

# Children's Right to Identity in Philippines

## Factsheet submitted to the UN Committee on the Rights of the Child

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### 1 Creation of identity

- **Family support:** according to UNICEF,<sup>1</sup> although the poverty rate has been decreasing, families' vulnerability has not been reduced. More than 13 million children—more than a third of all children in the Philippines—live below the poverty line and therefore the risk of separation of families due to economic reasons remains high.
- **Birth registration:** 92,3% children under 5 were registered in the Philippines in 2017.<sup>2</sup> UNICEF mentions that the absence of universal birth registration (93.5% of children overall and 37.9% of children in ARMM - Autonomous Region in Muslim Mindanao - have had their births registered) is a concern.<sup>3</sup>
- Birth registrations are not free of charge and **late registrations imply fines.** <sup>4</sup> The law<sup>5</sup> requires a child's birth to be reported to the local civil registrar within 30 days from said birth. Beyond this period, fees, which vary depending on the local government unit and are based on whether the child's parents are married and on the lapsed time since the child's birth until the time of delayed registration must be paid for.<sup>6</sup> On top of the fee, several documents are required, adding more to the cost of the late registration thus making it inaccessible especially to the poor.<sup>7</sup>
- According to a 2020 study: "We find many barriers to birth registration—three critical ones are **cost, conflict, and the unintended consequences of penalizing childbirth at home.** First, cost: in a sample of 17 children who underwent delayed birth registration with social workers, we find that the minimum cost to secure a delayed birth certificate is a prohibitive ₱1,700 to ₱3,500, three to seven days of earnings for a minimum wage worker. Legal and transport costs for documentary requirements represent the bulk of the costs, with the birth certificate itself representing less than a tenth of the total cost.

- Second, conflict: in interviews with social and church workers engaged in civil registry, we find that some parents choose not to register children born out of extramarital relationships to prevent conflict with their spouses and people in areas with violent conflict may not trust the authorities with their data. Third, unintended consequences: in our review of government policy, we find that some local governments have penalized mothers for giving birth at home, thinking this would encourage births at hospitals and accredited health care centers. But this leads parents to avoid registering their children's birth to avoid incurring costs, especially for mothers who live in areas far from an accredited clinic".<sup>8</sup>
- "Non-Governmental Organizations (NGOs) estimate that more than 2.5 million children are unregistered, primarily among Muslim and indigenous groups. The Department of Social Welfare and Development (DSWD) continues to work closely with local governments to **improve registration**; including the implementation of the Birth Registration Project (BRP), the establishment of the Barangay Civil Registration System (BCRS) as well as the training of barangay civil registration agents on the civil registration law and procedures of mobile birth registration by the Philippines Statistics Authority (PSA) which operates mobile birth registration units to reach rural areas".<sup>9</sup>
  - Philippines endorsed for the **Regional Action Framework (RAF)** of the "Asia and the Pacific CRVS Decade, (2015–2024)" <sup>10</sup>

#### *Potential consideration(s)*

- How will the government improve the coordination between national and local levels of governments to improve the implementation and supervision of child protection laws, especially to prevent family separation?
- How will the government implement universal birth registration, particularly among Muslim and indigenous groups?

# 2

## Modification of identity

- In the Philippines, the Department of Social Welfare and Development (DSWD) reports that out of 1,604 children issued the Certification Declaring a Child Legally Available for Adoption (CDCLAA) from 2018 to 2020, 20% or 320 children<sup>11</sup> were foundlings, defined as **children who are abandoned and with unknown parentage**.<sup>12</sup> The finder must report the finding of a foundling to concerned authorities within 24 hours and within 60 days, the DSWD shall register for free the foundling's birth in the Local Civil Registrar Office of the place where the child was found. Upon registration a Foundling Certificate issued in lieu of a birth certificate.<sup>13</sup> When the foundling is available for adoption, the names of the child's parents must be stated in the petition, if known, but when the child is a foundling, the guardian's name and residence are given instead.<sup>14</sup>

- As explicitly declared on the website of a specialized centre for reproductive medicine in the Philippines, there are several **ART procedures** it offers, except those which include third-party IVF, such as sperm, egg or embryo donation and **surrogacy** "in compliance with the professional ethical guidelines of the Philippine Society of Reproductive Endocrinology and Infertility and the Philippine Obstetrical and Gynaecologic Society," that has likewise limited IVF procedures to married couples. There is no law regulating ART in the Philippines except for one provision, Article 164 of the Family Code, that recognizes the legitimacy of a child born after the "artificial insemination of the wife with the sperm of the husband or that of a donor or both" where the written authorization of both spouses is executed prior to the birth of the child and said instrument is subsequently recorded in the civil registry with the child's birth certificate.<sup>15</sup>

- There is no law allowing nor prohibiting **surrogacy** done inside or outside the country involving their citizens. As a result, the rights of the surrogate mother, genetic parents, and commissioning parents remain unsettled and the status and identity of the child uncertain and precarious.<sup>16</sup>

- In the Philippines, statistics show that as of May 2021, from 2018 to 2020, a total of 1,604 children were declared legally available for **adoption**, 55% of which were surrendered children, 24.5% were abandoned, and only 0.3 were orphaned.

Moreover, out of 1,604 children, 50.6% have their petition for adoption processed and heard, and only 2.4% finally have their adoption decree.<sup>17</sup>

- The Philippines' Council for the Welfare of Children (CWC) reported a total of 2,557 children placed in **foster care** in 2017 and 538 in 2018.<sup>18</sup> A child stays in foster care during the validity of the Foster Family Care License issued by DSWD, which may be renewed every three years.<sup>19</sup> Furthermore, if a child's stay with his/her foster parent is at least seven years, the foster parent may file an application for long-term foster placement, subject to DSWD's assessment and evaluation every three years for the child's best interest.<sup>20</sup>

- **Emergency situations:** In 2020, the country faced volcanic eruptions affecting thousands of families and the economy, and six devastating typhoons.<sup>21</sup> It affected 68.6 million people, of which 2.3 Million (more than 700'000 children under 15) were the most vulnerable in most affected regions.<sup>22</sup> In these emergency situations, there is a risk of lower birth registration and higher risk of family separation.

### *Potential consideration(s)*

- How does the government ensure that the identity of adopted children and children born from surrogacy/ART is preserved?
- How is the identity of children preserved in the recent emergency situations?



# 3

## Falsification of identity

• The illicit practice of **simulation of birth** is when a married woman registers a child who is not hers as her biological child. This is done usually when a pregnant woman gets herself admitted into the hospital under an assumed name, with the intention of registering the infant she will give birth to as the child of another. Let's say a pregnant Ana Cruz, goes to the hospital to give birth but she has herself registered as Maria Reyes. When the child is born, the child's birth certificate will have the name Maria Reyes for her mother and Luis Reyes, Maria's husband, for her father. Once Ana and Baby Reyes leave the hospital, Ana gives the baby to Maria and Luis who will raise the child as their own.

In the Family Code, the record of certificate appearing in the civil register is the principal proof that the baby is the legitimate child of the individuals whose name appear in the certificate of birth. Since it will already show Maria and Luis as the biological parents, there will be no practical need to legally adopt the baby. Legally, however, the child has no rights as a member of that family.

<sup>23</sup> The new law (RA 11222) allows those who simulated the birth registry to correct it and adopt the child legally without fear of being prosecuted. To encourage immediate correction of the simulation of birth, RA 8552 provided for a 5-year amnesty period from the time the law was passed in 1998. There was a clamor for the extension of this period but only in 2018 was a law <sup>24</sup> passed extending the period to correct simulated birth registrations. Further, a law enacted in January 2022 converted the procedure for adoption from judicial to administrative, making it more efficient and less expensive. <sup>25</sup>

- **Child marriage:** 16,5% of young women were married before the age of 18 in 2017. <sup>26</sup>
- Exploitative **child labor** is among child protection risks. The current official data on child labour in the Philippines notes that “82,1 million children between 5 and 17 based on the 2011 Survey on Children conducted by the Philippine statistics Authority.” It is hoped that the 2021 Action pledge should give more accurate statistics. <sup>28</sup> As COVID 19 seems to have worsened the situation of child labour, numbers are likely to increase in the Philippines. <sup>29</sup>
- According to UNICEF, in 2017, the Philippines continued to be “a source, transit and destination country for commercial **sexual exploitation and trafficking** and one of the top ten countries globally producing sexual content using children”. <sup>30</sup>

In 2020, the Department of Justice Office of Cybercrime reported a 260 per cent increase in cyber-tips on online sexual abuse and exploitation of children (OSAEC), confirming that the Philippines remains a top source of OSAEC materials.

### *Potential consideration(s)*

- What efforts are being made to prevent and criminalise the falsification of identity in child traffic, labour, and marriage?

# 4

## Preservation of identity and access to origins

• UNICEF mentions that “in the absence of a clear government framework for oversight and accountability, **data collection around children** is highly fragmented and poorly integrated between sectors and levels of government – resulting in data gaps and duplications”. “This has made it difficult to track children across sectors and programmes, and to develop a more rounded understanding of the multiple dimensions of issues that affect them. There is also insufficient data on the situation of vulnerable children, including children with disabilities, indigenous children and children living in informal urban settlements. The inability to ‘see’ these children and the challenges they face, has created a policy gap which continues to render them vulnerable”. <sup>31</sup>

- The **adopted person** of major age, or a minor, through his or her parents, may request to consult his or her file at the International Adoption Mission. The right of the adopted person to access information concerning his family of origin is recognised in Philippine legislation. The Domestic Administrative Adoption and Alternative Care Act of 2022 provides for “tracing of the adoptee’s biological family and eventually have a face-to-face meet-up.” <sup>32</sup> It categorically states that the “right of the adoptee to identity shall take precedence over any other considerations.”

### *Potential consideration(s)*

- What efforts are being made to ensure that data collection will be improved and better coordinated for children and later adults to access this information?
- What efforts are being made to ensure that all vital information related to the child’s name, nationality and family relations is being preserved?



# 5

## Restoration of identity

- The registration of unregistered and undocumented **children of Filipino migrant workers born abroad** has been improved through *General Amnesty Program* and the country extended its support in tracking and assisting undocumented Filipino children of migrant workers. However, an efficient online birth registration is still in discussion.
  - Unregistered children without official documentation are not allowed to access basic services, such as health and education, while waiting to be properly registered upon their return to the Philippines.<sup>33</sup>
  - “There are **special rules in place for children deemed to be in need of special protection**. Under Rule 1(9) of the Rules and Regulations on the Registration of Births of Children in Need of Special Protection (henceforth ‘CNSP Rules’), **street children** are defined as children in need of special protection. The CNSP Rules create an obligation for any government institution or non-governmental institution who has custody of such children to register their birth. Filing a delayed registration of birth is like an ordinary registration made at the time of birth and shall be filed at the local Civil Registry Office where the birth occurred, if known. If the place of birth is unknown, the registration shall be made in the place the child is living or in the residence of the custodian. Unlike the regular procedural rules under the Law on Registry of Civil Status, registration should be made within 60 days from the date of the actual custody of the child, except during difficult circumstances in which case registration shall be made 60 days after the initial period (i.e., within 120 days from the date of birth)”.
- <sup>34</sup> These birth registrations are free of charge.
- **Child soldiers:** UNICEF supported and conducted follow-up assessments of 730 of the 1,869 children disengaged from a non-state armed group, Moro Islamic Liberation Front (MILF), under the 2016-2017 UN-MILF Action Plan.<sup>35</sup> UNICEF mentions in 2017 that “while the Government had no explicit policy of recruiting children in its armed forces, weak age verification measures and lack of safeguards allowed children to slip through established procedures. In other instances, corruption at the village council level that provided forged birth certificates to adolescents also allowed for the enlistment of minors.

Children often joined with the consent or even the encouragement of their families, attracted by the prospect of receiving wages and providing security for their camps.”<sup>36</sup>

### *Potential consideration(s)*

- What is the State doing to restore the identities of children born to Filipino migrant workers abroad?
- How are identities restored in cases of children in armed groups and street children?

<sup>1</sup> <https://www.unicef.org/philippines/social-policy-and-governance>

<sup>2</sup> UNICEF statistics,

[https://data.unicef.org/resources/data\\_explorer/unicef/?ag=UNICEF&df=GLOBAL\\_DATAFLOW&ver=1.0&dq=.PT\\_CHLD\\_Y0T4\\_REG..&startPeriod=2016&endPeriod=2021](https://data.unicef.org/resources/data_explorer/unicef/?ag=UNICEF&df=GLOBAL_DATAFLOW&ver=1.0&dq=.PT_CHLD_Y0T4_REG..&startPeriod=2016&endPeriod=2021)

<sup>3</sup> Situation analysis of children in the Philippines, a summary report, UNICEF 2018,

<https://www.unicef.org/philippines/media/556/file/Situation%20Analysis%20of%20Children%20in%20the%20Philippines%20-%20Executive%20Summary.pdf>

<sup>4</sup> Consortium for street children,

<https://www.streetchildren.org/legal-atlas/map/philippines/legal-identity/can-a-child-obtain-retroactive-or-replacement-birth-registration-documents>

<sup>5</sup> Section 5 of Act No. 3753, Law on Registry of Civil Status (1930). <https://psa.gov.ph/civilregistration/civil-registration-laws/act-no-3753>

<sup>6</sup> Manila Civil Registry Office, Citizen’s Charter (2019).

[https://drive.google.com/drive/folders/1WN6cgTe1cKhq77wXrwEOTuQGtOyuFn46?fbclid=IwAR2H7z9JfIKC\\_GhiO3Ybdstw2c3Vcz49wOljGWdljSk2qg9k99TZYWNkFTk](https://drive.google.com/drive/folders/1WN6cgTe1cKhq77wXrwEOTuQGtOyuFn46?fbclid=IwAR2H7z9JfIKC_GhiO3Ybdstw2c3Vcz49wOljGWdljSk2qg9k99TZYWNkFTk)

<sup>7</sup> Act No. 3753, Law on Registry of Civil Status (1930).

<https://psa.gov.ph/civilregistration/civil-registration-laws/act-no-3753>

<sup>8</sup> Everyone Should Count: Barriers and Opportunities for Birth Registration in the Philippines, 2020,

[https://www.researchgate.net/publication/340645167\\_Everyone\\_Should\\_Count\\_Barriers\\_and\\_Opportunities\\_for\\_Birth\\_Registration\\_in\\_the\\_Philippines\\_WeSolve\\_Working\\_Paper](https://www.researchgate.net/publication/340645167_Everyone_Should_Count_Barriers_and_Opportunities_for_Birth_Registration_in_the_Philippines_WeSolve_Working_Paper)

<sup>9</sup> Consortium for street children,

<https://www.streetchildren.org/legal-atlas/map/philippines/legal-identity/can-a-child-obtain-retroactive-or-replacement-birth-registration-documents>





- <sup>10</sup> Philippines success in improving birth registration, World Bank, Philippine statistics authority, August 2017, <https://openknowledge.worldbank.org/bitstream/handle/10986/28970/121394.pdf?sequence=2&isAllowed=y>
- <sup>11</sup> Philippine Statistics Authority. Registration of Foundling (2012). <https://psa.gov.ph/content/registration-foundling>
- <sup>12</sup> Republic Act 11222, An Act Allowing the Rectification of Simulated Birth Records and Prescribing Administrative Proceedings for the Purpose (2018).
- <sup>13</sup> Department of Social Welfare and Development Memorandum Circular No. 29, Section G., Guidelines in the Implementation of Support Service for Birth Registration of Children in Need of Special Protection and Foundling.
- <sup>14</sup> Section 9, Philippine Supreme Court Rule on Adoption (2002). <https://www.officialgazette.gov.ph/2002/07/31/rule-on-adoption/>
- <sup>15</sup> Elizabeth Aguilin-Pangalangan, (2019). Parents and children: When law and technology unbundle traditional identities. Professorial Chair Lecture, Foundation for Liberty and Prosperity, held at the University of the Philippines, Quezon City. <https://libpros.com/wp-content/uploads/2019/06/final-paper-lp-lecture-adoptionsurrogacy-6.2019.pdf>.
- <sup>16</sup> Elizabeth Aguilin-Pangalangan, (2019). Parents and children: When law and technology unbundle traditional identities. Professorial Chair Lecture, Foundation for Liberty and Prosperity, held at the University of the Philippines, Quezon City.. <https://libpros.com/wp-content/uploads/2019/06/final-paper-lp-lecture-adoptionsurrogacy-6.2019.pdf>.
- <sup>17</sup> DSWD Program Management Bureau – Adoption Resource and Referral Division. 2018-2020 Adoption Statistics (as of May 2021).
- <sup>18</sup> CWC. Quick Facts on Children 2017 and 2018. <https://www.cwc.gov.ph/resources/data-on-children.html>.
- <sup>19</sup> Article IV, Section 10, Republic Act No. 10165 or the Foster Care Act of 2012. <https://www.officialgazette.gov.ph/2012/07/02/republic-act-no-10165/>.
- <sup>20</sup> Section 15, Republic Act No. 10165 or the Foster Care Act of 2012. <https://www.officialgazette.gov.ph/2012/07/02/republic-act-no-10165/>.
- <sup>21</sup> UNICEF office annual report 2020, <https://www.unicef.org/media/101116/file/Philippines-2020-COAR.pdf>
- <sup>22</sup> [https://reliefweb.int/sites/reliefweb.int/files/resource/s/PDC TC Goni UNOCHA WFP JADE Advisory 15 15 00UTC v2.pdf](https://reliefweb.int/sites/reliefweb.int/files/resource/s/PDC%20TC%20Goni%20UNOCHA%20WFP%20JADE%20Advisory%2015%2015%2000UTC%20v2.pdf)
- <sup>23</sup> Elizabeth Aguilin-Pangalangan, Not Bone of My Bone But Still My Own, 237-238, University of the Philippines College of Law (2016).
- <sup>24</sup> Republic Act 11222, Simulated Birth Rectification Act. <https://www.officialgazette.gov.ph/2019/02/21/republic-act-no-11222/>
- <sup>25</sup> Republic Act 11642, the Domestic Administrative Adoption and Alternative Child Care Act. <https://www.officialgazette.gov.ph/2022/01/06/republic-act-no-11642/>
- <sup>26</sup> UNICEF statistics, [https://data.unicef.org/resources/data\\_explorer/unicef/?ag=UNICEF&df=GLOBAL\\_DATAFLOW&ver=1.0&dq=P.HL.PT.F.2024.MRD.U18.&startPeriod=1970&endPeriod=2021](https://data.unicef.org/resources/data_explorer/unicef/?ag=UNICEF&df=GLOBAL_DATAFLOW&ver=1.0&dq=P.HL.PT.F.2024.MRD.U18.&startPeriod=1970&endPeriod=2021)
- <sup>27</sup> International Labour Organisation, <https://www.ilo.org/manila/areasofwork/child-labour/lang--en/index.htm>
- <sup>28</sup> Release the updated estimates on child labour in the Philippines, and provide services to families of child labourers, Government, 2021, <https://endchildlabour2021.org/wp-content/uploads/2021/06/Philippines-National-Council-Against-Child-Labor.pdf>
- <sup>29</sup> <https://www.unicef.org/press-releases/child-labour-rises-160-million-first-increase-two-decades>
- <sup>30</sup> Situation analysis of children in the Philippines, a summary report, UNICEF 2018, <https://www.unicef.org/philippines/media/556/file/Situation%20Analysis%20of%20Children%20in%20the%20Philippines%20-%20Executive%20Summary.pdf>
- <sup>31</sup> Situation analysis of children in the Philippines, a summary report, UNICEF 2018, <https://www.unicef.org/philippines/media/556/file/Situation%20Analysis%20of%20Children%20in%20the%20Philippines%20-%20Executive%20Summary.pdf>
- <sup>32</sup> Sec 45, RA 11642.
- <sup>33</sup> Consortium for street children, <https://www.streetchildren.org/legal-atlas/map/philippines/legal-identity/can-a-child-obtain-retroactive-or-replacement-birth-registration-documents/>
- <sup>34</sup> Consortium for street children, <https://www.streetchildren.org/legal-atlas/map/philippines/legal-identity/can-a-child-obtain-retroactive-or-replacement-birth-registration-documents/>
- <sup>35</sup> UNICEF office annual report 2020, <https://www.unicef.org/media/101116/file/Philippines-2020-COAR.pdf>
- <sup>36</sup> <https://www.unicef.org/philippines/media/881/file/Children%20in%20Armed%20Conflict:%20Philippines.pdf>

