. I want her to feel my love, and for her love towards me to return. She asked me, ‘why did you allow me to be sent here? Why?’ She may think I do not love her anymore. That’s why I try to show her my support even when it is so difficult for me. I had to borrow money, to loan money from my sister just to visit her” (RA4-PH-1-A- Caregiver).

Another mother recalled a social worker explaining that her daughter needed to be taken from her. She stated: *“I told them ... I want to get my child from the shelter, I wanted her to be with me. But they said that it was not possible [at] that time since there is a case that needs to be processed”*. The explanation seems to have done little to calm the nerves of the mother during the years that her daughter was gone, she recalled: *“I would always think about her... It was very difficult for me; I could not concentrate on my work. I could not eat properly. It was difficult for me that [my child] could not be with me right away” (RA4-PH-1-A- Caregiver).*

Throughout the interviews, the ‘justice-seeking process’ and these broader experiences of ‘rescue’, detention and ‘rehabilitation’ seemed to be inseparable, with the exception of one respondent, who was able to have a shortened detention/rehabilitation period, because she had turned 18 by the time ‘rescue’ was carried out by law enforcement (three years after the exploitation occurred).

Participation in the Justice Process

Based on the interviews, there are particular challenges in describing children’s participation in the justice process, as “justice seeking” commonly becomes lost in the much larger process of detention and ‘recovery and rehabilitation’. While respondents expressed a great deal of gratitude for their lawyer’s ability to explain the justice process and help them navigate their cases, it was not clear that any child or caregiver actually sought to enter the justice process or were given any significant amount of agency within it. Rather, respondents described being pulled into a justice-seeking process already in progress— one which mandated that they remain in government custody, separated from their families and communities, throughout the justice-seeking process. It is understandable that in some cases, when parents are involved in the offence, or a child is in imminent danger and no other custodial options are available, it may be necessary for a child to spend some time in government custodial care. However, despite there being a diverse range of family and community contexts which could have allowed for some children to remain within family care, the governmental response was nearly identical throughout the three cases.

In all cases, following the initial processing, children were transferred to government-run temporary shelters for varying (and sometimes extended) periods of time. In two of the three cases, children were then transferred to more permanent facilities where they were kept for much longer periods of time. While standard Department of Social Welfare and Development policy would be to assess the child victim's situation and determine if longer-term government care or custody is necessary, the responses in these cases were largely the same and seem to suggest that shelter-care is a predetermined outcome, not dependent upon any specific case-by-case assessment of the child and their context.

In the first case, the young person’s entrance into the justice process seems to have been largely government driven. The young person (who was 18 at the time) had been involved in OCSEA the year prior. Her parents were not involved and were unaware of their child’s involvement in OCSEA. As she was preparing for work, she was met by police and recalled being told that the Barangay Hall needed to see her, “so they can get your statement.” She complied with police officers and accompanied them to the Barangay hall. However, upon arrival and giving her statement, she was fully taken into custody, against her will, and brought to a shelter in another region of the country. She remained in government custody until her case reached a conclusion.

In the second case, the child’s entrance into the justice process seems to have been largely overseen by an NGO which specialises in accessing children’s legal rights. The child recalled police coming to her house, accompanied by one social worker from the NGO. She described being taken away by uniformed men and not fully understanding why. She was brought to the NGO where she recalled, “...*they told me to fill out something, but I cannot remember what it was. The only thing I remember is that I filled something out, about three pages, and after that [the social worker] explained [what was happening] to me.*”

In the third case, the child was taken from a mall restaurant, where she was eating with her mother. She was brought to an NGO, which specialises in accessing children’s legal rights, where she recalled being told she “cannot go home for now, because they are trying to solve a problem”. After spending the night at the NGO, she was escorted by police for a “medical exam” and then taken to a government-run shelter, where she stayed for multiple years, as her case was processed.

Despite having caretakers or family members not implicated in the exploitation available, the default response for all respondents in the sample included extended government custody and ‘rehabilitation’ in government aftercare programming.

Throughout all of this process, parents and caretakers did not seem to have access to any significant level of information about what has happened with their children. One parent became aware that a medical exam had been performed on her children, and attempted to gain information on what had happened to her child:

“I asked them about the medical report on [my child]— if there was something wrong done to her. I also asked if the person who has done her wrong was already imprisoned” (RA4-PH-3-A- Caregiver).

Despite the trauma described as children were taken into government custody, interactions with justice officials and social workers were described in largely positive terms— often drawing sharp contrast to the more negative experiences described with law enforcement and local government officials:

“All of them, even the lawyer, also the prosecutor, they were experts, they connected to us and treated us well. If there was a problem, I [would] go to them and they [would] help me understand” (RA4-PH-1-A- Caregiver).

Throughout the three narratives, all children recalled giving a sworn statement, having procedures explained to them as they were happening and signing documents prior to being taken into custody. However, no children or caretakers seemed to recall understanding their rights, their legal options (if any), or even if they had a choice to participate in the justice-seeking process. Lawyers and justice actors seem to have been introduced much later in the process, after the child had already been placed in government custody.

Within the Philippines, the Child Rights Center of the Commission on Human Rights is mandated under Republic Act No. 9344, Juvenile Justice and Welfare Act, enacted in 2005, to ensure that children’s rights are upheld during the process of detention³ (section 11). However, while this legislation covers children seeking justice in the Philippines and establishes a Juvenile Justice System as well as the processes for community intervention and detention in the Philippines, the protocols are written for “children in conflict with the law” (section 23) and do not specifically recognise child victims or survivors of sexual exploitation and abuse. While UNICEF has noted that operationalisation of the law has been limited due to budgetary and resource constraints,⁴ the use of protocols designed for children in conflict with the law is not only inappropriate but could lead to further victimization and trauma of children who are targeted by ‘rescue’ operations.

The legislation specifies in section 20 that the authority in contact with the child “has the duty to immediately release the child to the custody of his/her parents or guardian, or in the absence thereof, the child’s nearest relative.” This age limitation could explain the traumatic experiences of the mother of one of the children, who was not informed

³ Congress of the Republic of the Philippines. Republic Act 9344 “An Act Establishing a Comprehensive Juvenile Justice System, Creating the Juvenile Justice and Welfare Council Under the Department of Justice, Appropriating Funds Therefor and for Other Purposes.” (2006), section 11.

⁴ UNICEF. (2016). [Child protection in the digital age. National responses to online child sexual abuse and exploitation in ASEAN Member States.](#)

of her daughter’s “rescue” (detention) until months after the community intervention, seeing as the child had already passed the age limit under which the government has any duty to the family of the child. Further, as the young person’s phone was confiscated upon detention, reaching out to inform immediate family members was not possible.

Further, the legislation establishes that child victims reportedly have access to free legal services including information about their rights, the procedure for filing complaints, claims for compensation and other legal remedies available to them in a child-friendly language.⁵ However, the interviews provided no information regarding the effectiveness of those mechanisms or on victims’ access to compensation or remedies. The Committee on the Rights of the Child observed that child victims do not always have the support of child psychologists and/or a guardian to guide and accompany them throughout the criminal justice process. While the Committee on the Rights of the Child made these observations nearly eight years ago (2013), these concerns still seem to be very valid and relevant in 2021, based upon the limited data within the present sample.

Children’s feelings about interactions with judges and lawyers

In contrast to the confusion, frustration and fear expressed regarding interactions with police and local government officials, lawyers and NGO caseworkers seem to have introduced some much-needed clarity and awareness to the larger community-intervention and justice-seeking process. However, much of their interactions with lawyers and justice officers came well after the child had already been placed in government custodial care, been separated from their families and communities, and had given statements and signed documents pertinent to their case.

In all interviews, lawyers were provided by the NGO assisting with the case and were positively regarded by respondents. Children especially recalled the importance of understanding their rights and being able to speak freely without judgement. As the children and caretakers reflected on their interactions with lawyers and social workers (provided by the NGO), the tone of the narratives seemed to shift, as children were explained their rights, shown respect and were allowed to speak freely without judgement.

One child who had only one lawyer recounted:

⁵ Republic of the Philippines, “Philippine Country Report”, p. 5. Cited in: UNICEF. (2016). [Child protection in the digital age. National responses to online child sexual abuse and exploitation in ASEAN Member States.](#)

“I was really terrified at that time. But the lawyer explained to me my rights and we began talking about my story. She encouraged me to tell the truth. [She said] I should not be afraid to say everything that I want to say. I met with the lawyer several (about six) times [The shelter staff] always take me out so I can talk to my lawyer. A few of the times that we met, we were in court” (RA4-PH-3-A- Child).

Another recalled:

“I became comfortable with [the lawyer the NGO assigned]. He made me feel confident. He told me to be strong, [things] like that. At first, I did not say anything, but later, he told me not to be ashamed or feel embarrassed despite the fact that he is male. Then after that, I began to talk” (RA4-PH-1-A- Child).

All children described various levels of initial fear and anxiety associated with meeting justice officials but noted that they were always spoken to kindly. Much of the children’s interactions with judges and prosecutors seems to have been kept to a minimum, with children primarily having direct communication with the lawyers assigned to them by the NGO.

In all three cases, the children were determined that they had no viable living alternatives outside of being placed in a government shelter. No child was allowed to stay in their communities or with relatives (immediate or extended), despite family members being available, including one biological mother (who was unaware of her child’s exploitation and was actively seeking the child), as well as one child who was over the age of 18 when they were apprehended.

Children were also required to tell the story of what happened to them repeatedly. One caregiver recounted: *“[my child] had to be in court... She gave her statement (multiple) times” (RA4-PH-3-A- Caregiver).*

Hardest part of talking with criminal justice actors for children

The criminal justice process in the Philippines often involves a number of overlapping actors both at the local (Barangay) level and the national (Department of Social Welfare and Development) level. Interviews seem to demonstrate that the “justice-seeking process” for children involves two parallel and interwoven processes: a ‘rescue’/rehabilitation process, which is aimed at the child and a legal/prosecutorial process, which is toward a facilitator/perpetrator. The children’s interactions with the justice process usually begin with an initial community intervention, which social workers often refer to as a ‘rescue’ and justice officials refer to as ‘entrapment’. This process is carried out by a mix of local law enforcement (women and children’s desk) and social welfare personnel: either the local Barangay ‘social welfare officer’, national level social worker (Department of Social Welfare and Development) and/or a social worker from a specialist NGO. Then, depending on the social welfare entity involved (local, national, or NGO) the children seem to encounter a number of actors as they are referred to temporary shelter and then longer-term shelter. Within this process, children are introduced to the lawyer that is assigned to them. The lawyer seems to be their primary point of contact in the justice-seeking process. Interactions with other justice actors seem minimal and limited to the hearing itself.

By far, respondents saw their interactions with national police and local Barangay social welfare officials (working in conjunction with Department of Social Welfare and Development at the national level) as the most difficult.

Respondents cited feeling as though they were powerless and often kept out of the justice-seeking process, despite established policies and protocols which lay out child participation as a key value and requirement. One respondent who was exploited as a child, but was 18 at the time of community intervention, recalled having to find the courage to confront officials about how she was treated during her time in government custody:

“I finally got the courage to tell the Department of Social Welfare and Development and the National Bureau of Investigation when they came to take my statement. I told them, ‘I think it was not proper for you to just come and get me from my place and do this thing to me.’ I told them, ‘I am at the right age. I am not a minor anymore. You can explain things to me and if you did, I would understand.’ At the time, I really begged them” (RA4-PH-2-A- Child).

Another respondent recalled significant hardship after being ‘rescued’ and then being passed around a series of temporary shelters for varying lengths of time before settling in a longer-term shelter. This was seemingly due to the respondent’s mother being involved in her child’s exploitation. However, her aunt, who is now the child’s caretaker, seems to have been left out of the assessment process after the initial rescue, thus the child remained institutionalised in various shelters for three and a half years and not allowed to be cared for by her aunt. She recalled:

“I spent nine months in [the regional shelter] then they transferred me again to [another national-level shelter] since they said my case will be filed there [in that city]. I stayed in [the shelter there]” (RA4-PH-2-A-Child).

Previous research into the impacts of OCSEA interventions for live-streaming exploitation in the Philippines found government ‘rescue’ responses at the community level to be largely unhelpful – and potentially a source of greater trauma for ‘rescued and rehabilitated’ children.⁶ This still seems to be the case based upon the limited sample within this subchapter. As one child recounted:

“Nobody was able to come visit me at the time because I think my mother suffered from food poisoning. So did my siblings. I think they were brought to the hospital. So really, nobody was there for me. It was like bad timing. The problems came one after the other” (RA4-PH-1-A- Child).

One key issue may be related to the ‘devolution’ of government services in the Philippines, which refers to a fiscal and legislative disconnect of local communities (at the city and Barangay level) from the National Government. This means that the Department of Social Welfare and Development as a national and regional entity in the Philippines, does not have direct, meaningful, or regular access to local communities, the ability to enforce child protection legislation, or provide services within communities. In order to take action in local communities, the Department of Social Welfare and Development must rely upon local social welfare officers, who may or may not have the same training or adherence to national standards for child protection. Thus, when an intervention is done, children are often removed from their communities (often from their province) and taken to a regional or national centre where

⁶ UNICEF Philippines, Terre des Hommes (unpublished). Live-streaming Online Child Sexual Exploitation in the Philippines (Regions III and IV)

children and houseparents may not even speak their native dialects (although Bisaya and Tagalog are widely spoken).⁷

Further, research conducted by De La Salle University-Social Development Research Centre (Manila) notes that the process of reintegrating child victims of OCSEA “is not yet well established in the Philippines.”⁸ They further describe a lack of standard indicators of readiness to leave a shelter, as well as the absence of any proper assessment of that readiness. Rather, children seem to largely remain in government care until the end of their case.⁹ This is illustrated by respondents in this sample, who described a complete lack of agency in the justice process from beginning to end. Rather, justice seems to be something that is done to them by external actors, once a case has been established.

It is notable that, outside of their interactions with lawyers and caseworkers, children seem to have had very little agency and choice. One child described a hearing with her lawyer, the judge and the perpetrator. She was 10-11 years old at the time. She recalled:

“I was still so afraid. So scared. So ashamed.’ The hearing lasted about an hour. [...] The attorney did most of the talking. [...]the most difficult part was when I was asked to tell the court [about] what happened to me. I didn’t understand the whole process” (RA4-PH-3-A- Child).

Overall, respondents described generally positive experiences with lawyers and justice actors. Their limited interactions with lawyers seem to have been a significant source of information and stability throughout the justice-seeking process. This was especially important in one case, in which one respondent (RA4-PH-2-A-Child) described anxiety and worry about having to testify against her biological mother.

Another concern within this context, which is also highlighted by the Child Rights Committee, is the heavy reliance on the participation of child victims to prosecute crimes, which often results in non-reporting of cases, withdrawal of complaints and retraction of statements.¹⁰ This may be, in part, due to the fact that child victim and witness protection programmes are limited¹¹ in the Philippines, which could further pressure the reliance on the internment of child victims to ensure that they remain safe while going through the justice process. Such a lack of effective witness protection was a concern raised by both children and parents during the justice seeking process in two of the three cases. One mother recalled that as her child was being interned in another region of the country, they began to receive violent threats from the family of the facilitator of the exploitation (who her daughter was about to testify against), as well as death threats from the facilitator himself from within the walls of the prison.

⁷ Ibid.

⁸ De La Salle University-Social Development Research Center (2019). National Study on Online Sexual Abuse and Exploitation of Children in the Philippines Final Report [unpublished]

⁹ Ibid.

¹⁰ UNICEF. (2016). [Child protection in the digital age. National responses to online child sexual abuse and exploitation in ASEAN Member States.](#)

¹¹ Committee on the Rights of the Child, “Concluding Observations and Recommendations on the Initial Report of the Philippines, Submitted Under Article 12 of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.”, CRC/C/OPSC/PHL/CO/1, 26 June 2013, [37]-[38].

She recalled:

I was so afraid... He threatened to kill us.” She recalled the messages she received: “I will be out of prison soon. You better prepare— all of you who sent me to jail. I will kill you all” (RA4-PH-1-A- Caregiver).

Following the trial in which the facilitator was sentenced, the mother believed that the threats would stop. However, they did not. The mother described continued fear for herself and her daughter.

She added:

“I hope they can help my daughter find another place to live. Our situation is that... the relatives of the facilitator are our neighbours. I would like for my daughter to get help. The situation is quite hostile, [and] the case was so sensitive. I am still afraid, although I try to calm myself that “all is well now, the case is closed now.” [But] I still worry about [my daughter]. I just wish for a peaceful life.”

Compensation

Children's awareness on their right to compensation

Both children and caregivers displayed little-to-no awareness that they have a right to seek compensation, describing the idea it as more of an unlikely privilege, than a right to which they should have access. While no children or caregivers received any form of compensation, some seemed to have a limited, or perhaps implied or rumoured, awareness that compensation might be available if they won their case. Only one of the three children interviewed recalled being definitively told that compensation was even a possibility: *"They said that if I won the case, I could receive an award. [I won the case], but I did not receive anything. Nothing."* (RA4-PH-2-A- Child).

The child recalled the discussion of potential compensation that came up in a discussion between her caretakers and the NGO, but she explained that no compensation ever materialised:

"No, until now, I did not receive anything, but they [were] saying that I could [have] receive[d] something. ...When they have a meeting, that is [when they said] I could receive something. ... [But,] the meeting [was] only for them--my family and [the NGO]" (RA4-PH-2-A- Child).

Another child indicated that she received some amount of money, but this was, in fact, a small transportation allowance from the NGO which was involved in the case.

Experiences of children seeking compensation

As noted above, children seem to have had limited awareness (sometimes rumoured or implied) that compensation might be available. No child or parent received any form of compensation and no respondents seemed to understand compensation as a right.

One young person (who was 18 at the time of her capture), acknowledged hearing of the potential of compensation, and expressed disappointment that after all of her, at times, painful cooperation, she received nothing:

"[The social worker from the NGO] introduced me to someone who gave me a copy of the final decision. I was able to follow the instructions, and I asked [the social worker], 'what is that for?' and she said, 'Who knows, you might receive a reward for this.' That is when I got the idea that maybe there is something. It's not that I am demanding [it] or something. It is just that, I was able to help them. In fact, I really think that I was able to give them a great deal of help, but I did not receive anything yet. I was reading some things and I realised that there has to be an award because we won the case. And I followed everything that they told me. My aunt asked me, 'didn't you receive anything?' She told me that in other countries, there is compensation... But concerning the award for the case, nothing" (RA4-PH-1-A- Child).

Main barriers to seeking/obtaining compensation

Compensation does not seem to be something that is readily or intentionally discussed, based on the narratives within this sample. While the barriers to seeking compensation seem to be numerous, the primary and most

immediate challenges seem to be lack of awareness among children and parents, as well as the lack of any compensatory fund by which victims can receive even basic compensation to help lighten their financial burdens. Overall, no respondents demonstrated any concrete awareness of their rights or abilities to seek compensation from the guilty parties within the Philippines. Due to this lack of awareness, data from children on this issue is limited.

One child noted:

“Yes, I wished the terms of compensation would have been explained to me. That, for example, if the case is won, is there a reward? There has to be proper communication since the lawyer and the child have helped each other to win the case, something like that” (RA4-PH-1-A- Child).

The challenges of child rights education and awareness is further complicated by the non-existence of any government (or otherwise) victim compensation fund for victims, in addition to the reality that guilty parties are often not expected to pay in the Philippines if it is not within their capacity to do so. Many of the OCSEA cases that the Department of Justice has undertaken focus on local facilitators of the crime, not perpetrators who often have a significantly greater capacity to pay. Facilitators, by comparison, are often low-income Filipinos who themselves are trying to survive. While these facilitators may be involved in the recruiting or harbouring of children through the means of force, coercion, or fraud, satisfying the requirements of R.A. 9208 (i.e., the Anti-Trafficking in Persons Act of 2003) in the Philippines, this leaves the buyer/perpetrator (usually a non-Philippine-national) unprosecuted and without responsibility to the child and family (often because they are either unidentified or unidentifiable). Thus, the local facilitator is left solely responsible for damages, which are commonly outside of their capacity to pay (if compensation is sought at all).

Successes

Overall, children were most pleased with their interactions with the NGO supporting their case, as well as the lawyers working with said NGO. Two children—both from separate cases—noted a particular attorney from the NGO, who provided consistent support and seemingly attempted to fill in some of the gaps left by law enforcement and Barangay-level interventions. However, it is notable that the attorneys representing the children’s cases do not seem to have been introduced until later in the process, after much of the trauma from the intervention had already taken place.

Recommendations

It became very clear from the interviews that despite there being non-offending family members around the child, seemingly no efforts were made to place the child into these alternative forms of care. Rather, shelter care seemed to be the default method of intervention for the respondents in this sample. It is vital that service providers avoid any unnecessary removal of children from their families and communities. Such institutional approaches to “rescue and rehabilitation” exposes children to a kind of secondary victimization, wrought by policies and processes which “act upon” them, rather than working with them, their families and communities to develop the solutions that are best for their unique contexts.

Some key questions remain. If children are asked to legally give consent to be “rescued”, do they understand what this means? What efforts are taken to help children understand the potential complications and pitfalls of pursuing justice against the perpetrator/facilitator? The data collected from the interviews seems to indicate that justice targets children and gives minimal consideration for the various social, economic, emotional and even physical risks faced by children and families who, by their own will or not, are being used to take down exploiters and criminal networks who are able to make threats against family members within the community.

Main changes suggested by children to make it easier/better for children to participate in criminal cases against their abusers

The interviewed children described wanting officials to communicate with them clearly and honestly, allowing agency to whatever extent possible, and being allowed to ask questions and to communicate effectively with their family during the process, helping to calm some of the trauma and fear. Reflecting again on the community intervention and time in government custody, one child stated:

“I wished they did it in a proper way... I think, the thing that I want to change was the way they came and took me without proper explanation. I was hoping that they could have asked me properly and asked for my opinion” (RA4-PH-1-A- Child).

Children expressed the need for lawyers and judges to proactively inform them of their rights and encourage them to ask questions. This is vitally important as it is especially common for children in the Philippines to avoid asking questions or speaking out—especially, when the “power distance” is too high.

Children wished that the justice process, in particular their participation in it, could be done faster. One child when asked if she could be given the power to change anything at all about the justice-seeking process, noted *“I just wish it could be done fast”* (RA4-PH-3-A- Child). Considering that all children in the sample recounted losing years of their childhoods or young adult life to the justice process itself, during which time they were unable to see their friends and family or attend school in their own communities, this is perhaps a more meaningful statement than its few words may indicate.

If they must be kept in shelters, children indicated that they desire for those environments to be stable and engaging. During their years in government custody, as their cases were slowly advancing through the justice system, children

indicated suffering from intense feelings and emotions, including depression and boredom, indicating that the ‘safehouses’ where the children were kept often had little or no creative programming. Even after spending some time in aftercare, children largely described their time in aftercare as boring, as being homesick and as having difficulties adjusting to new people. In one case, this was exacerbated by frequent transfers to different shelters. She cited:

“While I was there, we were just doing all kinds of things just to keep us from getting bored. We were all homesick...and then later, I felt so confused because in every place, it meant that I would need to adjust again to new people” (RA4-PH-1-A- Child).

Further, interviews indicated that the concept of ‘seeking-justice’ is not yet adequately established within communities that are strongly affected by OCSEA, indicating a need for greater advocacy and child protection initiatives within these regions.

Lastly, as noted above, children and caregivers underscored the significant need for more proactive protection for witnesses and victims within the community, including the prevention or prosecution (where possible) of death threats and other forms of harassment from the defendants and their families/collaborators. One respondent stated:

“Naturally, we need protection, especially for [children like my daughter]. There are still relatives [of the jailed defendant] who are mad at her because she helped put the facilitator in jail. She [gets] threats from them on her cell phone” (RA4-PH-1-A- Caregiver).

Main changes suggested by children to make it easier for children to seek compensation

While children were largely unaware of their rights to seek compensation, they indicated that, if there is such a thing as “compensation,” that they should receive it. Among the three children, the only ‘compensation’ received (by RA4-PH-2-A- Child) was a small transportation stipend, received once, from the involved NGO to cover transportation costs between her lawyer and the shelter. No compensation related to the exploitation was provided to any respondent.

The respondents (although implicitly) indicated the need for more proactive discussions about their rights to compensation (and perhaps more importantly, that funding needs to be made available and accessible). One caregiver indicated her struggles with pushing to ask about the rumoured compensation that could be associated with her daughter’s case but indicated the significant needs that still remain now that the case has been concluded. She explained:

“I do not want to ask them about it, I do not want to ask about money. It would be shameful to do that. I do not want anything to do with money—people may think I only want to profit money. I just want help, especially to find psychiatrist for my younger child (who was also involved in the exploitation, but was unable to be included in the present sample)” (RA4-PH-1-A- Caregiver).

Within the Filipino cultural context, local field partners describe a quiet but pervasive form of social stigma, which often resembles pity, that many Filipinos will often strongly seek to avoid (especially among those from low-income

or provincial areas). Such aversion to the topic of financial compensation is seen in the quote above, which perhaps underscores a critical need for an empathetic and socio-culturally competent advocacy and education on the rights of children to receive compensation to help rebuild their lives after experiences of abuse and exploitation.