



## Human Rights-Based Approach to the Implementation of a Child-Friendly, Gender-Responsive, and Indigenous People-Relevant Katarungang Pambarangay

# GAP ANALYSIS OF THE KATARUNGANG PAMBARANGAY IMPLEMENTATION AND TRAINING



Funded by  
the European Union

**GOJUST**  
GOVERNANCE IN JUSTICE  
A JUSTICE SECTOR REFORM PROGRAMME

THE  
**ATENEO**  
HUMAN RIGHTS  
CENTER

**HUMAN RIGHTS-BASED APPROACH TO THE  
IMPLEMENTATION OF A CHILD-FRIENDLY, GENDER-  
RESPONSIVE, AND INDIGENOUS PEOPLE-RELEVANT  
KATARUNGANG PAMBARANGAY (KP)**

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This Report is the result of a series of consultations, key informant interviews (KIIs), and focus group discussions (FGDs) among the relevant stakeholders, including the national government agency partners, the DILG trainers, the Lupon and barangay officials, and the civil society organizations (CSOs).

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## EXECUTIVE SUMMARY

The Katarungang Pambarangay (KP), or the Philippine Barangay Justice System, serves as a means of resolving disputes at the community level. It aims to promote the speedy, accessible, and inexpensive administration of justice without formal court proceedings. However, despite the implementation of KP and efforts to address the major obstacles in accessing justice, the Philippines still suffers from an inaccessible justice system. The lack of access to justice is more apparent for the poor and disadvantaged sectors of society. Thus, there is a need for review and further improvement of the access to justice mechanisms in the country.

The main objective of the research study is to review the current curriculum and the KP Training Manual using the rights-based approach. Notably, the existing KP Training Manual was published by the Department of Interior and Local Government (DILG) in 2014. Almost ten years after its inception, the KP Training Manual remains a relevant tool for training, yet there is a need to reevaluate and update its content and methodology. The conduct of a gap analysis is the first phase of the Implementation of a Child-Friendly, Gender Responsive, and Indigenous Peoples (IP)-relevant Katarungang Pambarangay (KP Project) of the Ateneo Human Rights Center (AHRC), United Nations Office for Project Services (UNOPS), and the Department of Interior and Local Government-National Barangay Operations Office (DILG-NBOO). AHRC endeavored to identify the gaps in KP implementation and KP training to serve as the basis for enhancing the KP Training Manual and making it more child-friendly, gender-sensitive, and IP-relevant.

Various gaps in KP implementation and KP training were identified amongst the vulnerable sectors, such as women, LGBTQIA+, children, and Indigenous Peoples. These gaps were based on the multi-level thematic analysis of the perception of the stakeholders, specifically the *Lupons* and barangay officials, civil society organizations (CSOs), and the DILG partners/trainers. After identifying the gaps in the current KP implementation and KP training, the research study proposed areas for improvement and several recommendations pertaining to changes or shifts in policy, institutional effectiveness of the *Lupon*, barangay officials, and other government agencies, and for the increased effectiveness of the KP Training Manual and its program.

## INTRODUCTION

The Katarungang Pambarangay (KP), or the Philippine Barangay Justice System, is a community-based mechanism for dispute resolution that is administered by the basic political unit of the Philippines: the barangay.<sup>1</sup> This serves as a means of resolving disputes at the community level without the intervention of legal counsel and representatives.<sup>2</sup> It covers disputes between members of the same community, generally in the same city or municipality. It involves the *Punong Barangay* and other members of the communities (i.e., the *Lupong Tagapamayapa* and *Pangkat ng Tagapagkasundo*) as intermediaries (i.e., mediators, conciliators, and, sometimes, arbitrators).<sup>3</sup>

Republic Act (R.A.) No. 7160, or the 1991 Local Government Code, “gives barangays the mandate to enforce peace and order and provide support for the effective enforcement of human rights and justice”.<sup>4</sup> Prior to this, Presidential Decree (P.D.) No. 1508, or the Katarungang Pambarangay Law, was passed in 1978 which aimed to promote the speedy, accessible, and inexpensive administration of justice without the need for formal court proceedings.<sup>5</sup> With the establishment and operation of the Barangay Justice System, conflicting parties who reside in the same barangay are given a venue for settling disputes in the KP system before proceeding to the courts.

However, despite the implementation of KP and efforts to address the major obstacles in accessing justice, the Philippines still suffers from an inaccessible justice system.<sup>6</sup> According to the World Justice Project 2018 Survey Report, 80% of Filipinos cannot access legal help from friends, families, lawyers, or institutions.<sup>7</sup> The Office of the Ombudsman identified several reasons for this issue, including the “financial aspect, attitudes of the people toward the justice system, and the inability of the justice system to provide effective dispensation of justice.”<sup>8</sup> The lack of access to justice is more apparent for the poor and disadvantaged sectors of society. Thus, there is a need for review and further improvement of the access to justice mechanisms in the country.

The Ateneo Human Rights Center (AHRC) is a university-based institution engaged in promoting and protecting human rights in the Philippines. Its work areas include research and publication, education and training, law and policy reform advocacy, institution building, curriculum development, values formation, and public interest litigation. One of the current projects of AHRC is the *Implementation of a Child-Friendly, Gender-Responsive, and Indigenous Peoples (IP)-Relevant Katarungang Pambarangay (KP Project)*. The KP Project aims to review the current curriculum and the KP Training Manual using a rights-based approach and to create a child-friendly, gender- and LGBTQIA+-responsive, and IP-relevant KP Training Manual. This Enhanced KP Training Manual shall then be used to train KP trainers.

The existing KP Training Manual was published by the Department of Interior and Local Government (DILG) in

1 Sentro ng Alternatibong Lingap Panligal (SALIGAN), *Katarungang Pambarangay: A Handbook*, (2004).

2 *Id.*

3 *Id.*

4 *Id.* See also An Act Providing for the Local Government Code of 1991 [LOCAL GOVERNMENT CODE], Republic Act (R.A.) No. 7160, (1991).

5 *Id.* See also Establishing a System of Amicably Settling Disputes at the Barangay Level, Presidential Decree (P.D.) No. 1508, (1978).

6 Office of the Ombudsman, *Access to Justice Primer*, available at [https://www.ombudsman.gov.ph/UNDP4/wp-content/uploads/2013/01/Primer\\_Access\\_to\\_justice.pdf](https://www.ombudsman.gov.ph/UNDP4/wp-content/uploads/2013/01/Primer_Access_to_justice.pdf). (last accessed 1 June 2023).

7 Greg Joseph SJ Tiongco, *A Rock and a Hard Place: Challenges of Free Legal Aid in the Philippines*, 4 February 2021, available at [https://www.trust.org/ii/?id=da574ac4-780c-4e47-963b-c3680fb475f7#\\_ftn1](https://www.trust.org/ii/?id=da574ac4-780c-4e47-963b-c3680fb475f7#_ftn1). (last accessed 1 June 2023).

8 *Id.*

2014. Almost ten years after its inception, the KP Training Manual remains a relevant tool, yet there is a need to reevaluate and update its content and methodology. The conduct of a gap analysis is the first phase of the KP Project. In general, the research results shall be the basis for enhancing the KP Training Manual and making it more child-friendly, gender-sensitive, and IP-relevant. Specifically, this study aims to:

1. Identify the gaps in the current KP implementation through stakeholder consultations;
2. Identify the gaps in the current KP training through stakeholder consultations and careful consideration of the gaps in KP implementation and
3. Recommend areas for improvement on the KP Training Manual based on the identified gaps to create a more child-friendly, gender-responsive, and IP-relevant KP.



## LITERATURE REVIEW

This literature review will focus on existing literature defining the current status of the Philippine Barangay Justice System and the human rights standards for a gender-responsive, child-friendly, and IP-relevant KP.

### A. The Current State of Barangay Justice System in the Philippines

#### Gender

In the Philippines, the presence of a patriarchal and heteronormative culture has exposed and magnified women and members of the LGBTQIA+ community's experiences of gender stereotypes, stigma, and gender violence in the pursuit of justice.<sup>9</sup> Discrimination against women alters how they access justice compared to men. It is negatively compounded with intersectional factors related to one's ethnicity or race, indigenous or minority status, socio-economic status, language, religion or belief, political opinion, marital or maternal status, age, urban/rural location, health status, disability, property ownership, sexual identity, and gender expression.<sup>10</sup> While no international human rights committee and standards are currently dedicated to LGBTQIA+ persons, the Convention on the Elimination of Discrimination against Women (CEDAW) Committee's General Recommendation on women's access to justice can be gleaned on to understand legitimate sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC) in accounting for conflict resolution mechanisms.<sup>11</sup> This will be further discussed later on.

Despite the existing laws and legislations that promote and protect women's rights, the CEDAW Committee concluded that the Philippines continues to be marred by "discriminatory gender stereotypes, stigmatization, and the lack of adequate support systems which pose barriers to justice and effective remedies for women."<sup>12</sup> Women experiencing "poverty, disability, living in inaccessible areas such as remote provinces, [and] those who are members of the Muslim faith as well as that of the LGBTQIA+ community" are more susceptible to such discrimination.<sup>13</sup>

Aside from the common experience of discrimination against women, many are abused physically, emotionally, psychologically, and economically and are victims of gender-based violence (GBV). Economic abuse is the act of controlling one's "ability to acquire, use, and maintain economic resources, thus threatening her economic security and potential for self-sufficiency."<sup>14</sup> Ironically, in the Philippines, women are expected to manage the finances efficiently to sustain the family's needs.<sup>15</sup> However, when it comes to actually partaking in productive or paid work, they are restricted because of gender stereotypes and the patriarchal culture of the Philippines.

9 ASEAN SOGIE Caucus, Policy Brief on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) in Southeast Asia, available at <https://aseansogiecawc.org/images/resources/publications/ASC%20Policy%20Brief%20-%20CEDAW%20and%20SOGIESC.pdf>, (last accessed 1 June 2023).

10 UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 33 on Women's Access to Justice (2015), <https://digitallibrary.un.org/record/807253>, (last accessed 1 June 2023).

11 *Id.*

12 ASEAN SOGIE Caucus, *supra* note 9.

13 *Id.*, *supra* note 9.

14 Adrienne E. Adams, Cris M. Sullivan, Deborah Bybee, & Megan R. Greeson, Development of the Scale of Economic Abuse, Violence against Women, 14, 563–88, doi:10.1177/1077801208315529, (2008).

15 Diddy Antai, Justina Antai & David Steven Anthony, The relationship between socio-economic inequalities, intimate partner violence and economic abuse: A national study of women in the Philippines, *Global Public Health*, 9:7, 808-826, DOI: 10.1080/17441692.2014.917195, (2014).

It is not out of the realm of possibility for their partners to exploit women's dependency on them through tactics of coercive control.<sup>16</sup> This form of control is felt when abusers utilize any means necessary to maintain control over their partners by forcing physical, emotional, and financial dependency.<sup>17</sup> The thought of living in a state of poverty, financial risk, and insecurity forces women to remain in relationships. This is made worse by coercive tactics their partners employ, which are confused with the sacrifices that "women are expected to make in their roles as homemakers, parents, and sexual partners."<sup>18</sup>

The KP aims to afford Filipinos - including women and members of the LGBTQIA+ community - speedy and flexible administration of justice. However, this process may worsen their situation as the system is riddled with patriarchal values that align with their perpetrators, harming their access to judicial review and remedies.<sup>19</sup> According to David et al., the KP System is almost always dominated by men.<sup>20</sup> This implies that the fate of women victims of discrimination and GBV, for the most part, will always depend on a man.

#### Children

In 2020, Roche and Flynn tried to assess the status of local child protection in the Philippines.<sup>21</sup> They found that there are three key areas of harm to children, specifically: (1) physical abuse and corporal punishment, (2) neglect and abandonment, and (3) child sexual abuse.<sup>22</sup> In most cases, children are physically abused, which comes in different forms. Child protection services commonly respond to severe forms of maltreatment towards children but are less likely to respond toward neglect or family violence, which is sadly a common occurrence in one's community.<sup>23</sup> Roche and Flynn attributed this to the lack of community reach and resources and the capacity and flexibility of child protection services to respond to a broad range of maltreatment children face.<sup>24</sup>

Despite clearly stated policies, the country's protection system is best described as 'top-down.'<sup>25</sup> It suffers from poor execution, that even its 'systemic' characteristics are cast in doubt. Weak national institutions prevent local governments from being accountable, thus impacting the welfare services of children and their families.<sup>26</sup> Concerning children in conflict with the law (CICL), the notion of 'children as innocent' plays a major element in the stigma and discrimination that CICL face; specifically, the social perception that CICL can already commit offenses no longer entitles them to juvenile protection and therefore, should be penalized for posing threats in the community.<sup>27</sup>

16 Judy L. Postmus et al, Economic Abuse as an Invisible Form of Domestic Violence: A Multicountry Review. *Trauma Violence, & Abuse*, Vol 21, Issue 2, <https://doi.org/10.1177/1524838018764160>, (2018).

17 *Id.*

18 Stark, E. *Coercive control: How men entrap women in personal life*, New York, NY: Oxford University Press (2007).

19 David, C. C., Albert, J. R. G., Vizamnos, J. F. V. Sustainable Development Goal 5: How Does the Philippines Fare on Gender Equality? THINK-ASIA. Retrieved from: <https://www.think-asia.org/handle/11540/9544>, (2018).

20 *Id.*

21 Steven Roche & Catherine Flynn. Local child protection in the Philippines: A case study of actors, processes and key risks for children. *Asia & the Pacific Policy Studies*, 8( 3), 367– 383, <https://doi.org/10.1002/app5.332>, (2021).

22 *Id.*

23 *Id.*

24 *Id.*

25 UNICEF, Strengthening Child Protection Systems in the Philippines—Child Protection in Emergencies, available at [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/strengthening\\_child\\_protection\\_systems\\_in\\_the\\_philippines\\_haiyan\\_0.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/strengthening_child_protection_systems_in_the_philippines_haiyan_0.pdf), (last accessed 1 June 2023).

26 Steven Roche & Catherine Flynn *supra* note 21.

27 Eleangel Dawn & Sarmiento Cortel. A rights-based approach to juvenile justice: exploring the diversion of children in conflict with the law in the Philippines. *Social Justice Perspectives (SJP)*, <https://hdl.handle.net/2105/56071>, (2020).

Republic Act (R.A.) No. 4881 paved the way for the Barangay Council for the Protection of Children (BCPC).<sup>28</sup> The BCPC is mandated to plan and implement activities for child protection headed by the Punong Barangay who serves as chairperson along with committees on health, education, and family, the barangay secretary, a child representative, and concerned government agencies.<sup>29</sup> However, Paunlagui noted that the lack of capacity, resources, and staffing impedes the work of the BCPC, which is also a problem for other child protection services.<sup>30</sup> Furthermore, the overlap between the duties and responsibilities of the BCPC and the efforts of various community-based organizations poses a challenge.

### Indigenous Peoples (IPs)

Owing to their distinct cultural identity, Indigenous Peoples (IPs) or Indigenous Cultural Communities (ICCs) have their own justice systems. In the Philippines, many IP communities participate in pluralist legal and conflict resolution systems. However, Ongkiko et al. argued that centuries of Spanish and American colonial rule enabled the relegation of indigenous conflict resolution mechanisms as inferior and eased the introduction of Western legal concepts in the country.<sup>31</sup> While it can be posited that KP represents a revival of traditional conflict resolution, IPs or ICCs today contend with delivering justice and amicable settlement within their tribe.

For Panaguiton, the case of the Bajau exemplifies the apparent tensions between the interaction of indigenous/customary and local/national practices.<sup>32</sup> Although several legal provisions (e.g., Section 412 of the 1991 Local Government Code) and in the Republic Act (R.A.) No. 8371, or the Indigenous Peoples' Rights Act (IPRA), recognize indigenous systems and practices<sup>33</sup>; IP communities suffer from political mismanagement of the barangay due to their lack of knowledge of indigenous conflict resolution mechanisms and their subordination in favor of state laws.

A study by Najarilla found that almost none of the various IP communities in the Philippines had any Violence Against Women (VAW) desks.<sup>34</sup> This further limits access to justice for women who are members of indigenous communities. Hence, Consignado et al. recommended that VAW desks be established in all indigenous

28 See An Act Creating a Council for the Protection of Children in Every City and Municipality of the Philippines and for Other Purposes, Republic Act (R.A.) No. 4881, (1967).

29 Merlyne M. Paunlagui, Understanding the Non-organization and Non-functionality of the Local Council for the Protection of Children in the Philippines. Humanitarian Response, available at [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/Presentation%201-4%20local%20council%20for%20the%20protection%20of%20children\\_philippines.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/Presentation%201-4%20local%20council%20for%20the%20protection%20of%20children_philippines.pdf) (last accessed 1 June 2023). See also WorldVision, The crucial role of barangay council for the protection of children in the midst of COVID-19, available at <https://www.worldvision.org.ph/campaigns/the-crucial-role-of-barangay-council-for-the-protection-of-children-in-the-midst-of-covid-19>, (last accessed 1 June 2023).

30 Paunlagui, *supra* note 29.

31 Ricardo Ma P G Ongkiko, Joan A de Venecia & Jon Edmarc R Castillo, Mediation in 16 Jurisdictions Worldwide. Dendorfer-Ditge, R. (Ed.). Law Business Research Ltd, available at <https://www.syciplaw.com/documents/ME2013%20Philippines.pdf>, (2013).

32 Robert Panaguiton, Appropriations and adjustments: The panglima system of the Bajau of Bailan amidst Philippine state laws. Aghamtao 23, 111-122, <https://www.pssc.org.ph/wp-content/pssc-archives/Aghamtao/2014/6-Panaguiton.pdf>, (2014).

33 See An Act to Recognize, Protect, and Promote the Rights of Indigenous Cultural Communities/Indigenous People, Creating a National Commission of Indigenous People, Establishing Implementing Mechanisms, Appropriating Funds Therefor, and for Other Purposes, Republic Act (R.A.) No. 8371 [Indigenous Peoples' Rights Act of 1997], (1997).

34 Mary Jane Olaes Najarilla, VAWC law through the lenses of the community elders and leaders of Ifugao, Benguet, and Mountain Province. Journal of Asian Review of Public Affairs and Policy, 3(3), 90-111, <http://dx.doi/10.222.99/arpap/2018.43>, (2018).

communities or that VAW desks in barangays with IP constituencies be strengthened.<sup>35</sup> Further, barangays should consider IPs' customary practices in crafting various policies and programs to ensure inclusiveness and respect for the rights and traditions of members of the indigenous communities.<sup>36</sup>

## B. Human Rights Standards of a Child-friendly, Gender-responsive, and IP-relevant Barangay Justice System

### Gender

In adherence to the CEDAW Committee's General Recommendations on women's access to justice, the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) identified six interrelated and essential components to guarantee an effective, accountable, and gender-sensitive justice system.<sup>37</sup> Though the criteria primarily account for women, the same can be applied to people across all SOGIESC.<sup>38</sup> These components are justiciability, availability, accessibility, good quality, accountability, and remedies.<sup>39</sup>

Moreover, recognizing the barriers that gender minorities encounter, CEDAW Committee recommended that alternative dispute resolution (ADR) mechanisms like KP should:

1. "Inform women of their rights to use mediation, conciliation, arbitration, and collaborative resolution of dispute processes;
2. Guarantee that alternative dispute settlement procedures do not restrict access by women to judicial and other remedies in all areas of law and do not lead to further violation of their rights; and
3. Ensure that cases of violence against women, including domestic violence, are under no circumstances referred to any alternative dispute resolution procedures."<sup>40</sup>

Apart from the international guidelines and recommendations, the Philippines enacted several laws to protect women's rights in seeking justice. Republic Act (R.A.) No. 9262, otherwise known as the Anti-Violence Against Women and their Children Act, ensures that the rights and dignity of both women and children are respected and protected against any violence concerning their rights guaranteed under the Universal Declaration of Human Rights (UDHR)<sup>41</sup>, International Covenant on Civil and Political Rights (ICCPR)<sup>42</sup>, International Covenant on Economic, Social, and Cultural Rights (ICESCR)<sup>43</sup>, and Convention on the Elimination of All Forms of

35 Gillian Consignado, Jennifer Marie Amparo & Erwin Alampay. Community-Based Violence Against Women (VAW) Desks in the Philippines: A Multi-Level Assessment. Pertanika Journal of Social Sciences and Humanities. 30. 901-926. doi: 10.47836/pjssh.30.2.25, (2022).

36 *Id.*

37 United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), A Practitioner's Toolkit on Women's Access to Justice Programming, available at <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/LibraryPublications/2018/WA2J-Complete-toolkit-en.pdf> (last accessed 1 June 2023), pp. 83-97.

38 *Id.*

39 *Id.*

40 CEDAW General Recommendation, *supra* note 10.

41 See United Nations Declaration on Human Rights, G.A. Res 217 A (III), U.N. Doc A/81, (10 December 1948) [hereinafter UDHR].

42 See International Covenant on Civil and Political Rights, opened for signature Dec. 19, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR].

43 See International Covenant on Economic, Social, and Cultural Rights, opened for signature Dec. 19, 1966, 993 U.N.T.S. 3 [hereinafter ICESCR].

Discrimination against Women (CEDAW)<sup>44</sup>, among others.<sup>45</sup> This is carried out through the application and enforcement of protection orders ranging from barangay protection orders (BPO), temporary protection orders (TPO), and permanent protection orders (PPO). Barangays are authorized to issue such orders, but they do not have jurisdiction over the cases because it is the duty of the respective Regional Trial Courts (RTCs), dubbed as the ‘Family Court,’ to preside over matters involving Violence Against Women and Children (VAWC). These are done to grant relief and protection to the victims against further harm, therefore minimizing any disruption in their lives.

## Children

The Committee on the Rights of the Child (CRC) provides details on what the concept of the best interests of the child is all about through the three (3) vital dimensions<sup>46</sup>:

1. As a substantive right, duty bearers must primarily consider the child’s best interest among various interests to ensure that they are taken seriously, ensuring that the best decision will be made for the child’s welfare.
2. As a fundamental interpretive legal principle, legal bodies should pursue interpretation/s that “most effectively serve/s the child’s best interest.”
3. As a rule of procedure, decision-making processes should assess the possible impact, either positive or negative, of the decision that will be rendered toward the child concerned. Overall, the decision that shall be rendered must highlight that the right has been taken seriously, especially when explaining the criteria utilized to assess the decision and how the child’s interests have been compared to others.

Furthermore, the CRC explained that the definition of the best interest of the child depends on the following elements: the child’s views; the child’s identity (e.g., SOGIESC, religion and beliefs, ethnic/cultural/linguistic background); preservation of the family environment and maintaining relations; care, protection, and safety of the child; situation of vulnerability; the child’s right to health; and the child’s right to education.<sup>47</sup> Assessing for the elements should be on a case-to-case basis, which means that not all elements will be at play or in conflict in interpreting the best means a child/ren would fully enjoy their rights.<sup>48</sup>

Regarding Indigenous children, CRC General Comment No. 11 detailed four (4) general principles for protecting their rights<sup>49</sup>:

1. **Non-discrimination** - Indigenous children have the inalienable right to be free from discrimination. The State must ensure that the principle of non-discrimination is reflected in all domestic legislation and that it can be directly applied, appropriately monitored,

44 See Convention on the Elimination of All Forms of Discrimination Against Women, opened for signature Mar. 1, 1980, 1249 U.N.T.S. 13 [hereinafter CEDAW].

45 See An Act Defining Violence Against Women and their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefore, and Other Purposes, Republic Act (R.A.) No. 9262 (2004).

46 United Nations High Commissioner for Refugees, Refworld | General Comment No. 14 (2013) on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (Art. 3, Para. 1), REFWORLD, <https://www.refworld.org/docid/51a84b5e4.html>.

47 CRC General Comment No. 14, *supra* note 43.

48 *Id.*, *supra* note 43.

49 United Nations High Commissioner for Refugees, General Comment No. 11: Indigenous Children and Their Rights under the Convention [on the Rights of the Child], REFWORLD, <https://www.refworld.org/docid/49f6bd922.html>, (2009).

and effectively enforced through judicial and administrative bodies. Effective remedies should be timely and accessible. The Committee highlights that the State party’s obligations extend to the public and the private sector.

2. **Best interests of the child** - Here, the child’s interests are framed as a collective and individual right, mainly because children belong to one of many indigenous communities in the country. This means the State must consider the cultural rights inherent within IP communities. In dealing with issues concerning Indigenous children, the entirety of the child’s community must be consulted in the process of making a collective decision on what must be done for the child’s best interests.
3. **The right to life, survival, and development of the child** - Due to many indigenous children living in poverty, the State must provide intervention to satisfy the child’s economic, social, and cultural rights. Moreover, by providing progress indicators, the State must undertake special measures to ensure indigenous children can escape poverty and live more progressively. Ultimately, the goal is to improve the child’s physical, mental, spiritual, moral, psychological, and social development.
4. **Respect for the child’s views** - Children must freely express their opinions on matters involving their rights. Their participation in decision-making is vital to consider their views, experiences, and opinions in every aspect of the process. Hence, the State must ensure full participation of the child or the child’s community in any judicial or administrative proceedings and treat their views with the utmost respect.

Apart from the international guidelines and recommendations, the Philippines enacted Republic Act (R.A.) No. 9344 as amended by R.A. 10630, otherwise known as the Juvenile Justice and Welfare Act.<sup>50</sup> The purpose of the law is to pave the way for the creation of the Juvenile Justice and Welfare Council and the Regional Juvenile Justice Welfare Council.<sup>51</sup> The Councils are mandated to formulate and recommend policies and strategies necessary for the protection of children and their prevention from pursuing a life of juvenile delinquency. The Councils must also introduce ways juvenile children or CICL can be treated and rehabilitated. Barangay-level initiatives have also involved the youth, effectively realizing their access to restorative justice. Sanchez presented a sequential ‘baranganic’ model to transform CICL through the following steps: redirecting violent behavior; reforming negative behavior; regaining self-esteem; rebuilding character, and reintegrating into the community.<sup>52</sup> The view of innocence as a defining childhood factor excludes CICL from being seen and treated as children.<sup>53</sup>

## Indigenous Peoples (IPs)

Although no international treaty bodies are primarily dedicated to IPs and ICCs, several standards could illuminate how duty-bearers seek culturally sensitive mechanisms that respect indigenous knowledge systems and practices. The World Intellectual Property Organization (WIPO) approaches to recognizing customary laws and protocols are borrowed here.<sup>54</sup> While their standards are applied to intellectual property concerns, several

50 See An Act Strengthening the Juvenile Justice System in the Philippines, Amending for the Purpose Republic Act No. 9344, Otherwise Known as the “Juvenile Justice and Welfare Act of 2006” and Appropriating Funds Therefor, Republic Act (R.A.) No. 9344 as amended by R.A. No. 10630, (2013).

51 *Id.*

52 Nicamil Sanchez, The Philippines: Ensuring inclusion to community responses to youth justice. In Arnall, E. & Fox, D. (Eds.), Cultural perspectives on youth justice. Palgrave Macmillan. doi:10.1057/978-1-137-43397-8\_7, (2016).

53 *Id.*

54 World Intellectual Property Organization (WIPO), Customary Law, Traditional Knowledge, and Intellectual Property: An Outline of the Issues, available at [https://www.wipo.int/export/sites/www/tk/en/resources/pdf/overview\\_customary\\_law.pdf](https://www.wipo.int/export/sites/www/tk/en/resources/pdf/overview_customary_law.pdf), last accessed 1 June 2023).



considerations below could lend support in establishing access to alternative conflict resolution mechanisms of IPs<sup>55</sup>:

1. The traditional or indigenous legal system itself, including any customary laws and practices that govern the creation, holding, use, and transmission of cultural expressions or knowledge for the communities concerned, may be considered as directly binding law;
2. The customary law is not a true source of law in itself, but it helps to determine the rights and obligations of IP communities within a separate legal system; and
3. Recognizing and respecting customary laws and practices as a separate system through distinct objective criteria.

Additionally, the International Labour Organization (ILO) Convention No. 169, Articles 8 to 12 have set specific standards in giving due diligence to IPs and ICCs worldwide.<sup>56</sup> Akin to the approaches of the WIPO, the ILO provides several ways in which the customs and institutions of IPs are recognized following the legal system in which they are situated and that of their internationally recognized human rights, such as<sup>57</sup>:

1. The customs and institutions prevalent in the communities of IPs are to be held in due regard and retained where these are not incompatible with the rights found in the country's legal system (Article 8);
2. In terms of punishments, the methods customarily practiced by the community shall be respected to the extent that it is in line with the national legal system and internationally recognized human rights (Article 9);
3. The economic, social, and cultural characteristics of a member of the Indigenous shall be considered upon the imposition of any penalty for an offense. Furthermore, there shall be a preference for various methods of punishment other than imprisonment (Article 10);
4. The exaction of IPs for compulsory personal services in any form, either paid or unpaid, is strictly prohibited and, therefore, punishable by law, except in cases prescribed by law for all citizens (Article 11); and
5. The rights of IPs are to be safeguarded from any form of abuse through legal proceedings to protect their rights effectively. Measures shall be taken for IPs to understand and be understood, where necessary, by providing interpreters or any other means (Article 12).

Following the principles of these international standards, the Philippines enacted R.A. No. 8371 or IPRA.<sup>58</sup> Various government agencies enforce this in coordination with the National Commission on Indigenous Peoples (NCIP). Considering that the reach of BCPCs or VAWC desks is limited, Section 15 of R.A. No. 8371 enables the various ICCs to utilize their "own commonly accepted justice systems, peace-building processes or mechanisms, and other customary laws and practices" as long as they are in line with the country's legal system and recognition of human rights.<sup>59</sup>

55 *Id.*

56 See Indigenous and Tribal Peoples Convention (ILO Convention No. 169) art. 1(2), entered into force Sept. 5, 1991, C169 (1991), arts. 8-12.

57 *Id.*

58 Indigenous Peoples' Rights Act of 1997, *supra* note 33.

59 Indigenous Peoples' Rights Act of 1997, § 15, *supra* note 33.

## CONCEPTUAL FRAMEWORK

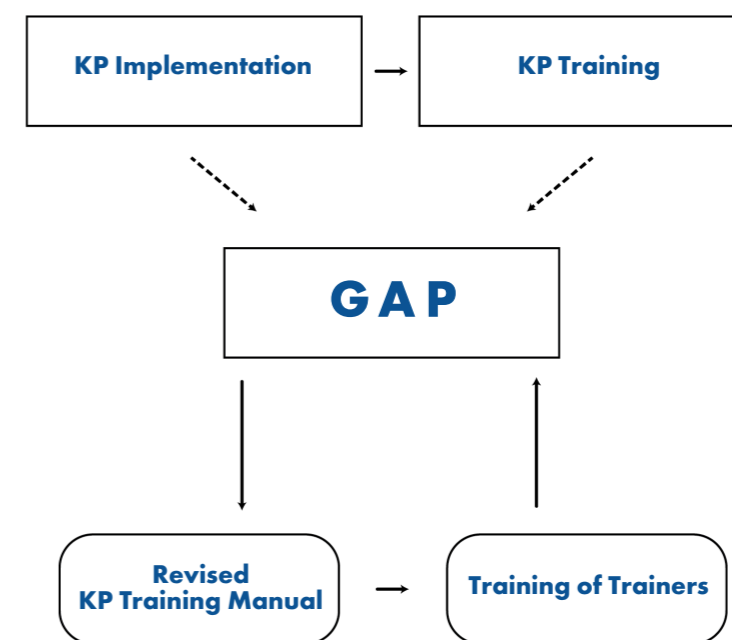


Figure 1. KP Gap Analysis Conceptual Framework.

The above figure shall serve as the conceptual framework of this study. Following this framework, the gaps in KP implementation in the Philippines shall be analyzed through stakeholder consultations, specifically with: the *Lupon* and barangay officials, the DILG Partners/Trainers, and civil society organizations (CSOs). The gaps in KP training shall also be identified through stakeholder consultations and the findings from the gap analysis of KP implementation. In principle, certain gaps in KP implementation stem from a lack of capacity or training. Hence, this research shall analyze the gaps in KP implementation to gather a more comprehensive gap analysis of the KP training.

Once the gap analysis is completed, the findings shall be the basis for the enhancement or revision of the KP Training Manual, which shall be utilized in the training of trainers. The KP implementers, or the *Lupon* and the barangay officials, shall be trained to conduct a child-friendly, gender-responsive, and IP-relevant KP, closing the gaps identified in this study.

## METHODOLOGY

In line with the objectives and framework of this research study, this paper employed a qualitative research design to assess the gaps in KP implementation and training through the lens of various stakeholders. The following data collection methods were used during this study:

**Desk review.** Existing scholarly literature on the current status of the Philippine Barangay Justice System focusing on women, LGBTQIA+, children, and IPs was gathered and analyzed. Laws or policies and articles on the human rights standards of a child-friendly, gender-responsive, and IP-relevant barangay justice system were also synthesized to present a picture of what the system should uphold.

**Interviews.** Key informant interviews (KIIs) and focus group discussions (FGDs) with NGOs or CSOs, the *Lupon* and barangay officials, and DILG partners/trainers were conducted. Their perspectives on the challenges in KP implementation and training and their recommendations for improvement based on their engagement and experiences in dealing with cases involving the right holders were gathered. The NGOs/CSOs invited were involved in upholding the rights of women, LGBTQIA+, children, and IPs within and outside the KP system. The participants from DILG Partners/Trainers were from government agencies and organizations collaborating with the DILG in training the *Lupon* and barangay officials nationwide. Lastly, the *Lupon* and barangay officials were from specific barangays with the following characteristics: (a) members with more than three years of experience; (b) representatives from pertinent barangay desks (women/gender, children, IP) with at least three years of experience; (c) representatives from barangays with best/good KP practices; (d) *Lupon*/representatives from barangays that struggle with KP implementation; (e) *Lupon*//representatives from barangays with IP communities; (f) *Lupon*/representatives from barangays with high instances of incidents/issues involving children; and (g) *Lupon*/representatives from barangays with high instances of incidents/issues involving women/LGBTQIA+.

For data analysis, the respondents' narratives described the current KP implementation and training situation. Challenges or gaps and recommendations were also analyzed through multi-level thematic analysis. The first level entailed the cleaning and sorting of all data according to groups (women, LGBTQIA+, children, and IPs). The second level focused on identifying the primary emerging themes, and finally, the third level was a more in-depth thematic analysis of the challenges and recommendations per group. The challenges and recommendations on KP implementation were analyzed per group - women, LGBTQIA+, children, and IPs - while those on KP training were analyzed based on content, delivery, and administrative and logistical matters. The gap analysis findings will serve as the basis for reviewing and enhancing the KP Training Manual, which shall be used for training trainers in the subsequent phases of this project and the implementation of KP.

## GAP ANALYSIS

### I. Katarungang Pambarangay Implementation

This section focuses on the challenges and recommendations of implementing the KP as seen by the stakeholders. The discussion is organized as follows: women, LGBTQIA+, children, and IPs and presents the common themes from the KIIs, FGDs, and consultations.

#### A. Women

Incidents involving women are often reported to the barangay. Based on the consultations, the most common cases include VAWC<sup>60</sup>, such as domestic abuse, incest rape, child molestation, and physical assault from partners. Relationship conflicts such as break-ups, third-party involvement, or marital infidelity are also brought to the barangay for mediation.<sup>61</sup> In addition, there are requests for financial and child support from fathers who have abandoned or neglected their parental duties.<sup>62</sup> Women have also become targets of cyberbullying and actual bullying in the community; in rare cases, women sex workers report their clients for unpaid service. Despite the multiplicity of these cases, some remain unreported because of fear of humiliation, discrimination, and financial reasons.<sup>63</sup> Most women are financially dependent on their husbands/partners, giving them less freedom and power to stand up for themselves during abuse.<sup>64</sup> Cases of rape and incest are also usually not reported because of the shame or humiliation it may bring to their family.

In handling incidents involving women, barangay officials would first identify the concerned agencies fitting to handle the case. Commonly, the Gender and Development (GAD) focal and desk officers of the barangay would hear and attend to women's concerns under KP's jurisdiction. Barangays would take necessary actions to address these cases; however, most women end up forgiving their partners and withdrawing the case, while others even help them bail out of jail. Several issues are dropped due to financial constraints, pity, fear, and practicality, which greatly disadvantage women. Whenever cases are withdrawn, perpetrators are obligated to swear that they will not harm the complainant again because the next time they do, they will immediately be detained at the Police Station.

VAWC cases which are not within the jurisdiction of barangays are referred to the Philippine National Police - Women and Children Protection Desk (PNP-WCPD). In this process, the referred station evaluates the matter of jurisdiction concerning a given case. For very sensitive cases such as child molestation or incest rape, the PNP-WCPD would endorse the victim-survivor over to the Department of Social Welfare and Development (DSWD) or other government-accredited centers and shelters. Labor cases involving women are referred to the Department of Labor and Employment (DOLE). For medico-legal assistance, barangays coordinate with hospitals that handle such requests, like the "Pink Room" of Vicente Sotto Memorial Medical Center in Cebu. Securing a schedule in the Pink Room usually takes a month because of the high volume of cases. Barangays

60 Key Informant Interview with Civil Society Organizations (CSO) and Focused Group Discussion with the *Lupon* and Barangay officials, (2023).

61 Key Informant Interview with CSOs, (2023).

62 Key Informant Interview with CSOs, (2023).

63 Focused Group Discussion with the *Lupon* and Barangay officials; "Our [main] challenge is those of unreported cases, since there is no definite complainant. We are limited in helping the victims." (2023).

64 Key Informant Interview with Civil Society Organizations: "Women forgive their partners even before trial because of pity and because they are financially dependent on them." (2023).

also coordinate with private institutions and NGOs such as Tambayan Center for Children’s Rights, Inc., Luna Legal Resource Center for Women and Children, Inc. (LUNA), and Nagkahiusang Kabataan Aron Katungod Matagamtaman.

## A.1 Challenges

### Discrimination against women

Even in this century, women are still considered second-class citizens. Women face discrimination just for being women. It emerged from the consultations that women are deprived of or often receive less than minimum and basic human rights, such as access to free and quality health services.<sup>65</sup> Further, programs and services intended for women are less prioritized. This is more prevalent among IP women since they are given less priority and respect.<sup>66</sup> Aside from the delivery of basic services, most data at the local government level are not categorized by sex.<sup>67</sup> Consequently, planning, execution, monitoring, and evaluation of local and national programs cannot be targeted to women due to a lack of gender-disaggregated data.

The participants also shared that women are blamed for cases of credit or “utang” in a household.<sup>68</sup> Filipinos uphold the stereotype that women handle the finances of a family and, thus, are held accountable for improper financial management. Gender stereotypes or biased perspectives put gender minorities, such as women and LGBTQIA+, at a larger disadvantage in seeking justice through the KP system. An example shared from the consultations was that a woman was humiliated by the barangay captain while trying to file a complaint.<sup>69</sup> The barangay captain shouted at the complainant, which disempowered and invalidated her. They also receive negative comments from the community regarding their abuse.<sup>70</sup>

### Dependence of women

Many Filipinas are wives and mothers. Many cases in the barangay involving domestic abuse commonly result in case withdrawal. Women’s lives are not just their own whenever they get married and have children. It is a norm that women are always expected to put their family’s well-being first. Some women endure the abuse, while others forgive their partners instead of letting them suffer the consequences of their actions in prison.<sup>71</sup> They think of their children’s future and would not want them to grow up without a father. Even barangay officials try to influence women to stay and think of their families despite being abused at home.<sup>72</sup> Furthermore, most Filipinas are housewives. Hence, they are financially dependent on their partners in almost every aspect of their lives. This puts them in no position to incarcerate their partners who provide for their families, even if they were violated or abused.

65 Key Informant Interview with CSOs and FGDs with the *Lupon* and Barangay officials, (2023).

66 Key Informant Interview with CSOs: “[Many IP women] experience discrimination in their check-ups from public health service providers.” (2023).

67 Key Informant Interview with CSOs, (2023).

68 Focused Group Discussion with *Lupons* and Barangay officials: “There is a stigma for example if the unpaid credit or utang it was always assumed that the women, wife, and babae was at fault.” (2023).

69 Consultation meetings with the Trainers, they gave as an example an incident where a barangay captain shouted at the woman who went to the barangay to file a complaint, (2023).

70 Consultation meetings with the Trainers: “Women usually are discouraged to file a case for VAWC upon hearing negative comments from the barangay, especially when victims are vulnerable and women complain to the barangay for abuse as a last straw.” (2023).

71 Key Informant Interview with CSOs, (2023).

72 From consultation meetings with the Trainers: “Barangay officials are using the Bible to influence women into thinking they should ‘stay’ for their family when they are being abused at home (“Maraming barangay, even women in *Lupon*, na ‘think of your family’ using bible na dapat ‘kumpleto ang pamilya”).” (2023).

### Limited socio-economic and psychological support to women victim-survivors

As established, domestic abuse is among the most common cases women in the community encounter.<sup>73</sup> Some cases are reported to the authorities, while others remain unreported. Women victim-survivors who decide to forgive their partners and continue living with them struggle to attain a sense of safety and security.<sup>74</sup> Barangays usually assist them in getting necessary emotional and psychological treatment. However, women often face limited access to these services because few personnel are available and trained to deliver such services. Livelihood opportunities for women victim-survivors are also limited, putting them in greater financial insecurity.<sup>75</sup> Existing livelihood programs are usually unsustainable and do not enable women to be financially independent in the long term.

### Gender inequality within the KP system

All community members, duty-bearers, and rights-holders internalize and justify gender inequality in our justice system. According to the respondents, men are believed to be suited for leadership positions since they are “capable of decision-making.”<sup>76</sup> Filipinos delegate men to occupy the most important leadership positions from the national to the barangay level, while women are entrusted with secretarial roles. Respondent NGOs shared that *Lupon* are mostly retired police officers, principals, teachers, or pastors.<sup>77</sup> While the composition of the *Lupon* is professionally diverse, the perspectives and leadership remain limited due to the lack of women’s representation since women comprised only 48% of the *Lupon*’s total population, according to DILG partners.<sup>78</sup> By extension, male *Lupon* members tend to be too authoritative and patriarchal, limiting women’s access to a fair and gender-balanced justice system.<sup>79</sup> Even for matters such as physical abuse training, women’s perspectives are not sought.

### Overstepping KP jurisdiction regarding VAWC

One of the most common cases in the barangays is VAWC<sup>80</sup>, including domestic abuse, incest rape, and physical assault from partners. Because VAWC cases are commonly reported in the barangays, KP tends to be VAWC-focused instead of concentrating on women-related issues within KP’s jurisdiction. According to the participants, barangays tend to “treat VAWC cases as KP cases,” therefore overstepping their jurisdiction by trying to mediate the issues.<sup>81</sup> This is punishable under the VAWC law, as *Lupon* and barangay officials are not trained to handle sensitive cases and may only do more harm than good. The participants argued that the *Lupon* handle VAWC cases for various reasons: ignorance of the law, lack of proper training, and straight-up negligence.<sup>82</sup> During the FGD with the *Lupon*, not everyone is aware that VAWC cases are not within the jurisdiction of KP.<sup>83</sup> Instead, the *Lupon* and barangay officials even recommended that they should be trained and authorized to handle

73 Key Informant Interview with CSOs and FGDs with the *Lupon* and Barangay officials.

74 Key Informant Interview with CSOs.

75 Focused Group Discussion with *Lupons* and Barangay officials.

76 Key Informant Interview with CSOs.

77 Key Informant Interview with CSOs.

78 From consultation meetings with the Trainers.

79 Key Informant Interview with CSOs.

80 Key Informant Interview with CSOs and FGDs with the *Lupon* and Barangay officials.

81 From consultation meetings with the Trainers: “Barangay captains and [officials] sign a logbook in conducting KP treating VAWC cases as KP cases.”

82 Key Informant Interview with CSOs and consultation meetings with the Trainers.

83 Focused Group Discussion with *Lupons* and Barangay officials.



VAWC.<sup>84</sup> Sometimes, while some of the *Lupons* know their jurisdiction's limitations, they still disregard the law because of their desire to help.<sup>85</sup> Ideally, barangay or VAWC focal persons should only refer VAWC cases to DSWD or the police. However, even the DSWD is unaware of its responsibilities in rare cases because they "revert VAWC cases to the barangay for settlement."<sup>86</sup>

## A.2 Recommendations

### Implementation of a gender-balanced and safe KP

One of the recommendations during the consultations is ensuring a gender-balanced and safe implementation of KP. The participants recognize that the current KP does not embody the characteristics of a gender-responsive justice system. As established in the challenges, male *Lupons* exhibit gendered stereotypes of women and run the system patriarchally. Hence, the existing male-dominated *Lupon* influences the voices of women victim-survivors. One way to achieve a gender-balanced and safe implementation of KP and address the existing challenges after a thorough future review of the KP framework is through proper female representation in KP. Putting more women in leadership positions will ensure that women's voices are heard, respected, and recognized during the filing of complaints and planning for programs and activities of the barangay.

Barangays should be a gender-safe space where everyone, regardless of their SOGIESC, can report their issues or challenges without restrictions or apprehensions. It should be a place where no discrimination, negative comments, or judgment will be passed. Incidents within KP jurisdiction involving women must be handled sensitively in a separate room to preserve confidentiality, allowing the victims to feel safe and comfortable. Barangay desks and other connected agencies affiliated with implementing BCPC, IPRA, GAD, and anti-VAWC plans and programs must be strengthened. A first step can be a review of the existing plans and programs to determine what is lacking and what actions can be taken to further ensure that gender sensitivity can be strengthened. Additionally, regular sensitivity training for *Lupons* should be held, along with training focused on increasing their knowledge of current laws, issuances, coverage, and jurisdiction of KP concerning handling issues involving women. The participants also recommended conducting the same types of trainings in the community to create a gender-sensitive environment. Capacity building on financial literacy should also be conducted for women in the community to promote financial dependence and may decrease the vulnerability of women.

Lastly, regarding service provision, process improvements within the barangay could begin with streamlining the issuance of barangay protection orders (BPOs) and referrals. Such an initiative could push for a speedier administration of justice, especially for rights-holders who are vulnerable to violence. Barangays should also have a well-crafted GAD program and budget plans. This could be achieved through capacity building of GAD focal persons and giving them *plantilla* items in the barangays.

### Intensive training and enforcement of KP's jurisdiction in handling VAWC

Under VAWC law, the *Lupons* are prohibited from settling VAWC cases at the barangay level. However, as narrated in the challenges, *Lupons* still handle VAWC cases due to ignorance, lack of proper training, and straight-up negligence of the law. Their most sought-after recommendation is to increase their capacity

84 Focused Group Discussion with *Lupons* and Barangay officials.

85 Focused Group Discussion with *Lupons* and Barangay officials.

86 From consultation meetings with the Trainers.

and extend their jurisdiction to handle VAWC cases. This recommendation arose because barangays have encountered countless VAWC cases and *Lupons* desire to help the victims. However, they must be reminded that the law binds them, and their actions may lead to administrative cases against them. This is echoed by DILG partners, emphasizing the provisions of the law that prohibit *Lupons* from settling cases of VAWC. They recommended intensively orienting or reminding *Lupons* during training of their jurisdiction and guiding them on how to refer VAWC cases to appropriate authorities.

## B. LGBTQIA+

Barangays also handle LGBTQIA+ complaints that are commonly about same-sex relationship conflicts due to third-party involvement, domestic abuse, cyber-libel, and due credits between LGBTQIA+ members.<sup>87</sup> Cases such as rape and prostitution are usually unreported because of shame and fear of discrimination. The participants shared that the biggest hindrance faced by members of the LGBTQIA+ in seeking legal assistance or reporting abuse is the feeling of embarrassment or shame posed by the community and even the authorities.<sup>88</sup> Both women and LGBTQIA+ experience abuse, but some people of diverse SOGIE who find themselves more marginalized tend to tolerate more suffering than women because of feelings of gender inferiority and the need for love.

In LGBTQIA+ incidents, protocols for dealing with gender-based cases apply. Mediation rooms dedicated to women are shared with LGBTQIA+ complainants/parties, where the *Lupon* separately talks to involved parties and listens to each side of their story. If mediation is unsuccessful, the *Lupon* refers the victims to the PNP or the DSWD for further action. Regarding coordination, barangays in Cebu do not coordinate with other institutions or offices in handling LGBTQIA+ cases. On the other hand, barangays in Davao coordinate with agencies that mainly deal with gender issues, such as the Davao LGBT Coalition, which comprises more than 70 LGBTQIA+ organizations.

### B.1 Challenges

#### Discrimination against the LGBTQIA+ community

On top of the gender issues that women face in the male-dominated KP system, LGBTQIA+ share the same struggle as they seek avenues for justice. A primary reason for this predicament is the discriminatory experiences that LGBTQIA+ face whenever they interact with the barangay.<sup>89</sup> Ongoing issues of non-verbal discrimination exist, such as barangay officials addressing them with the wrong pronouns on documents and refusing to recognize and respect their gender identity.<sup>90</sup> As a result, LGBTQIA+ are very hesitant to approach barangays because they feel disrespected ("*nababastos*").<sup>91</sup> Cisgender or heterosexual men or women often handle their cases because of the lack of LGBTQIA+ representation in barangay *Lupons*. The Philippine law provides fewer legal protections for LGBTQIA+; thus, many within the community presume they have lesser rights and no choice but to comply with the status quo ("*mas lesser ang right... susunod na lang*").<sup>92</sup>

87 Key Informant Interview with CSOs: "LGBTQIA+ are very hesitant to approach barangays because they feel disrespected or 'nababastos'."

88 Key Informant Interview with CSOs.

89 Key Informant Interview with CSOs: "Access to justice is limited or inaccessible when perpetrators are 'friends' or associated with people in the barangay."

90 Key Informant Interview with CSOs.

91 Key Informant Interview with CSOs.

92 Key Informant Interview with CSOs.



### Absence of LGBTQIA+ lens in barangays

There is an absence of an LGBTQIA+ lens in the barangays. Barangays have not allocated budgets or specified processes for handling cases involving the LGBTQIA+ community.<sup>93</sup> Because of this, LGBTQIA+ cases that are brought to the barangay are combined with women/gender concerns.<sup>94</sup> With their limited budget and capacity, barangays try to handle concerns brought to their knowledge, but they mainly rely on support from parallel agencies with expertise in handling LGBTQIA+ issues.<sup>95</sup> Hence, the administration of justice for members of the LGBTQIA+ community primarily depends on the initiative of barangays to approach parallel agencies and the participation of NGOs.

## B.2 Recommendations

### Increase capacity in implementing an LGBTQIA+-inclusive KP

There is a need to include the LGBTQIA+ lens when discussing gender and, in turn, GBV. Hence, it is recommended to include LGBTQIA+-related training to improve *Lupons'* sensitivity and respect towards members of the LGBTQIA+ community and create an LGBTQIA+ inclusive KP. Participants recommended the conduct of annual SOGIESC training for the barangays. Topics may deal with the following: proper and sensitive communication (i.e., barangay officials learn how to address their LGBTQIA+ rights-holders properly); crafting and budgeting of GAD plans (i.e., identifying how to allocate resources that best address LGBTQIA+ issues); and comprehensive training on protocols in handling concerns involving LGBTQIA+ persons. Aside from training intended for barangay officials, gender sensitivity training and programs for the community shall also be prioritized to prevent discrimination against the LGBTQIA+ within the community (*"dako siya ug tabang providing gender sensitivity sukad na nabutang ang gender sensitivity sa atong barangat ato ng giimplement matabang providing gender sensitivity"*).<sup>96</sup>

### Inclusion of LGBTQIA+ representatives in the Lupon

There is a need to appoint LGBTQIA+ representatives in all KP *Lupons*. If this occurs, the LGBTQIA+ community will have a voice in the barangay's planning and decision-making process and will improve their access to justice.

## C. Children

Barangays commonly handle incidents involving CICL who committed minor crimes like theft, riots, and curfew violations. Parents are summoned to the barangay for resolution; however, some ignore it. In addressing these concerns under the KP system, barangays implement the same protocols with women's cases insofar as the time frame and significant processes are concerned.

Children have also been victims of violence like bullying and more severe crimes such as incest rape, child molestation, and child labor. These cases usually remain unreported to authorities due to shame and parents' or guardians' negligence despite their responsibility to defend and protect their children. Cases of incest rape

93 Focused Group Discussion with *Lupons* and Barangay officials.

94 Focused Group Discussion with *Lupons* and Barangay officials.

95 Focused Group Discussion with *Lupons* and Barangay officials.

96 Focused Group Discussion with *Lupons* and Barangay officials.

are kept within the family to protect its members from legal consequences and humiliation. Incidents of VAWC are not under the jurisdiction of KP. Some barangays recognize their capabilities' limitations; others still try to resolve such cases. Compliant barangays turn the report over to DSWD or the police, where cases are filed accordingly. Children are often afraid to report incidents of abuse, and as minors, they are not legally allowed to file cases against the perpetrator. Without their parents' consent, perpetrators are left unpunished.

Barangays generally seek rehabilitative avenues and children's protection programs for the victims through collaboration with DSWD or the Local Social Welfare and Development Office (LSWDO) and partner NGOs. Programs providing shelter/center and after-care service and skills enhancement programs to CICL, enrolling children in the Alternative Learning System, monitoring the family of the involved child/ren, and holding community-based drug rehabilitation programs are being conducted by specific NGOs with which barangays in Davao have existing partnerships. Talikala Inc. assists girls subjected to human trafficking and prostitution, LUNA assists children's access to legal and psycho-social support, while Childhope [Mindanao, Inc.] focuses on children's empowerment and faith formation.

## C.1 Challenges

### Children's vulnerability to the unfair justice system

According to participant NGOs, access to justice for children is given less priority, as they are marginalized in our society.<sup>97</sup> Dedicated programs and services for the sector are minimal, and access to safe and fair justice is hard to attain. In most cases, *Lupons* are unfamiliar with the disputes that must be filed in court and which cases can be resolved in the barangay, such as the difference between child abuse and slight injury.<sup>98</sup> Barangay politics also play a significant role in access to justice, not just in cases involving children but in all other cases. Access to justice is rendered impossible when the perpetrators have connections or friends in the barangays. Rehabilitation or helping CILCs to control their juvenile behaviors is also challenging, mainly because the Child Protection Committee of schools is not proactive in guiding them.

Children are also disadvantaged because of their age and innocence, prohibiting them from filing cases independently.<sup>99</sup> All cases must be reported by their parents or guardians, who do not always coordinate with authorities for various reasons. Some parents neglect their responsibilities to their children. Others try to prevent the humiliation of their family name or someone they love or know, while some just say they are too busy to care for such matters. Because of these reasons, different incidents involving children remain unreported, and perpetrators are left unpunished.

### Lack of knowledge regarding KP jurisdiction on VAWC

As discussed in the previous section, VAWC cases are not *"luponable"*. However, barangays continue to handle cases brought to their jurisdiction for two (2) main reasons: ignorance and negligence of the law. For example, the *Lupons* stated that physical abuse against children by persons outside of their household is *"luponable."* This is, however, not true according to the law.

97 Key Informant Interview with CSOs.

98 From consultation meetings with the Trainers: *"There are cases involving children that are really brought to the barangay even though it [shouldn't be]."*

99 Focused Group Discussion with *Lupons* and Barangay officials: *"The parents set the decisions for their sons and daughters."*

Handling VAWC cases requires a certain level of sensitivity and expertise that *Lupons* are not equipped with and are inadequately capable of. This is why they are prohibited from considering such cases when brought to their attention. They are informed to refer VAWC cases to the proper authority; however, some are still unaware of which agencies to refer to, and others just neglect this prohibition. When barangays handle VAWC cases, there is always the risk of doing more harm than good since they can trigger the victims, causing further damage to their mental and psychological conditions. For example, some participants shared that some barangays do not separate the child from the perpetrator when addressing the situation, which could cause more trauma to the victim.

## C.2 Recommendations

### Improve barangays' functionality in implementing a child-friendly KP

KP must be implemented in a child-friendly manner, where children feel safe to report their concerns without restrictions or apprehensions. Trauma-informed care training for barangay officials can be considered to improve their ability to create an environment where their constituents feel safe. The participants asserted that barangays must improve their functionality, especially the *Lupons*, BCPC, and VAWC desk officers, to ensure that vulnerable children receive the protection they deserve. Further, barangays must know which disputes must be filed in courts, cases within their jurisdiction, and cases that must be referred to other agencies, and detailed steps to issuing Child Protection Orders (CPO) to ensure fast justice delivery.

Regarding cases of violence against children, the analysis reveals that the current system entirely depends on the parents' or guardians' willingness to stand up for their children and protect their rights. Child protection services may represent any children pursuing justice, but this must start with properly reporting any violation of children's rights. This is why the role of barangays is crucial. The participants stressed that barangays must ensure that mechanisms are in place to empower children to report any cases of abuse or violence. The role of the community is also essential. The participants asserted that communities should also be informed and empowered to protect children's rights. Everyone needs a clear and correct understanding of the laws surrounding children, including R.A. No. 7610 or the Anti-Child Abuse Act<sup>100</sup> and R.A. No. 11930 or the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act<sup>101</sup>, to take the appropriate measures when the provisions of the laws are violated.

Aside from safeguarding children's rights against abuse and violence, the rights of CICL to proper care and protection must also be considered. As the participants recommended, all barangay officials must know the law surrounding CICL and be sympathetic to their plight. Barangays must also institutionalize programs to assist CICLs, such as diversion programs, Family Development Programs, and other assistance programs, especially for Children Affected by the War on Drugs (CAWOD). Lastly, barangays must also improve their services for children's basic needs, including daycare, health care, and a library to support their learning and development.

<sup>100</sup> See An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation, and Discrimination, and for Other Purposes [Special Protection of Children Against Abuse, Exploitation, and Discrimination Act], Republic Act (R.A.) No. 7610, (1992).

<sup>101</sup> See An Act Punishing Online Sexual Abuse of Exploitation of Children, Penalizing the Production, Distribution, Possession, and Access of Child Abuse Sexual Abuse or Exploitation Materials, Amending Republic Act No. 9160, Otherwise Known as the "Anti-Money Laundering Act of 2001", as Amended and Repealing Republic Act No. 977, Otherwise Known as the "Anti-Child Pornography Act of 2009" [Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act], Republic Act (R.A.) No. 11930, (2022).

### Intensive training and enforcement of KP's jurisdiction in handling VAWC

The barangays must be strictly informed that VAWC cases fall outside their jurisdiction. They are responsible for ensuring that all cases regarding VAWC are forwarded to appropriate agencies like the DSWD, DSWS, or the PNP. As established above, *Lupons* tend to settle VAWC cases for two (2) main reasons: ignorance and negligence of the law. *Lupons* are not trained to have a "trauma lens" or "protective lens," which are used to approach children-victim survivors. As affirmed and explained by participants, *Lupons'* intention to help by settling the situation only further traumatizes or "harms" the victim-survivors.

Additionally, the participants stressed that *Lupons* must be properly informed of the cases that are not "luponable" and trained on the processes or protocols they must follow whenever they encounter cases outside their jurisdiction. Aside from this, barangays must establish strong coordination with partner agencies such as DSWD, PNP, and the like to ensure proper endorsement of cases. Lastly, *Lupons* must be informed about their liabilities in settling VAWC cases. The consequences must be better enforced to get more accountability from the *Lupons*.

## D. Indigenous Peoples (IPs)

The discussion of experiences in handling IP-related cases shall only be based on the responses from Davao, as Cebu has not received cases nor demographic data of any IPs residing in their respective barangays.

Land disputes among indigenous and non-indigenous (non-IP) communities are the most common cases handled by the barangay.<sup>102</sup> Other concerns include petty crimes between IPs and non-IPs and marital conflicts.<sup>103</sup> To handle these concerns, barangays initially identify whether the complainant is an IP or a non-IP. If a case involves both IPs, the complainants are encouraged to undergo tribe settlement, which is usually unreported to the barangays. Settlements occur in the tribal hall, facilitated by the tribal chieftain or the elders, in cases conflict resolutions can be settled within indigenous political structures. Tribal settlements are commonly done using Bisaya or Mother Tongue. Under the KP System, the usual length of conflict resolution with IPs lasts two (2) months. In some cases, the National Commission on Indigenous Peoples (NCIP) handles some of these issues directly. If the case involves IP and non-IP, it is reported and resolved through the KP system unless the non-IP party agrees to settle the dispute through customary laws.

### D.1 Challenges

#### IP cultural and judicial system vs. the Philippines' barangay justice system

IP culture and settlement processes differ from the Philippines' legal system. It is based on their traditions, culture, and perceptions/worldviews, which may not complement the laws of the Philippines. Disputes are handled by the tribal chieftain, which may be biased toward men and their principles. Some participants reported that "customs and traditions are sometimes the stumbling blocks for achieving real and just processes within the tribal settlements."<sup>104</sup> Culturally accepted practices may cause disputes to remain unresolved and the pursuit of justice to be hindered.

<sup>102</sup> Key Informant Interview with CSOs.

<sup>103</sup> Key Informant Interview with CSOs.

<sup>104</sup> Focused Group Discussion with *Lupons* and Barangay officials.

Barangays and IP communities are still confused about the guidelines for which cases must be handled through customary laws and the KP system.<sup>105</sup> This increases the tension between implementing the IP cultural and judicial system and the Philippines' barangay justice system. There are reports, however, that barangays cannot mediate disputes involving IP and non-IP members, even though the KP law is fixed with all its procedures.<sup>106</sup>

### Inaccessibility

The biggest challenge faced by IPs in seeking legal assistance is accessibility.<sup>107</sup> Cases involving IP and non-IPs are resolved through the KP system, usually in the barangays. Most IP communities are located away from the Poblacion or town proper, which challenges geographic accessibility. Aside from the location, IPs are also inconvenienced in terms of time.<sup>108</sup> All meetings are usually scheduled during working hours when IPs are still in the fields, and attendance would cost them one day's worth of income. Furthermore, IPs experience language barriers in communicating their issues or concerns, causing a huge gap in conducting a cooperative settlement.<sup>109</sup> Cases of land grabbing always involve money that IPs cannot afford. This financial difficulty leaves the cases unresolved. Addressing these challenges should be a top priority to improve IPs' access to justice because mediation cannot happen without all the parties involved.

### Lack of awareness of Philippine laws

IP leaders are unaware of some of the newly established laws in the Philippines. Hence, these laws are not implemented in their community. Some examples are the Anti-Child Abuse Act<sup>110</sup>, R.A. No. 11313 or the Safe Spaces (Bawal Bastos Law)<sup>111</sup>, R.A. No. 11648 or the law raising the age of sexual consent to 16<sup>112</sup>, and R.A. No. 11596 or the law prohibiting child marriage.<sup>113</sup> Because there is no formal education and training for tribal leaders, their ignorance of the law is a huge problem. The autonomy of the tribe leader is described as impassable. In some communities, tribal leaders are aware but do not respect or recognize the law and its authority to hold them accountable once these are violated.

## D. 2 Recommendations

### Creating an IP-relevant and IP-respecting KP system

Since IPs' cultures, traditions, and mediation processes are different, it is paramount for the national and local

<sup>105</sup> Key Informant Interview with CSOs and consultation meetings with the Trainers.

<sup>106</sup> From consultation meetings with the Trainers: *"There is one case where an alleged IP member is unaware [that] a case cannot be immediately brought to their tribal systems if a non-IP member is involved. The court must now be involved (admonished) and [an IP] needs to hire a lawyer [for their] case."*

<sup>107</sup> Key Informant Interview with CSOs.

<sup>108</sup> Key Informant Interview with CSOs.

<sup>109</sup> Key Informant Interview with CSOs and consultation meetings with the Trainers.

<sup>110</sup> Special Protection of Children Against Abuse, Exploitation, and Discrimination Act, *supra* note 101.

<sup>111</sup> See An Act Defining Gender-Based Sexual Harassment in Streets, Public Spaces, Online, Workplaces, and Educational or Training Institutions, Providing Protective Measures and Prescribing Penalties Therefor [Safe Spaces Act], Republic Act (R.A.) No. 11313, (2019).

<sup>112</sup> See An Act Providing for Stronger Protection against Rape and Sexual Exploitation and Abuse, Increasing the Age for Determining the Commission of Statutory Rape, Amending for the Purpose Act No. 3815, as Amended, Otherwise Known as "The Revised Penal Code", Republic Act No. 8353, Also Known as "The Anti-Rape Law of 1997", and Republic Act No. 7610, as Amended, Otherwise Known as the "Special Protection of Children Against Abuse, Exploitation, and Discrimination Act", Republic Act (R.A.) No. 11596, (2021).

<sup>113</sup> See An Act Prohibiting the Practice of Child Marriage and Imposing Penalties for Violations Thereof, Republic Act (R.A.) No. 11596, (2021).

governments to recognize these differences to create an IP-relevant justice system. The participants recommended that *Lupons* coordinate with the IP communities and assess IP-related cases with an IP lens. Barangays must respect and be sensitive toward IP modes of conflict resolution and consider the culture of the community and the background of the persons involved in the dispute. Furthermore, barangays must be properly guided and oriented on which IP-related cases are under KP and IP tribal jurisdiction. This level of IP-relevant and IP-respecting KP system can be achieved through training or seminars.

### Ensuring safe and careful communication

To establish a respectful relationship with the IP communities, participants strongly recommended that barangays carefully exercise proper and extensive dialogue and a human-rights-based approach in conducting settlement and understanding the stories of all parties involved. Both parties must be heard, despite IPs' language barrier and meek personality. Fostering an enabling and safe environment where IPs feel comfortable and able to express themselves is one of the most important aspects of a careful dialogue. This shall serve as a gateway toward gaining the trust and respect of the IPs to pave the way for good communication. Aside from this, having an IP representative in the LGU legislative body will help them raise their concerns and put forward the interests of the IP community. Lastly, due to the challenge of inaccessibility, barangays must conduct the mediation in areas that are more accessible to IPs and set schedules in consideration of IPs' jobs and convenience.

### Educating IPs about newly constituted Philippine laws

Tribal leaders of various IP communities throughout the country must be educated about the newly established laws in the Philippines. Through proper education, the rights of all members of IP communities will be protected, and the conflict between the IP cultural and judicial system and the Philippines' justice system can be minimized. For example, child marriage has been 'normalized' in some IP cultures. Hence, handling such cases requires a greater level of sensitivity. Further, the settlement must focus on the child's best interests, highlighting their need for protection and safeguarding their rights to education, self-determination, and livelihood.

## II. Katarungang Pambarangay Training

The DILG organizes KP Training in partnership with various government agencies and organizations to empower and capacitate all *Lupons* in performing their responsibilities as implementers of KP in their respective communities. Training is conducted once or twice a year or by request from the barangays. *Lupons* are required to attend regular training to ensure continuous learning and improvement in implementing KP in all barangays in the Philippines. During consultations, *Lupons* generally rated their training experience as very satisfactory. They attributed this to the comprehensive and effective discussion of relevant provisions of the law and the new strategies and approaches in mediation, which has helped improve their skills in settling disputes at the barangay level. The respondents also asserted that the training has been very effective in helping them implement a gender-sensitive, child-friendly, and IP-relevant Katarungang Pambarangay.

However, after a careful analysis of all data from a series of consultations with the NGOs, the *Lupons* and barangay officials, and the DILG partners/Trainers, there are still gaps in KP implementation that stemmed from the lack of technical capacity to implement a gender-sensitive, child-friendly, and IP-relevant Katarungang Pambarangay. Despite the effectiveness of KP training in capacitating *Lupons*, there are still gaps in training that need to be addressed.

In practice, *Lupons* are replaced every three (3) years in relation to the barangay elections. The community re-



elects some *Lupons*, while others are replaced by newly elected members. As a result, the training will begin from scratch, rendering it impossible for the *Lupons* to be “well-trained and equipped.” According to respondent NGOs, if this cycle persists, “training new employees every three (3) years to perform a very complicated, complex, and progressive job will be wasteful or tedious.”<sup>114</sup> This illustration amplifies the need for extensive and tireless training for *Lupons*.

The following section focuses on the recommendations for KP Training gathered and analyzed from the stakeholder consultations. These are integrated recommendations that stemmed from the gap analysis of KP Implementation and the gap analysis of KP Training. These findings shall only focus on gaps that may be addressed by enhancing the KP training or KP Training Manual. Two (2) main aspects of KP training must be improved: content and delivery.

### A. Content

The content of KP Training is flexible and responsive to the needs of the barangay. Topics are modular, and barangays can choose from these modules and request from respective DILG regional offices to conduct training. The participating *Lupons* attended various training sessions in 2022. Their first training focused on enhancing procedural and jurisdictional knowledge. Sample topics include the Revised Penal Code, the Anti-VAWC Act, and the like. The second training focused on the techniques of conflict resolution. Each training focused on different topics that complemented one another. However, concerns regarding the training topics were still raised. The issues include its emphasis on the legal side of things, its extensive lecture-based nature, and its out-of-date content. According to the *Lupons*, this was extremely difficult for them to comprehend since they lacked basic knowledge about legal issues.<sup>115</sup>

The following are the participants’ recommendations to resolve problems concerning the topics discussed during KP training. These, according to the respondents, are most needed to fill in the gaps in the implementation of KP in the community:

#### **Include Step-by-Step Guidelines in Handling Cases**

As mentioned earlier, one of the challenges the *Lupons* face is their unawareness of numerous information and responsibilities as community peacemakers. Although the KP Training Manual is accessible to *Lupons*, this Training Manual contains “bare minimum details” only.<sup>116</sup> The respondents mentioned that the KP Training Manual has an operational definition of terminologies and procedures that must be acted upon during the KP processes. It also provides an enumeration of high-level cases that fall under the jurisdiction of KP and which cases are not *luponable*. However, it does not have subheadings of specific cases, be they theoretical or actual, from which *Lupons* could learn to better understand the varying complaints they often receive. Hence, they have difficulty classifying whether the filed complaints are admissible or dismissible on their end. Therefore, it is recommended to incorporate the step-by-step procedure that *Lupons* must undertake per specific cases that are *luponable* to cases not within KP jurisdiction. The guideline shall include the documents to be filed, fines and punishment per case, prescriptive mediation period, and offices to coordinate with per type of case.

<sup>114</sup> Key Informant Interview with CSOs.

<sup>115</sup> Focused Group Discussion with *Lupons* and Barangay officials.

<sup>116</sup> Focused Group Discussion with *Lupons* and Barangay officials.

Furthermore, it is recommended that the KP Training Manual have a separate section discussing cases related to violence against women, children, and members of the LGBTQIA+ community since most contemporary cases reported within the KP system come from these vulnerable sectors, as revealed in this study. This shall properly inform *Lupons* of the procedures in referring VAWC cases and preferred steps in handling cases involving the LGBTQIA+, given that barangays do not have LGBTQIA+ lens.

These guidelines shall be incorporated into the KP Training Manual and KP training and posted in all barangay offices in the country through diagrams or flowcharts. This shall ensure that *Lupons*, as well as the complainants or the community, are properly informed and guided in the process of filing complaints in the barangay. As pointed out by one of the study participants, “*Hindi pwedeng iiwan sa ere ang mga complainants. Dapat may guide sa step-and-step and kung saan pupunta.*”<sup>117</sup>

#### **Update Manual to Reflect New Laws or Legislations Affecting KP**

If new laws or legislations are enacted, they will serve as an excellent topic for discussion during the KP training. New laws such as R.A. No. 11313, R.A. No. 7610, and R.A. No. 11930 are seen to impact the implementation of KP processes. As a result, the resource speakers must keep the *Lupons* up to date with the most relevant and serious issues and events in society that are related to these laws, as these significantly impact the KP system and the residents.

#### **Emphasize Mediation Technique**

Some study participants believed that conciliation and arbitration would not occur if the *Lupons* highly regarded mediation and utilized it frequently.<sup>118</sup> Unfortunately, the mediation technique relies on the *Lupon* Chairperson. Consequently, its effectiveness or lack thereof differs from barangay to barangay. In short, it was discovered that *Lupon* Chairpersons do not receive in-depth training regarding the mediation process, its appropriate techniques, and effective communication methods. Having clear and standardized mediation techniques would greatly assist the *Lupons* in achieving one of the KP’s goals: expediting the administration of justice. Therefore, topics that emphasize proper mediation techniques should be included in the KP training to improve the mediation process of conflicts at the barangay level.

#### **Highlight Techniques in Arbitration**

This project revealed that study participants utilized the arbitration procedure infrequently, and no arbitration data was available in the barangay.<sup>119</sup> This is not solely because complaints were promptly resolved through mediation or conciliation but because the *Lupons* lack knowledge of the KP system’s arbitration procedure and its prescriptive periods. Even though arbitration was exhaustively described in the KP Training Manual, *Lupons* are hesitant and unprepared to arbitrate because the process was too technical for them.

With this, it is suggested that the KP Training Manual’s terminology be clarified and simplified so that *Lupons* can better comprehend and apply them. To support this, KP training should also emphasize the technicalities of the arbitration process and the circumstances in which this should be applied when complaints are submitted to the *Lupons*.

<sup>117</sup> Focused Group Discussion with *Lupons* and Barangay officials.

<sup>118</sup> From consultation meetings with the Trainers.

<sup>119</sup> From consultation meetings with the Trainers.



### Gender Sensitivity Training

The respondents claimed that the KP's execution lacked gender sensitivity.<sup>120</sup> It is evident in the KP system that men are still preferred over women in this patriarchal culture. The fact that men comprise most *Lupons* members is the fundamental reason for this patriarchal culture. As a result, there is a gap in the KP system where the settlement process lacks a female and LGBTQIA+ focus. For this reason, a component of the KP training's curriculum should contain lectures and activities that can help certain people and promote a broad understanding of the necessity for gender sensitivity when handling cases reported in the barangay.

### Incorporate Approaches to Effective Communication

Reports on the KP's implementation have focused on problems with effective communication, particularly regarding instances involving IPs. The language barrier hampered the opportunity for in-depth and appropriate communication between the *Lupons* and the IPs. The need for effective communication depends not only on the mechanics of the language but also on the existence of a setting that permits people to express their conditions, regardless of race or socioeconomic status. This is primarily an issue with LGBTQIA+-related reports, as the victims frequently felt humiliated due to the remarks made by the *Lupons*, which made them reluctant to speak with barangay authorities about specific concerns they were facing in the community. This is another crucial area that the KP implementers neglected to guarantee, according to respondents who identified as women and LGBTQIA+. Because of this, the KP training should include lessons that introduce *Lupons* to diverse strategies for fostering effective dialogue in community disputes, particularly those affecting the most vulnerable groups.

### Add Provisions on Confidentiality and Professionalism

As they perform public service, *Lupons* are also expected to maintain confidentiality and professionalism at all times. Consequently, the *Lupons* must know the laws governing the preservation of sensitive information, specifically R.A. No. 10173, also known as the Data Privacy Act.<sup>121</sup> In addition, *Lupons* should be aware of which frequently received personal details are permissible for public consumption, such as during proceedings. Likewise, they should remember which sensitive data must always be kept in the strictest confidence. The *Lupons* must also assure both parties (i.e., the complainants and the defendants) of the case's confidentiality so that the parties feel encouraged to confide more; this demonstrates professionalism at work. Therefore, it is recommended that the KP Training Manual include a section on Confidentiality and Professionalism that can be used as one of the training and retraining topics for *Lupons*.

### Strengthen Sensitivity and Empathy

A *Lupon* member should demonstrate impartiality and open-mindedness, particularly when listening to complaints. Unfortunately, the participants in this study have reported instances of victim blaming and verbal abuse.<sup>122</sup> They were treated in this manner predominantly due to the insensitivity and prejudice of any *Lupon* members they encountered. To reiterate, the KP system is not intended to serve a stricter and more legal type

<sup>120</sup> Key Informant Interview with CSOs.

<sup>121</sup> See An Act Protecting Individual Personal Information in Information and Communications Systems in the Government and the Private Sector, Creating for this Purpose a National Privacy Commission, and for Other Purposes, Republic Act (R.A.) No. 10173, (2012).

<sup>122</sup> Key Informant Interview with CSOs and consultation meetings with the Trainers.

of agreement between parties but rather to promote a friendly and inexpensive means of resolving disputes. Therefore, *Lupons* should not provoke or offend the parties' feelings; rather, they should demonstrate greater sensitivity and empathy when communicating with the parties and, most importantly, when handling the cases as a whole.

Empathy and sensitivity are not something imposed on a person to have; however, they can be developed. To meet the need to have empathetic and sensitive *Lupons* in the barangay, the KP training should involve discussions and demonstrations about the importance of these characteristics as well as the need for a culture-based approach, specifically in the mediation process of the conflicts.

### B. Delivery

The KP training is conducted once or twice a year, typically during the most advantageous months. Some participants viewed this as adequate, while others desired more frequent training, either quarterly or thrice a year, for reiteration and retooling. Some respondents also highlighted the importance of training of trainers, stating that even trainers need to refresh their knowledge of KP. During the coronavirus (COVID-19) pandemic, online conferencing was used to administer KP training. Due to connectivity issues and the inherent benefits of on-site training, the study participants favored face-to-face instruction. Some respondents consider online conferencing ineffectual due to intermittent internet signals in remote barangays. In addition, older *Lupon* members struggle whenever technology, such as online conferencing, is utilized. Participants argued that the most effective KP training is dynamic and interactive training conducted during face-to-face conferences.

Moreover, the training is typically delivered in English and the community's local language. The participants from Cebu and Davao preferred Tagalog or Bisaya, sometimes injected with English instructions to best convey "clear and understandable lessons." Recommendations regarding the training's delivery include using straightforward and understandable language. Additionally, the use of audio-visual aids such as movies, posters, flowcharts, and dialogues in the local dialect is highly recommended. In terms of the size of the training group, the participants proposed keeping a small, closed-door style of training sessions with only five to seven (5-7) trainees in each room. This idea arose from trainers' observations that having a large crowd during training sessions resulted in low learner participation. Worse, attendees tend to divert their attention from the program by engaging in unrelated activities.

As previously mentioned, the service of *Lupons* concludes every three (3) years during barangay elections. Some *Lupons* are re-elected by the community, others are not, and new members are admitted. As a result, the training will begin from scratch, rendering it impossible for the *Lupons* to be "well-trained and equipped." If this cycle is unbroken, training new employees every three (3) years to perform a very complicated, complex, and progressive job is wasteful or tiresome. Re-echoing is a fundamental component of KP training. Most barangays execute re-echoing sessions or reproduce training materials for barangay personnel who did not participate. Even though this protocol is effective, the majority of *Lupons* wished to reiterate their knowledge to all their constituents, particularly the IP communities. This would encourage the community to bring their concerns and issues to the barangay and increase their trust in the authorities. Some *Lupons* believe that re-echoing should be a criterion for KP training effectiveness.

Typically, training involves lectures, workshops, open forums, and simulation exercises based on actual cases, concerns, and problems raised in the barangay. The following themes shall discuss the other recommendations regarding activities and delivery during training:

### Reported Cases as Examples During Lecture

Trainers are expected to prepare necessary materials before each training session and ensure the prepared lessons are relevant and understandable to the expected audience. In relation to this, the participants proposed that trainers or resource speakers use the most common and most difficult cases encountered in the barangays as examples during training sessions. This way, the participants can relate to, ask questions, and learn more about the best practices and approaches to address the cases they commonly encounter. Further, it will increase relatability and encourage participation from the target participants.

The data on the most common and most difficult cases encountered in the barangays are not readily available to the trainers. The participants suggested conducting preliminary surveys/interviews with target participant barangays to gather data on the most commonly reported and most difficult incidents in their communities.

### Promoting More Interactive Learning Activities

Attending many seminars where participants just listen to what the resource speakers say is boring, according to the participants. Sometimes, an open forum follows, but not everyone is interested or willing to ask questions directly from the speakers. Among the top proposed KP training activities are seminars, simulated exercises, brainstorming, and case-dealing conferences. The *Lupons* hoped that by using these activities, they could put all they had learned from the KP Training Manual and previously dealt cases into effect.

The participants narrated that a facilitator can lead a role-playing activity in which participants are assigned roles to imitate a mediation process. There must be a complainant, a defendant, and someone to serve as the *Lupon* Chairperson. The facilitator must use the most common or most difficult cases that barangays in that region or area face as sample cases in which the chosen actors must act. Meanwhile, the audience must pay attention to the simulation scene because, following the role-playing activity, they will be asked to answer questions about the scenario depicted. Similarly, the audience could ask questions or comment on how to enhance case handling. The attendees of this session will become more inventive and receptive as a result of the exchange of ideas. This also improves their creative and critical thinking abilities, which are essential for a successful mediator.

At the end of each activity, the participants can explain that the *Lupons* should know that their primary function is to aid both parties in thinking of methods to reach an agreeable settlement rather than to spoon-feed them fast solutions unless it is already in the arbitration process. Participants in these interactive learning exercises will improve their ability to communicate and mediate between two sides. Following these activities, *Lupons* may get constructive criticism, which may help them comprehend that their actions and reactions to each complaint are critical and influential to the case's resolution process.

Nonetheless, the best technique to complete the aforementioned interactive learning exercises is to do feedback writing. It was proposed that attendees could write their personal highlights and opportunities for growth from participating in such activities. This will help trainers improve their techniques for future training sessions. Similarly, *Lupons* can tailor feedback writing to their needs and collect feedback by writing to their local barangays. For example, when an agreeable settlement has been reached and executed, the *Lupons* may contact both parties to discuss their service level. The *Lupons* would be more aware of ways they could improve, whether for themselves or the KP system. Ultimately, the gap between implementation and comprehension will be bridged on the ground.

## SUMMARY OF RECOMMENDATIONS

1. Review KP Law in relation to the LGC and other relevant laws and regulations and, if needed, lobby for reforms (e.g., address the issue of turnover in the Barangay and sustainability of programs and services)
2. Institutionalize policy on a child-friendly, gender-responsive, and IP-relevant KP
  - 2.1. Review KP framework, program, and implementation and assess the implementation vis-a-vis human rights standards for a child-friendly, gender-responsive, and IP-relevant KP and access to justice principles
  - 2.2. Issue guidelines on the use of gender-fair language in barangays and gender-fair conduct of the KP
  - 2.3. Improve child protection services at the local level, including mechanisms to empower children to report cases, the rights of CICLs, etc.
  - 2.4. Expanding and improving the programs to assist CICLs, such as diversion programs, family development programs, and other assistance
  - 2.6. Develop a "map" for stakeholders and define parameters on the role of indigenous juridical systems in improving agency and access to justice of IPs and ICCs
  - 2.7. Establish IP-accessible accessible barangay centers to improve access to basic services of IPs and ICCs, especially in remote areas
3. Ensure diversity across genders, ages, and ethnicity in the composition and their participation in the *Lupon* and Barangay
  - 3.1. Identify how many women, LGBTQIA+, and IPs are represented in the *Lupon* and the Barangay and what positions they occupy
  - 3.2. Consider the development of a gender-disaggregated database and conducting qualitative research on gender balance in political participation
  - 3.3. Consider special measures at the local level, such as (legislated or voluntary) gender quotas to increase women and LGBTQIA+ officials in the *Lupon* and Barangay, as well as elected or appointed IP representative
4. Creating child-friendly, gender-sensitive, and culturally diverse spaces *within* the Barangay
  - 4.1. Issue guidelines on providing safe spaces for children and women and mobilizing communities to create an environment that protects and promotes the rights of children, women, LGBTQIA+, and IPs
  - 4.2. Adopt a zero-tolerance policy for discrimination and violence of any kind, including but not limited to misogynistic remarks, intimidation, and abuse
  - 4.3. Safety must be factored in the design of a physical place and operations, preferably from a separate room for privacy but with windows
  - 4.4. Provide a quick and effective support system and response for the safety of children and women
5. Fostering a child-friendly, gender-sensitive, and culturally diverse community
  - 5.1. Conduct regular community sensitivity training and other trainings such as financial literacy, children's rights, IP rights, etc.
  - 5.2. Improve services for children's basic needs, including daycare, health center, and library to support learning and development

**Table 1.1.** Summary of recommendations that pertain to a change or shift in policy.

1. Improve coordination between national government, local government, and civil society on barangay matters
  - 1.1. Initiate a local network of stakeholders (i.e., DILG trainers, CSOs, justice zones, *lupons*, and barangay officials) to address issues of sustainability of future KP training and improve the effectiveness within and outside the Barangay system
2. Strengthening the referral system between and among stakeholders (e.g., *lupons*, barangays, concerned agencies, desks, councils, etc.)
  - 2.1. Develop a “map” detailing the overview of the referral system to ensure proper endorsement of cases
  - 2.2. Build the capacity of *lupons*, barangays, and concerned agencies on their mandate, jurisdiction, and responsibilities
  - 2.3. Enhancing the programs of barangay desks and other connected agencies affiliated with the implementing BCPC, IPRA, GAD, etc.
  - 2.4. Improve processes within the barangay by streamlining the issuance of BPOs and referrals, etc.
3. Build the capacity of the *Lupons* and the Barangay Officials
  - 3.1. Conduct regular sensitivity training of *Lupons* and Barangay Officials as well as trainings to improve knowledge and skills (e.g., need-based)  
Trainings on: gender-sensitive language and communication, trauma-informed care, fostering dialogues, mental health awareness, etc.
  - 3.2. Enhance professionalism, integrity, and skills in the performance and discharge of duties of *Lupon* and Government Officials
4. Training on confidentiality, case management, and ethics, etc.
5. Reevaluate the GAD program and budget plans towards the sustainability of plans on services

**Table 1.2.** Summary of recommendations pertaining to institutional effectiveness of *Lupons*, Barangay Officials, and other government agencies.

### Content

1. Update and improve the general content of the KP Training Manual.
  - 1.1. Contain more than the bare minimum details of the KP processes and balance the legal and practical discussion of implementing a child-friendly, gender-responsive, and IP-relevant KP
  - 1.2. Edit the language to be more reader-friendly and use simple terminologies
2. Add a section detailing the step-by-step process or protocols for handling cases involving women, LGBTQIA+, children, and IPs.
  - 2.1. Indicate the documents to be filed, fines and punishment per case, prescriptive mediation period, and offices to coordinate with per type of case.
  - 2.2. Specify whether the case is *luponable* (or whether the *Lupon* may be cognizant of the case/complaint).
  - 2.3. Emphasize the protocols for cases outside KP jurisdiction.  
List the cases outside KP jurisdiction, including the referral process and offices to coordinate with. Emphasize the legal consequences of ignoring and neglecting the law (e.g., doing more harm than good to the victims, administrative cases, etc.)
  - 2.4. Include a discussion of the cases that are under KP and IP tribal jurisdiction and the differences in the culture and IP modes of conflict resolution.
  - 2.5. Discuss the provisions for the preservation and confidentiality of sensitive information.
3. Update the content of the KP Training Manual to include new laws affecting KP implementation
4. Improve the discussion on the use of proper mediation techniques
5. Simplify the technicalities of the arbitration process and define the circumstances in which this should be applied
6. Include topics on approaches to effective communication and dialogue
7. Add discussion on gender and activities on gender sensitivity.

### Delivery

1. Training must be face-to-face, conducted in a small, closed-door style with only 5-7 trainees in each room.
2. Use of audio-visual aids is highly recommended.
3. Delivery and instruction in Tagalog or the local language, sometimes injected with English instructions, is preferred.
4. Trainers must use the most common and most difficult cases encountered by barangays as examples during training.
5. Use more interactive learning activities such as seminars, simulated exercises, brainstorming, and case-dealing conferences during training.
6. Ensure feedback writing after training sessions.

**Table 1.3.** Summary of recommendations that pertain to the increased effectiveness of the training manual and program.



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