

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Fifteenth Congress
First Regular Session



COMMITTEE REPORT NO. 844.

Submitted by the Committee on the Welfare of Children on 24 MAR 2011

Re: House Bill No. 4480

Recommending its approval in substitution of **House Bill Nos. 1198 and 1712**

Sponsors: Representatives Aurora Enorio-Cerilles, Marcelino R. Teodoro and
Maria Isabelle "Beng" G. Climaco

Mr Speaker:

The Committee on the Welfare of Children to which was referred **House Bill No. 1198** introduced by Rep. Marcelino R. Teodoro entitled:

**"AN ACT
PROVIDING FOR THE SPECIAL PROTECTION OF CHILDREN
INVOLVED IN, AFFECTED BY OR DISPLACED BY ARMED
CONFLICT, PROVIDING PENALTIES FOR ITS VIOLATION, AND
FOR OTHER PURPOSES"**

and **House Bill No. 1712** introduced by Rep. Maria Isabelle "Beng" G. Climaco, entitled:

**"AN ACT
PROVIDING FOR THE SPECIAL PROTECTION OF CHILDREN
INVOLVED IN, AFFECTED BY OR DISPLACED BY ARMED
CONFLICT, PROVIDING PENALTIES FOR ITS VIOLATION, AND
FOR OTHER PURPOSES"**

has considered the same and recommends that the attached House Bill No. 4480
entitled:

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

be approved in substitution of **House Bill Nos. 1198 and 1712** with Reps. Teodoro, Climaco, Lacson-Noel, Mercado-Revilla, Eriguel, Enerio-Cerilles, Cruz-Gonzales and Bataoil as authors thereof.

Respectfully submitted,



AURORA ENERIO-CERILLES
Chairperson
Committee on the Welfare of Children

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY

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

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 4480

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

Introduced by Representatives Marcelino R. Tecodoro, Maria Isabelle "Beng" G. Climaco, Josephine R. Lacson-Noel, Lani Mercado-Revilla, Eufanio "Franny" C. Eriguel, Aurora Enerio-Cerilles, Cinchona Cruz-Gonzales and Leopoldo N. Bataoil

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 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, 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*

1 *Prohibition of the Use, Stockpiling, Production and Transfer of Anti-*
2 *Personnel Mines and on their Destruction,*

- 3 b. Take into account the *Paris Principlex on the Principles and Guidelines on*
4 *Children Associated with Armed Forces or Armed Groups*, the *United Nations*
5 *Guiding Principles on Internal Displacement*, the United Nations Security
6 Council Resolutions related to children affected by armed conflict and other
7 pertinent international instruments in the implementation of its treaty
8 obligations and of this Act;
- 9 c. Respect the human rights of children at all times. It shall be recognized that
10 children are entitled to dignity and respect as human beings in need of
11 protection from degradation, humiliation, maltreatment, exploitation and
12 assault;
- 13 d. Consider as paramount the best interests of children and treat all children
14 involved in, affected by or displaced by armed conflict as victims;
- 15 e. Take all feasible measures to prevent the recruitment and use of children in
16 armed conflict and shall take all necessary measures to ensure the effective
17 implementation and enforcement of the provisions of this Act;
- 18 f. Take all the necessary measures to address the root causes of armed conflict
19 that result in involving, affecting or displacing children, which include
20 poverty, lack or absence of quality basic psycho-social services, belief in the
21 ideologies of an armed group, secessionist advocacy, affiliation of family
22 members in armed groups, pursuit of alternative justice for atrocities, abuses
23 and injustices experienced, and persistence of armed conflicts;
- 24 g. Continue to recognize its primary role in providing effective protection and
25 relief to all children in situations of armed conflict;
- 26 h. Continue to fulfill its responsibilities to end impunity and to prosecute those
27 responsible especially for grave child rights violations in armed conflict; and
- 28 i. Ensure the right to participation of children affected by armed conflict in all
29 its policies, actions, decisions concerning their rescue, rehabilitation and
30 reintegration.

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

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

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

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

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

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

15 (c) *Armed group* refers to an armed non-state actor or non-state entity engaged in
16 armed conflict against the state or engaged in armed violence.

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

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

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

33 (g) *Children In Situations of Armed Conflict (CSAC)* refers to all Children Involved
34 In Armed Conflict (CIAC), Children Affected By Armed Conflict (CAAC), and

1 Internally Displaced Children (IDC).

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

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

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

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

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

32 (m) *Governmental armed forces* refer to the Armed Forces of the Philippines (AFP)
33 including the paramilitary forces, the Philippine National Police (PNP), and other
34 law enforcement agencies.

- 1 (n) *Grave child rights violations* refer to the crimes committed against children that
2 ~~constitute flagrant violations of their human rights and have severe consequences~~
3 in their lives. These crimes include those enumerated in Section 8 of this Act,
4 such as but not limited to, killing or maiming of children, recruitment or use of
5 CIAC, rape and other forms of sexual violence against children, abduction of
6 children, attacks against schools or hospitals, or denial of humanitarian access to
7 children.
- 8 (o) *Hamleting* refers to an armed conflict strategy that isolates a community of
9 importance to the enemy which is inhabited by children including relocating
10 community away from crucial zones. This strategy could be used to control the
11 activities of the people in said areas.
- 12 (p) *Hospitals or health facilities* refer to any structure recognized and known by the
13 community as a facility where the sick and wounded are provided with medical
14 and or health care services.
- 15 (q) *Humanitarian access* refers to the right of vulnerable populations to receive
16 international protection and assistance from an impartial humanitarian relief
17 operation to complement efforts of national authorities. Such action is subject to
18 the consent of the State or parties concerned and does not prescribe coercive
19 measures in the event of refusal, however unwarranted.
- 20 (r) *Humanitarian assistance* refers to aid that seeks to save lives and alleviate
21 suffering of a crisis-affected population. Humanitarian assistance must be
22 provided in accordance with the basic humanitarian principles of humanity,
23 impartiality, independence and neutrality. Assistance may be divided into three
24 categories: direct assistance, indirect assistance and infrastructure support, which
25 have diminishing degrees of contact with the affected population.
- 26 (s) *Internally Displaced Children (IDC)* refers to children or group of children,
27 whether separated or together with their families, who have been forced or obliged
28 to flee or to leave their homes or places of habitual residence, in particular, as a
29 result of or in order to avoid the effect of armed conflict and situations of
30 generalized violence.
- 31 (t) *Improvised Explosive Device (IED)* refers to a device that is homemade or
32 fabricated, constructed and deployed in ways other than conventional military
33 action; containing or having contents from indigenous materials or substances that
34 are destructive, lethal, noxious, pyrotechnic or incendiary chemicals, and designed

1 to destroy, kill, incapacitate, harass or distract. IEDs are diverse in design, such as
2 ~~but not limited to, packages or landmine or road-side bombs, and contain many~~
3 types of initiators, detonators, penetrators, and explosive loads. These include
4 shrapnel-generating objects such as, but not limited to nails, ball-bearings, small-
5 pieces of iron or steel bars, and alike that may be used individually or in
6 combination. These are triggered by various methods such as by remote control
7 or command-detonation.

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

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

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

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

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

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

1 (aa) *Zone of Peace* refers to a site with sacred, religious, historic, educational,
2 ~~cultural, geographical or environmental importance which is protected and~~
3 preserved by its own community and officially recognized by a governmental
4 authority. It is not merely a "Demilitarized Zone", but a sanctuary that operates
5 within ethical principles of non-violence, free from weapons, acts of violence,
6 injustice and environmental degradation.

CHAPTER 2 RIGHTS OF CHILDREN IN ARMED CONFLICT

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

18 SEC. 7. **Rights of Children In Situations of Armed Conflict** - Children in
19 Situations of Armed Conflict (CSAC) shall have the following rights:

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

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

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

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

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

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
21 keeping with the best interests of the child.

CHAPTER 3 UNLAWFUL AND PROHIBITED ACTS

22 SEC. 8. *Unlawful or Prohibited Acts* -

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

25 1. Killing of children;

26 2. Torture committed against children. For the purposes of this Act, torture
27 shall include those enumerated in Section 4 of Republic Act 9745 or the
28 *Anti-Torture Act*;

29 3. Intentional or causal maiming of children;

30 4. Rape of children;

1 5. Cruel, inhuman and degrading treatment or punishment committed against
2 ~~children. For the purposes of this Act, cruel, inhuman and degrading~~

3 treatment or punishment shall include those enumerated in Section 5 of
4 Republic Act No. 9745 or the *Anti-Torture Act*,

5 6. Abduction of children;

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

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

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

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

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

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

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

16 1. Hamleting;

17 2. Food blockade;

18 3. Intentional delayed reporting of a child in custody;

19 4. False reporting of a child in custody; and

20 5. False branding of children or labeling children as children involved in
21 armed conflict

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

CHAPTER 4 PENALTIES AND PRESCRIPTION OF CRIME

27
28 SEC. 9. *Penalties* - The following penalties and sanctions are hereby
29 imposed for the offenses enumerated in this Act:

30 (a) Any person found guilty of committing any of the acts enumerated in
31 subparagraphs 1,2,3 and 4 of paragraph (a) Section 8 of this Act shall suffer the
32 penalty of life imprisonment and a fine of not less than Two Million Pesos (P2,
33 000,000.00) but not more than Five Million Pesos (P5, 000,000.00)

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

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

14 (d) Parents, ascendants, guardians, step parents or collateral relatives within the third
15 degree of consanguinity or affinity or any person having control or moral
16 ascendancy to the child to allow, willfully encourage, compel, coerce, or influence
17 their child or children to be part of an armed group shall be punished with not less
18 than six (6) years but not more than twelve (12) years: *Provided, however, That*
19 parents, ascendants, guardians, step parents or collateral relatives within the third
20 degree of consanguinity or affinity or any person having control or moral
21 ascendancy to the child found guilty hereof may be allowed to serve the minimum
22 period of imprisonment based on the sound discretion of the courts guided by the
23 principles of *parens patriae*.

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

31 Any such officer who shall prevent, prohibit, refuse or discontinue the
32 implementation of this Act or its rules and regulations, or in any other way violate
33 them by reason of inexcusable negligence or ignorance, shall be punished with an

1 imprisonment of not less than one (1) month but not more than six (6) months and
2 temporary special disqualification.

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

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

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

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

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

20

CHAPTER 5 PRINCIPLES OF CRIMINAL LIABILITY AND APPLICATION OF PENALTIES

21

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

26 SEC. 14. *Irrelevance of Official Capacity* - This Act shall apply equally to
27 all persons without any distinction based on official capacity. In no case shall the
28 official capacity exempt a person from criminal responsibility or constitute a ground
29 for reduction of sentence.

30 SEC. 15. *Responsibility of Superiors* - In addition to other grounds of
31 criminal responsibility for crimes defined and penalized under this Act, a superior
32 shall be criminally responsible for such crimes committed by subordinates where:

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

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

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

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

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

12 (c) The order was not manifestly unlawful.

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

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

CHAPTER 6 INVESTIGATION, PROSECUTION AND COURT

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

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

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

1 SEC. 19. *Requirement and Procedures on Age Verification and*
2 ~~*Presumption of Minority* - The child involved in, affected or displaced by armed~~

3 conflict shall enjoy the presumption of minority and shall enjoy all the rights of a
4 child recognized in this Act and other applicable laws unless proven to be eighteen
5 (18) years or older.

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

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

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

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

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

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

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

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

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

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

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

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

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

23 SEC. 22. *Immunity from Suit for Persons Providing Assistance* – Any
24 person who shall take custody of CIAC to ensure their safety or provide them any
25 form of assistance shall be exempt from any civil, criminal and administrative liability
26 provided that the person shall report it to the Local Social Welfare and Development
27 Office (LSWDO), Philippine National Police (PNP) or to the *barangay* office within
28 forty eight (48) hours.

29 CHAPTER 7 30 PREVENTION, REHABILITATION AND REINTEGRATION, 31 RESCUE, DEMOBILIZATION

32 SEC. 23. *Prevention* - The State shall take all feasible measures to prevent the
recruitment, re-recruitment, use or displacement of CIAC. It shall take all necessary
measures to ensure the effective implementation and enforcement of the provisions of

1 this Act. Towards this end the State shall:

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

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

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

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

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

- 6 (a) *Rescue*: The State shall provide for adequate measures and mechanisms to
7 facilitate the recovery, either voluntary or involuntary, of children from armed
8 groups or governmental armed forces. It shall provide legal and physical security
9 to CIAC including services such as family tracing and system of referral or
10 response on various psychosocial services needed by the victims;
- 11 (b) *Rehabilitation*: The State shall facilitate the normal development of children
12 victims in their post-involvement phase. It shall provide services including
13 therapeutic counseling, security and protection, educational assistance and
14 livelihood opportunities to their parents, relatives or guardians or to the victims
15 when they become of age;
- 16 (c) *Reintegration*: The State shall bring children back to their families or communities
17 whenever possible. This shall involve services including provision of alternative
18 parental care. Trainings aimed to enhance community readiness in the
19 reintegration of these children shall also be undertaken. Whenever possible,
20 interventions for children shall be done with respect to their opinion. Interventions
21 for indigenous peoples (IP) children shall be conducted in recognition of the
22 traditional structures and institutions of their communities.

23 **SEC. 25. *Demobilization of Children Involved in Armed Conflict (CIAC)***
24 The State shall take all feasible measures to ensure that children recruited or used in
25 hostilities contrary to this Act are demobilized or otherwise released from service.

26 For the purposes of this Act, demobilization activities shall be initiated
27 independent of any negotiated peace agreements.

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

- 30 (a) Develop a child-specific demobilization program. This demobilization program
31 should not make as a requirement the surrender of arms by CIAC who have
32 assumed non-combatant roles;
- 33 (b) Monitor and document the status of CIAC who undergo either formal or informal
34 demobilization process;

- 1 (c) With due regard to the right to privacy of CIAC, their security and safety, and
2 considering the confidentiality of records, share data and information by both
3 government and non-government organizations to assess the needs of demobilized
4 CIAC and to formulate ways to address these needs, and be informed of their
5 status and updates of demobilized CIAC;
- 6 (d) Mobilize and strengthen networks for referrals;
- 7 (e) Provide free legal assistance to demobilized CIAC ensuring that the legal needs of
8 the former CIAC will be addressed, such as, the prohibition or stoppage of filing
9 charges or dismissal of cases against CIAC as criminal or political offenders
10 irrespective of their association with any armed group or force;
- 11 (f) Ensure the formal demobilization of CIAC through various approaches such as
12 negotiating through the Government Peace Negotiating Panel (GPNP). Other
13 criminal armed groups that utilize children and are not involved in formal peace
14 negotiation with the government shall however, be dealt, in accordance with the
15 peace and order or security policy as may be provided by the appropriate
16 government agency; *Provided, That* in any demobilization action, the best interest
17 of the child shall be observed.

18 **SEC. 26. *Rescued or Surrendered Children Involved in Armed Conflict***
19 **(CIAC)** - Where the CIAC have been rescued or surrendered they shall at all times be
20 treated in a child-friendly and sensitive manner. The State at all times shall consider
21 the safety and security of the CIAC. The following procedures shall apply without
22 prejudice to the application of other existing laws that will uphold the best interests of
23 the child:

- 24 (a) The identity of rescued CIAC shall be protected. Any identifying information
25 regarding them shall remain confidential;
- 26 (b) Rescued CIAC shall not be used for any political propaganda nor be unnecessarily
27 exposed to media in violation of child rights to privacy, security and
28 confidentiality of their cases;
- 29 (c) Upon the rescue or surrender of CIAC, the government agencies, in particular, the
30 Armed Forces of the Philippines (AFP), the Philippine National Police (PNP),
31 Department of National Defense (DND), Local Government Units (LGUs), other
32 concerned government agencies or non-government organizations (NGOs) in
33 possession of CIAC shall report immediately within twenty four (24) hours the

1 incident to the Local Social Welfare and Development Office (LSWDO) and
2 Council for the Welfare of Children (CWC);

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

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

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

- 31 (a) Armed Forces of the Philippines (AFP)
32 (b) Commission on Human Rights (CHR)
(c) Department of National Defense (DND)
(d) Local Government Units (LGUs)

1 (c) National Commission on Indigenous Peoples (NCIP)

2 ~~(f) National Commission on Muslim Filipinos (NCMF)~~

3 (g) National Disaster Risk and Reduction Management Council (NDRRMC)

4 (h) Office of the Presidential Adviser on the Peace Process (OPAPP)

5 (i) Philippine Commission on Women

6 (j) Philippine National Police (PNP)

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

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

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

CHAPTER 9 MONITORING AND REPORTING

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

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

CHAPTER 10 TRANSITORY PROVISIONS

27 SEC. 29. *Children Involved in Armed Conflict* - Upon the effectivity of this
28 Act, criminal cases against CIAC shall immediately be dismissed and the child shall
29 be referred to the LSJDO. Such office, upon thorough assessment of the child, shall
30 determine whether to release the child to the custody of the parents, or refer the child
31 to prevention, rehabilitation, reintegration programs as provided under this Act. Those

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

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

9 SEC. 31. *Children Who Reach the Age of Eighteen (18) Years Pending*
10 *Court Proceedings or in Suspended Sentences* - In cases when a child reaches the
11 age of eighteen (18) years with pending case, the Family Court shall dismiss the case
12 against the person and determine in consultation with concerned agencies whether or
13 not there is a need for the person to undergo appropriate rehabilitation and
14 reintegration programs provided in this Act.

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

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

CHAPTER 11 FINAL PROVISIONS

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

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

3 SEC. 34. *Appropriations* - The amount necessary to cover the initial
4 implementation of this Act shall be charged against the current year's appropriations
5 of the concerned implementing department/agencies. Thereafter, the amount
6 necessary for its continued implementation shall be included in the budgets of the
7 concerned departments/agencies in the annual General Appropriations Act.

8 SEC. 35. *Repealing Clause* - Article X Sections 22 to 26 of Republic Act
9 No. 7610, otherwise known as *Special Protection of Children Against Abuse,*
10 *Exploitation and Discrimination Act*, all laws, acts, presidential decrees, executive
11 orders, administrative orders, rules and regulations inconsistent with or contrary to the
12 provisions of this Act are deemed amended, modified or repealed accordingly.

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

16 SEC. 37. *Effectivity Clause* - This Act shall take effect fifteen (15) days
17 upon completion of its publication in at least two (2) national newspapers of general
18 circulation.

19 Approved.

HOUSE OF REPRESENTATIVES

COMMITTEE AFFAIRS DEPARTMENT

FACT SHEET

House Bill No. **4480**
(As Reported Out)

AN ACT

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

Introduced by: **MARCELINO R. TEODORO, MARIA ISABELLE "BENG" G. CLIMACO,
JOSEPHINE R. LACSON-NOEL, LANI MERCADO-REVILLA,
EUFRANIO "FRANNY" C. ERIGUEL, AURORA ENERIO-CERILLES,
CINCHONA CRUZ-GONZALES AND LEOPOLDO N. BATAOIL**

Committee Referral: **COMMITTEE ON THE WELFARE OF CHILDREN**
Committee Chairperson: **HON. AURORA ENERIO-CERILLES**

OBJECTIVES:

- To provide protection of children in situations of armed conflict as 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
- To ensure that children are considered as Zones of Peace entitled to special protection during armed conflict
- To prevent the recruitment and use of children in armed conflict
- To provide relief, protection and rehabilitation to all children in situations of armed conflict
- To end impunity and to prosecute those responsible especially for grave child rights violations in armed conflict

KEY PROVISIONS:

- Enumerates grave child rights violations as follows:
 - a) Killing of children;
 - b) Torture committed against children;
 - c) Intentional or causal maiming of children;
 - d) Rape of children;

- e) Cruel, inhuman and degrading treatment or punishment committed against children;
 - f) Abduction of children;
 - g) Taking children as hostages or using them as human shield;
 - h) Other acts of gender-based violence against children;
 - i) Unjustified refusal or denial of humanitarian access and/or assistance;
 - j) Recruitment, conscription, or enlistment of children into government armed forces and other armed groups;
 - k) Use or involvement of children in armed conflict in any capacity; and
 - l) Attack of schools, hospitals, places of worship, and other public places where children can usually be found
- Enumerates other unlawful acts:
 - a) Hamleting;
 - b) Food Blockade;
 - c) Intentional Delayed Reporting of a child in custody;
 - d) False Reporting of a child in custody; and
 - e) False Branding of children or labeling children as children involved in armed conflict
 - Prohibits the parents, ascendants, guardians, step parents or collateral relatives within the third degree of consanguinity or affinity or any person having control or moral ascendancy to the child to allow, to willfully encourage, compel, coerce, or influence their child or children to be part of an armed group;
 - Provides for penalties:
 - Life imprisonment and a fine of not less than Two Million Pesos (P2,000,000.00) but not more than Five Million Pesos (P5,000,000.00) for grave acts a, b, c, and d;
 - 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) for grave acts e, f, g, h, i, j, k, and l;
 - 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) for other unlawful acts;
 - Imprisonment of six (6) years but not more than twelve (12) years for parents, ascendants, guardians, step parents or collateral relatives within the third degree of consanguinity or affinity or any person having control or moral ascendancy to the child to allow, willfully encourage, compel, coerce, or influence their child or children to be part of an armed group;

RELATED LAWS:

- R.A. No. 7610 – Special Protection of Children Against Child Abuse, Exploitation and Discrimination
- R.A. No. 8353 - Anti-Rape Law
- R.A. No. 9745 – Anti-Torture Act
- Act No. 3815 - Revised Penal Code