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SENATE
Senate Bill No. 2867

RECEIVED BY: 

By Senator Teofisto "TG" L. Guingona III

EXPLANATORY NOTE

"When adults go to war, it is the children who are affected the most and bear the scars throughout their life cycle."

Olara A. Otunnu¹

Long-lasting peace must not be seen just as an idealized vision of a State. It is a duty, a mandate, and a responsibility that must be addressed in various ways: through policies, laws, executive decisions, and other means. War is an assault against the rights of a child- the right to life, liberty, and property. Graça Machel, in a study entitled *Impact of Armed Conflict on Children*² reported that about 2 million children have been killed in armed conflict, a grim reality that highlights the fact that when groups are at war, more children are killed than soldiers.

It is within this context that this bill is being pursued.

International human rights and humanitarian law recognize the rights and special needs of children. In situations of armed conflict, the inherent vulnerability of a child demands that the protection extended be pursued in an integrated and unified approach to be taken by the State, its institutions, the family, and every other person or group who comes in direct or indirect contact with the child.

Among other provisions, this bill seeks to re-affirm the rights of a child in situations of armed conflict, the duties of the State, and the responsibilities of persons when dealing with children involved in armed conflict. It likewise provides for prohibited or unlawful acts, and the corresponding penalties in relation to children involved in armed conflict. This bill likewise recognizes the State's duty to extend protection of children involved in armed conflict not only from the time they are taken away from the area of war but also until such time that they are rehabilitated and re-integrated into communities, preferably with their families or persons/institutions that can address their needs.

As the State endeavors to establish long-lasting peace, the State must also address the impact of armed conflict and violence. The enactment of this measure is therefore urgently sought.


TEOFISTO "TG" L. GUINGONA III

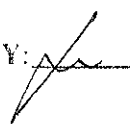
¹ Under Secretary General, Special Representative of the Secretary-General for children and armed conflict United Nations, 22 April 2003 (New York).

² This study was presented in a special session to the General Assembly of the UN (A/51/306).

FIFTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'11 JUN -7 A11 :26

SENATE

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SENATE BILL NO. **2867**

By Senator Teofisto "TG" L. Guingona III

AN ACT
PROMOTING THE PROTECTION, RIGHTS, AND WELL-BEING OF CHILDREN
INVOLVED IN, AFFECTED BY OR DISPLACED BY ARMED CONFLICT,
PROVIDING PENALTIES FOR ITS VIOLATION AND FOR OTHER PURPOSES"

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

2
3 CHAPTER 1
4 GENERAL PROVISIONS

5
6 SECTION 1. *Short Title* – This Act shall be known as the ‘*Rights, Protection and Well-being of*
7 *Children in Situations of Armed Conflict Act of 2011.*’

8
9 SECTION 2. *Declaration of State Policy.* It is the policy of the State to promote and protect
10 every child’s physical, moral, spiritual, intellectual, and social well-being. For children involved in,
11 affected by or displaced by armed conflict, the State shall ensure that they are given special
12 protection and that their rights and well-being are assured without distinction of any kind, such as
13 race, color, sex, language, religion, political or other opinion, national or social origin, property, birth
14 or other status.

15
16 The State hereby recognizes that children should be declared as zones of peace and must be
17 extended treatment that goes beyond territorial or geographical boundaries. To this end, the State
18 shall have the responsibility to resolve armed conflict or violence. To this end, the State, its
19 institutions, and the citizens shall preserve the peaceful integrity of children and shall exemplify
20 mutual respect and non-violent behavior in their presence.

21
22 For children involved in, affected by or displaced by armed conflict, the State binds itself to do the
23 following:

- 24
25 a. Respect rules of international humanitarian law to ensure protection and care of children
26 *involved in, affected by, or displaced by armed conflict;*
27
28 b. Fully implement the provisions and mandate of international instruments such as but not
29 limited to:
30 • Geneva Convention IV (1949), and its Additional Protocols I and II;
31 • Optional Protection to the Convention on the Rights of the Child on the Involvement
32 of Children in Armed Conflict (2000);
33 • United Nations Guidelines regarding initial reports of States Parties to the Optional
34 Protocol to the Convention on the Rights of the Child on the involvement of children in
35 armed conflict (2001);
36 • Convention on the Rights of the Child;
37 • Convention Against Torture and Other Cruel, Inhumane and Degrading Treatment;

- 1 • ILO Convention No. 182 concerning the prohibition and immediate action for the
2 elimination of the worst forms of child labor; the Geneva Conventions of 1949 and the
3 Additional Protocols ratified by the Philippines;
- 4 • ILO the Convention on the Prohibition of the Use, Stockpiling, Production and
5 Transfer of Anti-Personnel Mines and on their Destruction.
- 6 • Human rights conventions and protocols.

7
8 c. Take into account the Paris Principles on the Principles and Guidelines on Children
9 Associated with Armed Forces or Armed Groups, the United Nations Guiding Principles on
10 Internal Displacement, the United Nations Security Council Resolutions related to children
11 affected by armed conflict and other pertinent international instruments in the
12 implementation of its treaty obligations and of this Act;

13
14
15 d. Take all feasible measures to prevent the recruitment and use of children in armed conflict
16 and shall take all necessary measures to ensure the effective implementation and
17 enforcement of the provisions of this Act;

18
19 e. Take all the necessary measures to address the root causes of armed conflict that result in
20 involving, affecting or displacing children, which include poverty, lack or absence of quality
21 basic psycho-social services, belief in the ideologies of an armed group, secessionist
22 advocacy, affiliation of family members in armed groups, pursuit of alternative justice for
23 atrocities, abuses and injustices experienced, and persistence of armed conflicts;

24
25 f. Continue to recognize its primary role in providing effective protection and relief to all
26 children in situations of armed conflicts;

27
28 g. Continue to fulfill its responsibilities to end impunity and to prosecute those responsible
29 especially for grave child rights violations in armed conflict; and
30

31
32 **SECTION 3. *Scope of Application*** – This Act shall apply to all children involved in, affected by
33 or displaced by armed conflict.

34
35 The application of this Act shall not affect the legal status of any party to an armed conflict.

36
37 **SECTION 4. *Interpretation of this Act*** - Nothing in this Act shall be construed as precluding
38 provisions in existing Philippine laws, international human rights laws and related instruments, and
39 international humanitarian law that are more conducive to the realization of the rights of children.

40
41 **SECTION 5. *Definition of Terms*** – As used in this Act

42
43 a. **“Abduction of children”** refers to the seizure, apprehension, taking in custody, detention
44 or capture of one or more children either temporarily or permanently by force, threat of
45 force or coercion, or deception for the purpose of any form of exploitation of such children
46 in the situation of armed conflict.

47
48 b. **“Armed conflict”** refers to armed confrontations occurring between governmental armed
49 forces and one or more armed groups, or between such groups arising in the Philippine
50 territory. These shall include activities which may lead to armed confrontation or armed
51 violence that put children’s lives at risk and their rights violated.

52
53 c. **“Armed group”** refers to an armed non-state actor or non state entities engaged in armed
54 conflict or engaged in armed violence, against the state and its armed groups or against other
55 non-state armed groups/actors/entities.

56
57 d. **“Attacks on schools, hospitals, places of worship, evacuation centers and public
58 places where children are usually found”** refers to the occupation, shelling, targeting for
59 propaganda of schools, hospitals or places of worship; causing damage to such places, or
60 harm or injury to their personnel; or causing the total or partial physical destruction of such

1 facilities; or disruption of educational activities and health services. It also refers to attacks of
2 such places, which have been temporarily abandoned by the community as a result of armed
3 conflict, unless these places have been declared a “no man’s land”.

- 4
- 5 e. **“Child protection”** refers to the measures, structures and activities that ensure the
6 prevention and response to abuse, neglect, exploitation and violence affecting children. It
7 shall include the promotion of their development and psychosocial well-being;
8
- 9 f. **“Child”** refers to persons below eighteen (18) years of age or one over but is unable to fully
10 take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or
11 discrimination because of physical or mental disability or condition.
12
- 13 g. **“Children In Situations of Armed Conflict (CSAC)”** refers to all Children Involved In
14 Armed Conflict (CIAC), Children Affected By Armed Conflict (CAAC), and Internally
15 Displaced Children (IDC).
16
- 17 h. **“Children Involved in Armed Conflict (CIAC)”** refers to children who are either forcibly,
18 compulsorily recruited or who voluntarily joined in any governmental armed forces or any
19 armed group in any capacity to participate directly in armed hostilities as combatants or as
20 fighters, or take support roles such as but not limited to scouting, spying, sabotaging, acting
21 as decoys, assisting in check-points, being couriers, messengers, porters, cooks and being
22 used for sexual purposes.
23
- 24 i. **“Children Affected by Armed Conflict (CAAC)”** refers to all children population
25 *experiencing or have experienced armed conflict.*
26
- 27 j. **“Explosive Remnants of War (ERW)”** refers to unexploded ordnance and abandoned
28 explosive ordnance. *Explosive Ordinance* refers to munitions that contain explosives,
29 nuclear fission or fusion material, biological and chemical agents. These include bombs and
30 warheads, guided and ballistic missiles, artillery, mortar, small arms ammunition, mines,
31 torpedoes, depth charges, demolition stores, pyrotechnics, cluster munitions and dispensers,
32 cartridges and propelled actuated devices, electric explosive devices and similar items that are
33 explosive in nature. *Unexploded Ordnance* refers to explosive ordnance, which has been
34 primed, fuzed, armed or otherwise prepared for use or used. It could have been fired,
35 dropped, launched, projected yet remain unexploded either through malfunction or design
36 or for any other cause.
37
- 38 k. **“False branding of children or labeling children as children involved in armed
39 conflict”** refers to the voluntary and intentional act of referring to, calling, defining,
40 reporting, or any other form of communication that incorrectly defines children as children
41 involved in armed conflict, when the status or condition of such children are such that they
42 are in involved in armed conflict as defined in this Act.
43
- 44 l. **“False reporting of a child in custody”** refers to the voluntary and intentional act of any
45 person of providing false, incorrect, and mistaken information in relation to a child in
46 custody in relation to situations of armed conflict.
47
- 48 m. **“Food blockade”** refers to armed conflict tactic of forcibly cutting off entry of food
49 supplies in a particular area where children can be found.
50
- 51 n. **“Governmental armed forces”** refers to the Armed Forces of the Philippines (AFP)
52 including the paramilitary forces, the Philippine National Police (PNP), and other law
53 enforcement agencies.
54
- 55 o. **“Grave child rights violation”** refers to the crimes committed against children that
56 constitute flagrant violations of their human rights and have severe consequences in their
57 lives. These crimes include those enumerated in Section 8 of this Act.
58

- 1 p. **“Hamleting”** refers to an armed conflict strategy that isolates a community of importance
2 to the enemy which is inhabited by children including relocating said community away from
3 crucial zones. This strategy could be used to control the activities of the people in said areas.
4
- 5 q. **“Hospitals or health facilities”** refers to any structure recognized and known by the
6 community as a facility where the sick and wounded are provided with medical and or health
7 care services.
8
- 9 r. **“Humanitarian access”** refers to the right of vulnerable populations to receive
10 international protection and assistance from an impartial humanitarian relief operation to
11 complement efforts of national authorities. Such action is subject to the consent of the State
12 or parties concerned and does not prescribe coercive measures in the event of refusal,
13 however unwarranted.
14
- 15 s. **“Humanitarian assistance”** refers to aid that seeks to save lives and alleviate suffering of a
16 crisis-affected population. Humanitarian assistance must be provided in accordance with the
17 basic humanitarian principles of humanity, impartiality, independence and neutrality.
18 Assistance may be divided into three categories: direct assistance, indirect assistance and
19 infrastructure support, which have diminishing degrees of contact with the affected
20 population.
21
- 22 t. **“Improvised Explosive Device (IED)”** refers to a device that is homemade or fabricated,
23 constructed and deployed in ways other than conventional military action; containing or
24 having contents from indigenous materials or substances that are destructive, lethal, noxious,
25 pyrotechnic or incendiary chemicals, and designed to destroy, kill, incapacitate, harass or
26 distract. IEDs are diverse in design, such as but not limited to, packages or landmine or
27 road-side bombs, and contain many types of initiators, detonators, penetrators, and
28 explosive loads. These include shrapnel-generating objects such as, but not limited to nails,
29 ball-bearings, small-pieces of iron or steel bars, and alike that may be used individually or in
30 combination. These are triggered by various methods such as by remote control or
31 command-detonation.
32
33
34
- 35 u. **“Internally Displaced Children (IDC)”** refers to children or group of children, whether
36 separated or together with their families, who have been forced or obliged to flee or to leave
37 their homes or places of habitual residence, in particular, as a result of or in order to avoid
38 the effect of armed conflict and situations of generalized violence.
39
- 40 v. **“Intentional Delayed Reporting of a child in custody”** is the failure of any person who
41 shall take custody of children involved in armed conflict to report the same to the Local
42 Social Welfare and Development Office (LSWDO), Philippine National Police (PNP), or
43 barangay office within forty-eight (48) hours from taking such custody.
44
45
- 46 w. **“Killing of children”** refers to acts of all kinds in the context of armed conflict that result in
47 the death of one or more children. Among others, they include the death of children as a
48 result of direct targeting and indirect actions, such as cross-fire, use of landmines, cluster
49 munitions, ERW, all forms and types of IED; or house demolitions, search and arrest
50 campaigns, suicide attacks and torture; they also include murder, homicide and such other
51 similar crimes as defined in the Revised Penal Code and other special laws, as amended.
52
- 53 x. **“Maiming of children”** refers to acts of all kinds in the context of armed conflict that
54 result in serious or permanent or disabling injury, scarring or defacing, or mutilation to one
55 or more children. It shall cover *intentional maiming* of children where they are directly
56 targeted, and *causal maiming* of children which results from indirect actions, such as cross-
57 fire, use of landmines, cluster munitions, ERW, all forms and types of IED; or in the context
58 of house demolitions, search and arrest campaigns, suicide attacks and torture.
59

- 1 y. **“Other acts of gender based violence”** refers to physical, sexual violence other than rape,
2 and psychosocial harm that is committed against a person as a result of power inequities that
3 are based on gender roles. These include, among others, sexual slavery, prostitution, forced
4 marriage, forced pregnancy, or forced sterilization.
5
- 6 z. **“Rape”** refers to the crime of rape as defined under Article 266-A of the Revised Penal
7 Code, as amended by Republic Act No. 8353 or the Anti-Rape Law.
8
- 9 aa. **“Recruitment”** refers to compulsory, forced, or voluntary conscription or enlistment of
10 children into the governmental armed force and, forced or voluntary membership into the
11 any other armed group as defined in this Act.
12
- 13 bb. **“Release of children/Demobilization”** refers to the process of formal and controlled
14 disarmament of children and their release from an armed force or armed group. It shall
15 likewise refer to the informal ways in which children leave the governmental armed forces or
16 armed group. It entails a disassociation from the armed force or armed group and shall
17 likewise refer to the processing of individual combatants in temporary centers to the massing
18 of troops in camps designated for the purpose. The process encompasses the support
19 package provided to the children. Demobilization of children can take place during the
20 situation of armed conflict; it is not dependent on the temporary or permanent cessation of
21 hostilities; it is not dependent on children having weapons to forfeit.
22
- 23 cc. **“School”** refers to any structure that is recognized and known by the community as a
24 learning space.
25
- 26 dd. **“Zone of Peace”** refers to a site with sacred, religious, historic, educational, cultural,
27 geographical or environmental importance protected and preserved by its own community
28 and officially recognized by a governmental authority. It is not merely a "Demilitarized
29 Zone", but a sanctuary that operates within ethical principles of non-violence, free from
30 weapons, acts of violence, injustice and environmental degradation.
31

32 CHAPTER 2

33 PRINCIPLES IN THE PROMOTION OF THE PROTECTION, RIGHTS, AND WELL- 34 BEING OF CHILDRE IN SITUATIONS OF ARMED CONFLICT 35

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38
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40 **SECTION 6. Rights of Children in Situations of Armed Conflict (CSAC).** Every child involved in,
41 affected by, or displaced by armed conflict shall have the following rights, including but not limited
42 to:

- 43
- 44 a. The right to be accorded, with dignity and respect, their basic human rights accorded to
45 them by the Constitution and international instruments.
46
- 47 b. The right to be protected against any form of direct or indiscriminate attacks, abuse,
48 degradation, humiliation, maltreatment, neglect, exploitation and other violations.
49
- 50 c. The right to be treated as victims who must be protected within the framework of
51 restorative justice and social rehabilitation.
52
- 53 d. The right to communicate and be communicated with in a language they understand.
54
- 55 e. The right to enjoy their freedom of thought, conscience, religion or belief, opinion and
56 expression and to associate freely and participate equally in legitimate community affairs;
57 including processes that discuss and consider policies, actions, decisions concerning their
58 rescue, rehabilitation, and reintegration.
59

- 1 f. The right to liberty of movement and freedom to choose their residence especially the IDC and
2 their families who shall have the right to move freely in and out of evacuation centers or other
3 settlements, subject to existing rules and regulations in those centers or settlements;
4
- 5 g. The right especially of IDC and their families to: leave the country; seek safety in another part of
6 the country; seek other service providers; seek asylum in another country; and be protected
7 against forcible return to resettlement in any place where their life, safety, liberty or health would
8 be at risk;
9
- 10 h. The right of all children to be reunited with their families in case of separation due to armed
11 conflict;
12
- 13 i. The right for the property and possessions of children and their families to be protected
14 in all circumstances.
15

16 **SECTION 7. Duties and Responsibilities of the State in relation to Children in Situations of**
17 **Armed Conflict.** For children in situations of armed conflict, the State, through its duly recognized
18 officials/units/offices/bodies/others, shall:
19

- 20 a. Treat children humanely in all circumstances, without any adverse distinction founded on
21 race, color, religion or faith, gender, birth or wealth, or any other similar criteria;
22
- 23 b. Protect children against recruitment into the governmental armed forces or armed groups,
24 and participation in whatever manner in armed conflicts;
25
- 26 c. Enforce measures the penalize torture or any cruel, inhuman or degrading practices that compel
27 compliance or punish non-compliance with recruitment or participation in armed conflict;
28
- 29 d. Provide and grant safe access to essential, adequate and culturally appropriate food and nutrition;
30 basic shelter and housing; culturally appropriate clothing; water, sanitation, and hygiene; basic health
31 services including essential drugs, medicines and vaccines, health professional evaluation and
32 appropriate intervention; education, including religious and moral education; Early Childhood Care
33 and Development (ECCD) programs, psychosocial support and social services. All services
34 provided for children must be child and gender sensitive or responsive;
35
- 36 e. Provide medical assistance and similar aid/assistance required by their condition, and to
37 treatment which takes into account their special needs, such as but not limited to their
38 health needs, reproductive health care as well as appropriate counseling, prevention of
39 contagious and infectious diseases, including HIV/AIDS, and access to psychosocial
40 services;
41
- 42 f. Ensure that children in situations the right not to be interned in or confined in camp,
43 especially IDC and their families;
44
- 45 g. Ensure that the children and their families are not separated from each other, during
46 evacuations and in evacuation centers;
47
48
- 49 h. Pursuant to each child's right to obtain necessary document/s to enjoy their legal rights,
50 the State shall have the duty to expedite services in the issuance of new documents or the
51 replacement of documents lost in the course of displacement, without imposing
52 unreasonable conditions, and without discrimination against female child and male child,
53 who shall have equal rights to obtain and to be issued the same in their own names;
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- 55 i. Ensure that children shall have the right of access to justice including free legal aid when
56 filing cases against the perpetrators;
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UNLAWFUL or PROHIBITED ACTS

SECTION 8. *Unlawful or Prohibited Acts* –

- 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 the purposes of this Act, torture shall include those enumerated in Section 4 of Republic Act 9745 or the Anti-Torture Act;
 3. Intentional or causal maiming of children;
 4. Rape of children;
 5. Cruel, inhuman and degrading treatment or punishment committed against children. For the purposes of this Act, cruel, inhuman and degrading treatment or punishment shall include those enumerated in Section 5 of Republic Act 9745 or the Anti-Torture Act;
 6. Abduction of children;
 7. Taking children as hostages or using them as human shield;
 8. Recruitment, conscription, or enlistment of children into governmental armed forces and other armed groups;
 9. Other acts of gender-based violence against children;
 10. Refusal or denial of humanitarian access and/or assistance to children;
 11. Use or involvement of CIAC in any capacity as defined in Section 5(h) of this Act;
 12. Attack on schools, hospitals, places of worship, evacuation centers and settlements and other public places where children can usually be found.
- b. Likewise, it shall be unlawful for any person to commit the following acts as defined in Section 5 (Definition of Terms) of this law:
1. Hamleting
 2. Food Blockade
 3. Intentional Delayed Reporting of a child in custody
 4. False Reporting of a child in custody
 5. False Branding of children or labeling children as children involved in armed conflict
- c. It shall also be unlawful for parents, ascendants, guardians, step parents or collateral relatives within the third degree of consanguinity or affinity or any person having control or moral ascendancy to the child to allow, willfully encourage, compel, coerce, or influence their child or children to be part of an armed group or a governmental armed force.

CHAPTER 4 PENALTIES AND PRESCRIPTION OF CRIME

SECTION 9. *Penalties* - The following penalties and sanctions are hereby imposed for the offenses enumerated in this Act:

- a. Any person found guilty of committing any of the acts enumerated in subparagraphs 1,2,3 and 4 of paragraph (a) Section 8 of this Act 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. Any person found guilty of committing any of the acts enumerated in subparagraphs 5,6,7,8,9,10,11 and 12 of paragraph (a) Section 8 of this Act shall be punished with 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); *Provided That* where the crimes committed resulted in the killing, torture, maiming, or rape of children in subparagraphs 1,2,3 and 4 of paragraph (a) Section 8, the penalty imposed shall be that of Section 9(a) of this Act;

1 c. Any person found guilty of committing any of the acts enumerated in subparagraphs 1,2,3,4
2 and 5 paragraph (b) Section 8 of this Act shall be punished with an imprisonment of not
3 less than six (6) years but not more than twelve (12) years and a fine of not less than Five
4 Hundred Thousand Pesos (P500,000.00) but not more than One Million Pesos
5 (P1,000,000.00).

6
7 d. Parents, ascendants, guardians, step parents or collateral relatives within the third degree of
8 consanguinity or affinity or any person having control or moral ascendancy to the child to
9 allow, wilfully encourage, compel, coerce, or influence their child or children to be part of an
10 armed group shall be punished with not less than six years but not more than twelve years.
11 *Provided, However That*, parents, ascendants, guardians, step parents or collateral relatives
12 within the third degree of consanguinity or affinity or any person having control or moral
13 ascendancy to the child found guilty hereof may be allowed to serve the minimum period of
14 imprisonment based on the sound discretion of the courts guided by the principles of *parens*
15 *patriae*.

16
17 **SECTION 10. *Non-implementation or Violation of any other Provisions of this Act or the***
18 ***Rules and Regulations in General*** – Any public officer, who shall knowingly and maliciously
19 prevent, prohibit, refuse or discontinue the implementation of any provision of this Act or any rules
20 and regulations promulgated in accordance thereof, or in any other way violate them, if such officer
21 has the duty to implement the same, shall be punished by imprisonment of not less than six years
22 but not more than twelve years and perpetual absolute disqualification.

23
24 Any such officer who shall prevent, prohibit, refuse or discontinue the implementation of this Act
25 or its rules and regulations, or in any other way violate them by reason of inexcusable negligence or
26 ignorance, shall be punished with an imprisonment of not less than one month but not more than
27 six months and temporary special disqualification.

28
29 The public officer liable under this Section shall, in addition to the imprisonment, be held
30 administratively liable under existing applicable laws.

31
32
33 **SECTION 11. *Forfeiture of Proceeds, Property and Assets*** - The court shall order the
34 forfeiture of proceeds, property and assets derived, directly or indirectly, from the crimes defined
35 and penalized in this Act, without prejudice to the rights of the *bona fide* third party. The court shall
36 impose the corresponding accessory penalties under the Revised Penal Code, especially where the
37 offender is a public officer.

38
39 The liabilities imposed in this Act shall not prejudice the application of other existing criminal, civil
40 and administrative liabilities that may additionally be imposed upon the person.

41
42 **SECTION 12. *Non-prescription***. - The crimes defined and penalized under this Act, their
43 prosecution, and the execution of sentences imposed on their account, shall not be subject to any
44 prescription.

45 46 **CHAPTER 5**

47 **PRINCIPLES OF CRIMINAL LIABILITY AND APPLICATION OF PENALTIES**

48
49 **SECTION 13. *Individual Criminal Responsibilities*** – Individuals committing offenses in
50 violation of this Act shall be criminally liable whether s/he committed it alone or jointly with
51 another or through another person, regardless of whether or not that other person is criminally
52 responsible.

53
54 **SECTION 14. *Irrelevance of Official Capacity***- Any claim that the act was committed in one's
55 official capacity shall not exempt a person from criminal responsibility. Neither shall it be
56 considered for applications of a reduction of sentence.

57
58 **SECTION 15. *Responsibility of Superiors*** - In addition to other grounds of criminal
59 responsibility for crimes defined and penalized under this Act, a superior shall be criminally
60 responsible for such crimes committed by subordinates where:
61

- 1 (a) That superior either knew or, owing to the circumstances at the time, should have known
2 that the subordinates were committing or about to commit such crimes;
3 (b) That superior failed to take all necessary and reasonable measures within his/her power to
4 prevent or repress their commission or to submit the matter to the competent authorities for
5 investigation and prosecution.
6

7 **SECTION 16. *Orders from a Superior*** - The fact that a crime defined and penalized under this
8 Act has been committed by a person pursuant to an order of a superior, shall not relieve that person
9 of criminal responsibility unless all of the following elements occur:
10

- 11 (a) The person was under a legal obligation to obey orders of the superior in question;
12 (b) The person did not know that the order was unlawful; and
13 (c) The order was not manifestly unlawful.
14

15 For the purposes of this section, orders to commit grave child rights violations enumerated in
16 Section 8 are manifestly unlawful and shall be punished by this Act and other applicable existing
17 laws.
18
19

20 **SECTION 17. *Unknown Superior*** - Where the crimes defined and penalized under this Act have
21 been committed by a person pursuant to an order or command of unknown superior, any person
22 who in fact directed the others, spoke for them, signed receipts and other documents issued in their
23 name, or who has performed similar acts, on behalf of the armed groups shall be deemed the
24 superior.
25

26 **CHAPTER 6** 27 **INVESTIGATION, PROSECUTION, AND COURT** 28

29 **SECTION 18. *Court, Prosecutors and Investigators*** - The Family Courts shall have original and
30 exclusive jurisdiction over the offenses punishable under this Act.
31

32 The Commission on Human Rights (CHR), the Department of Justice (DOJ) and its attached
33 agencies, the Philippine National Police (PNP) or other concerned law enforcement agencies shall
34 designate prosecutors or investigators, as the case may be, for cases involving crimes punishable
35 under this Act.
36

37 The State shall ensure that judges, prosecutors and investigators, especially those designated for
38 purposes of this Act, receive effective training in human rights particularly on Convention on the
39 Rights of the Child and its Optional Protocol on involvement of CIAC and related international
40 instruments, International Humanitarian Law and International Criminal Law.
41

42 **SECTION 19. *Requirement and Procedures on Age Verification and Presumption of***
43 ***Minority*** - The child involved in, affected or displaced by armed conflict shall enjoy the
44 presumption of minority and shall enjoy all the rights of a child recognized in this Act and other
45 applicable laws unless proven to be eighteen (18) years or older.
46

47 The age of a child may be determined from the child's birth certificate, baptismal certificate or any
48 other pertinent documents. In the absence of these documents, age may be based on information
49 from the child, testimonies of other persons, the physical appearance of the child and other relevant
50 evidence. In case of doubt as to the age of the child, it shall be resolved in favor of minority.
51

52 Any person contesting the age of the child prior to the filing of the information in any appropriate
53 court may file a case in a summary proceeding for the determination of age before the Family Court,
54 which shall decide the case within twenty four (24) hours from receipt of the appropriate pleadings
55 of all interested parties.
56

57 If a case has been filed against the child and is pending in the appropriate court, the person shall file
58 a motion to determine the age of the child in the same court where the case is pending. Pending
59 hearing on the said motion, proceedings on the main case shall be suspended.
60

1 In all proceedings, law enforcement officers, prosecutors, judges and other government officials
2 concerned shall exert all efforts at determining the age of the child in armed conflict.

3
4 **SEC. 20. *Protection of Victims and Witnesses*** – In addition to existing provisions in Philippine
5 law for the protection of victims and witnesses, the following measures shall be undertaken:
6

- 7 (a) The Court shall take appropriate measures to protect the safety, physical and
8 psychological well-being, dignity and privacy of child victims and witnesses. In so
9 doing, the Court shall have regard of all relevant factors, including age, gender and
10 health, and the nature of the crime, in particular, but not limited to, where the crime
11 involves sexual or gender based violence or violence against children;
- 12 (b) The Court shall protect the privacy of child victims and witnesses and observe
13 confidentiality consistent with existing rules on examination of child victims and
14 witnesses;
- 15 (c) Where the personal interests of the child victims are affected, the court shall consider
16 the child victim's views and concerns in accordance with established rules of
17 procedure and evidence;
- 18 (d) Where the disclosure of evidence or information may be prejudicial to the security of
19 the child witness or the family, the prosecution may withhold such evidence or
20 information and instead submit a summary thereof consistent with the rights of the
21 accused to a fair and impartial trial.
22

23 **SEC. 21. *Reparation to Victims*** – In addition to existing provisions in Philippine law and
24 procedural rules for reparations to victims, the following measures shall be undertaken:
25

- 26 (a) The Court shall follow the principles relating to the reparations to, or in respect of,
27 child victims, including restitution, compensation and rehabilitation taking into
28 consideration the scope and extent of any damage, loss or injury suffered by child
29 victims;
- 30 (b) The Court shall make an order directly against a convicted person specifying
31 appropriate reparations to child victims, including restitution, compensation and
32 rehabilitation; and
- 33 (c) Before making an order under this section, the court may invite and shall take
34 account of representations from or on behalf of the convicted person, child victims
35 or other interested persons.
36

37 Nothing in this section shall be interpreted to prejudice the rights of child victims under national or
38 international law.
39

40 **SEC. 22. *Immunity from Suit for Persons Providing Assistance*** – Any person who shall take
41 custody of children involved in armed conflict to ensure their safety or provide them any form of
42 assistance shall be exempt from any civil, criminal and administrative liability provided that the
43 person shall report it to the Local Social Welfare and Development Office (LSWDO), Philippine
44 National Police (PNP) or to the Barangay office within forty eight (48) hours.
45

46 **CHAPTER 7**
47 **PREVENTION, REHABILITATION, AND REINTEGRATION, RESCUE,**
48 **DEMOBILIZATION**
49

50 **SEC. 23. *Prevention*** - The State shall take all feasible measures to prevent the recruitment, re-
51 recruitment, use or displacement of CIAC. It shall take all necessary measures to ensure the
52 effective implementation and enforcement of the provisions of this Act. Towards this end the State
53 shall:
54

- 55 (a) prioritize children's issues in the peace program of the Government and include
56 children's concerns, specifically the effects of armed conflicts, in peace negotiations;
- 57 (b) include peace, human rights, and protective behavior skills as fundamental subjects
58 in the education system;
- 59 (c) provide educational assistance, whether formal or alternative learning system, that is
60 child and culturally sensitive;

- 1 (d) develop and implement training programs and campaign towards promoting a
2 culture of peace and respect for human rights in collaboration with civil society
3 organizations;
- 4 (e) provide capacity building for Local Governance and Community Development, and
5 ensure the participation of various organizations, especially of children's and people's
6 organization at the community level. These organizations shall be involved in
7 consultation and decision-making processes and in the development and
8 implementation of programs, projects and activities established for them;
- 9 (f) establish livelihood programs which shall be made available to communities in
10 identified priority areas in order to alleviate the living conditions of the people;
- 11 (g) make available basic health services in health facilities in identified priority areas.
12 Culturally sensitive nutrition program and activities including but not limited to
13 supplementary feeding shall also be made available. Efforts to support traditional
14 health practices in indigenous peoples area shall also be initiated;
- 15 (h) establish basic facilities and infrastructure needed;
- 16 (i) ensure that child protection mechanisms are present and functional; and
- 17 (j) establish a comprehensive, effective and efficient system for monitoring and
18 reporting and response for violations as provided in Section 8 of this Act.
19

20 **SEC. 24. *Rescue, Rehabilitation and Reintegration*** – The State shall institute policies, programs
21 and services for rescue, rehabilitation and reintegration of children involved in, affected by or
22 displaced by armed conflict. The programs shall aim at providing services for children while
23 involving their families, communities and other entities to facilitate the children's reintegration
24 process.
25

26 These services shall include but not be limited to psychosocial support, health and nutrition,
27 education, livelihood for families and other basic services, and legal services as may be necessary.
28

29 Any program interventions shall be designed with due respect to the culture of each child, family
30 and community. The child shall, at all times, be provided with legal assistance and physical security
31 upon rescue.
32

33 The State shall take into account the following in the rescue, rehabilitation and reintegration of
34 children:

- 35 (a) *Rescue*: The State shall provide for adequate measures and mechanisms to facilitate
36 the recovery, either voluntary or involuntary, of children from armed groups or
37 governmental armed forces. It shall provide legal and physical security to children
38 involved in armed conflict including services such as family tracing and system of
39 referral or response on various psychosocial services needed by the victims;
- 40 (b) *Rehabilitation*: The State shall facilitate the normal development of children victims in
41 their post-involvement phase. It shall provide services including therapeutic
42 counseling, security and protection, educational assistance and livelihood
43 opportunities to their parents, relatives or guardians or to the victims when they
44 become of age;
- 45 (c) *Reintegration*: The State shall bring children back to their families or communities
46 whenever possible. This shall involve services including provision of alternative
47 parental care. Trainings aimed to enhance community readiness in the reintegration
48 of these children shall also be undertaken. Whenever possible, interventions for
49 children shall be done with respect to their opinion. Interventions for indigenous
50 peoples (IP) children shall be conducted in recognition of the traditional structures
51 and institutions of their communities.
52

53 **SEC. 25. *Release of Children Involved in Armed Conflict (CIAC)***- The State shall take all
54 feasible measures to ensure that children recruited or used in hostilities contrary to this Act are
55 released from service.
56

57 For the purposes of this Act, the release of children and other activities relative to such, shall be
58 initiated independent of any negotiated peace agreements.
59

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

- a. Develop a child-specific release and reintegration program. This program should not make as a requirement the surrender of arms by CIAC who have assumed non-combatant roles;
- b. Monitor and document the status of CIAC who undergo either formal or informal demobilization 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 non-government 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 demobilized CIAC;
- d. Mobilize and strengthen networks for referrals;
- e. Provide free legal assistance to demobilized 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;
- 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, in accordance with peace and order or security policy as may be provided by the appropriate government agency. *Provided, That* in any demobilization action, the best interest of the child shall prevail.

SEC. 26. ***Rescued or Surrendered Children Involved in Armed Conflict (CIAC)*** - Where the CIAC have been rescued 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, the government agencies, in particular, the Armed Forces of the Philippines (AFP), the Philippine National Police (PNP), Department of National Defense (DND), Local Government Units (LGUs), other concerned government agencies and/or Non-Government Organizations (NGOs) in possession of CIAC shall report immediately within twenty four (24) hours the incident to the Local Social Welfare and Development Office (LSWDO) and Council for the Welfare of Children (CWC);
- d. The Local Social Welfare and Development Office (LSWDO) shall coordinate with the agency and/or NGO in possession of CIAC for the turn-over of custody of CIAC to DSWD;
- e. The turnover to LSWDO shall take place within 24 hours or in cases where turnover is not possible within the prescribed 24 hour period due to valid reasons and without the fault of the person having the 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 guardian 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;
- j. The CIAC shall be reintegrated into the community. In cases where reintegration to original community of origin is not feasible for reasons of the CIAC's security, a foster community or institution shall be identified.

1 with concerned agencies determine and order the appropriate prevention, rehabilitation,
2 reintegration programs the person shall undergo as provided in this act.

3
4 SEC. 30. ***Inventory of Custody of CSAC*** - The AFP, the PNP, the BJMP, the DSWD, the NCIP,
5 NCMF, and the concerned LGUs are hereby directed to submit to the CWC, within ninety (90) days
6 from the effectivity of this Act, an inventory of all CSAC under their custody.

7
8 SEC. 31. ***Children Who Reach the Age of Eighteen (18) Years Pending Court Proceedings or***
9 ***in Suspended Sentences*** - If a child reaches the age of eighteen (18) years pending court
10 proceedings, the Family Court shall dismiss the case against the person and determine in
11 consultation with concerned agencies for the need to undergo appropriate rehabilitation and
12 reintegration programs provided in this Act.

13
14 Those with suspended sentences and undergoing rehabilitation at the youth rehabilitation center
15 shall likewise be released: *Provided, That* the Family Court shall, in consultation with concerned
16 agencies determine and order the appropriate rehabilitation, reintegration programs the person shall
17 undergo as provided in this Act.

18
19 SEC. 32. ***Children Who Have Been Convicted and are Serving Sentence.*** - Persons who have
20 been convicted and are serving sentence at the time of the effectivity of this Act, and who were
21 below the age of eighteen (18) years at the time the commission of the offense for which they were
22 convicted and are serving sentence, shall likewise benefit from the retroactive application of this Act.
23 They shall be entitled to appropriate dispositions provided under this Act and their sentences shall
24 be adjusted accordingly. They shall be immediately released if they are so qualified under this Act or
25 other applicable law.

26
27 **CHAPTER 11**
28 **FINAL PROVISIONS**

29
30 SEC. 33. ***Implementing Rules and Regulations*** – The CWC together with its member agencies
31 and OPAPP, with the involvement of CSOs, shall promulgate the implementing rules and
32 regulations of this act within 90 days from the approval of this Act. All government agencies
33 enumerated in Sec. 27 of this Act shall be consulted in so far as the drafting of their responsibilities
34 are concerned.

35
36 NGOs involved in caring for CSAC shall likewise be consulted in the drafting of the implementing
37 rules and regulations of this act.

38
39 SEC. 34. ***Appropriations*** –The amount of Ten Million is hereby appropriated to the CWC for the
40 initial implementation of this Act. Said amount shall be funded from the gross income of the
41 Philippines Amusement and Gaming Corporation (PAGCOR) and shall be directly remitted to a
42 special account of the CWC. Thereafter, for the continued implementation of this Act, such sums
43 shall be included in the annual General Appropriations Act (GAA).

44
45 SEC. 35. ***Repealing Clause*** – Article X Sections 22 to 26 of RA 7610, all laws, acts, presidential
46 decrees, executive orders, administrative orders, rules and regulations inconsistent with or contrary
47 to the provisions of this Act are deemed amended, modified or repealed accordingly.

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49 SEC. 36. ***Separability Clause*** - If any part or provision of this Act is declared invalid or
50 unconstitutional, the other parts thereof not affected thereby shall remain valid.

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53 publication in at least two (2) national newspapers of general circulation

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