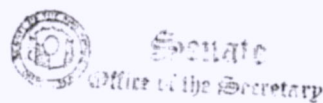


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)



'18 AUG 15 A9:35

SENATE
S. B. No. 1935

RECEIVED

[Handwritten signature]

Introduced by **Senator Ana Theresia "Risa" Hontiveros-Baraquel**

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

EXPLANATORY NOTE

90% of the casualties of armed conflicts all over the world are women and children. The particular vulnerabilities faced by children make them suffer the most in a situation of armed conflict. It is 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.

The Philippines is signatory to the Convention on the Rights of the Child, its Optional Protocol on the involvement of children in armed conflict and all other core human rights treaties, particularly, the

International Covenant on Civil and Political Rights and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; other pertinent international instruments such as the International Labor Organization Convention No. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labor; the Geneva Conventions of 1949 and the

additional protocols ratified by the Philippines; the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) General Recommendation 30 and the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction. Yet we have no legislation on the particular issue of children in situations of armed conflict.

It is in light of this urgent situation that this measure is pushed. This bill recognizes that war and armed conflict severely violate various rights of children as espoused in the UN Convention on the Rights of the Child: rights to life, to be with the family and community, to health and education, and to be nurtured and protected. It underscores Children as Zones of Peace as already stipulated in Republic Act No. 7610 otherwise known as the Special Protection of Children against Abuse, Exploitation, and Discrimination Act. Treating children as zones of peace focuses on the person of the child whose

rights shall be promoted and protected at all times, especially in situations of armed conflict or violence.

Immediate passage of this bill is earnestly sought

Ana Theresia "Risa" Hontiveros-Baraquel
Ana Theresia "Risa" Hontiveros-Baraquel

'18 AUG 15 A9 :35

SENATE
S. B. No. 1935

RECEIVED

Introduced by **Senator Ana Theresia "Risa" Hontiveros-Baraquel**

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

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

CHAPTER I
GENERAL PROVISIONS

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

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

(a) fully implement the protection guaranteed under the *Convention on the Rights of the Child*, its *Optional Protocol on the involvement of children in armed conflict* and all other core human rights treaties, particularly, the *International Covenant on Civil and Political Rights* and the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*; other pertinent international instruments such as the *International Labor Organization Convention No. 182* concerning the prohibition and immediate action for the elimination of the worst forms of child labor; the *Geneva Conventions of 1949* and the additional protocols ratified by the Philippines; the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* General Recommendation 30 and the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction*;

(b) take into account the *United Nations Guiding Principles on Internal Displacement*, the United Nations Security Council Resolutions related to children affected by armed conflict, *United Nations Security Council Resolution (UNSCR) No. 1820 on Women, Peace and Security*, and other pertinent international instruments in the implementation of its treaty obligations and of this Act; respect the human rights of children at all times. It shall be recognized that children are entitled to dignity and respect as human beings in need of protection from degradation, humiliation, maltreatment, exploitation and assault;

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

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

(e) take all the necessary measures to address the root causes of armed conflict which include poor governance, issues of injustice and wide spread poverty and economic inequity that result in involving, affecting or displacing children;

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

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

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

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

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

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

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

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

(b) *Acts of gender-based violence* refer to physical or sexual violence other than rape, and psychosocial harm that is committed against a person as a result of power inequities

1 that are based on gender roles. These include, among others battering, sexual slavery and
2 abuse of children, female genital mutilation, prostitution, forced marriage, forced
3 pregnancy or forced sterilization;

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

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

12 (e) *Attacks on schools, hospitals, places of worship, child development or day care*
13 *centers, evacuation centers and other public places such as recreation parks, playgrounds and*
14 *malls* refer to the attacks, occupation, shelling, targeting for propaganda of schools,
15 hospitals or places of worship and their personnel; causing damage to such places, or harm
16 or injury to their personnel; or causing the total or partial physical destruction of such
17 facilities; or disruption of educational activities and health services. It also refers to attacks
18 of such places which have been temporarily abandoned by the community as a result of
19 armed conflict;

20 (f) *Camps* – refer to structures or spaces occupied by governmental armed forces and
21 armed groups.

22 (g) *Child* refers to:

23 (1) A person below eighteen (18) years of age; or,

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

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

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

32 (j) *Children involved in armed conflict (CIAC)* refers to children who are either forcibly,
33 compulsorily recruited or who voluntarily joined any governmental armed forces or any
34 armed group in any capacity to participate directly in armed hostilities as combatants or as
35 fighters, or take support roles such as scouting, spying, sabotaging, acting as decoys,
36 assisting in checkpoints being couriers, messengers, porters, cooks, and being used for
37 sexual purposes;

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

3 (l) *False branding of children or labeling children as children involved in armed*
4 *conflict*- refers to the voluntary and intentional act of referring to, calling, defining,
5 reporting, or any other form of communication that incorrectly defines children as children
6 involved in armed conflict, when the status or condition of such children are such that they
7 are involved in armed conflict as defined in this Act;

8 (m) *False reporting of a child in custody* - refers to the voluntary and intentional
9 act of any person of providing false, incorrect, and mistaken information in relation to a
10 child in custody in relation to situations of armed conflict;

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

13 (o) *Governmental armed forces* refer to the Armed Forces of the Philippines, together
14 with its reserve and auxiliary forces including paramilitary forces, the Philippine National
15 Police (PNP) and other law enforcement agencies;

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

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

26 (r) *Hospitals or health facilities* refer to any structure including diagnostic clinics or
27 multi-specialty clinics recognized and known by the community as a facility where the sick
28 and wounded are provided with medical or health care services;

29 (s) *Humanitarian access* refers to the right of vulnerable populations to receive
30 international protection and assistance from an impartial humanitarian relief operation to
31 complement efforts of national authorities. Such action is subject to the consent of the State
32 or parties concerned and does not prescribe coercive measures in the event of refusal,
33 however unwarranted;

34 (t) *Humanitarian assistance* refers to any aid that seeks to save lives and alleviate
35 suffering of a crisis-affected population. Humanitarian assistance must be provided in
36 accordance with the basic humanitarian principles of humanity, impartiality, independence
37 and neutrality. Assistance may be divided into three (3) categories: direct assistance,

indirect assistance and infrastructure support, which have diminishing degrees of contact with the affected population;

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

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

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

(x) *Rape* is a sexual assault that violates a person's right to personal security and bodily integrity with the essential lack of consent and shall include those enumerated in Sec. 2 of Republic Act No. 8353 or the *Anti-Rape Law* of 1997.

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

(y) *Release of children* refers to the process of formal and controlled disarmament and demobilization of children and their release from an armed force or armed group as well as informal ways in which children leave by escaping, being captured or by other means. It entails a disassociation from the armed force or armed group and the beginning of transition from military to civilian life. Release can take place during a situation of armed conflict; it is not dependent on the temporary or permanent cessation of hostilities; it is not dependent on children having weapons to forfeit;

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

(aa) *Zone of peace* refers to a site with sacred, religious, historic, educational, cultural, geographical or environmental importance, which is protected and preserved by

1 its own community. It is not merely a “Demilitarized Zone”, but a sanctuary that operates
2 within ethical principles of nonviolence, free from weapons, acts of violence, injustice and
3 environmental degradation; children are declared zones of peace in accordance with the
4 policies stipulated under Article X, Section 22 of Republic Act No. 7610 or the *Special*
5 *Protection of Children Against Child Abuse, Exploitation and Discrimination Act*.

7 CHAPTER II

8 RIGHTS OF CHILDREN IN SITUATIONS OF ARMED CONFLICT

9 SECTION 6. ***Children as Zones of Peace*** – Treatment of children as zones of peace
10 shall extend beyond territorial or geographical boundaries and shall focus on the person of
11 the child whose rights shall be promoted and protected at all times, especially in situations
12 of armed conflict or violence. The State and all sectors concerned shall have the
13 responsibility to resolve armed conflict in order to promote the goal of children as zones of
14 peace. As such, the community, governmental authority and, if appropriate, religious
15 leadership shall preserve the peaceful integrity of children, exemplify mutual respect and
16 nonviolent behavior in the presence of children, and share their resources to further peace
17 and cooperation.

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

20 (a) the right to life, survival and development;

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

23 (c) the right to be treated as victims. They shall be treated in accordance with this Act
24 and other applicable laws, consistent with the State obligation under international law,
25 within the framework of restorative justice, social rehabilitation and promotion of their
26 protection;

27 (d) the right to be accorded with special respect and to be protected from any form of
28 direct or indiscriminate attacks and acts of violence especially protection from the grave
29 child rights violations as enumerated in Section 9 of this Act;

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

34 (f) the right to be protected from extra judicial killings, maiming, torture, abduction
35 and rape;

36 (g) the right to be immediately provided and have safe access to essential, adequate
37 and culturally appropriate food and nutrition; basic shelter and housing; culturally

1 appropriate clothing; water, sanitation and hygiene; basic health services including
2 essential drugs, medicines and vaccines, minimum initial service package for reproductive
3 health, and health professional evaluation and appropriate intervention; education,
4 including religious and moral education; early childhood care and development programs,
5 psychosocial support and social services. All services provided for them must be child-
6 specific and gender sensitive and responsive;

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

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

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

16 (k) the right of the wounded and the sick, those with disabilities, unaccompanied
17 minors, expectant and lactating mothers, to care, protection and assistance required by
18 their condition; and to prevention, treatment, care, and support for contagious and
19 infectious diseases;

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

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

24 (n) the right to privacy and confidentiality in all proceedings;

25 (o) the right to nondiscrimination;

26 (p) the right to liberty of movement and freedom to choose their residence; in
27 particular, internally displaced children and their families have the right to move freely in
28 and out of evacuation centers or other settlements, subject to existing rules and regulations
29 in those centers or settlements and to other government regulations and directives;

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

34 (r) the right to obtain necessary document/s to enjoy their legal rights. The State shall
35 have the duty to expedite services in the issuance of new documents or the replacement of
36 documents lost in the course of displacement, without imposing unreasonable conditions

1 and without discrimination against female child and male child, who shall have equal rights
2 to obtain and to be issued the same in their own names;

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

5 (t) the right for protection of their family's properties and possessions in all
6 circumstances.

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

11 CHAPTER III 12 PREVENTION

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

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

19 (b) mainstreaming of peace education programs and the promotion of culture of
20 peace and non-violence shall be pursued in both formal and non-formal settings;

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

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

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

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

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

- 1 (h) establish basic facilities and infrastructure needed;
2 (i) ensure that child protection mechanisms are present and functional; and,
3 (j) establish a comprehensive, effective and efficient system for monitoring and
4 reporting and response for violations as provided in Section 9 of this Act.
5

6 CHAPTER IV

7 PROHIBITED ACTS, PENALTIES AND PRESCRIPTION OF CRIME

8 SECTION 9. ***Prohibited Acts and Penalties.*** –

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

11 (1) killing of children;

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

15 (3) intentional maiming of children; and,

16 (4) rape of children

17 Any person found guilty of committing any of the acts enumerated in subparagraphs
18 1, 2, 3 and 4 of Paragraph (a) of this Section shall suffer the penalty of life imprisonment
19 and a fine of not less than two million pesos (P2,000,000.00) but not more than five million
20 pesos (P5,000,000.00).

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

22 (1) cruel, inhuman and degrading treatment or punishment committed against
23 children. For purposes of this Act, cruel, inhuman and degrading treatment or punishment
24 shall include those acts enumerated in Section 5 of the *Anti-Torture Act*;

25 (2) abduction of children;

26 (3) casual maiming of children;

27 (4) taking children as hostages or using them as human shield;

28 (5) recruitment, conscription or enlistment of children into governmental armed
29 forces and other armed groups;

30 (6) acts of gender-based violence against children;

31 (7) refusal or denial of humanitarian access and/or assistance to children;

32 (8) use or involvement of children involved in armed conflict in any capacity as
33 defined in Section 5(i) of this Act; and,

34 (9) attack on schools, hospitals, places of worship, evacuation centers and
35 settlements and other public places such as recreation parks, playgrounds and malls.

36 Any person found guilty of committing any of the acts enumerated in
37 subparagraphs 1, 2, 3, 4, 5, 6, 7, 8, and 9, of Paragraph (b), of this Section shall suffer the

penalty of an imprisonment of not less than fourteen (14) years but not more than twenty (20) years and a fine of not less than one million pesos (P1,000,000.00) but not more than two million pesos (P2,000,000.00).

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

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

(1) hamleting;

(2) food blockade;

(3) intentional delayed reporting of a child in custody;

(4) false reporting of a child in custody;

(5) false branding of children or labeling children as children involved in armed conflict; and arrest, arbitrary detention or unlawful prosecution of children allegedly associated with armed groups or armed forces.

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

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

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

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

Any person who shall deliberately commit any other act not covered in Section 9, which shall result in prejudicing the rights of children in situations of armed conflict shall

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

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

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

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

14
15 CHAPTER V
16 PRINCIPLES OF CRIMINAL LIABILITY AND APPLICATION OF PENALTIES
17

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

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

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

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

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

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

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

35 (c) the person acted under duress or coercion.

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

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

CHAPTER VI

INVESTIGATION, PROSECUTION AND COURT

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

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

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

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

The age of a child may be determined from the child's birth certificate, baptismal certificate or any other pertinent document. In the absence of these documents, age may be based on information from the child, testimonies of other persons, the physical appearance of the child and other relevant evidence such as dental records. In case of doubt as to the age of the child, it shall be resolved in favor of the child being deemed a minor.

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

If a case has been filed against the child and is pending in the appropriate court, the person shall file a motion to determine the age of the child in the same court where the case

1 is pending. Pending hearing on the said motion, proceedings on the main case shall be
2 suspended.

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

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

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

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

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

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

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

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 victims;

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

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

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

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

CHAPTER VII

REHABILITATION AND REINTEGRATION, RESCUE AND RELEASE

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

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

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

Regardless of the perceived association of those children to one of the side of the conflict, They shall benefit from all available medical, psycho-social, legal, shelter and educational response mechanism services for the victims of armed conflict.

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

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

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

(c) Reintegration: The civilian national or local government agencies and civil society organizations shall bring children back to their families or communities whenever possible. This shall involve services including the provision of alternative parental care. Trainings

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

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

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

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

14 (a) develop a child-specific release program. This release program should not make as
15 a requirement the surrender of arms by CIAC;

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

18 (c) with due regard to the right to privacy of CIAC, their security and safety, and
19 considering the confidentiality of records, there will be data and information sharing
20 between government and nongovernment organizations to assess the needs of released
21 CIAC and to formulate ways to address these needs, and be informed of their status and
22 updates of released CIAC;

23 (d) mobilize and strengthen networks for referrals;

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

28 (f) ensure the release of CIAC through various approaches such as advocacy of
29 concerned groups, through the Government Peace Negotiating Panel (GPNP), and others.

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

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

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

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

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

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

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

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

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

24 The LSWDO shall require the parents of the child in situations of armed conflict to
25 undergo counseling or any other intervention that, in the opinion of the court will
26 advance the welfare and best interest of the child. Relevant government agencies
27 should provide social welfare and social protection interventions for parents and
28 children to ensure family support, reintegration and rehabilitation, when necessary.

29 As used in this Act, 'parents' shall mean any of the following:

30 (a) Biological parents of the child; or

31 (b) Adoptive parents of the child; or

32 (c) Individuals who have custody of the child; or

33 (d) A duly licensed foster parent, pursuant to Republic Act No. 10165, otherwise
34 known as the "Foster Care Act of 2012"

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

(j) The CIAC shall be reintegrated into the community and reunited to his or her family, or within a family or community setting where they can be adequately cared for and protected. In cases where reintegration to original community of origin is not feasible for reasons of CIAC's security, a conflict-free foster community or institution shall be identified. For other cases where children associated with armed forces or armed groups remain with their family and community or maintain close ties, reintegration shall entail the reorientation of children towards civilian life.

CHAPTER VIII

INVOLVEMENT OF GOVERNMENT AND NONGOVERNMENT ORGANIZATIONS

SECTION 25. *Inter-Agency Committee on Children In Situations of Armed Conflict* - To effectively undertake the protection of the welfare of children in situations of armed conflict and for proper implementation of this Act, the Inter-Agency Committee on Children Involved in Armed Conflict (IAC-CIAC) created in Executive Order No. 138 shall now be known as the Inter Agency Committee on Children in Situations of Armed Conflict (IAC-CSAC). It shall be chaired by the CWC, with the following government organizations (GOs) as members:

- (a) Armed Forces of the Philippines (AFP);
- (b) Commission on Human Rights (CHR);
- (c) Department of the Interior and Local Government (DILG);
- (d) Department of Health (DOH);
- (e) Department of Education (DepED)
- (f) Department of Justice (DOJ);
- (g) Department of National Defense (DND);
- (h) Department of Social Welfare and Development (DSWD);
- (i) National Commission on Indigenous Peoples (NCIP);
- (j) National Commission on Muslim Filipinos (NCMF);
- (k) National Disaster Risk Reduction and Management Council (NDRRMC);
- (l) Office of the Presidential Adviser on the Peace Process (OPAPP);
- (m) Philippine Commission on Women (PCW); and,
- (n) Philippine National Police (PNP)
- (o) Two civil society organizations working in the same field

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

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

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

3 SECTION 26. **Functions of the IAC-CSAC** - The IAC-CSAC shall perform the following
4 functions:

5 (a) ensure that international instruments such as the UN CRC, the optional protocol
6 on the involvement of children in armed conflict and other related human rights treaties
7 are considered as actions taken;

8 (b) formulate guidelines and develop programs, in coordination with concerned
9 agencies, for the handling of children involved in armed conflict and monitor/document
10 cases of capture, surrender, arrest, rescue, or recovery by government forces;

11 (c) conduct human rights training, advocacy and information campaigns and
12 capability building of LGUs;

13 (d) implement a monitoring, reporting and response system for grave child rights
14 violations in situations of armed conflict; and

15 (e) Work closely with concerned agencies in coordinating and monitoring the
16 implementation of the enhanced CSAC program framework.

18 CHAPTER IX

19 MONITORING AND REPORTING

20 SECTION 27. **Monitoring and Reporting System.** - The State, through IAC-CSAC,
21 shall ensure the implementation of the provisions of this Act and shall submit to the
22 President and to Congress of the Philippines the annual report thereof. The IAC-CSAC,
23 through the CWC, shall continue to maintain and strive to improve the database
24 established by EO No. 138 for the monitoring and reporting of children in situations of
25 armed conflict concerns integrated in its monitoring system which should have
26 demographic data on children disaggregated by sex, age, disability and ethnicity.

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

30 CHAPTER X

31 TRANSITORY PROVISIONS

32 SECTION 28. **Dismissal of Criminal Cases.** - Upon the effectivity of this Act, criminal
33 cases against children involved in armed conflict shall immediately be dismissed and the
34 child shall be referred to the LSWDO. Such office, upon thorough assessment of the child,
35 shall determine whether to release the child to the custody of the parents, or refer the child
36 to prevention, rehabilitation and reintegration programs as provided under this Act. Those
37 with suspended sentences and undergoing rehabilitation at a youth rehabilitation center

1 shall likewise be released: *Provided*, That the Family Court shall, in consultation with
2 concerned agencies, determine and order the appropriate prevention, rehabilitation and
3 reintegration programs the person shall undergo as provided under this Act.

4 SECTION 29. ***Inventory of Custody of Children in Situations of Armed Conflict***. – The
5 AFP, the PNP, the BJMP, the DSWD, the NCIP, the NCMF and the concerned LGUs are hereby
6 directed to submit to the CWC, within ninety (90) days from the effectivity of this Act, an
7 inventory of all children in situations of armed conflict under their custody.

8 SECTION 30. ***Children Who Reach the Age of Eighteen (18) Years Pending Court***
9 ***Proceedings or in Suspended Sentences***. – In cases when a child with a pending case
10 reaches the age of eighteen (18) years, the Family Court shall dismiss the case against the
11 person and determine, in consultation with concerned agencies, whether or not there is a
12 need for the person to undergo appropriate rehabilitation and reintegration programs
13 provided under this Act.

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

18 SECTION 31. ***Children Who Have Been Convicted and are Serving Sentence***. –
19 Persons who have been convicted and are serving sentence at the time of the effectivity of
20 this Act and who were below the age of eighteen (18) years at the time of the commission
21 of the offense for which they were convicted, and are serving sentence, shall likewise
22 benefit from the retroactive application of this Act. They shall be entitled to appropriate
23 dispositions provided under this Act, and their sentences shall be adjusted accordingly.
24 They shall be immediately released if they are so qualified under this Act or other
25 applicable law.

26
27 CHAPTER XI
28 FINAL PROVISIONS

29 SECTION 32. ***Appropriations***. – The amount necessary to cover the initial
30 implementation of this Act shall be charged against the current year's appropriations of the
31 concerned implementing departments/agencies. Thereafter, the amount necessary for its
32 continued implementation shall be included in the budgets of the concerned
33 departments/agencies in the annual *General Appropriations Act*.

34 SECTION 33. ***Implementing Rules and Regulations***. – The CWC, together with its
35 member agencies in the IAC-CSAC, in consultation with civil society organizations, shall
36 promulgate the implementing rules and regulations of this Act within ninety (90) days

1 from its approval. All government agencies enumerated in Section 26 of this Act shall be
2 consulted insofar as the drafting of their responsibilities are concerned.

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

6 SECTION 34. ***Congressional Oversight Committee on Children in Situations of***
7 ***Armed Conflict.*** - There is hereby created an oversight committee on CSAC which shall be
8 composed of the chairpersons of the Committee on Children in the Senate and in the House
9 of Representatives, CWC, OPAPP, CHR, DSWD, and one CSO representative which shall be
10 determined by the aforementioned government agencies.

11 SECTION 35. ***Supplementary Application.*** - For purposes of this Act, the *Revised Penal*
12 *Code*, as amended, and other applicable laws shall have supplementary application.

13 SECTION 36. ***Separability Clause.*** - If any part or provision of this Act is declared
14 invalid or unconstitutional, the other parts hereof not affected thereby shall remain valid.

15 SECTION 37. ***Repealing Clause.*** - Article X, Sections 22 to 26 of Republic Act No.
16 7610, Executive Order No. 138, all laws, acts, presidential decrees, executive orders,
17 administrative orders, rules and regulations inconsistent with or contrary to the provisions
18 of this Act are deemed amended, modified or repealed accordingly.

19 SECTION 38. ***Effectivity.*** - This Act shall take effect fifteen (15) days after its
20 publication in the Official Gazette or in a newspaper of general circulation.

21 **Approved,**