



Policy Brief

PHILIPPINES

May 2019

RIGHT TO CHILD PROTECTION

Discrimination Against: The Right of Indigenous Children to be Protected from All Forms of Discrimination and Social Exclusion

One of the core guiding principles of the United Nations Convention on the Rights of the Child is the principles of non-discrimination. The Committee on the Rights of the Child, through General Comment No.11 recognized the importance of adopting special measures for indigenous children in order to fully enjoy their rights. The Committee has observed that indigenous children face significant challenges in exercising their rights and continue to experience serious discrimination contrary to article 2 of the Convention in a range of areas, including in their access to health care and education.

In the 2009 Concluding Observations on the Philippines implementation of the Convention, the Committee reiterates its concern at the widespread poverty among minorities and indigenous peoples and the limited enjoyment of their human rights, in particular, concerning their access to social and health services and education. The Committee also expressed concern at the lack of information in the State party report and during the dialogue with the delegation of the actual impact of the application of the 1997 Indigenous Peoples' Rights Act (IPRA) on children. The Committee recommended that the Philippines take the necessary steps to ensure that indigenous children and children belonging to minorities fully enjoy all of their human rights equally and without discrimination.

In 2016, UNICEF, OHCHR, and Tebtebba Foundation entered into a partnership to implement the project Respecting Diversity, Promoting Equity: Mainstreaming the rights of Indigenous Children in the Indigenous Peoples' Agenda and National Indigenous Peoples' Situationer. The overall objective is to mainstream the rights of Indigenous children in an updated Indigenous peoples' agenda (2016-2022) and a national Indigenous peoples' situationer through capacity building, regional consultations, and thematic study. The project includes a qualitative study on the rights and welfare of indigenous children in 7 indigenous communities. This policy brief is based on the key findings and recommendations on child protection in the study entitled "Pagsasalinlahi Asserting and safeguarding Indigenous Peoples' Rights for the Next Generation."

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Aside from the IPRA, the Philippines also passed the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act (Republic Act No.7610). The Act recognizes the vulnerability of indigenous children by including them in the enumeration of “circumstances which gravely threaten or endanger the survival and normal development of children.”¹ The Act also includes Article IX, Sections 17-20 which expressly and explicitly guarantee their entitlement to protection, survival and development consistent with the customs and traditions of their respective communities. The Act also includes a prohibition against discrimination which is punishable with arresto mayor in its maximum period and a fine of not less than Five thousand pesos (P5,000) nor more than Ten thousand pesos (P10,000). The Act also recognizes the right to participation of indigenous peoples to be involved in planning, decision-making implementation, and evaluation of all government programs affecting children of indigenous peoples.

However, despite the obligations under the Convention and the special protection measures in the IPRA and the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act, the study reveals that indigenous children continue to experience abuse, exploitation and discrimination.

Discrimination

The Philippine government has the legal obligation to combat discrimination of all forms. Despite several efforts at engaging the government, no concrete action has been done to resolve discrimination against indigenous peoples. The Department of Education (DepEd) has issued “Guidelines on Protecting Children in School from Abuse, Violence, Exploitation, Discrimination, Bullying and Other Forms of Abuse,”² and yet indigenous children still experience discrimination and prejudice within and

outside their community. The Hanunuo Mangyan children reported being bullied and verbally abused by students and in some cases by teachers and staff in school. Indigenous children are stereotyped as being ignorant, smelly, lacking in manners, etc. Indigenous children end up denying their ethnicity. The Hanunuo children do not speak the native tongue, do not wear traditional garments and deny being indigenous. Discrimination was revealed in the study and yet there is a lack of information as to whether these are reported to the appropriate authorities. Based on the study, aside from dropping out of school, the effect of discrimination is psychosocial in nature.

Militarization

In March 2016, military personnel left Miarayon, Bukidnon. They have been there since the early 1980s. Miarayon has had the reputation of being a dangerous due to the presence of rebel groups and have a history of assaults especially in relation to land security.

Children are in a vulnerable position due to military invasion. A report reflects this when in 1998 a military invasion of the Marag Valley, Apayao caused the displacement of 4,600 Isneg and Aggay and allowed the deaths of 1,000 children by measles through the interception of relief goods to the area.³

Early pregnancy/sexual violence/ and physical abuse

Aside from early teenage pregnancy, there are reported incidents of sexual relations between girls at a young age and an older male relative. There are also accounts of rape of women attempted and done by men within the community.

There are acts of violence done against women and children. There are women who go through verbal and physical abuse from their husbands. There are

¹ Section 3, Republic Act 7610.

² Child Protection Policy.

³ IWGIA, 1988:110).



children and youth who experience corporal punishment given to them by their parents. There are times when members of the community hear about or witness these acts but they are too hesitant to meddle with the parties involved.

These crimes are mostly dealt with in line with traditional conflict resolution means, which often result to impunity among male offenders.

With no police stations near the communities, filing a report seems to be a difficult choice especially when it entails time, effort and funds for the victims. Community leaders find it in contradiction to the community's interest and wellbeing to seek redress through external means.

Policy Recommendations

Align governmental laws and customary laws

In the resolution of cases relative to child protection, there are exist conflicting government laws and statutes that are contradictory to customary laws. There is a need to clarify in the NCIP rules of pleading,

practice and procedure, or in other appropriate law or issuance, that customary laws take precedence over state laws. There is a need to support the concept and implementation of legal pluralism within the Philippine justice system, consistent with principles of rights, justice and equity. As such, there should be an establishment of an Inter-Agency Technical working group on Indigenous peoples to review and harmonize laws and policies on indigenous peoples.

Enactment of comprehensive anti-discrimination law

Indigenous children experience discrimination and bullying in schools.

Advocacy to the lowest level of government and to the public must be vigorously pursued if indigenous children are to enjoy their rights equally with the rest of Filipino children.

The Department of Education needs to address this matter. Although Republic Act (RA) 7610 exists to protect children against bullying, there is a need to enhance and implement this with the issuance of guidelines on anti-discrimination. The anti-bullying laws need to be evaluated to determine the extent to which these are being implemented.

Establishment of Indigenous communities and schools as Peace zones

To address the threats to indigenous children when it comes to armed conflict, it is essential that indigenous communities be free from state or non-state armed groups. There is a need to strengthen information and effective implementation, strict monitoring and compliance to Children as Zones of Peace as provided by RA No. 1188⁴. Schools, whether public, private or community initiated and indigenous communities, be recognized as zones of peace.

⁴ An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation, and Discrimination, Providing Penalties for its Violation and Other Purposes, June 17, 1992.

Support peace talks between the government and armed groups

The peace talks will serve to fast track resolution of past cases of human rights violations. This will ensure the resolution of future human rights violations. There should be transparency and public participation in the work of Administrative Order (AO) 35; guidelines for enhanced cultural sensitivity in handling Indigenous Peoples and Human Rights Defenders (IPHRD) cases. Strict adherence to the Geneva Convention should also be enforced.

Address deliberate recruitment of Indigenous children into armed groups

There should be an enhanced cooperation between the Office of the President on the Peace Process (OPAPP) and NCIP. This enhanced cooperation will serve to resolve issues such as recruitment of indigenous children. As such, the practice of red tagging of indigenous peoples' organizations will also be prevented. The internally displaced Indigenous youth will also be identified and their cases addressed.

Initiate activities to ensure the protection of IP children

Through the existing instruments such as Community/Family Development sessions (CFDS), empha-

sis must be given to effects of early and arranged marriage and pregnancy.

To address other threats to the protection of indigenous children, an effective and transparent referral system needs to be developed for quick responses to indigenous peoples' issues. This system should be linked to existing mechanisms.



This policy brief is developed and based on the findings of the 2017 study entitled "Pagsasalinhahi: Asserting and Safeguarding Indigenous Peoples' Rights for the Next Generation," a research led by Wilfredo Vidal Alangui with component reports from Leah Enkiwe-Abayao, Corazon L. Abansi, Maria Victoria P. De Guzman, Bernice A. See, Maria Teresa Guia-Padilla with James Israel Alim and Abigail Kitma and commissioned by Tebtebba, with support from UNICEF and OHCHR. The statements in this publication are the views of the author(s) and do not necessarily reflect the policies or the views of UNICEF and OHCHR.

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