

Republic of the Philippines
Congress of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **2345**

HOUSE OF REPRESENTATIVES

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Introduced by: Representative Manuel Jose M. Dalipe

"Protecting children from the ravages of war is a moral imperative, a legal responsibility and a question of international peace and security." Protection of children from armed conflict is an important aspect of any comprehensive strategy to resolve conflict and should be a priority not only at the international community but also by every State, especially when it is experiencing armed conflict.

The Philippines has a long history of armed conflicts. Filipino children are the most affected sector with the consequences of these conflicts impacting severely on their lives. Their rights are flagrantly violated and disregarded. Many of them continue to become victims of killing, maiming, rape and other forms of sexual violence and abduction. Schools and hospitals where they and their families tend to take shelter or where their needs are being attended have been attacked in utter disregard of respect for civilian people and objects. During conflict, children experience the loss of access to food, water, sanitation, health, education and other basic services. As well, many of them experience being denied humanitarian assistance.

Children and their families have also become internally displaced as a result of armed conflict. The lack of disaggregated data on displaced children in the Philippines has made their number difficult to ascertain. Nevertheless, the figures for displaced persons are quite alarming. The Internal Displacement Monitoring Center, reported that since 2000, some Two Million people have been displaced across the country due to armed conflicts. The conflict in Mindanao has increased the number displacement at an estimated 500,000 people in 2009 alone.

Armed conflicts also make children vulnerable to different kinds of exploitation. This includes children being recruited and use in armed conflicts either as fighters, spies, messengers, cooks, and couriers, among others. Some are even being used for sexual purposes.

In the 2007 Report of the UN Secretary General on Children and Armed Conflict to the General Assembly, the Philippines was included in the list of State Parties that used or recruited children in armed conflict. In 2009 the Report cited the incidence of children being involved in armed conflict on the sides of Non-State armed groups and State armed groups.

Among the reasons of children's involvement in armed conflicts in the Philippines are poverty, lack or even absence of basic social services, belief in the ideologies of an armed group, secessionist advocacy, affiliation of family members in armed groups, pursuit of alternative justice for atrocities, abuses and injustices experience, and persistence of armed conflicts.

It is essential for the Philippines as State Party to fulfill its obligations to the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict. This includes having a law that is more responsive in protecting children involved in, children affected by or children displaced by armed conflicts.

RA 7610, Article X Section 22 and its corresponding Implementing Rules and Regulations provides for the protection of children in situations of armed conflict. RA 7610 cites children as "Zones of Peace" and stipulates, for children not to be "object of attack" and to be "entitled special respect". The law also prohibits recruitment of children in the Armed Forces of the Philippines or its civilian units or other armed groups. Nor should children be allowed to participate in hostilities as fighters, couriers or guides, among others.

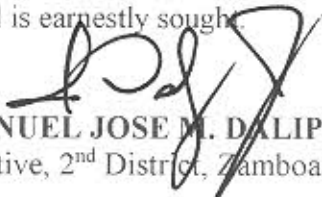
However, there were gaps in protection measures of the law that have been reiterated in the October 2009 Concluding Observations of the Committee on the Rights of Child to the Philippine Report. The Committee recommended for the Philippines "to take the necessary legislative measures to address the ambiguity of Republic Act 7610, article 10, Sec. 22 (b) prohibiting the recruitment of children to ensure that the perpetrators of such violations are punished". The Committee further recommended the Philippines ensure that children in armed conflict are not treated as children in conflict with the law.

In addition RA 7610 is limited in providing a comprehensive approach for prevention, rescue, rehabilitation and reintegration as the primary framework in addressing children involved in, affected by or displaced by armed conflict. The signing in 2000 of the Inter-Agency Memorandum of Agreement in handling and treatment of children involved in armed conflict provided for non-judicial rehabilitation and reintegration of children rather than their prosecution. However, the MOA has binding effects limited only to the government agencies that have signed the document.

In order to strengthen and increase the protection of all Filipino children involved in, affected by or displaced by armed conflict, it necessitated the passage into law of this Proposed Bill providing for a comprehensive approach in their treatment and handling.

The undersigned recognized the time and effort extended by the office of former Deputy Speaker Maria Isabelle Climaco of the First District of Zamboanga City as the principal author of this proposed bill filed in the 15th Congress. The undersigned and former Rep. Climaco recognize the explicit priority that should be given to children in peace building, as it is they who hold the future of the country.

In view of the foregoing reasons, approval of this bill is earnestly sought.


MANUEL JOSE M. DALIPE
Representative, 2nd District, Zamboanga City

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SEVENTEENTH CONGRESS
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House Bill No. **2345**

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AN ACT
PROVIDING FOR THE SPECIAL PROTECTION OF CHILDREN
IN SITUATIONS OF ARMED CONFLICT AND PROVIDING
PENALTIES FOR VIOLATIONS THEREOF

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I

GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as *Special Protection of Children in Situations of Armed Conflict Act*.

SEC. 2. *Declaration of State Policy.* – It shall be the policy of the State to provide special protection to children in situations of armed conflict from all forms of abuse, violence, neglect, cruelty, discrimination and other conditions prejudicial to their development, taking into consideration their gender, cultural, ethnic and religious background. For this purpose, the State shall:

(a) fully implement the protection guaranteed under the *Convention on the Rights of the Child*, its *Optional Protocol on the involvement of children in armed conflict* and all other core human rights treaties, particularly, the *International Covenant on Civil and Political Rights* and the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*; other pertinent international instruments such as the *International Labor Organization Convention No. 182* concerning the prohibition and immediate action for the elimination of the worst forms of child labor; the *Geneva Conventions of 1949* and the additional protocols ratified by the Philippines; and the

Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction;

(b) take into account the *United Nations Guiding Principles on Internal Displacement*, the United Nations Security Council Resolutions related to children affected by armed conflict, and other pertinent international instruments in the implementation of its treaty obligations and of this Act;

(c) respect the human rights of children at all times. It shall be recognized that children are entitled to dignity and respect as human beings in need of protection from degradation, humiliation, maltreatment, exploitation and assault;

(d) consider as paramount the best interests of children, and treat all children involved in, affected by or displaced by armed conflict as victims;

(e) take all feasible measures to prevent the recruitment and use of children in armed conflict and shall take all necessary measures to ensure the effective implementation and enforcement of the provisions of this Act;

(f) take all the necessary measures to address the root causes of armed conflict that result in involving, affecting or displacing children, which include poverty, lack or absence of quality basic psychosocial services, belief in the ideologies of an armed group, secessionist advocacy, affiliation of family members in armed groups, pursuit of alternative justice for atrocities, abuses and injustices experienced, and persistence of armed conflicts;

(g) continue to recognize its primary role in providing effective protection and relief to all children in situations of armed conflict;

(h) continue to fulfill its responsibilities to end impunity and to prosecute those responsible especially for grave child rights violations in armed conflict; and

(i) ensure the right to participation of children affected by armed conflict in all its policies, actions, decisions concerning their rescue, rehabilitation and reintegration.

SEC. 3. *Scope of Application.* – This Act shall apply to all children involved in, affected by or displaced by armed conflict.

The application of this Act shall not affect the legal status of any party to an armed conflict.

SEC. 4. *Interpretation of this Act.* – Nothing in this Act shall be construed as precluding provisions in existing Philippine laws, international human rights laws and related instruments, and international humanitarian laws that are more conducive to the realization of the rights of children.

SEC. 5. *Definition of Terms.* As used in this Act:

(a) *Abduction of children* refers to the seizure, apprehension, taking in custody, detention or capture of one or more children either temporarily or permanently by force, threat of force or coercion, or deception for the purpose of any form of exploitation of such children in the situation of armed conflict;

(b) *Acts of gender-based violence* refer to physical or sexual violence other than rape, and psychosocial harm that is committed against a person as a result of power inequities that are based on gender roles. These include, among others, false branding or labeling of children involved in armed conflict, false reporting of a child in custody, delayed reporting, sexual slavery, prostitution, forced marriage, forced pregnancy or forced sterilization;

(c) *Armed conflict* refers to armed confrontations occurring between governmental armed forces and one or more armed groups, or between such groups arising in the Philippine territory. These shall include activities which may lead to or in preparation of armed confrontation or armed violence that put children's lives at risk and their rights violated;

(d) *Armed group* refers to an armed non-state actor or non-state entity engaged in armed violence against the state and/or its governmental armed forces or against other non-state armed groups, actors or non-state entities;

(e) *Attacks on schools, hospitals, places of worship, evacuation centers and public places where children are usually found* refer to the occupation, shelling, targeting for propaganda of schools, hospitals or places of worship; causing damage to such places, or harm or injury to their personnel; or causing the total or partial physical destruction of such facilities; or disruption of educational activities and health services. It also refers to attacks of such places which have been temporarily abandoned by the community as a result of armed conflict, unless these places have been declared as a "no man's land";

(f) *Child* refers to:

- (1) a person below eighteen (18) years of age; or,
- (2) a person (18) years of age or older but who is unable to fully take care of one's self; or protect one's self from abuse, neglect, cruelty, exploitation or discrimination; and unable to act with discernment because of physical or mental disability or condition;

(g) *Child protection* refers to measures, structures and activities that ensure the prevention and response to abuse, neglect, exploitation and violence affecting children. It shall include the promotion of their development and psychosocial well-being;

(h) *Children affected by armed conflict* refers to all children population experiencing or who have experienced armed conflict;

(i) *Children involved in armed conflict* refers to children who are either forcibly, compulsorily recruited or who voluntarily joined any governmental armed forces or any armed group in any capacity to participate directly in armed hostilities as combatants or as fighters, or take support roles such as scouting, spying, sabotaging, acting as decoys, assisting in checkpoints, acting as couriers, messengers, porters, cooks, and being sexually abused;

(j) *Children in situations of armed conflict* refers to all children involved in armed conflict, children affected by armed conflict and internally displaced children;

(k) *Food blockade* refers to an armed conflict tactic of forcibly cutting off entry of food supplies in a particular area where children can be found;

(l) *Governmental armed forces* refers to the Armed Forces of the Philippines (AFP) including the paramilitary forces, the Philippine National Police (PNP) and other law enforcement agencies;

(m) *Grave child rights violations* refer to the crimes committed against children that constitute flagrant violations of their human rights and have severe consequences on their lives. These crimes include those enumerated in Section 9 of this Act such as killing or maiming of children, recruitment or use of CIAC, rape and other forms of sexual violence against children, abduction of children, attacks against schools or hospitals, or denial of humanitarian access to children;

(n) *Hamleting* refers to an armed conflict strategy used one party involved in armed conflict that isolates a community of importance to the other party which is inhabited by children, including relocating a community away from crucial zones and could be used to control the activities of the people in said areas;

(o) *Hospitals or health facilities* refer to any structure recognized and known by the community as a facility where the sick and wounded are provided with medical or health care services;

(p) *Humanitarian access* refers to the right of vulnerable populations to receive international protection and assistance from an impartial humanitarian relief operation to complement efforts of national authorities. Such action is subject to the consent of

the State or parties concerned and does not prescribe coercive measures in the event of refusal, however unwarranted;

(q) *Humanitarian assistance* refers to any aid that seeks to save lives and alleviate suffering of a crisis-affected population. Humanitarian assistance must be provided in accordance with the basic humanitarian principles of humanity, impartiality, independence and neutrality. Assistance may be divided into three (3) categories: direct assistance, indirect assistance and infrastructure support, which have diminishing degrees of contact with the affected population;

(r) *Internally displaced children* refer to children or group of children, whether separated or together with their families, who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular, as a result of or in order to avoid the effect of armed conflict and situations of generalized violence;

(s) *Killing of children* refers to acts of all kinds in the context of armed conflict that result in the death of one or more children. They include the death of children as a result of direct targeting and indirect actions, such as cross-fire, use of landmines, cluster munitions, biological weapons of destruction, all forms and types of explosives; or house demolitions, search and arrest campaigns, suicide attacks and torture; they also include murder, homicide and such other similar crimes as defined in the *Revised Penal Code*, as amended, and other special laws;

(t) *Maiming of children* refers to acts of all kinds in the context of armed conflict that result in serious or permanent or disabling injury, scarring or defacing, or mutilation to one or more children. It shall cover intentional maiming of children where they are directly targeted, and causal maiming of children which result from indirect actions, such as cross-fire, use of landmines, cluster munitions, biological weapons of destruction, all forms and types of explosives; or in the context of house demolitions, search and arrest campaigns, suicide attacks and torture;

(u) *Rape* refers to the crime of rape as defined under Article 266-A of the *Revised Penal Code*, as amended by Republic Act No. 8353 or the *Anti-Rape Law*;

(v) *Recruitment* refers to compulsory, forced or voluntary conscription or enlistment of children into the governmental armed force or forced or voluntary membership into the armed group;

(w) *Release of children* refers to the process of formal and controlled disarmament and demobilization of children and their release from an armed force or armed group as well as informal ways in which children leave by escaping, being

captured or by other means. It entails a disassociation from the armed force or armed group and the beginning of transition from military to civilian life. Release can take place during a situation of armed conflict; it is not dependent on the temporary or permanent cessation of hostilities; it is not dependent on children having weapons to forfeit;

(x) *School* refers to any structure, with or without marked visible boundaries, which is recognized and known by the community as a learning space; and,

(y) *Zone of peace* refers to a site with sacred, religious, historic, educational, cultural, geographical or environmental importance which is protected and preserved by its own community and officially recognized by a governmental authority. It is not merely a "Demilitarized Zone", but a sanctuary that operates within ethical principles of nonviolence, free from weapons, acts of violence, injustice and environmental degradation.

CHAPTER II

RIGHTS OF CHILDREN IN ARMED CONFLICT

SEC. 6. *Children as Zones of Peace.* – Children are hereby declared as zones of peace. As such, they shall be treated in accordance with the policies stipulated under Article X, Section 22 of Republic Act No. 7610 or the *Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*. Treatment of children as zones of peace shall extend beyond territorial or geographical boundaries and shall focus on the person of the child whose rights shall be promoted and protected at all times, especially in situations of armed conflict or violence. The State and all sectors concerned shall have the responsibility to resolve armed conflict in order to promote the goal of children as zones of peace. As such, the community, governmental authority and, if appropriate, religious leadership shall preserve the peaceful integrity of children, exemplify mutual respect and nonviolent behavior in the presence of children, and share their resources to further peace and cooperation.

SEC. 7. *Rights of Children in Situations of Armed Conflict.* – Children in situations of armed conflict shall have the following rights:

(a) the right of special respect and protection against any form of abuse, neglect, exploitation and violation, especially in the context of armed conflict;

(b) the right to be treated as victims. They shall be treated in accordance with this Act and other applicable laws, consistent with the State obligation under international

law, within the framework of restorative justice, social rehabilitation and promotion of their protection;

(c) the right to be considered as object of special respect and to be protected from any form of direct or indiscriminate attacks and acts of violence especially protection from the grave child rights violations as enumerated in Section 9 of this Act;

(d) the right to be protected from recruitment into governmental armed forces or armed groups and from participation in armed conflict including the right to be protected from torture or any cruel, inhuman or degrading practices that compel compliance or punish noncompliance with recruitment or participation in armed conflict;

(e) the right to be immediately provided and have safe access to essential, adequate and culturally appropriate food and nutrition; basic shelter and housing; culturally appropriate clothing; water, sanitation and hygiene; basic health services including essential drugs, medicines and vaccines, health professional evaluation and appropriate intervention; education, including religious and moral education; early childhood care and development programs, psychosocial support and social services. All services provided for them must be child and gender sensitive or responsive;

(f) the right to enjoy their freedom of thought, conscience, religion or belief, opinion and expression; to associate freely and participate equally in legitimate community affairs; to communicate in a language they understand even in situations of armed conflict and whether or not they have been internally displaced or are living in evacuation centers or settlements;

(g) the right to be treated humanely in all circumstances, without any adverse distinction founded on race, color, religion or faith, gender, birth or wealth, or any other similar criteria;

(h) the right not to be interned in or confined in camp;

(i) the right of the wounded and the sick, those with disabilities, unaccompanied minors including expectant mothers, to care, protection and assistance required by their condition, and to treatment which takes into account their special needs such as their health needs, reproductive health care as well as appropriate counseling, prevention of

contagious and infectious diseases, including Human Immunodeficiency Virus / Acquired Immunodeficiency Syndrome (HIV/AIDS) and access to psychosocial services;

(j) the right to be with their families, especially with their mothers, during evacuations and in evacuation centers;

(k) the right to liberty of movement and freedom to choose their residence especially in the case of internally displaced children and their families who shall have the right to move freely in and out of evacuation centers or other settlements, subject to existing rules and regulations in those centers or settlements;

(l) the right especially of internally displaced children and their families to: leave the country; seek safety in another part of the country; seek other service providers; seek asylum in another country; and be protected against forcible return to resettlement in any place where their life, safety, liberty or health would be at risk;

(m) the right to be reunited with their families in case of separation due to armed conflict;

(n) the right to obtain necessary document/s to enjoy their legal rights. The State shall have the duty to expedite services in the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions and without discrimination against female child and male child, who shall have equal rights to obtain and to be issued the same in their own names;

(o) the right of access to justice including free legal aid when filing cases against the perpetrators; and,

(p) the right for protection of their family's properties and possessions in all circumstances.

(q) The rights enumerated in this section shall not hinder the application of other rights recognized and guaranteed in the Constitution and other existing laws in keeping with the best interests of the child.

CHAPTER III

PREVENTION

SEC. 8. *Prevention.* – The State shall take all feasible measures to prevent the recruitment, re-recruitment, use or displacement of children involved in armed conflict. It shall take all necessary measures to ensure the effective implementation and enforcement of the provisions of this Act. Towards this end, the State shall:

(a) prioritize children's issues in the peace program of the government and include children's concerns, specifically the effects of armed conflicts, in peace negotiations;

(b) include peace, human rights and protective behavior skills as fundamental subjects in the education system;

(c) provide educational assistance, whether formal or alternative learning system, that is child and culturally sensitive;

(d) develop and implement training programs and campaign towards promoting a culture of peace and respect for human rights in collaboration with civil society organizations;

(e) provide capacity building for Local Governance and Community Development, and ensure the participation of various organizations, especially of children's and people's organizations at the community level. These organizations shall be involved in consultation and decision-making processes and in the development and implementation of programs, projects and activities established for them;

(f) establish livelihood programs which shall be made available to communities in identified priority areas in order to alleviate the living conditions of the people;

(g) make available basic health services in health facilities in identified priority areas. Culturally-sensitive nutrition program and activities including supplementary feeding shall also be made available. Efforts to support traditional health practices in indigenous peoples' area shall also be initiated;

(h) establish basic facilities and infrastructure needed;

(i) ensure that child protection mechanisms are present and functional; and,

(j) establish a comprehensive, effective and efficient system for monitoring and reporting and response for violations as provided in Section 9 of this Act.

CHAPTER IV

PROHIBITED ACTS, PENALTIES AND PRESCRIPTION OF CRIME

SEC. 9. *Prohibited Acts and Penalties.* –

(a) It shall be unlawful for any person to commit the following acts of grave child rights violations:

(1) killing of children;

- (2) torture committed against children. For purposes of this Act, torture shall include those enumerated in Section 4 of Republic Act No. 9745 or the *Anti-Torture Act*;
- (3) intentional maiming of children; and,
- (4) rape of children

Any person found guilty of committing any of the acts enumerated in subparagraphs 1, 2, 3 and 4 of Paragraph (a) of this Section shall suffer the penalty of life imprisonment and a fine of not less than two million pesos (P2,000,000.00) but not more than five million pesos (P5,000,000.00).

(b) The following acts of grave child rights violations are also hereby prohibited:

- (1) cruel, inhuman and degrading treatment or punishment committed against children. For purposes of this Act, cruel, inhuman and degrading treatment or punishment shall include those acts enumerated in Section 5 of the *Anti-Torture Act*;
- (2) abduction of children;
- (3) causal maiming of children;
- (4) taking children as hostages or using them as human shield;
- (5) recruitment, conscription or enlistment of children into governmental armed forces and other armed groups;
- (6) acts of gender-based violence against children;
- (7) refusal or denial of humanitarian access and/or assistance to children;
- (8) use or involvement of children involved in armed conflict in any capacity as defined in Section 5(i) of this Act; and,

(9) attack on schools, hospitals, places of worship, evacuation centers and settlements and other public places where children can usually be found.

Any person found guilty of committing any of the acts enumerated in subparagraphs 1, 2, 3, 4, 5, 6, 7, 8, and 9, of Paragraph (b), of this Section shall suffer the penalty of an imprisonment of not less than fourteen (14) years but not more than twenty (20) years and a fine of not less than one million pesos (P1,000,000.00) but not more than two million pesos (P2,000,000.00).

(c) Where the crimes committed under paragraph (b) of this Section resulted in the killing, torture, maiming or rape of children as enumerated in subparagraphs 1, 2, 3 and 4 of Paragraph (a), Section 9, the penalty imposed shall be that of Section 9 (a) of this Act.

(d) Likewise, it shall be unlawful for any person to commit the following acts:

- (1) hamleting;
- (2) food blockade;
- (3) intentional delayed reporting of a child in custody;
- (4) false reporting of a child in custody; and,
- (5) false branding of children or labeling children as children involved in armed conflict.

Any person found guilty of committing any of the acts enumerated in subparagraphs 1, 2, 3, 4 and 5 of Paragraph (d), of this Section shall suffer the penalty of an imprisonment of not less than six (6) years but not more than twelve (12) years and a fine of not less than five hundred thousand pesos (P500,000.00) but not more than one million pesos (P1,000,000.00).

(e) Parental accountability of children in situations of armed conflict are subject to the existing provisions of Presidential Decree No. 603 or the *Child Welfare Code*, the *Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*, Republic Act No. 9208 or the *Anti Trafficking In Persons Act*, Republic Act No. 9231 on the elimination of worst forms of child labor, and Republic Act No. 10364 or the *Expanded Anti Trafficking In Persons Act*.

SEC. 10. *Non-implementation or Violation of Any Other Provisions of this Act or the Rules and Regulations in General.* – Any public officer who shall knowingly and maliciously prevent, prohibit, refuse or discontinue the implementation of any provision of this Act or any rules and regulations promulgated in accordance thereof, or in any other way violate them if such officer has the duty to implement, shall be punished by imprisonment of not less than six (6) years but not more than twelve (12) years and perpetual absolute disqualification from public office.

Any such officer who shall prevent, prohibit, refuse or discontinue the implementation of this Act or its rules and regulations, or in any other way violate them by reason of inexcusable negligence or ignorance, shall suffer the penalty of an imprisonment of not less than one (1) month but not more than six (6) months and temporary special disqualification from public office.

The public officer liable under this section shall, in addition to the imprisonment, be held administratively liable under existing applicable laws.

Any person who shall deliberately commit any other act not covered in Section 9, which shall result in prejudicing the rights of children involved in armed conflict, children affected by armed conflict, or internally displaced children, shall suffer the

penalty of an imprisonment of not less than six (6) months but not more than six (6) years.

SEC. 11. *Forfeiture of Proceeds, Property and Assets.* – The court shall order the forfeiture of proceeds, property and assets derived, directly or indirectly, from the crimes defined and penalized in this Act, without prejudice to the rights of the *bona fide* third party. The court shall impose the corresponding accessory penalties under the *Revised Penal Code*, as amended, especially where the offender is a public officer.

The liabilities imposed in this Act shall not prejudice the application of other existing criminal, civil and administrative liabilities that may additionally be imposed upon the person.

SEC. 12. *Nonprescription.* – The crimes defined and penalized under this Act, their prosecution and the execution of sentences imposed on their account shall not be subject to any prescription.

CHAPTER V PRINCIPLES OF CRIMINAL LIABILITY AND APPLICATION OF PENALTIES

SEC. 13. *Irrelevance of Official Capacity.* – This Act shall apply equally to all persons without any distinction based on official capacity. In no case shall the official capacity exempt a person from criminal responsibility or constitute a ground for reduction of sentence.

SEC. 14. *Responsibility of Superiors.* – In addition to the grounds of criminal responsibility for crimes defined and penalized under this Act, a superior shall be criminally responsible for such crimes committed by subordinates where:

(a) the superior either knew or, owing to the circumstances at the time, should have known that the subordinates were committing or were about to commit such crimes; or,

(b) the superior failed to take all necessary, legitimate and reasonable measures to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

SEC. 15. *Orders from a Superior.* – The fact that a crime defined and penalized under this Act has been committed by a person pursuant to an order of a superior shall not relieve that person of criminal responsibility unless all of the following elements occur:

(a) the person was under a legal obligation to obey orders of the superior in question;

(b) the person did not know that the order was unlawful; and,

(c) the order was not manifestly unlawful.

For purposes of this section, orders to commit grave child rights violations enumerated in Sec. 9 are manifestly unlawful and shall be punished under this Act and other applicable existing laws.

SEC. 16. *Unknown Superior.* – Where the crimes defined and penalized under this Act have been committed by a person pursuant to an order or command of unknown superior, any person who in fact directed the others, spoke for them, signed receipts and other documents issued in their name, or who has performed similar acts on behalf of the armed groups, shall be deemed the superior.

CHAPTER VI

INVESTIGATION, PROSECUTION AND COURT

SEC. 17. *Court, Prosecutors and Investigators.* – The Family Courts shall have original and exclusive jurisdiction over the crimes punishable under this Act.

The Commission on Human Rights (CHR), the Department of Justice (DOJ) and its attached agencies, the PNP or other concerned law enforcement agencies shall designate prosecutors or investigators, as the case may be, for cases involving crimes punishable under this Act.

The State shall ensure that judges, prosecutors and investigators, especially those designated for purposes of this Act, receive effective training in human rights particularly on the *Convention on the Rights of the Child and its Optional Protocol on the Involvement of Children Involved in Armed Conflict* and related international instruments, *International Humanitarian Law* and *International Criminal Law*.

SEC. 18. *Requirement and Procedures on Age Verification and Presumption of Minority.* – The child involved in, affected by or displaced by armed conflict shall enjoy the presumption of minority and shall enjoy all the rights of a child recognized in this Act and other applicable laws unless proven to be at least eighteen (18) years of age or older.

The age of a child may be determined from the child's birth certificate, baptismal certificate or any other pertinent document. In the absence of these documents, age may be based on information from the child, testimonies of other persons, the physical

appearance of the child and other relevant evidence such as dental records. In case of doubt as to the age of the child, it shall be resolved in favor of the child being deemed a minor.

Any person contesting the age of the child prior to the filing of the information in any appropriate court may file a case in a summary proceeding for the determination of age before the Family Court, which shall decide the case within twenty-four (24) hours from receipt of the appropriate pleadings of all interested parties.

If a case has been filed against the child and is pending in the appropriate court, the person shall file a motion to determine the age of the child in the same court where the case is pending. Pending hearing on the said motion, proceedings on the main case shall be suspended.

In all proceedings, law enforcement officers, prosecutors, judges and other government officials concerned shall exert all efforts to determine the age of the child involved in armed conflict.

SEC. 19. *Protection of Victims and Witnesses.* – In addition to existing provisions in Philippine law for the protection of victims and witnesses, the following measures shall be undertaken:

(a) the court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of child victims and witnesses. Pursuant thereto, the court shall give due regard to all relevant factors, including age, gender and health, and the nature of the crime, particularly where the crime involves sexual or gender-based violence or violence against children;

(b) the court shall protect the privacy of child victims and witnesses and observe confidentiality consistent with existing rules on examination of child victims and witnesses;

(c) where the personal interests of the child victims are affected, the court shall consider the child victim's views and concerns in accordance with established rules of procedure and evidence; and,

(d) where the disclosure of evidence or information may be prejudicial to the security of the child, witness or the family, the prosecution may withhold such evidence or information and instead submit a summary thereof consistent with the rights of the accused to a fair and impartial trial.

SEC. 20. *Reparation to Victims.* – In addition to existing provisions in Philippine law and procedural rules for reparations to victims, the following measures shall be undertaken:

(a) the court shall follow the principles relating to the reparations to, or in respect of, child victims, including restitution, compensation and rehabilitation, taking into consideration the scope and extent of any damage, loss or injury suffered by child victims;

(b) the court shall make an order directly against a convicted person specifying appropriate reparations to child victims, including restitution, compensation and rehabilitation; and,

(c) before making an order under this section, the court may invite and shall take account of representations from or on behalf of the convicted person, child victims or other interested persons.

Nothing in this section shall be interpreted to prejudice the rights of child victims under national or international law.

SEC. 21. *Immunity from Suit for Persons Providing Assistance.* – Any person who shall take custody of children involved in armed conflict to ensure their safety or provide them any form of assistance shall be exempt from any civil, criminal and administrative liability: *Provided*, That the person taking custody shall report it to the Local Social Welfare and Development Office (LSWDO), the PNP or to the barangay office within forty-eight (48) hours from custody.

CHAPTER VII

REHABILITATION AND REINTEGRATION, RESCUE AND RELEASE

SEC. 22. *Rescue, Rehabilitation and Reintegration.* – The State shall institute policies, programs and services for the rescue, rehabilitation and reintegration of children in situations of armed conflict. The programs shall aim at providing services for children while involving their families, communities and other entities to facilitate the children's reintegration process.

These services shall include psychosocial support, health and nutrition, education, livelihood for families, other basic services and legal services, as may be necessary.

Any program intervention shall be designed with due respect to the culture of each child, family and community. The child shall, at all times, be provided with legal assistance and physical security upon rescue.

The State shall take into account the protocol in the rescue, rehabilitation and reintegration of children specified below:

(a) Rescue: The State shall provide for adequate measures and mechanisms to facilitate the recovery, either voluntary or involuntary, of children from armed groups or governmental armed forces. It shall provide legal and physical security to children involved in armed conflict including services such as family tracing and system of referral or response on various psychosocial services needed by the victims;

(b) Rehabilitation: The State shall facilitate the normal development of children victims in their post-involvement phase. It shall provide services including therapeutic counseling, security and protection, educational assistance and livelihood opportunities to their parents, relatives or guardians or to the victims when they become of age;

(c) Reintegration: The State shall bring children back to their families or communities whenever possible. This shall involve services including the provision of alternative parental care. Trainings aimed to enhance community readiness in the reintegration of these children shall also be undertaken. Whenever possible, interventions for children shall be done with respect to their opinion. Interventions for indigenous peoples (IP) children shall be conducted in recognition of the traditional structures and institutions of their communities.

SEC. 23. *Release of Children Involved in Armed Conflict (CIAC).* – The State shall take all feasible measures to ensure that children recruited or used in armed conflict are demobilized, dissociated or otherwise released from the armed force or armed group.

For purposes of this Act, release activities shall be initiated independent of any negotiated peace agreements.

The State, through its concerned agencies, in coordination with other stakeholders shall have the following duties:

(a) develop a child-specific release program. This release program should not make as a requirement the surrender of arms by CIAC who have assumed noncombatant roles;

(b) monitor and document the status of CIAC who undergo either a formal or informal release process;

(c) with due regard to the right to privacy of CIAC, their security and safety, and considering the confidentiality of records, share data and information by both government and nongovernment organizations to assess the needs of released CIAC and to formulate ways to address these needs, and be informed of their status and updates of released CIAC;

(d) mobilize and strengthen networks for referrals;

(e) provide free legal assistance to released CIAC ensuring that the legal needs of the former CIAC will be addressed, such as the prohibition or stoppage of filing charges or dismissal of cases against CIAC as criminal or political offenders irrespective of their association with any armed group or force; and,

(f) ensure the formal release of CIAC through various approaches such as negotiating through the Government Peace Negotiating Panel (GPNP).

Other criminal armed groups that utilize children and are not involved in formal peace negotiation with the government shall, however, be dealt with in accordance with the peace and order or security policy as may be provided by the appropriate government agency: *Provided*, That in any release action, the best interest of the child shall be observed.

SEC. 24. Rescued, Taken into Custody, or Surrendered Children Involved in Armed Conflict (CIAC). – Where the CIAC have been rescued, taken into custody, or surrendered, they shall at all times be treated in a child-friendly and sensitive manner. The State, at all times, shall consider the safety and security of the CIAC. The following procedures shall apply without prejudice to the application of other existing laws that will uphold the best interests of the child:

(a) The identity of rescued CIAC shall be protected. Any identifying information regarding them shall remain confidential;

(b) Rescued CIAC shall not be used for any political propaganda nor be unnecessarily exposed to media in violation of child rights to privacy, security and confidentiality of their cases;

(c) Upon the rescue or surrender of CIAC, government agencies, in particular, the AFP, the PNP, the Department of National Defense (DND), the local government units (LGUs), other concerned government agencies or non-government organizations in possession of the CIAC shall report immediately within twenty-four (24) hours the incident to the LSWDO and the Council for the Welfare of Children (CWC);

(d) The LSWDO shall coordinate with the agency or nongovernment organization in possession of CIAC for the turnover of custody of the children to the Department of Social Welfare and Development (DSWD);

(e) The turnover to the LSWDO shall take place within twenty-four (24) hours or in cases where turnover is not possible within the prescribed twenty-four (24)-hour period due to valid reasons and without the fault of the person having custody of the child, the turnover shall be done within the next seventy-two (72) hours;

(f) The LSWDO shall facilitate the family tracing and coordinate with parents, relatives or guardians of the CIAC to inform them of the turnover;

(g) The Local Health Office (LHO), in coordination with the LSWDO, shall check and assess the medical and physical condition of CIAC. In cases where medical needs are apparent, the LHO shall ensure that medical services or treatment are received by the CIAC;

(h) The LSWDO shall assess the needs of the CIAC and refer to concerned agencies to provide immediate assistance or appropriate services;

(i) The LSWDO, in coordination with other agencies, shall enter the CIAC into the child-specific demobilization programs; and,

(j) The CIAC shall be reintegrated into the community. In cases where reintegration to original community of origin is not feasible for reasons of CIAC's security, a foster community or institution shall be identified.

CHAPTER VIII

INVOLVEMENT OF GOVERNMENT AND NONGOVERNMENT ORGANIZATIONS

SEC. 25. *Involvement of Government Organizations (GOs) and Nongovernment Organizations (NGOs).* – To effectively undertake the protection of the welfare of children in situations of armed conflict, the CWC, together with its member agencies, shall be assisted by the following government organizations (GOs) for the proper implementation of this Act:

- (a) AFP;
- (b) Bureau of Jail Management and Penology (BJMP);
- (c) CHR;
- (d) Department of Interior and Local Government (DILG);
- (e) Department of Health (DOH);
- (f) DOJ;

- (g) Department of National Defense (DND);
- (h) DSWD;
- (i) LGUs;
- (j) National Commission on Indigenous Peoples (NCIP);
- (k) National Commission on Muslim Filipinos (NCMF);
- (l) National Disaster Risk Reduction and Management Council (NDRRMC);
- (m) Office of the Presidential Adviser on the Peace Process (OPAPP);
- (n) Philippine Commission on Women (PCW); and,
- (o) PNP

In caring for children in situations of armed conflict, child-focused NGOs, shall take active part in and continually strive to strengthen their programs and capabilities to deliver protection to these children.

For proper implementation of this Act, all GOs and NGOs including those identified herein shall provide their respective counterpart support including technical, logistical and financial assistance relative to the implementation of programs, projects and activities for children in situations of armed conflict, in accordance with their mandate and in accordance with existing accounting and auditing rules and regulations.

All programs should be participatory and should ensure the involvement of children, their communities, NGOs, faith-based organizations or groups, and other concerned groups.

CHAPTER IX

MONITORING AND REPORTING

SEC. 26. *Monitoring and Reporting System.* – The State, through the CWC, in coordination with other concerned government organizations, shall ensure the implementation of the provisions of this Act and shall submit to the President and to Congress of the Philippines the annual report thereof. The CWC shall establish and maintain a database for the monitoring and reporting of children in situations of armed conflict concerns integrated in its monitoring system.

The CWC may hire additional personnel to complement its present secretariat to perform its functions relative to this Act.

CHAPTER X

TRANSITORY PROVISIONS

SEC. 27. *Dismissal of Criminal Cases.* – Upon the effectivity of this Act, criminal cases against children involved in armed conflict shall immediately be dismissed and the child shall be referred to the LSWDO. Such office, upon thorough assessment of the child, shall determine whether to release the child to the custody of the parents, or refer the child to prevention, rehabilitation and reintegration programs as provided under this Act. Those with suspended sentences and undergoing rehabilitation at a youth rehabilitation center shall likewise be released: *Provided,* That the Family Court shall, in consultation with concerned agencies, determine and order the appropriate prevention, rehabilitation and reintegration programs the person shall undergo as provided under this Act.

SEC. 28. *Inventory of Custody of Children in Situations of Armed Conflict.* – The AFP, the PNP, the BJMP, the DSWD, the NCIP, the NCMF and the concerned LGUs are hereby directed to submit to the CWC, within ninety (90) days from the effectivity of this Act, an inventory of all children in situations of armed conflict under their custody.

SEC. 29. *Children Who Reach the Age of Eighteen (18) Years Pending Court Proceedings or in Suspended Sentences.* – In cases when a child with a pending case reaches the age of eighteen (18) years, the Family Court shall dismiss the case against the person and determine, in consultation with concerned agencies, whether or not there is a need for the person to undergo appropriate rehabilitation and reintegration programs provided under this Act.

Those with suspended sentences and undergoing rehabilitation at a youth rehabilitation center shall likewise be released: *Provided,* That the Family Court shall, in consultation with concerned agencies, determine and order the appropriate rehabilitation and reintegration programs the person shall undergo as provided under this Act.

SEC. 30. *Children Who Have Been Convicted and are Serving Sentence.* – Persons who have been convicted and are serving sentence at the time of the effectivity of this Act and who were below the age of eighteen (18) years at the time of the commission of the offense for which they were convicted, and are serving sentence, shall likewise benefit from the retroactive application of this Act. They shall be entitled to appropriate dispositions provided under this Act, and their sentences shall be adjusted accordingly. They shall be immediately released if they are so qualified under this Act or other applicable law.

CHAPTER XI

FINAL PROVISIONS

SEC. 31. *Appropriations.* – The amount necessary to cover the initial implementation of this Act shall be charged against the current year's appropriations of the concerned implementing departments/agencies. Thereafter, the amount necessary for its continued implementation shall be included in the budgets of the concerned departments/agencies in the annual *General Appropriations Act*.

SEC. 32. *Implementing Rules and Regulations.* – The CWC, together with its member agencies and the OPAPP, in consultation with civil society organizations, shall promulgate the implementing rules and regulations of this Act within ninety (90) days from its approval. All government agencies enumerated in Section 26 of this Act shall be consulted insofar as the drafting of their responsibilities are concerned.

Non-government organizations involved in caring for children in situations of armed conflict shall likewise be consulted in the drafting of the *Implementing Rules and Regulations* of this Act.

SEC. 33. *Suppletory Application.* – For purposes of this Act, the *Revised Penal Code*, as amended, and other applicable laws shall have suppletory application.

SEC. 34. *Separability Clause.* – If any part or provision of this Act is declared invalid or unconstitutional, the other parts hereof not affected thereby shall remain valid.

SEC. 35. *Repealing Clause.* – Article X, Sections 22 to 26 of Republic Act No. 7610, all laws, acts, presidential decrees, executive orders, administrative orders, rules and regulations inconsistent with or contrary to the provisions of this Act are deemed amended, modified or repealed accordingly.

SEC. 36. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,