

Council of Europe CDENF Intervention: Children's rights and COVID

I'd like to focus on a number of areas where we've seen discrimination in various forms against children. While COVID-19 may be indiscriminate, the effects of State responses to it are not.

We know that ethnic minorities face a higher risk of death because of the disease. We know that socially and economically marginalised people are also disproportionately affected in terms of their health. In both cases, underlying inequality and discrimination has been magnified and further entrenched by the effect of coronavirus.

For children the issue is different, but no less a matter of discrimination. Children are less affected by the disease itself, but it may be that the very recognition that children's health is less at risk has resulted in the needs of children being under-prioritised and led to a rise in the negative impacts that children experience.

Discrimination by neglect

Take detention. As the pandemic reached Europe and States and civil society were grappling with what this would mean for the communities they work with, the clamour to address the situation of people in detention facilities was widespread and well reported.

It hardly needs to be said that prisons and detention centres present the ideal conditions for the rapid spread of diseases. The solution could have been simple had there been the will: release children in detention before outbreaks reach detention centres, particularly younger children and anyone sentenced for non-violent offenses. Prioritise community and social service measures to prevent detention wherever possible. Immediately hear cases of children in pre-trial detention and consider release, particularly where there is the risk that trials will have to be put on hold because of lockdowns and the closure of courts.

And some countries did this. These aren't novel responses. Underneath each of these measures are the same well developed child-justice measures we know work, even outside times of crisis.

But what happened instead?

At least 79 countries introduced schemes to release people from prisons in response to COVID, but of these only 20 are known to have released children. In the United Kingdom, where I'm currently speaking from, the COVID release scheme nominally allows for the early release of children, but not a single child has been released early because of this scheme.

The reason?

This was a scheme produced with adults in mind that did not engage with the types of sentences that children are subject to.

And what does this mean for the children who are left locked up?

We have seen solitary confinement skyrocket as detention facilities try to get outbreaks under control or respond to a shortage of staff. There are children in detention facilities in Europe today that have been in solitary confinement for more than 80 days. There can be no doubt that this constitutes cruel, inhuman and degrading treatment. And with forward planning, it did not need to happen.

Discrimination by design

The response to child detention has been a matter of discrimination by neglect, but there are also the issues where children have been singled out, with no clear reason in sight.

Lockdowns, restrictions on movement and curfews have been common. While many countries have applied these measures uniformly to all citizens, a number of countries have singled out under 18s. In the most severe cases we have seen in Europe under-18s were barred entirely from going outdoors. The penalties for violation included fines. It need hardly be said that status offences violate children's rights law, nor that fines imposed on children fall particularly hard on children from poorer families. Confining children to their houses without exception also has serious consequences on their mental health as well as for those who are at risk for violence at home.

Discrimination compounds discrimination.

A blindspot for the marginalised

Then there are issues that are all about children, but ignore the way that marginalised children are affected.

The impact on children's access to education hardly needs to be spelled out. Schools across Europe have closed as lockdowns swung into effect and people were confined to their homes. This may well have been necessary, but if we ignore the way closures interact with existing inequalities for children, we won't address the problems they have caused.

We know already that children from socially and economically disadvantaged groups fall behind their more privileged peers every year over normal summer holidays. As children now return to schools after months away, this annual phenomenon (as much a matter of poverty as education provision) will be intensified. If we don't intentionally address the educational disparities lockdown has caused as part of the return to school, the legacy will be lasting.

Children and reshaping the future

And what of the large scale economic responses we have seen to mitigate the damage caused by lockdowns?

The large scale State interventions to date have delayed the worst effects of the economic damage caused by COVID. As these State interventions are withdrawn a failure to see specifically how children are affected would be a grave failing.

But more than this, conversations around rebuilding and reforming our economic model have never been more alive. Whether it's rethinking social security, the re-emergence of universal basic income on the public agenda or finally seizing the moment to rethink the role of detention in our society, moments of great challenge present opportunities for great change.

It remains to be seen whether we'll rise to this moment, but if we ignore children when we have these bigger conversations, we will cause lasting damage.