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SENATE

S. No. 2806

RECEIVED BY: 

Introduced by Senator Antonio "Sonny" F. Trillanes IV

Explanatory Note

Section 2 (2) of Article XV of the 1987 Constitution states that:

"The State shall defend the right of children to...special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development."

Having ratified the Convention on the Rights of the Child (CRC) on September 20, 1990 and its Optional Protocol pertaining to the involvement of children in armed conflict on May 28, 2002, the Philippines is obliged under international law to comply effectively through legislative, administrative, judicial and other parallel measures upholding the rights and well-being of children in various parts of the country who are directly involved in armed conflict, whether armed or unarmed.

Accordingly, the United Nations Committee on the Rights of the Child, in its concluding observations on the 3rd and 4th Philippine reports in implementing the CRC recommends that the Philippines should ensure that children involved in armed conflict (CIAC) are not treated as children in conflict with the law (CICL). As children are also victims of the situation, the Committee also calls for strengthening existing measures aimed at the demobilization of children recruited into armed groups, their physical and psychological recovery and social reintegration.

Although the Philippines has various laws that provide for certain protection of children affected by armed conflict, these laws do not provide for a comprehensive approach in their treatment of children from the time the latter come or become affected by situations of conflict and up to the time they ought to be rehabilitated and reintegrated. Consequently, Republic Act No. (RA) 7610 otherwise known as the *Special Protection of Children against Child Abuse, Exploitation and Discrimination Act*, appears to be inadequate as there are gaps in protecting children in situations of armed conflict, particularly CIAC. In RA 7610, children involved in armed conflict are seen more as a violator of the law than a victim thus the law allows for the prosecution of these children.

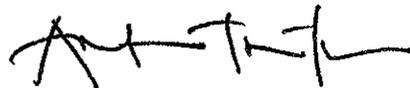
Thus, this proposed measure seeks to provide for a comprehensive protection, rehabilitation and reintegration of the following children in need of special protection:

- Those involved in armed conflict
- Those affected by armed conflict
- Those who have been displaced by reason of armed conflict

It also seeks to establish child sensitive measures and treatment for children involved in armed conflict when they are rescued and demobilized.

The bill further prohibits and penalizes the commission of grave child rights violation in armed conflict situation including killing of children, subjecting them to torture and other inhuman and other degrading treatment or punishment, rape or abduction of children, other acts constituting gender-based violence against children, use of children as hostages or human shield, denial of humanitarian access and/or assistance to children, recruitment and involvement of children in armed conflict, and attack of schools, hospitals places of worship, evacuation centers and settlements and other public places where children can usually be found. It makes liable not only the government forces but also other non-state armed groups for the violation of any provisions of this proposed measure.

The immediate approval of this proposed legislative measure, which has been drafted upon the initiative of the Council for the Welfare of the Children (CWC), together with its partner agencies and organizations in the Sub-committee on Children affected by Armed Conflict and Displacement (SC CAACD), is earnestly sought.

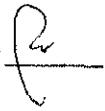


ANTONIO "SONNY" F. TRILLANES IV
Senator

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S. No. 2806

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

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

CHAPTER 1
GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the ‘*Special Protection of
Children in Situations of Armed Conflict Act of 2011.*’

SEC. 2. *Declaration of State Policy.* – It shall be the policy of the State to
provide special protection to Children in Situation of Armed Conflict (CSAC) 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
(CIAC) and all other core human rights treaties, particularly, the International
Covenant on Civil and Political Rights and the Convention Against Torture and Other
Cruel, Inhumane and Degrading Treatment; 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; the
Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of
Anti-Personnel Mines and on their Destruction, and take into account the Paris

1 Principles on the Principles and Guidelines on Children Associated with Armed
2 Forces or Armed Groups, the United Nations Guiding Principles on Internal
3 Displacement, the United Nations Security Council Resolutions related to CAAC and
4 other pertinent international instruments in the implementation of its treaty
5 obligations and of this Act;

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

9 (c) Consider children as Zones of Peace who are entitled to special protection during
10 armed conflict. The State shall consider as paramount the best interests of children
11 and treat all children involved in, affected by or displaced by armed conflict as
12 victims;

13 (d) Take all feasible measures to prevent the recruitment and use of CIAC and shall take
14 all necessary measures to ensure the effective implementation and enforcement of the
15 provisions of this Act;

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

22 (f) Continue to recognize its primary role in providing effective protection and relief to
23 all CSAC;

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

26 (h) Ensure the right to participation of children in all its policies, actions, decisions
27 concerning CAAC.

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

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

5
6 **SEC. 4. *Interpretation of this Act.*** – Nothing in this Act shall be construed as
7 precluding provisions in existing Philippine laws, international human rights laws and
8 related instruments, and international humanitarian law that are more conducive to the
9 realization of the rights of children.

10
11 **SEC. 5. *Definition of Terms.*** – As used in this Act

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

16 (b) “**Armed conflict**” refers to armed confrontations occurring between governmental
17 armed forces and one or more armed groups, or between such groups arising in the
18 Philippine territory. These shall include activities which may lead to armed
19 confrontation or armed violence that put children’s lives at risk and their rights
20 violated.

21 (c) “**Armed group**” refers to an armed non-state actor or non state entities engaged in
22 armed conflict against the state or engaged in armed violence;

23 (d) “**Attacks on schools, hospitals, places of worship, evacuation centers and public**
24 **places where children are usually found**” refers to the occupation, shelling,
25 targeting for propaganda of schools, hospitals or places of worship; causing damage
26 to such places, or harm or injury to their personnel; or causing the total or partial
27 physical destruction of such facilities; or disruption of educational activities and
28 health services. It also refers to attacks of such places, which have been temporarily

1 abandoned by the community as a result of armed conflict, unless these places have
2 been declared a “no man’s land”.

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

7 (f) “**Child**” refers to persons below eighteen (18) years of age or those over but are
8 unable to fully take care of themselves or protect themselves from abuse, neglect,
9 cruelty, exploitation or discrimination because of physical or mental disability or
10 condition.

11 (g) “**Children In Situations of Armed Conflict (CSAC)**” refers to all Children Involved
12 In Armed Conflict (CIAC), Children Affected By Armed Conflict (CAAC), and
13 Internally Displaced Children (IDC).

14 (h) “**Children Involved in Armed Conflict (CIAC)**” refers to children who are either
15 forcibly, compulsorily recruited or who voluntarily joined in any governmental armed
16 forces or any armed group in any capacity to participate directly in armed hostilities
17 as combatants or as fighters, or take support roles such as but not limited to scouting,
18 spying, sabotaging, acting as decoys, assisting in check-points, being couriers,
19 messengers, porters, cooks and being used for sexual purposes.

20 (i) “**Children Affected by Armed Conflict (CAAC)**” refers to all children population
21 experiencing or have experienced armed conflict.

22 (j) “**Explosive Remnants of War (ERW)**” refers to unexploded ordnance and
23 abandoned explosive ordnance. *Explosive Ordnance* refers to munitions that contain
24 explosives, nuclear fission or fusion material, biological and chemical agents. This
25 includes bombs and warheads, guided and ballistic missiles, artillery, mortar, small
26 arms ammunition, mines, torpedoes, depth charges, demolition stores, pyrotechnics,
27 cluster munitions and dispensers, cartridges and propelled actuated devices, electric
28 explosive devices and similar items that are explosive in nature. *Unexploded*
29 *Ordnance* refers to explosive ordnance, which has been primed, fuzed, armed or

1 otherwise prepared for use or used. It could have been fired, dropped, launched,
2 projected yet remains unexploded either through malfunction or design or for any
3 other cause.

4 (k) **“Food blockade”** refers to armed conflict tactic of forcibly cutting off entry of food
5 supplies in a particular area where children can be found.

6 (l) **“Governmental armed forces”** refers to the Armed Forces of the Philippines (AFP)
7 including the paramilitary forces, the Philippine National Police (PNP), and other law
8 enforcement agencies.

9 (m) **“Grave child rights violation”** refers to the crimes committed against children that
10 constitute flagrant violations of their human rights and have severe consequences in
11 their lives. These crimes include those enumerated in Section 8 of this Act, such as
12 but not limited to, killing or maiming of children, recruitment or use of CIAC, rape
13 and other forms of sexual violence against children, abduction of children, attacks
14 against schools or hospitals, denial of humanitarian access to children.

15 (n) **“Hamleting”** refers to an armed conflict strategy that isolates a community of
16 importance to the enemy which is inhabited by children including relocating said
17 community away from crucial zones. This strategy could be used to control the
18 activities of the people in said areas.

19 (o) **“Hospitals or health facilities”** refers to any structure recognized and known by the
20 community as a facility where the sick and wounded are provided with medical and
21 or health care services.

22 (p) **“Humanitarian access”** refers to the right of vulnerable populations to receive
23 international protection and assistance from an impartial humanitarian relief operation
24 to complement efforts of national authorities. Such action is subject to the consent of
25 the State or parties concerned and does not prescribe coercive measures in the event
26 of refusal, however unwarranted.

27 (q) **“Humanitarian assistance”** refers to aid that seeks to save lives and alleviate
28 suffering of a crisis-affected population. Humanitarian assistance must be provided in
29 accordance with the basic humanitarian principles of humanity, impartiality,

1 independence and neutrality. Assistance may be divided into three categories: direct
2 assistance, indirect assistance and infrastructure support, which have diminishing
3 degrees of contact with the affected population.

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

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

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

25 (u) “**Maiming of children**” refers to acts of all kinds in the context of armed conflict that
26 result in serious or permanent or disabling injury, scarring or defacing, or mutilation
27 to one or more children. It shall cover *intentional maiming* of children where they
28 are directly targeted, and *causal maiming* of children which results from indirect
29 actions, such as cross-fire, use of landmines, cluster munitions, ERW, all forms and

1 types of IED; or in the context of house demolitions, search and arrest campaigns,
2 suicide attacks and torture.

3 (v) **“Other acts of gender based violence”** refers to physical, sexual violence other than
4 rape, and psychosocial harm that is committed against a person as a result of power
5 inequities that are based on gender roles. These include, among others, sexual slavery,
6 prostitution, forced marriage, forced pregnancy, or forced sterilization.

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

9 (x) **“Recruitment”** refers to compulsory, forced and voluntary conscription or enlistment
10 of children into the governmental armed force and forced or voluntary membership
11 into the armed group.

12 (y) **“Release of children”** refers to the process of formal and controlled disarmament of
13 children and their release from an armed force or armed group. It shall likewise refer
14 to the informal ways in which children leave the governmental armed forces or armed
15 group. It entails a disassociation from the armed force or armed group and the
16 beginning of transition to mainstream society. Release of children can take place
17 during the situation of armed conflict; it is not dependent on the temporary or
18 permanent cessation of hostilities; it is not dependent on children having weapons to
19 forfeit.

20 (z) **“School”** refers to any structure that is recognized and known by the community as a
21 learning space and marked by visible boundaries.

22 (aa) **“Zone of Peace”** refers to a site with sacred, religious, historic, educational,
23 cultural, geographical or environmental importance protected and preserved by its
24 own community and officially recognized by a governmental authority. It is not
25 merely a "Demilitarized Zone", but a sanctuary that operates within ethical principles
26 of non-violence, free from weapons, acts of violence, injustice and environmental
27 degradation.

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CHAPTER 2
RIGHTS OF CHILDREN IN ARMED CONFLICT

1 **SEC. 6. *Children as Zones of Peace.*** – Children are hereby declared as Zones of
2 Peace. The treatment of children as Zones of Peace shall extend beyond territorial or
3 geographical boundaries and focus on the person of the child whose rights shall be
4 promoted and protected at all times, especially in situations of armed conflict or violence.
5 The State and all sectors concerned shall have the responsibility to resolve armed conflict
6 in order to promote the goal of children as zones of peace. As such, the community,
7 governmental authority and, if appropriate, religious leadership shall preserve the
8 peaceful integrity of children and shall exemplify mutual respect and non-violent
9 behavior in the presence of children, and share their resources for furthering peace and
10 cooperation.

11
12 **SEC. 7. *Rights of Children In Situations of Armed Conflict (CSAC).*** –

13 Children in Situations of Armed Conflict (CSAC) shall have the following rights:

- 14 (a) the right of special respect and protection against any form of abuse, neglect,
15 exploitation and violation, especially in the context of armed conflict;
- 16 (b) the right of all children involved in, affected by or displaced by armed conflict to be
17 treated as victims. They shall be treated in accordance with this Act, and other
18 applicable laws, consistent with the State obligation under international law, within
19 the framework of restorative justice, social rehabilitation and promotion of their
20 protection;
- 21 (c) the right to be considered as object of special respect and to be protected from any
22 form of direct or indiscriminate attacks and acts of violence especially protection
23 from the grave child rights violations as enumerated in Section 8 of this Act;
- 24 (d) the right to be protected from recruitment into the governmental armed forces or
25 armed groups and from participation in armed conflict. This shall include the right
26 to be protected from torture or any cruel, inhuman or degrading practices that compel
27 compliance or punish non-compliance with recruitment or participation in armed
28 conflict;

- 1 (e) the right to be immediately provided and have safe access to essential, adequate and
2 culturally appropriate food and nutrition; basic shelter and housing; culturally
3 appropriate clothing; water, sanitation, and hygiene; basic health services including
4 essential drugs, medicines and vaccines, health professional evaluation and
5 appropriate intervention; education, including religious and moral education; Early
6 Childhood Care and Development (ECCD) programs, psychosocial support and
7 social services. All services provided for children must be child and gender sensitive
8 or responsive;
- 9 (f) the right to enjoy their freedom of thought, conscience, religion or belief, opinion
10 and expression; to associate freely and participate equally in legitimate community
11 affairs; to communicate in a language they understand even in situations of armed
12 conflict and whether or not they have been internally displaced or are living in
13 evacuation centers or settlements;
- 14 (g) the right of the wounded and sick children to be cared for and provided with aid or
15 assistance or medical services, whether because of their age or for any other reason;
- 16 (h) the right of all children to be treated humanely in all circumstances, without any
17 adverse distinction founded on race, color, religion or faith, gender, birth or wealth,
18 or any other similar criteria;
- 19 (i) the right not to be interned in or confined in camp, especially IDC and their families;
- 20 (j) the right of IDC, unaccompanied minors, expectant mothers, children with
21 disabilities, the wounded and the sick children to protection and assistance required
22 by their condition, and to treatment which takes into account their special needs, such
23 as but not limited to their health needs, reproductive health care as well as appropriate
24 counseling, prevention of contagious and infectious diseases, including HIV/AIDS,
25 and access to psychosocial services;
- 26 (k) the right of children to be with their families, especially with their mothers, during
27 evacuations and in evacuation centers;
- 28 (l) the right to liberty of movement and freedom to choose their residence especially the
29 IDC and their families who shall have the right to move freely in and out of

1 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 safety in
4 another part of the country; seek other service providers; seek asylum in another
5 country; and be protected against forcible return to resettlement in any place where
6 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 separation due to
8 armed conflict;

9 (o) the right to obtain necessary document/s to enjoy their legal rights. The State shall
10 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
13 child, who shall have equal rights to obtain and to be issued the same in their own
14 names;

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

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

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

22
23 **CHAPTER 3**
24 **UNLAWFUL AND PROHIBITED ACTS**
25

26 **SEC. 8. *Unlawful or Prohibited Acts.* –**

27 (a.) It shall be unlawful for any person, to commit the following acts of grave

28 Child Rights Violations:

29 1. Killing of children;

- 1 2. Torture committed against children. For the purposes of this Act, torture shall
- 2 include those enumerated in Section 4 of Republic Act 9745 or the Anti-
- 3 Torture Act;
- 4 3. Intentional or causal maiming of children;
- 5 4. Rape of children;
- 6 5. Cruel, inhuman and degrading treatment or punishment committed against
- 7 children. For the purposes of this Act, cruel, inhuman and degrading treatment
- 8 or punishment shall include those enumerated in Section 5 of Republic Act
- 9 9745 or the Anti-Torture Act;
- 10 6. Abduction of children;
- 11 7. Taking children as hostages or using them as human shield;
- 12 8. Recruitment, conscription, or enlistment of children into governmental armed
- 13 forces and other armed groups;
- 14 9. Other acts of gender-based violence against children;
- 15 10. Refusal or denial of humanitarian access and/or assistance to children;
- 16 11. Use or involvement of CIAC in any capacity as defined in Section 5(h) of this
- 17 Act;
- 18 12. Attack on schools, hospitals, places of worship, evacuation centers and
- 19 settlements and other public places where children can usually be found.

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

- 21 1. Hamleting
- 22 2. Food Blockade
- 23 3. Intentional Delayed Reporting of a child in custody
- 24 4. False Reporting of a child in custody
- 25 5. False Branding of children or labeling children as children involved in armed
- 26 conflict

27 (c.) It shall also be unlawful for parents, ascendants, guardians, step parents or

28 collateral relatives within the third degree of consanguinity or affinity or any

29 person having control or moral ascendancy to the child to allow, willfully

1 encourage, compel, coerce, or influence their child or children to be part of an
2 armed group or a governmental armed force.

3
4 **CHAPTER 4**
5 **PENALTIES AND PRESCRIPTION OF CRIME**
6

7
8 **SEC. 9. Penalties.** – The following penalties and sanctions are hereby imposed
9 for the offenses enumerated in this Act:

10 (a) Any person found guilty of committing any of the acts enumerated in subparagraphs
11 1,2,3 and 4 of paragraph (a) Section 8 of this Act shall suffer the penalty of life
12 imprisonment and a fine of not less than Two million pesos (P2, 000,000.00) but not
13 more than Five Million Pesos P5, 000,000.00)

14 (b) Any person found guilty of committing any of the acts enumerated in subparagraphs
15 5,6,7,8,9,10,11 and 12 of paragraph (a) Section 8 of this Act shall be punished with
16 an imprisonment of not less than fourteen (14) years but not more than twenty (20)
17 years and a fine of not less than One Million Pesos (P1,000,000.00) but not more than
18 Two Million Pesos (P2,000,000.00); *Provided* where the crimes committed resulted
19 in the killing, torture, maiming, or rape of children in subparagraphs 1,2,3 and 4 of
20 paragraph (a) Section 8, the penalty imposed shall be that of Section 9(a) of this Act;

21 (c) Any person found guilty of committing any of the acts enumerated in subparagraphs
22 1,2,3,4 and 5 paragraph (b) Section 8 of this Act shall be punished with an
23 imprisonment of not less than six (6) years but not more than twelve (12) years and a
24 fine of not less than Five Hundred Thousand Pesos (P500,000.00) but not more than
25 One Million Pesos (P1,000,000.00).

26 (d) Parents, ascendants, guardians, step parents or collateral relatives within the third
27 degree of consanguinity or affinity or any person having control or moral ascendancy
28 to the child to allow, willfully encourage, compel, coerce, or influence their child or
29 children to be part of an armed group shall be punished with not less than six years
30 but not more than twelve years. *Provided, However That,* parents, ascendants,
31 guardians, step parents or collateral relatives within the third degree of consanguinity

1 or affinity or any person having control or moral ascendancy to the child found guilty
2 hereof may be allowed to serve the minimum period of imprisonment based on the
3 sound discretion of the courts guided by the principles of *parens patriae*.

4
5 **SEC. 10. *Non-implementation or Violation of any other Provisions of this Act***
6 ***or the Rules and Regulations in General.*** – Any public officer, who shall knowingly and
7 maliciously prevent, prohibit, refuse or discontinue the implementation of any provisions
8 of this Act or any rules and regulations promulgated in accordance thereof, or in any
9 other way violate them, if such officer has the duty to implement shall be punished by
10 imprisonment of not less than six years but not more than twelve years and perpetual
11 absolute disqualification.

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

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

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

22
23 **SEC. 11. *Forfeiture of Proceeds, Property and Assets.*** – The court shall order
24 the forfeiture of proceeds, property and assets derived, directly or indirectly, from the
25 crimes defined and penalized in this Act, without prejudice to the rights of the *bona fide*
26 third party. The court shall impose the corresponding accessory penalties under the
27 Revised Penal Code, especially where the offender is a public officer.

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

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

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

5 (c) The order was not manifestly unlawful.

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

9

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

15

16

17

CHAPTER 6 INVESTIGATION, PROSECUTION AND COURT

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

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

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

29

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

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

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

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

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

21
22 **SEC. 20. Protection of Victims and Witnesses.** – In addition to existing
23 provisions in Philippine law for the protection of victims and witnesses, the following
24 measures shall be undertaken:

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

1 (b) The Court shall protect the privacy of child victims and witnesses and observe
2 confidentiality consistent with existing rules on examination of child victims and
3 witnesses;

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

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

11

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

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

19 (b) The Court shall make an order directly against a convicted person specifying
20 appropriate reparations to child victims, including restitution, compensation and
21 rehabilitation; and

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

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

27

28 **SEC. 22. *Immunity from Suit for Persons Providing Assistance.*** – Any person
29 who shall take custody of children involved in armed conflict to ensure their safety or

1 provide them any form of assistance shall be exempt from any civil, criminal and
2 administrative liability provided that the person shall report it to the Local Social Welfare
3 and Development Office (LSWDO), Philippine National Police (PNP) or to the
4 Barangay office within forty eight (48) hours.

5
6 **CHAPTER 7**
7 **PREVENTION, REHABILITATION AND REINTEGRATION,**
8 **RESCUE, RELEASE**
9

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

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

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

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

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

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

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

30 (g) make available basic health services in health facilities in identified priority areas.
31 Culturally sensitive nutrition program and activities including but not limited to

- 1 supplementary feeding shall also be made available. Efforts to support traditional
2 health practices in indigenous peoples area shall also be initiated;
- 3 (h) establish basic facilities and infrastructure needed;
- 4 (i) ensure that child protection mechanisms are present and functional; and
- 5 (j) establish a comprehensive, effective and efficient system for monitoring and
6 reporting and response for violations as provided in Section 8 of this Act.

7

8 **SEC. 24. *Rescue, Rehabilitation and Reintegration*** – The State shall institute
9 policies, programs and services for rescue, rehabilitation and reintegration of children
10 involved in, affected by or displaced by armed conflict. The programs shall aim at
11 providing services for children while involving their families, communities and other
12 entities to facilitate the children’s reintegration process.

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

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

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

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

26 (b) *Rehabilitation*: The State shall facilitate the normal development of children victims
27 in their post-involvement phase. It shall provide services including therapeutic
28 counseling, security and protection, educational assistance and livelihood

1 opportunities to their parents, relatives or guardians or to the victims when they
2 become of age;

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

10

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

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

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

18 (a) Develop a child-specific release and reintegration program. This program should not
19 make as a requirement the surrender of arms by CIAC who have assumed non-
20 combatant roles;

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

23 (c) With due regard to the right to privacy of CIAC, their security and safety, and
24 considering the confidentiality of records, share data and information by both
25 government and non-government organizations to assess the needs of released CIAC
26 and to formulate ways to address these needs, and be informed of their status and
27 updates of demobilized CIAC;

28 (d) Mobilize and strengthen networks for referrals;

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

5 (f) Ensure the formal release of CIAC through various approaches such as negotiating
6 through the Government Peace Negotiating Panel (GPNP). Other criminal armed
7 groups that utilize children and are not involved in formal peace negotiation with the
8 government shall however, be dealt, in accordance with peace and order or security
9 policy as may be provided by the appropriate government agency. *Provided, That* in
10 any demobilization action, the best interest of the child shall prevail.

11

12 **SEC. 26. *Rescued or Surrendered Children Involved in Armed Conflict (CIAC)***

13 - Where the CIAC have been rescued or surrendered they shall at all times be treated in a
14 child-friendly and sensitive manner. The State at all times shall consider the safety and
15 security of the CIAC. The following procedures shall apply without prejudice to the
16 application of other existing laws that will uphold the best interests of the child:

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

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

22 (c) Upon the rescue or surrender of CIAC, the government agencies, in particular, the
23 Armed Forces of the Philippines (AFP), the Philippine National Police (PNP),
24 Department of National Defense (DND), Local Government Units (LGUs), other
25 concerned government agencies and/or Non-Government Organizations (NGOs) in
26 possession of CIAC shall report immediately within twenty four (24) hours the
27 incident to the Local Social Welfare and Development Office (LSWDO) and Council
28 for the Welfare of Children (CWC);

- 1 (d) The Local Social Welfare and Development Office (LSWDO) shall coordinate with
2 the agency and/or NGO in possession of CIAC for the turn-over of custody of CIAC
3 to DSWD;
- 4 (e) The turnover to LSWDO shall take place within 24 hours or in cases where turnover
5 is not possible within the prescribed 24 hour period due to valid reasons and without
6 the fault of the person having the custody of the child, the turnover shall be done
7 within the next seventy two (72) hours;
- 8 (f) The LSWDO shall facilitate the family tracing and coordinate with parents, relatives
9 or guardian of the CIAC to inform them of the turnover;
- 10 (g) The Local Health Office (LHO) in coordination with the LSWDO shall check and
11 assess the medical and physical condition of CIAC In cases where medical needs are
12 apparent, the LHO shall ensure that medical services or treatment are received by the
13 CIAC;
- 14 (h) The LSWDO shall assess the needs of the CIAC and refer to concerned agencies to
15 provide immediate assistance or appropriate services;
- 16 (i) The LSWDO, in coordination with other agencies, shall enter the CIAC into the
17 child-specific demobilization programs;
- 18 (j) The CIAC shall be reintegrated into the community. In cases where reintegration to
19 original community of origin is not feasible for reasons of the CIAC's security, a
20 foster community or institution shall be identified.

21
22 **CHAPTER 8**
23 **INVOLVEMENT OF**
24 **GOVERNMENT AND NON-GOVERNMENT ORGANIZATIONS**
25

26 **SEC. 27. *Involvement of Government Organizations (GOs) and***
27 ***Nongovernment Organizations (NGOs)*** - To effectively address the issue of CSAC, the
28 Council for the Welfare of Children together with its member agencies shall be assisted
29 by the following government organizations (GOs) for the proper implementation of this
30 Act:

- 31 (a) Armed Forces of the Philippines (AFP)

- 1 (b) Commission on Human Rights (CHR)
- 2 (c) Department of National Defense (DND)
- 3 (d) Local Government Units (LGUs)
- 4 (e) National Commission on Indigenous Peoples (NCIP)
- 5 (f) National Commission on Muslim Filipinos (NCMF)
- 6 (g) National Disaster Risk and Reduction Management Council (NDRRMC)
- 7 (h) Office of the Presidential Adviser on the Peace Process (OPAPP)
- 8 (i) Philippine Commission on Women
- 9 (j) Philippine National Police (PNP)

10 Child-focused non-government organizations (NGOs) in caring for CSAC shall
11 take active part in and strengthen their programs on protecting these children.

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

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

20

CHAPTER 9 MONITORING AND REPORTING

21

22

23 **SEC. 28. *Monitoring and Reporting System*** - The State, through the CWC in
24 coordination with other concerned government organizations shall ensure the
25 implementation of the provisions of this Act and shall submit to the President and to
26 Congress of the Philippines, the annual report thereof. CWC shall establish and maintain
27 a database for the monitoring and reporting of CSAC concerns integrated in its
28 monitoring system.

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

3
4 **SEC. 32. *Children Who Have Been Convicted and are Serving Sentence.*** -

5 Persons who have been convicted and are serving sentence at the time of the effectivity
6 of this Act, and who were below the age of eighteen (18) years at the time the
7 commission of the offense for which they were convicted and are serving sentence, shall
8 likewise benefit from the retroactive application of this Act. They shall be entitled to
9 appropriate dispositions provided under this Act and their sentences shall be adjusted
10 accordingly. They shall be immediately released if they are so qualified under this Act or
11 other applicable law.

12 **CHAPTER 11**
13 **FINAL PROVISIONS**
14

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

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

22
23 **SEC. 34. *Appropriations*** –The amount of Ten Million is hereby appropriated to
24 the CWC for the initial implementation of this Act. Said amount shall be funded from the
25 gross income of the Philippines Amusement and Gaming Corporation (PAGCOR) and
26 shall be directly remitted to a special account of the CWC. Thereafter, for the continued
27 implementation of this Act, such sums shall be included in the annual General
28 Appropriations Act (GAA).

29

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

5
6 **SEC. 36. *Separability Clause*** - If any part or provision of this Act is declared
7 invalid or unconstitutional, the other parts thereof not affected thereby shall remain valid.

8
9 **SEC. 37. *Effectivity Clause*** – This Act shall take effect fifteen (15) days upon
10 completion of its publication in the *Official Gazette* or in at least two (2) national
11 newspapers of general circulation

Approved,