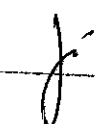


SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)



15 FEB -2 P5:34

SENATE
S.B. No. 2609

RECEIVED BY: 

Introduced by Senator Ramon Bong Revilla, Jr.

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

EXPLANATORY NOTE

The Philippines has a long history of armed conflict. In these armed conflicts, children are never spared from harm and distress. Government records report that there is an estimate of 30,000 to 50,000 children who are affected by armed conflicts¹. These children suffer from both physical and psychological trauma.

This proposed measure seeks to provide a comprehensive strategy for the treatment of children in armed conflict; including their rescue and demobilization, rehabilitation and reintegration.

Children should be provided utmost protection from all forms of danger that they deserve. Thus, it is imperative that the State exerts all its efforts to ensure that children are sheltered and protected at all times.


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


RAMON BONG REVILLA, JR.

¹ Situation of the Filipino Children, Subaybay Bata Macro Monitoring System, Council for the Welfare of Children, 2012

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

CHAPTER I

GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the “Special Protection of Children in Situations of Armed Conflict Act of 2015”.

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, but not limited to, the ILO 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 Paris Principles on the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, the United Nations Guiding

1 Principles on Internal Displacement, the United Nations Security Council Resolutions
2 related to children affected by armed conflict and other pertinent international
3 instruments in the implementation of its treaty obligations and of this Act;

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

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

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

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

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

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

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

24
25 **SEC. 3.** *Scope of Application.* – This Act shall apply to all children involved
26 in, affected by or displaced by armed conflict.

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

29
30 **SEC. 4.** *Interpretation of this Act.* – Nothing in this Act shall be construed as
31 precluding provisions in existing Philippine laws, international human rights laws and
32 related instruments, and international humanitarian laws that are more conducive to the
33 realization of the rights of children.

34
35 **SEC. 5.** *Definition of Terms.* – As used in this Act:

36 (a) Abduction of children refers to the seizure, apprehension, taking in
37 custody, detention or capture of one or more children either temporarily or permanently

1 by force, threat of force or coercion, or deception for the purpose of any form of
2 exploitation of such children in the situation of armed conflict.

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

7 (c) Armed group refers to an armed non-state actor or non-state entity
8 engaged in armed conflict against the State or engaged in armed violence.

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

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

21 (f) Child refers to a person below eighteen (18) years of age or one over but
22 is unable to fully take care of one's self or protect one's self from abuse, neglect,
23 cruelty, exploitation or discrimination because of physical or mental disability or
24 condition.

25 (g) Children in Situations of Armed Conflict (CSAC) refers to all Children
26 Involved in Armed Conflict (CIAC), Children Affected by Armed Conflict (CAAC) and
27 Internally Displaced Children (IDC).

28 (h) Children Involved in Armed Conflict (CIAC) refers to children who are either
29 forcibly, compulsorily recruited or who voluntarily joined in any governmental armed
30 forces or any armed group in any capacity to participate directly in armed hostilities as
31 combatants or as fighters, or take support roles such as, but not limited to, scouting,
32 spying, sabotaging, acting as decoys, assisting in checkpoints, being couriers,
33 messengers, porters, cooks and being used for sexual purposes.

34 (i) Children Affected by Armed Conflict (CAAC) refers to all children
35 population experiencing or have experienced armed conflict.

36 (j) Demobilization of children refers to the process of formal and controlled
37 disarmament of children and their release from an armed force or armed group. It shall
38 likewise refer to the informal ways in which children leave the governmental armed

1 forces or armed group. It entails a disassociation from the armed force or armed group
2 and the beginning of transition to mainstream society. Demobilization of children can
3 take place during the situation of armed conflict; it is not dependent on the temporary or
4 permanent cessation of hostilities; it is not dependent on children having weapons to
5 forfeit.

6 (k) Explosive Remnants of War (ERW) refers to unexploded ordnance and
7 abandoned explosive ordnance. Explosive Ordnance refers to munitions that contain
8 explosives, nuclear fission or fusion material, biological and chemical agents. These
9 include bombs and warheads, guided and ballistic missiles, artillery, mortar, small arms
10 ammunition, mines, torpedoes, depth charges, demolition stores, pyrotechnics, cluster
11 munitions and dispensers, cartridges and propelled actuated devices, electric explosive
12 devices and similar items that are explosive in nature. Unexploded Ordnance refers to
13 explosive ordnance, which have been primed, fuzed, armed or otherwise prepared for
14 use or used. They could have been fired, dropped, launched, projected yet remain
15 unexploded either through malfunction or design or for any other cause.

16 (l) Food blockade refers to an armed conflict tactic of forcibly cutting off entry of
17 food supplies in a particular area where children can be found.

18 (m) Governmental armed forces refer to the Armed Forces of the Philippines
19 (AFP) including the paramilitary forces, the Philippine National Police (PNP) and other
20 law enforcement agencies.

21 (n) Grave child rights violations refer to the crimes committed against children
22 that constitute flagrant violations of their human rights and have severe consequences
23 in their lives. These crimes include those enumerated in Section 8 of this Act such as,
24 but not limited to, killing or maiming of children, recruitment or use of CIAC, rape and
25 other forms of sexual violence against children, abduction of children, attacks against
26 schools or hospitals, or denial of humanitarian access to children.

27 (o) Hamleting refers to an armed conflict strategy that isolates a community of
28 importance to the enemy which is inhabited by children including relocating community
29 away from crucial zones. This strategy could be used to control the activities of the
30 people in said areas.

31 (p) Hospitals or health facilities refer to any structure recognized and known
32 by the community as a facility where the sick and wounded are provided with medical
33 and/or health care services.

34 (q) Humanitarian access refers to the right of vulnerable populations to
35 receive international protection and assistance from an impartial humanitarian relief
36 operation to complement efforts of national authorities. Such action is subject to the
37 consent of the State or parties concerned and does not prescribe coercive measures in
38 the event of refusal, however unwarranted.

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

7 (s) Internally Displaced Children (IDC) refers to children or group of children,
8 whether separated or together with their families, who have been forced or obliged to
9 flee or to leave their homes or places of habitual residence, in particular, as a result of
10 or in order to avoid the effect of armed conflict and situations of generalized violence.

11 (t) Improvised Explosive Device (IED) refers to a device that is homemade or
12 fabricated, constructed and deployed in ways other than conventional military action;
13 containing or having contents from indigenous materials or substances that are
14 destructive, lethal, noxious, pyrotechnic or incendiary chemicals, and designed to
15 destroy, kill, incapacitate, harass or distract. IEDs are diverse in design such as, but not
16 limited to, packages or landmine or roadside bombs, and contain many types of
17 initiators, detonators, penetrators and explosive loads. These include shrapnel-
18 generating objects such as, but not limited to, nails, ball-bearings, small pieces of iron or
19 steel bars and alike that may be used individually or in combination. These are triggered
20 by various methods such as by remote control or command-detonation.

21 (u) Killing of children refers to acts of all kinds in the context of armed conflict
22 that result in the death of one or more children. Among others, they include the death of
23 children as a result of direct targeting and indirect actions, such as cross-fire, use of
24 landmines, cluster munitions, ERW, all forms and types of IED; or house demolitions,
25 search and arrest campaigns, suicide attacks and torture; they also include murder,
26 homicide and such other similar crimes as defined in the Revised Penal Code, as
27 amended, and other special laws.

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

35 (w) Other acts of gender-based violence refer to physical or sexual violence
36 other than rape, and psychosocial harm that is committed against a person as a result
37 of power inequities that are based on gender roles. These include, among others,
38 sexual slavery, prostitution, forced marriage, forced pregnancy or forced sterilization.

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

3 (y) Recruitment refers to compulsory, forced or voluntary conscription or
4 enlistment of children into the governmental armed force or forced or voluntary
5 membership into the armed group.

6 (z) School refers to any structure that is recognized and known by the
7 community as a learning space and marked by visible boundaries.

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

14 15 16 CHAPTER II

17 RIGHTS OF CHILDREN IN ARMED CONFLICT

18 **SEC. 6.** *Children as Zones of Peace.* – Children are hereby declared as
19 zones of peace. The treatment of children as zones of peace shall extend beyond
20 territorial or geographical boundaries and focus on the person of the child whose rights
21 shall be promoted and protected at all times, especially in situations of armed conflict or
22 violence. The State and all sectors concerned shall have the responsibility to resolve
23 armed conflict in order to promote the goal of children as zones of peace. As such, the
24 community, governmental authority and, if appropriate, religious leadership shall
25 preserve the peaceful integrity of children and shall exemplify mutual respect and
26 nonviolent behavior in the presence of children, and share their resources for furthering
27 peace and cooperation.

28
29 **SEC. 7.** *Rights of Children in Situations of Armed Conflict.* – Children in
30 Situations of Armed Conflict (CSAC) shall have the following rights:

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

33 (b) The right of all children involved in, affected by or displaced by armed
34 conflict to be treated as victims. They shall be treated in accordance with this Act and
35 other applicable laws, consistent with the State obligation under international law, within
36 the framework of restorative justice, social rehabilitation and promotion of their
37 protection;

1 (c) The right to be considered as object of special respect and to be protected
2 from any form of direct or indiscriminate attacks and acts of violence especially
3 protection from the grave child rights violations as enumerated in Section 8 of this Act;

4 (d) The right to be protected from recruitment into governmental armed forces
5 or armed groups and from participation in armed conflict. This shall include the right to
6 be protected from torture or any cruel, inhuman or degrading practices that compel
7 compliance or punish noncompliance with recruitment or participation in armed conflict;

8 (e) The right to be immediately provided and have safe access to essential,
9 adequate and culturally appropriate food and nutrition; basic shelter and housing;
10 culturally appropriate clothing; water, sanitation and hygiene; basic health services
11 including essential drugs, medicines and vaccines, health professional evaluation and
12 appropriate intervention; education, including religious and moral education; Early
13 Childhood Care and Development (ECCD) programs, psychosocial support and social
14 services. All services provided for children must be child and gender sensitive or
15 responsive;

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

21 (g) The right of the wounded and sick children to be cared for and provided
22 with aid or assistance or medical services, whether because of their age or for any other
23 reason;

24 (h) The right of all children to be treated humanely in all circumstances,
25 without any adverse distinction founded on race, color, religion or faith, gender, birth or
26 wealth, or any other similar criteria;

27 (i) The right not to be interned in or confined in camp, especially IDC and
28 their families;

29 (j) The right of IDC, unaccompanied minors, expectant mothers, children with
30 disabilities, the wounded and the sick children to protection and assistance required by
31 their condition, and to treatment which takes into account their special needs such as,
32 but not limited to, their health needs, reproductive health care as well as appropriate
33 counseling, prevention of contagious and infectious diseases, including HIV/AIDS and
34 access to psychosocial services;

35 (k) The right of children to be with their families, especially with their mothers,
36 during evacuations and in evacuation centers;

37 (l) The right to liberty of movement and freedom to choose their residence
38 especially the IDC and their families who shall have the right to move freely in and out

1 of evacuation centers or other settlements, subject to existing rules and regulations in
2 those centers or settlements;

3 (m) The right especially of IDC and their families to: leave the country; seek
4 safety in another part of the country; seek other service providers; seek asylum in
5 another country; and be protected against forcible return to resettlement in any place
6 where their life, safety, liberty or health would be at risk;

7 (n) The right of all children to be reunited with their families in case of
8 separation due to armed conflict;

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

14 (p) The right of access to justice including free legal aid when filing cases
15 against the perpetrators; and

16 (q) The right for the property and possessions of children and their families to
17 be protected in all circumstances.

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

21

22

23

CHAPTER III

24

UNLAWFUL AND PROHIBITED ACTS

25

SEC. 8. *Unlawful or Prohibited Acts.* – (a) It shall be unlawful for any

26

person to commit the following acts of grave child rights violations:

27

1. Killing of children;

28

2. Torture committed against children. For purposes of this Act, torture shall
29 include those enumerated in Section 4 of Republic Act No. 9745 or the Anti-Torture Act;

30

3. Intentional or causal maiming of children;

31

4. Rape of children;

32

5. Cruel, inhuman and degrading treatment or punishment committed against
33 children. For purposes of this Act, cruel, inhuman and degrading treatment or
34 punishment shall include those enumerated in Section 5 of Republic Act No. 9745 or
35 the Anti-Torture Act;

36

6. Abduction of children;

37

7. Taking children as hostages or using them as human shield;

1 8. Recruitment, conscription or enlistment of children into governmental
2 armed forces and other armed groups;

3 9. Other acts of gender-based violence against children;

4 10. Refusal or denial of humanitarian access and/or assistance to children;

5 11. Use or involvement of CIAC in any capacity as defined in Section 5(h) of
6 this Act; and

7 12. Attack on schools, hospitals, places of worship, evacuation centers and
8 settlements and other public places where children can usually be found.

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

10 (1) Hamleting;

11 (2) Food blockade;

12 (3) Intentional delayed reporting of a child in custody;

13 (4) False reporting of a child in custody; and

14 (5) False branding of children or labeling children as children involved in
15 armed conflict.

16 (c) It shall also be unlawful for parents, ascendants, guardians, step parents
17 or collateral relatives within the third (3rd) degree of consanguinity or affinity, or any
18 person having control or moral ascendancy to the child, to allow, willfully encourage,
19 compel, coerce or influence their child or children to be part of an armed group or a
20 governmental armed force.

23 CHAPTER IV

24 PENALTIES AND PRESCRIPTION OF CRIME

25 **SEC. 9.** *Penalties.* – The following penalties and sanctions are hereby
26 imposed for the offenses enumerated in this Act:

27 (a) Any person found guilty of committing any of the acts enumerated in
28 subparagraphs 1, 2, 3 and 4 of Paragraph (a), Section 8 of this Act shall suffer the
29 penalty of life imprisonment and a fine of not less than Two million pesos
30 (P2,000,000.00) but not more than Five million pesos (P5,000,000.00);

31 (b) Any person found guilty of committing any of the acts enumerated in
32 subparagraphs 5, 6, 7, 8, 9, 10, 11 and 12 of Paragraph (a), Section 8 of this Act shall be
33 punished with an imprisonment of not less than fourteen (14) years but not more than
34 twenty (20) years and a fine of not less than One million pesos (P1,000,000.00) but not
35 more than Two million pesos (P2,000,000.00): Provided, That where the crimes
36 committed resulted in the killing, torture, maiming or rape of children in subparagraphs
37 1, 2, 3 and 4 of Paragraph (a), Section 8, the penalty imposed shall be that of Section
38 9(a) of this Act;

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

6 (d) Parents, ascendants, guardians, step parents or collateral relatives within
7 the third (3rd) degree of consanguinity or affinity or any person having control or moral
8 ascendancy to the child to allow, willfully encourage, compel, coerce or influence their
9 child or children to be part of an armed group shall be punished with an imprisonment of
10 not less than six (6) years but not more than twelve (12) years: Provided, however,
11 That parents, ascendants, guardians, step parents or collateral relatives within the third
12 (3rd) 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
14 period of imprisonment based on the sound discretion of the courts guided by the
15 principles of *parens patriae*.

16
17 **SEC. 10.** *Non-implementation or Violation of Any Other Provisions of this Act*
18 *or the Rules and Regulations in General.* – Any public officer who shall knowingly and
19 maliciously prevent, prohibit, refuse or discontinue the implementation of any provision
20 of this Act or any rules and regulations promulgated in accordance thereof, or in any
21 other way violate them if such officer has the duty to implement, shall be punished by
22 imprisonment of not less than six (6) years but not more than twelve (12) years and
23 perpetual absolute disqualification from public office.

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

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

31 Any person who shall commit any other act not covered in Section 8, which shall
32 result in prejudicing the rights of CIAC, CAAC or IDC protected under this Act, shall be
33 punished with an imprisonment of not less than six (6) months but not more than six (6)
34 years.

35
36 **SEC. 11.** *Forfeiture of Proceeds, Property and Assets.* – The court shall
37 order the forfeiture of proceeds, property and assets derived, directly or indirectly, from
38 the crimes defined and penalized in this Act, without prejudice to the rights of the bona

1 fide third (3rd) party. The court shall impose the corresponding accessory penalties
2 under the Revised Penal Code, as amended, especially where the offender is a public
3 officer.

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

7
8 **SEC. 12.** *Nonprescription.* – The crimes defined and penalized under this
9 Act, their prosecution and the execution of sentences imposed on their account shall not
10 be subject to any prescription.

11
12
13 **CHAPTER V**
14 **PRINCIPLES OF CRIMINAL LIABILITY AND**
15 **APPLICATION OF PENALTIES**

16 **SEC. 13.** *Individual Criminal Responsibilities.* – Any person committing such
17 crime shall be criminally liable for a crime defined and penalized in this Act, whether as
18 an individual, jointly with another or through another person, regardless of whether that
19 other person is criminally responsible.

20
21 **SEC. 14.** *Irrelevance of Official Capacity.* – This Act shall apply equally to all
22 persons without any distinction based on official capacity. In no case shall the official
23 capacity exempt a person from criminal responsibility or constitute a ground for
24 reduction of sentence.

25
26 **SEC. 15.** *Responsibility of Superiors.* – In addition to other grounds of
27 criminal responsibility for crimes defined and penalized under this Act, a superior shall
28 be criminally responsible for such crimes committed by subordinates where:

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

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

35
36 **SEC. 16.** *Orders from a Superior.* – The fact that a crime defined and
37 penalized under this Act has been committed by a person pursuant to an order of a

1 superior shall not relieve that person of criminal responsibility unless all of the following
2 elements occur:

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

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

6 (c) The order was not manifestly unlawful.

7 For purposes of this section, orders to commit grave child rights violations
8 enumerated in Section 8 are manifestly unlawful and shall be punished under this Act
9 and other applicable existing laws.

10
11 **SEC. 17. *Unknown Superior.*** – Where the crimes defined and penalized
12 under this Act have been committed by a person pursuant to an order or command of
13 unknown superior, any person who in fact directed the others, spoke for them, signed
14 receipts and other documents issued in their name, or who has performed similar acts
15 on behalf of the armed groups, shall be deemed the superior.

16 17 18 **CHAPTER VI**

19 **INVESTIGATION, PROSECUTION AND COURT**

20 **SEC. 18. *Court, Prosecutors and Investigators.*** – The Family Courts shall
21 have original and exclusive jurisdiction over the crimes punishable under this Act.

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

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

31
32 **SEC. 19. *Requirement and Procedures on Age Verification and Presumption***
33 ***of Minority.*** – The child involved in, affected by or displaced by armed conflict shall
34 enjoy the presumption of minority and shall enjoy all the rights of a child recognized in
35 this Act and other applicable laws unless proven to be eighteen (18) years or older.

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

1 appearance of the child and other relevant evidence. In case of doubt as to the age of
2 the child, it shall be resolved in favor of minority.

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

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

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

14
15 **SEC. 20.** *Protection of Victims and Witnesses.* – In addition to existing
16 provisions in Philippine law for the protection of victims and witnesses, the following
17 measures shall be undertaken:

18 (a) The court shall take appropriate measures to protect the safety, physical
19 and psychological well-being, dignity and privacy of child victims and witnesses. In so
20 doing, the court shall have regard of all relevant factors, including age, gender and
21 health, and the nature of the crime, in particular, but not limited to, where the crime
22 involves sexual or gender-based violence or violence against children;

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

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

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

33
34 **SEC. 21.** *Reparation to Victims.* – In addition to existing provisions in
35 Philippine law and procedural rules for reparations to victims, the following measures
36 shall be undertaken:

37 (a) The court shall follow the principles relating to the reparations to, or in
38 respect of, child victims, including restitution, compensation and rehabilitation, taking

1 into consideration the scope and extent of any damage, loss or injury suffered by child
2 victims;

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

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

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

11

12 **SEC. 22.** *Immunity from Suit for Persons Providing Assistance.* – Any
13 person who shall take custody of CIAC to ensure their safety or provide them any form
14 of assistance shall be exempt from any civil, criminal and administrative liability:
15 Provided, That the person shall report it to the Local Social Welfare and Development
16 Office (LSWDO), the PNP or to the barangay office within forty-eight (48) hours.

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CHAPTER VII

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PREVENTION, REHABILITATION AND REINTEGRATION,

21

RESCUE AND DEMOBILIZATION

22

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

27

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

29

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

31

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

33

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

36

37 (e) Provide capacity building for Local Governance and Community
38 Development, and ensure the participation of various organizations, especially of
39 children's and people's organizations at the community level. These organizations shall

1 be involved in consultation and decision-making processes and in the development and
2 implementation of programs, projects and activities established for them;

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

6 (g) Make available basic health services in health facilities in identified priority
7 areas. Culturally-sensitive nutrition program and activities including, but not limited to,
8 supplementary feeding shall also be made available. Efforts to support traditional health
9 practices in indigenous peoples' area shall also be initiated;

10 (h) Establish basic facilities and infrastructure needed;

11 (i) Ensure that child protection mechanisms are present and functional; and

12 (j) Establish a comprehensive, effective and efficient system for monitoring
13 and reporting and response for violations as provided in Section 8 of this Act.

14
15 **SEC. 24. *Rescue, Rehabilitation and Reintegration.*** – The State shall institute
16 policies, programs and services for rescue, rehabilitation and reintegration of CSAC.
17 The programs shall aim at providing services for children while involving their families,
18 communities and other entities to facilitate the children's reintegration process.

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

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

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

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

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

37 (c) **Reintegration:** The State shall bring children back to their families or
38 communities whenever possible. This shall involve services including the provision of

1 alternative parental care. Trainings aimed to enhance community readiness in the
2 reintegration of these children shall also be undertaken. Whenever possible,
3 interventions for children shall be done with respect to their opinion. Interventions for
4 indigenous peoples (IP) children shall be conducted in recognition of the traditional
5 structures and institutions of their communities.

6
7 **SEC. 25.** *Demobilization of Children Involved in Armed Conflict (CIAC).* –

8 The State shall take all feasible measures to ensure that children recruited or used in
9 hostilities contrary to this Act are demobilized or otherwise released from service.

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

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

14 (a) Develop a child-specific demobilization program. This demobilization
15 program should not make as a requirement the surrender of arms by CIAC who have
16 assumed noncombatant roles;

17 (b) Monitor and document the status of CIAC who undergo either formal or
18 informal demobilization process;

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

24 (d) Mobilize and strengthen networks for referrals;

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

29 (f) Ensure the formal demobilization of CIAC through various approaches
30 such as negotiating through the Government Peace Negotiating Panel (GPNP). Other
31 criminal armed groups that utilize children and are not involved in formal peace
32 negotiation with the government shall, however, be dealt in accordance with the peace
33 and order or security policy as may be provided by the appropriate government agency:
34 Provided, That in any demobilization action, the best interest of the child shall be
35 observed.

36
37 **SEC. 26.** *Rescued or Surrendered Children Involved in Armed Conflict*
38 *(CIAC).* – Where the CIAC have been rescued or surrendered, they shall at all times be

1 treated in a child-friendly and sensitive manner. The State, at all times, shall consider
2 the safety and security of the CIAC. The following procedures shall apply without
3 prejudice to the application of other existing laws that will uphold the best interests of
4 the child:

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

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

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

15 (d) The LSWDO shall coordinate with the agency or NGO in possession of
16 CIAC for the turnover of custody of CIAC to the Department of Social Welfare and
17 Development (DSWD);

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

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

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

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

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

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

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37 **CHAPTER VIII**
38 **INVOLVEMENT OF GOVERNMENT AND**

1 **NONGOVERNMENT ORGANIZATIONS**

2 **SEC. 27.** *Involvement of Government Organizations (GOs) and*
3 *Nongovernment Organizations (NGOs).* – To effectively address the issue of CSAC, the
4 CWC, together with its member agencies, shall be assisted by the following government
5 organizations (GOs) for the proper implementation of this Act:

- 6 (a) Armed Forces of the Philippines (AFP);
7 (b) Commission on Human Rights (CHR);
8 (c) Department of National Defense (DND);
9 (d) Local government units (LGUs);
10 (e) National Commission on Indigenous Peoples (NCIP);
11 (f) National Commission on Muslim Filipinos (NCMF);
12 (g) National Disaster Risk Reduction and Management Council (NDRRMC);
13 (h) Office of the Presidential Adviser on the Peace Process (OPAPP);
14 (i) Philippine Commission on Women (PCW); and
15 (j) Philippine National Police (PNP).

16 Child-focused NGOs, in caring for CSAC, shall take active part in and strengthen
17 their programs on protecting these children.

18 For proper implementation of this Act, all GOs and NGOs including, but not
19 limited to, those identified herein shall provide their respective counterpart support
20 including, but not limited to, technical, logistical and financial assistance relative to the
21 implementation of programs, projects and activities for CSAC, in accordance with their
22 mandate and in accordance with existing accounting and auditing rules and regulations.

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

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28 **CHAPTER IX**

29 **MONITORING AND REPORTING**

30 **SEC. 28.** *Monitoring and Reporting System.* – The State, through the CWC,
31 in coordination with other concerned government organizations, shall ensure the
32 implementation of the provisions of this Act and shall submit to the President and to
33 Congress of the Philippines the annual report thereof. The CWC shall establish and
34 maintain a database for the monitoring and reporting of CSAC concerns integrated in its
35 monitoring system.

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

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CHAPTER X
TRANSITORY PROVISIONS

SEC. 29. *Children Involved in Armed Conflict.* – Upon the effectivity of this Act, criminal cases against CIAC 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 the 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. 30. *Inventory of Custody of CSAC.* – The AFP, the PNP, the Bureau of Jail Management and Penology (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 CSAC under their custody.

SEC. 31. *Children Who Reach the Age of Eighteen (18) Years Pending Court Proceedings or in Suspended Sentences.* – In cases when a child reaches the age of eighteen (18) years with pending case, 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 the 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. 32. *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.

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3 **CHAPTER XI**
4 **FINAL PROVISIONS**

5 **SEC. 33.** *Implementing Rules and Regulations.* – The CWC, together with its
6 member agencies and the OPAPP, with the involvement of the civil society
7 organizations, shall promulgate the implementing rules and regulations of this Act within
8 ninety (90) days from its approval. All government agencies enumerated in Section 27
9 of this Act shall be consulted insofar as the drafting of their responsibilities are
10 concerned.

11 NGOs involved in caring for CSAC shall likewise be consulted in the drafting of
12 the implementing rules and regulations of this Act.

13
14 **SEC. 34.** *Appropriations.* – The amount necessary to cover the initial
15 implementation of this Act shall be charged against the current year’s appropriations of
16 the concerned implementing departments/agencies. Thereafter, the amount necessary
17 for its continued implementation shall be included in the budgets of the concerned
18 departments/agencies in the annual General Appropriations Act.

19
20 **SEC. 35.** *Repealing Clause.* – Article X, Sections 22 to 26 of Republic Act
21 No. 7610, otherwise known as the “Special Protection of Children Against Child Abuse,
22 Exploitation and Discrimination Act”, all laws, acts, presidential decrees, executive
23 orders, administrative orders, rules and regulations inconsistent with or contrary to the
24 provisions of this Act are deemed amended, modified or repealed accordingly.

25
26 **SEC. 36.** *Separability Clause.* – If any part or provision of this Act is declared
27 invalid or unconstitutional, the other parts hereof not affected thereby shall remain valid.

28
29 **SEC. 37.** *Effectivity Clause.* – This Act shall take effect fifteen (15) days
30 upon completion of its publication in at least two (2) national newspapers of general
31 circulation.

Approved,