

SUBMISSION OF THE ASIA INDIGENOUS WOMEN'S NETWORK (AIWN)¹
TO THE EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES, 2016

“INDIGENOUS PEOPLES' RIGHT TO HEALTH
WITH FOCUS ON CHILDREN AND YOUTH”

Article 24 of the United Nations Declaration on the Rights of Indigenous Peoples reiterates the right of Indigenous peoples to health in addition to other health-related provisions relating to children, the environment, and the right to development. Indigenous peoples' concept of 'well-being' encompasses the broader concept of health consistent with the principle that the human rights are indivisible and that the right to health is inclusive.

This report takes off from the critical roles of indigenous women in reproduction, nurture and community health care and management. Among indigenous peoples, birth, therefore, life is a celebration. The wellbeing of the mother, therefore, is a primary determinant of the health and well-being of the child.

Violence against indigenous women is an affront to women's right to health that inevitably impacts on the health of children, youth and the whole community as a whole. Indigenous women experience violence based on their sex, indigenous identities and culture and is caused by different factors from patriarchal relations to outright killings. Violence against women is a direct threat to the life, health and well-being of the hands that ensure the same for indigenous children and youth. In fact, even children and youth are not exempt from domestic, gender and other human rights violations.

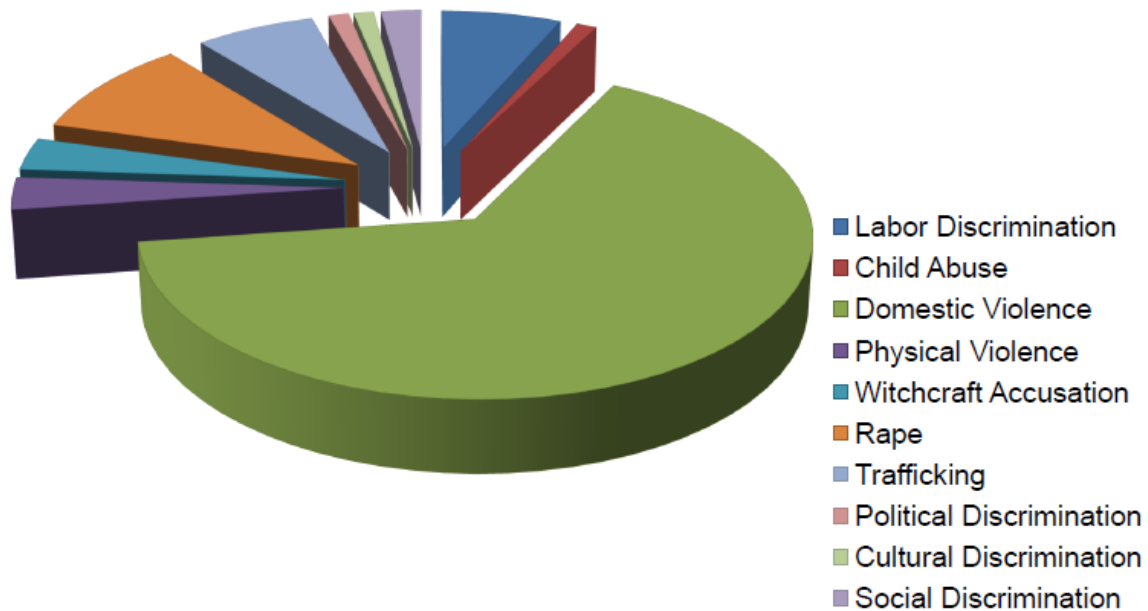
From 2013 to 2015, the AIWN has implemented the “Leadership School for Indigenous Women in Nepal and the Philippines” supported by the UN Fund for Gender Equality. The project was generally purported to advance political empowerment among indigenous women through capacity building cum documentation and advocacy activities primarily at the local to the national levels. Part of this is the documentation of violence that indigenous women experience. Here are some highlights from the results of the documentation :

A. Nepal:

There are 100 documented cases: 6 labor-related violence (discrimination, exploitation, sexual abuse, and kamlari cases) with one victim murdered, 60 domestic violence (mostly physical and mental/emotional abuse, abandonment, negligence, lack of support, deprivation from enjoying property rights) with one victim beaten to death and one victim who

¹ The AIWN is a loose network of indigenous women's organizations and indigenous peoples' organizations working on the empowerment of indigenous women within their communities and institutions in Asia. The network is being served by Tebtebba's Indigenous Women Programme, currently acting as the network's Secretariat.

committed suicide from depression, 3 physical abuse, 3 witch craft accusation with one victim murdered, 9 rape cases, 6 trafficking, 1 political discrimination, 1 cultural discrimination and 2 social discrimination.

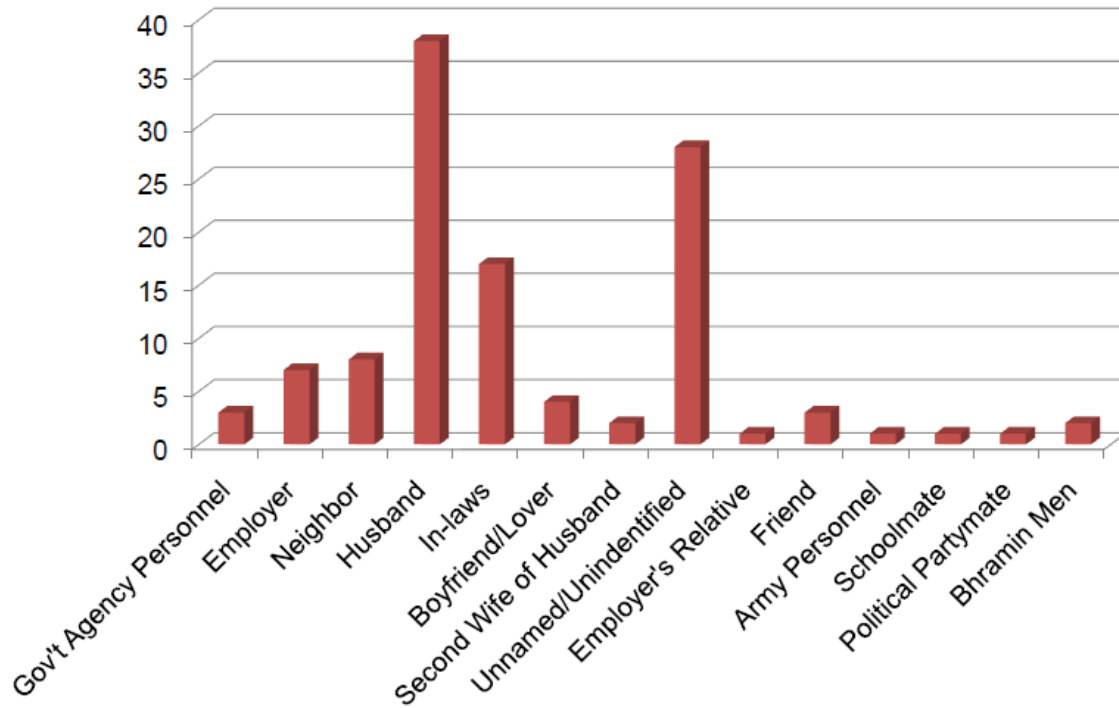


100 documented cases, 2014

Figure 1: Forms of Violence against Indigenous Women in Nepal

There's one case where the poor widow can not perform the last burial rites due to lack of financial resources. A baby boy was injured by the abusive father in a fit of anger directed to the wife. There were victims whose citizenship is dependent upon the registration of their marriage by the family of the husband. In domestic violence cases, as shown in Figure 2, violence is generally committed by the husband or members of his family .

Figure 2: Immediate Perpetrators of VAW, Nepal



2) Victims' ages ranges from 4 to 65.

3) Most complaints or cases are lodged by the victims at the police stations where in some instances were not helpful to the victims due to the influence of the **perpetrator's family. The courts are the other resort of victims for justice and their families and women's human rights organizations.** (Fig. 3)

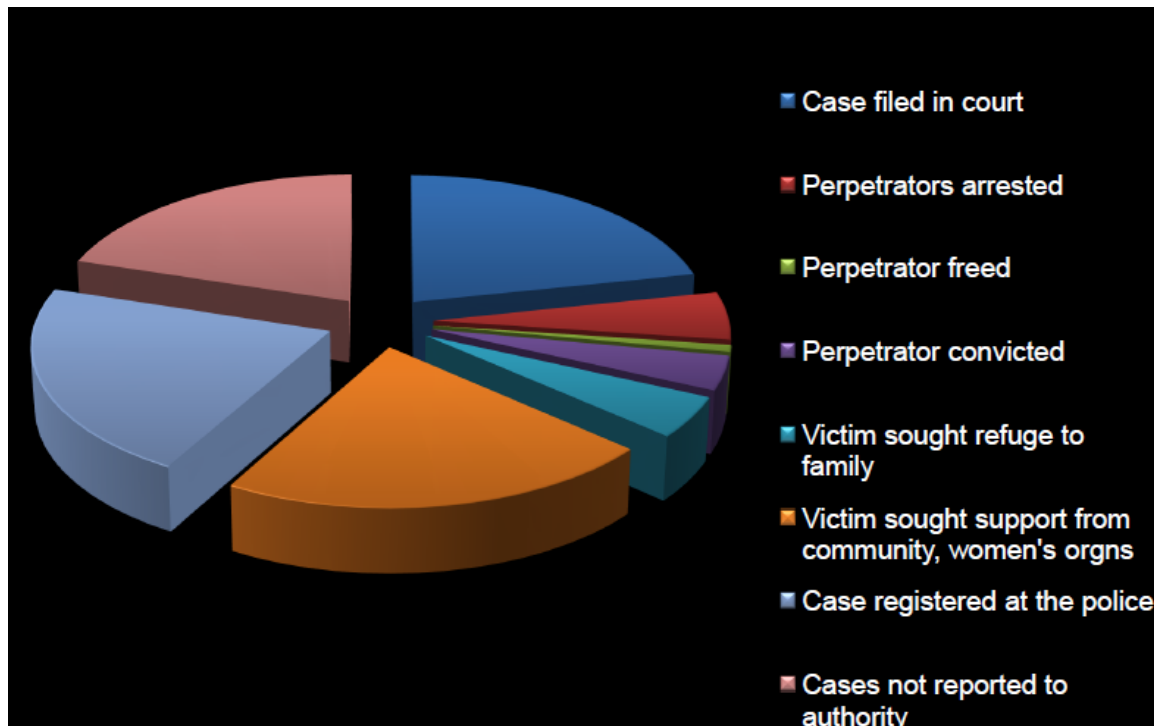


Figure 3: Complaints and Access to Justice

5) There are some NGOs who provided financial and legal supports to the victims. While there are quite a number reported and filed to government authorities (police and court), there is seemingly a very low resolution of cases as may be compared to that of the arrest and conviction of perpetrators.

B. Philippines :

In the Philippines, political and cultural rights violations, including violence ensuing from the denial of Free Prior and Informed Consent by indigenous communities have reportedly occurred most in the cases documented. These are occurring almost as much as domestic violence. There are a total of 185 cases documented from the Cordillera and Mindanao regions of the country. As may be inferred from the following Fig. 4, the number of occurrence of collective rights violations (cultural, political and FPIC-related violations) is very minimal as documented. This can be very deceiving if cases are simply noted a displacement or violation of FPIC where its intensity and magnitude are not really reflected. As can be seen in Figure 4 the number of victims is alarmingly high, reflecting the need for closer documentation violations against collective and individual rights impacting on women. In addition, the ages of the victims ranges from 5 to 70 years old. There are more victims, at 17 to 20 counts, from the ages 16 to 35 years old.

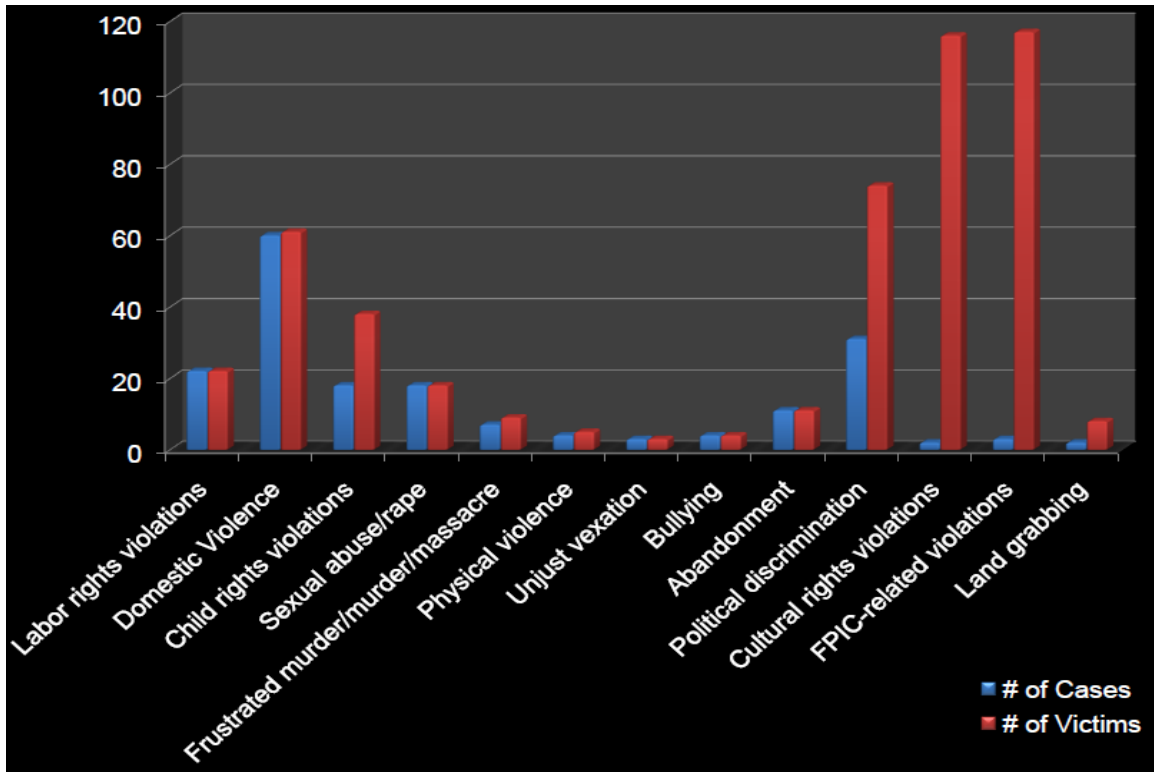


Figure 4 : Cases and Victims/Survivors of VAW, Philippines

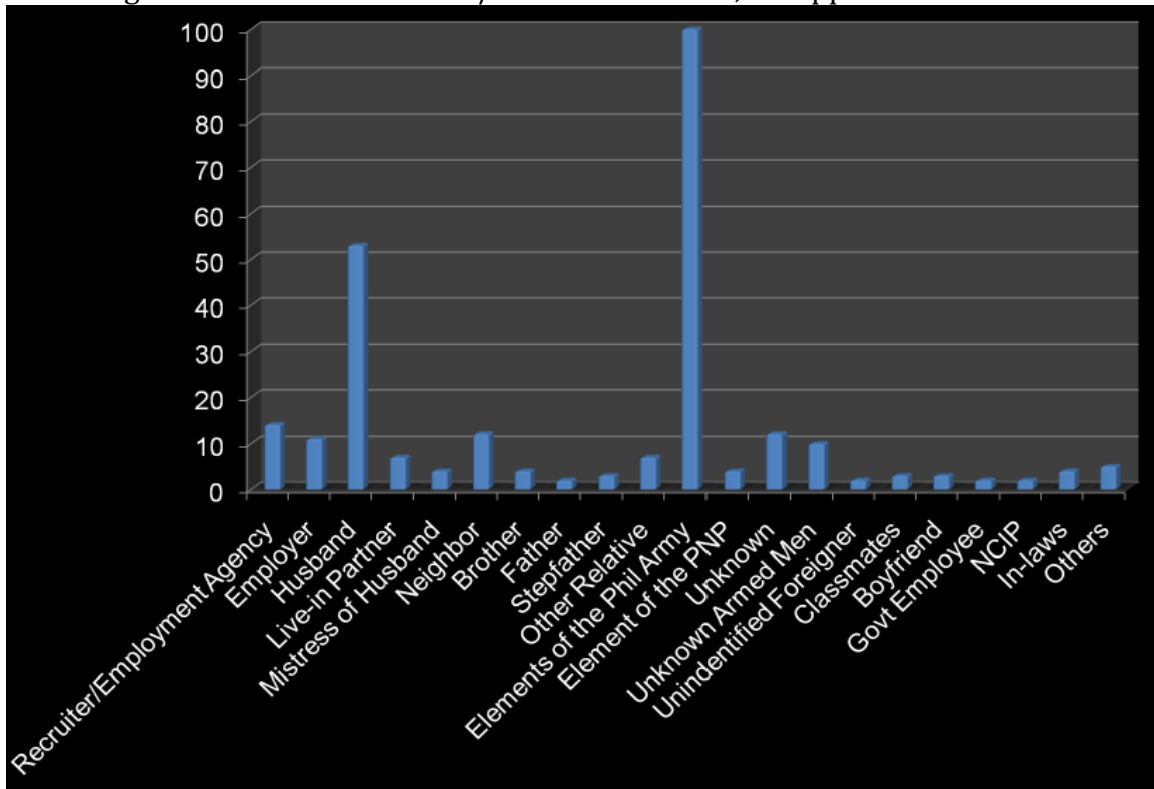


Figure 5 : Immediate VAW Perpetrators

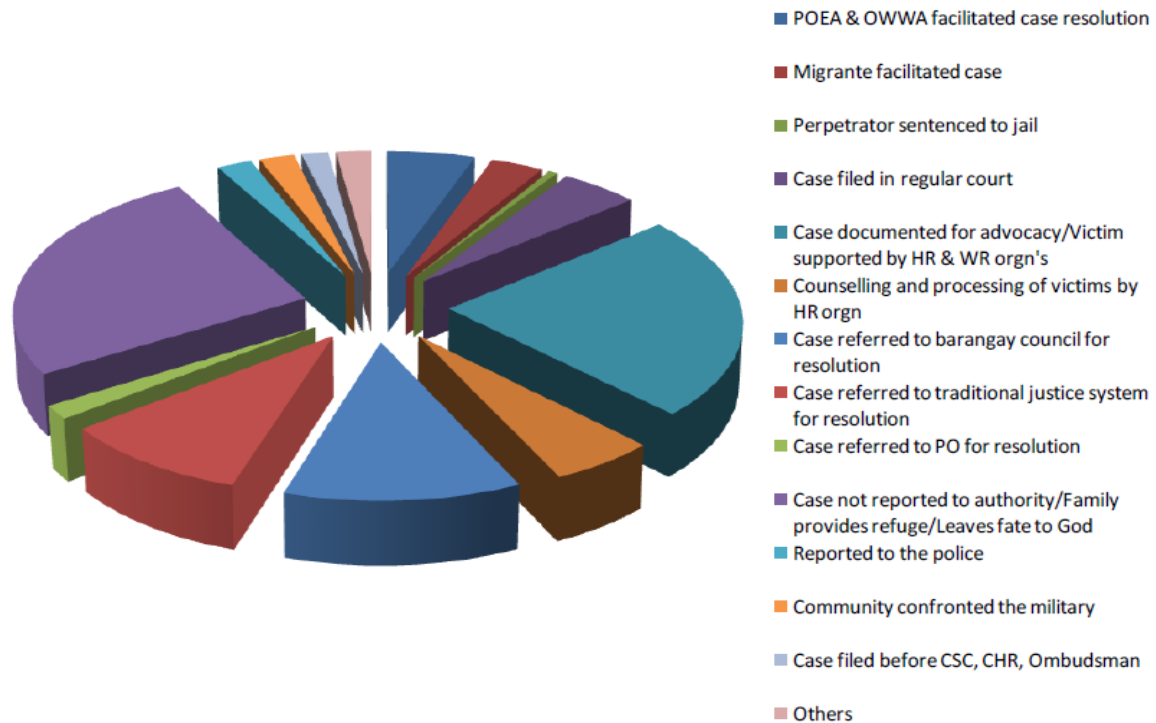


Figure 6: Complaints and Access to Justice

Observations :

1. Based on cases documented, domestic violence is more pronounced in Nepal than in the Philippines. There could be many factors contributing to this results but one can generally assume the strong influence of patriarchy in the wider social system. Nonetheless, across countries, domestic violence is common both in the urban and rural setting with a priority option for amicable settlement given the survivors when seeking redress. In Nepal, most survivors and/or their families generally resort to the police. In the Philippines, there seems to be several options, including reporting to government and non-government mechanisms like the Commission on Human Rights. Nonetheless, while women in both countries are seemingly using available mechanisms to address the violence they experience, there is still a remarkable number of cases which are not reported. Reasons for this vary from "leaving it to God", fear of reprisals and social stigma. Progress of reported cases are similarly challenged by survivor's backing out – usually due to the long process and cost for litigation and the psycho-social stress that may eventually burn out support even from family members.
2. Collective rights violations that includes aggression against individual rights and violence against women are pronounced in the conflict areas in the Philippines. Conflict here, is, generally associated to the presence of corporate interests over the land and resources traditionally owned by indigenous peoples. It is compounded by the presence of military and para-

military forces in the guise of anti-insurgency campaigns by the government. It is also in this type of violations where government agencies and/or personnel figure out as the immediate cause of violence.

3. In Nepal, the most immediate mechanism is seemingly the formal structures of governance i.e the police and then to the courts. In the Philippines, there is seemingly a wider option for complaints including resorting to traditional justice system. It is worth noting here that, generally, in indigenous communities in the Philippines, there is still a sense or presence of traditional justice systems despite the fact that a lot may be eroding. In the cases documented that were brought under traditional system, decision and implementation of sanctions were immediate with acceptance by both parties.

Conflict, militarization and development aggression creating multiple forms of human rights violations from harassment, displacement to outright killings disables the social and cultural system that ensures physical, psycho-social and spiritual well-being that ensures healthy and full development of indigenous youth and children. Such situation, which has relentlessly affected the Lumad women in Mindanao has been further elaborated in the National Conference of Indigenous Women organized by the AIWN on 1-2 March 2015 at the NCCP Compound, Quezon City. (see Attached Document : Statement from the National Conference of Indigenous Women held on 1-2 March 2014, Quezon City, Philippines)

Women participants to the said conference also brought out the impacts of the ongoing poverty alleviation program referred to as the Pantawid Pamilya Pilipino Program or the 4P's affecting indigenous women and birth attendants. Relative to this and with the aim of attaining the reduction of maternal , antenatal and post natal mortality rates, the Department of Health issued its Administrative Order 2008 –0029 which encouraged the enactment of local government ordinances prohibiting home birthing. Among its reported impacts is the disenfranchisement of indigenous birth attendants to practice and develop their knowledge and roles in indigenous health systems. It threatens the displacement and erosion of indigenous knowledge, practice, values and spirituality related to reproductive, child and maternal care and well-being. This was similarly echoed by indigenous women participants, mostly birth attendants, in another national activity organized by the LILAK².

² LILAK (Purple Action for Indigenous Women's Rights) organized the "IPinay : Aming Katawan, Kalusugan, Kultura at Karapatan"; 21-23 October 2015, Quezon City, Philippines.

Emerging Recommendations on VAW :

1. VAW penetrates to the core of the individual and social psyche. Appropriate information on VAW prevails as a need for indigenous women. Along with this is the need to capacitate them to get a fuller understanding why VAW occurs, how the community, as a whole, can prevent it and what mechanisms are there at their disposal to access justice. This includes a process of educating them and their communities on their rights as human beings, as women and as indigenous peoples.
2. Understanding VAW from the perspectives of indigenous women involves broader lenses that captures the intersectionalities of their diverse identities and circumstances. Aside from gender sensitivity, service providers should be enabled to be understand the socio-cultural milieu of indigenous communities and their situations in relation to their right to access health care and services.
3. Political will to fulfill obligations to human/women's rights : Governments should muster their political will to recognize, protect and fulfill their obligations to human rights instruments including specifically those related to historically marginalized - women and indigenous peoples. This includes capacitating the government, its agencies and personnel on its obligations and allocating appropriate logistical, technical and financial support to the full and effective implementation or operationalization of the CEDAW and the UNDRIP in full consultation with indigenous women and peoples themselves.
4. Legal pluralism provides options for access to justice in relation to violence against indigenous women. More often, however, the legal system is shunned because of the cost, length of process that does not even ensure justice and stigma. More studies, however, should be undertaken to look deeper into the effectiveness and scope of these co-existing systems and how each should strengthen the other .

Emerging Recommendation on Health, Health Systems and Practice :

1. Allocate personnel and finance resources for :
 - Data disaggregation : The general lack of disaggregated data based on ethnicity and sex in national reports prevents the development of a full perspective on the status of health and other rights among indigenous peoples. Furthermore, process and outcome indicators on health programs being implemented and affecting indigenous peoples should be included.

- In-depth study on the health status of indigenous peoples based on their broad context of ‘well-being’ towards proper and effective targeting. Targetting and implementation should be done in partnership with indigenous peoples, communities, experts and organizations. Specifically, in the Philippines, indigenous birth attendants have recommended the conduct of a study on their occupation and practice vis-à-vis the claim that a many of maternal and neonatal mortality are related to “unskilled” aid and home births.
2. Intercultural Health : Development of culturally and gender sensitive strategies and programs. This includes capacity building to sensitize health workers and other service providers including indigenous health care providers i.e birth attendants. The roles of indigenous health care providers in family and community health care and management should be recognized and strengthened through enabling activities and mechanisms (i.e scholarships for formal training) without prejudice to the development of indigenous medicinal and health-related knowledge and practice.

The intercultural health approach will also facilitate promotion of culture/identity, advancement of indigenous knowledge and good health-seeking behavior among children and youth. This entails effective information and communications and developing mechanisms for participation and inclusion in decision making.

3. Integrated and Holistic Approach to Health
 “Wellbeing” is the sum of the different components that contribute to the health status of an individual or community. It has references to the health or the capacity of the land, resources and the environment to provide the needs of the community. It also has reference to the capacity of the person and the community to withstand or overcome health crisis through governance and management that upholds the dignity of the life and culture of indigenous peoples under the principles of equality.

References :

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