

Consultation Report on Orphans, their issues, concerns, and challenges, as well as their recommendations to the proposed Bangsamoro Orphanage Act 2020

I. SUMMARY

This briefing synthesizes the results of the public consultation with children and orphans' rights advocates conducted by the Office of Atty. Maisara C. Dandamun-Latiph Latiph on March 20, 2021. The full report with transcripts is available upon request.

The consultation had the following objectives:

- a. To know more about issues, problems, gaps and challenges of orphans, and the individuals/institutions that support them;
- b. To provide a platform where participants can raise issues and concerns, and for them to suggest any recommendations/solutions to the BARMM Government;
- c. To gather inputs and data in aid of legislation concerning orphans;

The report discusses the issues, status, gaps, and challenges of orphans. There are challenges with respect to data-gathering and monitoring. There are also challenges with respect to the subpar standard of centers which house orphans in the Bangsamoro region. At the individual level, orphans in the region also face risks and vulnerabilities, as they are susceptible to all kinds of abuses: physical abuse, child labor, sexual harassment and abuse, and financial abuse, among others.

The report also discusses ways forward recommended by the participants or are based on the experiences of the participants, such as providing alternative housing systems or dream homes; providing institutional support to home-based, center-based, and displaced orphans; providing IDs for orphans and widows which would allow them to access benefits from the government; and institutionalizing the zakat system which can serve as a source of funding for the support of orphans and orphanages.

Finally, the consultation also had the objective of serving as pre-legislative scrutiny and to give the participants an opportunity to provide recommendations for the improvement of proposed Bangsamoro Orphanage Act 2020 (BTA Bill 71) filed by MP Maisara C. Dandamun-Latiph. A copy of the BTA Bill 71 is also attached with this report.

II. INTRODUCTION

Orphans are considered one of the most vulnerable members of society. Without parent/s, a child faces varying degrees of struggle. Without the love and care provided by parents, their life is filled with hardships. However, with proper support from the government along with support from the community, institutions catering to the needs of orphans can be built.

It is the Department of Social Welfare and Development (DSWD) which has the mandate to provide support to orphans and vulnerable children. Unfortunately, historically there have been many Muslim orphans identified by the DSWD in Mindanao who have been sent to orphanages in Luzon, according to a rapid needs assessment of orphans in Muslim Mindanao conducted by The Asia Foundation in 2020. Meanwhile, other private charitable organizations focusing on children and orphans from the BARMM have since sprung up in areas in the Philippines with a sizeable Muslim diaspora, including Maharlika Village in Taguig, Culiati in Quezon City, Quiapo, Manila, and Baguio City. These places are used as educational hubs, not only by ethnic Bangsamoro, but also by those considered Balik-Islam, or reverts to Islam. This is because there are no DSWD-accredited orphanages in the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) let alone youth treatment centers, children's and group homes, or night shelters.¹

Orphans of war are children who have lost at least one parent, particularly the father, in the various conflicts in southern Philippines. Some are children of *shaheed*, or martyrs of the Moro revolutionary fronts, but many others are sons and daughters of civilians in the crossfire. In addition to the vulnerabilities already faced by orphans, they also face risk in the form of recruitment by violent extremist groups.²

When discussing orphans and orphanages, the discussion on *torils* inevitably comes up. *Toril* is the term used for an indigenous residential or boarding school in the Lanao region. Like Madrasah, they have a focus on studying and memorizing the Qur'an. *Torils* are not necessarily orphanages and there are some *torils* who do not house orphans, however due to their nature as a boarding institution and the directives of Islam with regard to taking care of orphans, many *torils* in effect also function as orphanages and provide room and board to those considered orphans in Islam. Other similar institutions exist all over the BARMM although they are called different names.

In Islamic tradition, orphans or *yateem/ilo* are those whose parents are known, but either the father or both parents are deceased.³ Meanwhile, according to UNICEF, an orphan is a child under eighteen (18) years of age who has lost one or both parents to any cause of death. In Islam, even a child whose parents are both alive but could not support and have abandoned or neglected their child may also be considered orphans.

III. GOVERNMENT POLICY

In the BARMM, it is now the Ministry of Social Services and Development (MSSD) which has the mandate of providing social services. Thus, they are the main focal agency in the BARMM which handles programs for orphans and other vulnerable children.

¹ *Children of War: A Rapid Needs Assessment of Orphans in Muslim Mindanao*, The Asia Foundation, 2020

² *Children of War*, T. Abdullah, (2021).

³ *Orphans and their Rights*, A. Radiamoda, (2021).

The Moro Islamic Liberation front (MILF) Social Welfare Committee (SWC) reportedly have a list 8182 orphans as of April 2019. Meanwhile, according to the MSSD there are 1,981 orphans in Lanao del Sur 2.

As of now, there is still yet no DSWD-accredited nor MSSD-accredited orphanage in the BARMM. This need prompted Member of Parliament Atty. Maisara Dandamun-Latiph to file the proposed Bangsamoro Orphanage Act last 2020. This would establish orphanages in the Bangsamoro region, and provide a regulatory framework for existing orphanages or institutions which provide support to orphans.

There are also moves to include the *toril* or indigenous boarding schools in the proposed Bangsamoro Education Code so that these institutions may be regulated and given the support that they need.

IV. STAKEHOLDER VIEWS

a. Issues, status, gaps, and challenges of orphans

RE Data Gathering and Monitoring: There is no uniform database for orphanages in the BARMM. According to representatives from MSSD, they have programs such as cash assistance and counselling for orphans. According to a representative from MSSD, there is some conflict between the MSSD and local government units such as the barangays since they had previously experienced harassment and threats, thus they believe they cannot rely on the data provided by the Barangay Chairman. There was a barangay chairperson who had attended the consultation and gave their perspective from the Barangay Local Government Unit (BLGU). According to him, the collection of data from the BLGU is only for the short term. When it comes to programs, the system is that slots are given to the barangay hence there is no data gathered or if gathered, the data would be inaccurate. There is thus a recommendation for data gathering to be done by the MSSD in partnership with the BLGU by going house-to-house in order to develop an accurate and comprehensive baseline database of orphans per region.

RE Abuse: According to some representatives from NGOs, orphans also experience physical abuse, sexual abuse, and financial abuse. Orphans may be pressured into early or forced marriages. Orphans also experience being subjected to forced labor which takes them away from their classrooms thereby affecting their education.

Orphans in the BARMM may be categorized into three depending on where they reside: there are home-based orphans who stay with their closest relatives, center-based orphans who stay in institutions which act or orphanages like *torils*, and displaced orphans with no fixed residence.

There is a need for stringent regulation of institutions which act as orphanages in order to prevent abuses. There is also a need for strict monitoring of home-based orphans to ensure they are not suffering abuses in the home. Finally, there is a need to identify displaced orphans and to place them in regulated orphanages, or reunite them with their

closes relatives, and provide them with necessary support.

RE Standard of Facilities, Torils, and Education: Participants shared the disheartening situation of institutions which act as orphanages in the BARMM. Often private institutions or madrasahs act as orphanages. However, since there is no regulation, a lack of funding has caused such institutions to fall into disrepair. Many institutions housing orphans (center-based orphans) do not have working restrooms. They do not have proper beds and orphans would be forced to sleep on the cold floor with just a straw mat. Because of a lack of funding, although administrators of such institutions would try to feed their orphans three times a day, in most cases these provisions are insufficient thereby affecting the health of orphans. Many orphans suffer malnutrition and are stunted. The participants compared the situations of institutions in the BARMM compared to orphanages for Christians or outside the BARMM which are better off.

The participants strongly recommended for regulation and institutionalized support. Some participants shared observations about how there were some institutions who would present themselves as Madrasahs and Torils and ask for donations and yet there was no improvement in the facilities. There were also some who presented themselves as torils and yet there were no qualified teachers; there had been no one who had already memorized the Qur'an and/or the institutions had not produced anyone who had memorized the Qur'an. The participants seek for regulation to prevent such exploitation.

In relation to torils and education, administrators from such torils seek for training from the BARMM government on how to best manage their institutions. They seek administrative training, as well as psycho-social help and counselling for the orphans under their care. In terms of education, the participants were in favor of a more balanced education curriculum for orphans staying in toril. Among their observations is that often the financial support given to orphans (from local and overseas sources) end once the orphan turns eighteen (18). Hence, by that age, orphans should already have the skills to pursue further education or seek work. Although torils have produced many religious teachers who were orphans, they worry as many of the orphans do not know English, or other livelihood skills. They thus recommend for a balanced curriculum to be taught in torils and for such institutions to be provided with livelihood training by TESDA.

b. Programs by the Bangsamoro Government

At the outset, there has to be a definition in the law on what is meant by orphans from an Islamic perspective or within the Bangsamoro context. There is a need to harmonize the different definitions of orphans because the definition shall be the parameter for gathering baseline data on orphans within the BARMM. The following are recommendations by the participants on the actions the Bangsamoro Government should take with respect to orphans within the region:

- Declaration of orphans as wards of the state and allowing them to enjoy free government services such as shelter, subsistence, education (such as scholarships from the Ministry of Basic, Higher, and Technical Education), livelihood support

and health services. They may be given IDs along with widows, similar to those given to Senior Citizens, so that they can avail of discounts and benefits.

- Establishment of optional alternative housing (permanent or temporary) for orphans which are gender-sensitive. Considering the context of the Bangsamoro region, there should be institutions which cater specifically to female orphans managed solely by women. Some participants recommended the Dream House model being implemented in Bangladesh where all of the needs of orphans can already be satisfied: physical, educational, psycho-social, community development, among others.
- Monitoring the welfare of orphans at the care of their guardians (home-based orphans) to protect them from abuse, neglect and violence such as slavery, child labor, trafficking, early marriage, harassment and sexual violence. For home-based orphans, regular sustenance for their support can be given to the families who are taking care of them.
- For neglected and abandoned children, there should be a ruling from Shari'ah Courts determining their status as neglected or abandoned so that despite both parents living, since they can no longer be supported by their parents, they may be considered as orphans and be able to avail the benefits of programs for orphans.
- Institutionalizing or reviving the zakah (religious obligatory tax; one of the five pillars of Islam) system. Muslims would have the obligation to pay such tax and the proceedings would be devoted solely for Islamic purposes such as the support of Madrasahs and Orphanages and/or Torils or their counterparts, which are often failed to be supported by the government due to the prohibition of the use of public funds for religious purposes.

c. Recommendations for Bangsamoro Orphanage Act 2020 (BTA Bill 71)

The participants were largely in favor of the proposed Bangsamoro Orphanage Act saying that it was already time for such an act to be passed. The recommendations of the participants were that there should be an institutionalized regulatory and monitoring system in place which involved the government in multiple levels, from the local government unit until the regional Bangsamoro Government, so that programs for orphans at all levels can be institutionalized. For example, according to the Provincial Social Welfare Development Officer of Lanao del Sur, the Provincial Government does not have regular programs for orphans.

Besides the MSSD, the Ministry of Basic, Higher, and Technical Education (MBHTE), Ministry of Interior and Local Government (MILG), Technical Education, Skills and Development Authority (TESDA) should also be actively involved in this framework in order to address the educational and livelihood needs of orphans. The MILG can mandate the monitoring of the standards of orphanages by each LGU.

A recommendation from the MILG Assistant Provincial Director of Lanao del Sur can be

seriously considered. Although under the Local Government Code, 1% of the budget of LGUs should be devoted to socio-economic programs, such percentage can be raised, and similar to the 5% GAD budget, perhaps a 5% budget for orphanages can be legislated. Such budget would be devoted solely for programs for orphans and supporting orphanages or institutions which act as orphanages within each particular LGU.

V. NEXT STEPS/WAYS FORWARD

The recommendations are already included in the body of the report and are based on the sentiments of the participants.

As of now, the Bangsamoro Orphanage Act 2020 is up for its second reading hereinafter it shall be referred to the appropriate committees. There is a need to pass the Bangsamoro Orphanage Act in order for it to become a law.

With respect to torils or indigenous boarding schools, it is strongly recommended that this system of education is regulated and supported, and the first step in doing so would be to include them in the proposed Bangsamoro Education Code. If the Bangsamoro Government undertakes the responsibility of regulating and overseeing these institutions, and providing them the support they need whether through capacity-building, curriculum development, financial support, or administrative training, these institutions would no longer be vulnerable to be used as recruitment grounds for vulnerable youth, especially vulnerable orphans who have no parents who would otherwise guide them to a better path.

VI. CONCLUSION

Orphans' rights include the physical aspect, intellectual aspect, and spiritual aspect. The Bangsamoro Government should be the instrument by which orphans' rights are affirmed, respected, protected, and promoted following the spirit of Moral Governance. Children are among the most vulnerable of our society, and following the principle of *parents patriae*, it is the State, or in this case the Bangsamoro Government which has the power and responsibility to act as the legal guardian for people who are unable to care for themselves – including our orphans, neglected and abandoned children.