

[REPUBLIC ACT NO. 11188, January 10, 2019]

**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 I

GENERAL PROVISIONS

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

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

(b) Take into account the United Nations Guiding Principles on Internal Displacement, the United Nations Security Council Resolutions related to children affected by armed conflict, United Nations Security Council Resolution (UNSCR) No. 1820 on Women, Peace and Security, and other pertinent international instruments in the implementation of its treaty obligations and of this Act;

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

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

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

(f) Take all the necessary measures to address the root causes of armed conflict including, but not limited to, poor governance, issues of injustice and widespread poverty and economic inequity that result in involving, affecting or displacing children;

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

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

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

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

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

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

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

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

(b) *Acts of gender-based violence* refer to physical or sexual violence other than rape, and psychosocial harm that is committed against a person as a result of power inequities that are based on gender roles. These include, among others battering, sexual slavery and abuse of children, female genital mutilation, prostitution, forced marriage, forced pregnancy or forced sterilization;

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

(d) *Armed group* refers to an armed non-State actor or non-State entity engaged in armed violence against the State or its government forces or against other non-State armed groups, actors or non-State entities;

(e) *Attacks on schools, hospitals, places of worship, child development or day care centers, evacuation centers and other public places such as recreation parks,*

playgrounds and malls refer to the occupation, shelling or targeting for propaganda of schools, hospitals or places of worship; causing damage to such places, or harm or injury to their personnel; or causing the total or partial physical destruction of such facilities; or disruption of educational activities and health services. These also refer to attacks of such places which have been temporarily abandoned by the community as a result of armed conflict;

(f) *Camps* refer to structures or spaces occupied by government forces and armed groups;

(g) *Child* refers to:

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

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

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

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

(j) *Children involved in armed conflict (CIAC)* refer to children who are either forcibly, compulsorily recruited, or who voluntarily joined a government force or any armed group in any capacity. They may participate directly in armed hostilities as combatants or fighters; or indirectly through support roles such as scouts, spies, saboteurs, decoys, checkpoint assistants, couriers, messengers, porters, cooks or as sexual objects;

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

(l) *Extrajudicial killings* refer to all acts and omissions of State actors that constitute violation of the general recognition of the right to life embodied in the Universal Declaration of Human Rights, the United Nations Covenant on Civil and Political Rights, the UNCRC and similar other human rights treaties to which the Philippines is a State party;

(m) *False branding of children or labeling children as children involved in armed conflict* refers to the voluntary and intentional act of referring to, calling, defining, reporting or any other form of communication that incorrectly defines children as children involved in armed conflict, when the status or condition of such children are such that they are not involved in armed conflict as defined in this Act;

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

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

(p) *Government forces* refer to the Armed Forces of the Philippines (AFP), Philippine National Police (PNP), paramilitary and other law enforcement agencies;

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

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

(s) *Hospitals or health facilities* refer to any structure including diagnostic clinics or multispecialty clinics recognized and known by the community as a facility where the sick and wounded are provided with medical or health care services;

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

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

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

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

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

(y) *Parents* refer to any of the following:

- (1) Biological parents of the child;
 - (2) Adoptive parents of the child;
 - (3) Individuals who have custody of the child; or
 - (4) A duly licensed foster parent, pursuant to Republic Act No. 10165, otherwise known as the "Foster Care Act of 2012";
- (z) *Rape* refers to a sexual assault that violates a person's right to personal security and bodily integrity with the essential lack of consent and shall include those enumerated in Section 2 of Republic Act No. 8353, otherwise known as "The Anti-Rape Law of 1997";
- (aa) *Recruitment* refers to compulsory, forced or voluntary conscription or enlistment of children into the governmental armed force or forced or voluntary membership into the armed group;
- (bb) *Release of children* refers to the process of formal and controlled disarmament and demobilization of children and their release from a government force or armed group as well as informal ways in which children leave by escaping, being captured or by other means. It entails a disassociation from the government force or armed group and the beginning of transition from military to civilian life. Release can take place during a situation of armed conflict; it is not dependent on the temporary or permanent cessation of hostilities; and it is not dependent on children having weapons to forfeit;
- (cc) *School* refers to any structure or space, with or without marked visible boundaries, which is either recognized by the government or known by the community as a learning space for children; and
- (dd) *Zone of peace* refers to a site with sacred, religious, historic, educational, cultural, geographical or environmental importance, which is protected and preserved by its own community. It is not merely a "Demilitarized Zone", but a sanctuary that operates within ethical principles of nonviolence, free from weapons, acts of violence, injustice and environmental degradation. The recognition of the Zone of Peace expresses commitments on the part of its community, governmental authority and, if appropriate, religious leadership to preserve the peaceful integrity of the designated site. Its custodians, members, participants and visitors exemplify mutual respect and nonviolent behavior while on the site, and share their resources for furthering peace and cooperation.

CHAPTER II

RIGHTS OF CHILDREN IN SITUATIONS OF ARMED CONFLICT

SEC.. 6. *Children as Zones of Peace.* — Children are hereby declared as Zones of Peace. As such, they shall be treated in accordance with the policies stipulated under Article X, Section 22 of Republic Act No. 7610, otherwise known as the "Special. Protection of Children Against Child Abuse, Exploitation and Discrimination Act". Treatment of children as Zones of Peace shall extend beyond territorial or geographical boundaries and shall focus on the person of the child whose rights shall be promoted and protected at all times, especially in situations -of armed conflict or violence. The State and all sectors concerned shall have the responsibility to resolve armed conflict in order to promote the goal of children as Zones of Peace. As such,