

**SPECIAL PROTECTION OF CHILDREN
AGAINST CHILD ABUSE, EXPLOITATION
AND DISCRIMINATION ACT**

(R.A. 7610)

Its Amendment

(R.A. 7658)

and

Implementing Rules & Regulations



COUNCIL FOR THE WELFARE OF CHILDREN

TABLE OF CONTENTS

	Page
I. Republic Act 7610 Special Protection of Children Against Child Abuse, Exploitation & Discrimination Act	1
II. Republic Act 7658 An Act Prohibiting the Employment of Children Below 15 Years of Age in Public and Private Undertakings	15
III. Implementing Rules and Regulations on Republic Act 7658	17
IV. Implementing Rules and Regulations on the Reporting and Investigation of Child Abuse Cases	21
V. Implementing Rules and Regulations on the Trafficking of Children	26
VI. Implementing Rules and Regulations on Children of Indigenous Cultural Communities	31
VII. Implementing Rules and Regulations on Children in Situations of Armed Conflict	36

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fifth Regular Session

Begun and held in Metro Manila, on Monday, the twenty-second day of July, Nineteen Hundred and Ninety-One.

(Republic Act No. 7610)

AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES.

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

ARTICLE I
TITLE, POLICY, PRINCIPLES AND DEFINITION
OF TERMS

SECTION 1. *Title.* - This Act shall be known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act."

SEC. 2. *Declaration of State Policy and Principles.* - It is hereby declared to be the policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails or is unable to protect the child against abuse, exploitation and discrimination or when such acts against the child are committed by the said parent, guardian, teacher or person having care and custody of the same.

It shall be the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control.

The best interests of children shall be the paramount consideration in

all actions concerning them, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, and legislative bodies, consistent with the principles of First Call for Children as enunciated in the United Nations Convention on the Rights of the Child. Every effort shall be exerted to promote the welfare of children and enhance their opportunities for a useful and happy life.

SEC. 3. *Definition of Terms.*-

(a) "Children" refers to persons below eighteen (18) years of age or those over but are unable to fully take care of themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition;

(b) "Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

(1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;

(2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;

(3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or

(4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

(c) "Circumstances which gravely threaten or endanger the survival and normal development of children" include, but are not limited to, the following:

(1) Being in a community where there is armed conflict or being affected by armed conflict-related activities;

(2) Working under conditions hazardous to life, safety and morals which unduly interfere with their normal development;

(3) Living in or fending for themselves in the streets of urban or rural areas without the care of parents or a guardian or any adult supervision needed for their welfare;

(4) Being a member of an indigenous cultural community and/or living under conditions of extreme poverty or in an area which is underdeveloped and/or lacks or has inadequate access to basic services needed for a good quality of life;

(5) Being a victim of man-made or natural disaster or calamity; or

(6) Circumstances analogous to those abovestated which endanger the life, safety or normal development of children.

(d) "Comprehensive program against child abuse, exploitation and discrimination" refers to the coordinated program of services and facilities to protect children against:

(1) Child prostitution and other sexual abuse;

(2) Child trafficking;

- (3) Obscene publications and indecent shows;
- (4) Other acts of abuse; and
- (5) Circumstances which threaten or endanger the survival and normal development of children.

ARTICLE II PROGRAM ON CHILD ABUSE, EXPLOITATION AND DISCRIMINATION

SEC. 4. *Formulation of the Program.* - There shall be a comprehensive program to be formulated by the Department of Justice and the Department of Social Welfare and Development in coordination with other government agencies, and private sector concerned, within one (1) year from the effectivity of this Act, to protect children against child prostitution and other sexual abuse; child trafficking; obscene publications and indecent shows; other acts of abuse; and circumstances which endanger child survival and normal development.

ARTICLE III CHILD PROSTITUTION AND OTHER SEXUAL ABUSE

SEC. 5. *Child Prostitution and Other Sexual Abuse.* - Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

(a) Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to, the following:

- (1) Acting as a procurer of a child prostitute;
- (2) Inducing a person to be a client of a child prostitute by means of written or oral advertisements or other similar means;
- (3) Taking advantage of influence or relationship to procure a child as a prostitute;
- (4) Threatening or using violence towards a child to engage him as a prostitute;
- (5) Giving monetary consideration, goods or other pecuniary benefit to a child with the intent to engage such child in prostitution.

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other sexual

abuse: *Provided*, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: *Provided*, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period; and

(c) Those who derive profit or advantage therefrom, whether as manager or owner of the establishment where the prostitution takes place, or of the sauna, disco, bar, resort, place of entertainment or establishment serving as a cover or which engages in prostitution in addition to the activity for which the license has been issued to said establishment.

SEC. 6. *Attempt to Commit Child Prostitution.* - There is an attempt to commit child prostitution under Section 5, paragraph (a) hereof when any person who, not being a relative of a child, is found alone with the said child inside the room or cubicle of a house, an inn, hotel, motel, pension house, apartelle or other similar establishments, vessels, vehicle or any other hidden or secluded area under circumstances which would lead a reasonable person to believe that the child is about to be exploited in prostitution and other sexual abuse.

There is also an attempt to commit child prostitution, under paragraph (b) of Section 5 hereof when any person is receiving services from a child in a sauna parlor or bath, massage clinic, health club and other similar establishments. A penalty lower by two (2) degrees than that prescribed for the consummated felony under Section 5 hereof shall be imposed upon the principals of the attempt to commit the crime of child prostitution under this Act, or, in the proper case, under the Revised Penal Code.

ARTICLE IV CHILD TRAFFICKING

SEC. 7. *Child Trafficking.* - Any person who shall engage in trading and dealing with children including, but not limited to, the act of buying and selling of a child for money, or for any other consideration, or barter, shall suffer the penalty of *reclusion temporal* to *reclusion perpetua*. The penalty shall be imposed in its maximum period when the victim is under twelve (12) years of age.

SEC. 8. *Attempt to Commit Child Trafficking.* - There is an attempt to commit child trafficking under Section 7 of this Act:

(a) When a child travels alone to a foreign country without valid reason

therefor and without clearance issued by the Department of Social Welfare and Development or written permit or justification from the child's parents or legal guardian;

(b) When a pregnant mother executes an affidavit of consent for adoption for a consideration;

(c) When a person, agency, establishment or child caring institution recruits women or couples to bear children for the purpose of child trafficking;

(d) When a doctor, hospital or clinic official or employee, nurse, midwife, local civil registrar or any other person simulates birth for the purpose of child trafficking; or

(e) When a person engages in the act of finding children among low-income families, hospitals, clinics, nurseries, day-care centers, or other child-caring institutions who can be offered for the purpose of child trafficking.

A penalty lower by two (2) degrees than that prescribed for the consummated felony under Section 7 hereof shall be imposed upon the principals of the attempt to commit child trafficking under this Act.

ARTICLE V OBSCENE PUBLICATIONS AND INDECENT SHOWS

SEC. 9. *Obscene Publications and Indecent Shows.* - Any person who shall hire, employ, use, persuade,, induce or coerce a child to perform in obscene exhibitions and indecent shows, whether live or in video, pose, or model in obscene publications or pornographic materials or to sell or distribute the said materials shall suffer the penalty of *prision mayor* in its medium period.

If the child used as a performer, subject or seller/distributor is below twelve (12) years of age, the penalty shall be imposed in its maximum period.

Any ascendant, guardian, or person entrusted in any capacity with the care of the child who shall cause and/or allow such child to be employed or to participate in an obscene play, scene, act, movie or show or in any other acts covered by this section shall suffer the penalty of *prision mayor* in its medium period.

ARTICLE VI
OTHER ACTS OF ABUSE

SEC. 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development.-

(a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period.

(b) Any person who shall keep or have in his company a minor, twelve (12) years or under or who is ten (10) years or more his junior in any public or private place, hotel, motel, beer joint, discotheque, cabaret, pension house, sauna or massage parlor, beach and/or other tourist resort or similar places shall suffer the penalty of *prision mayor* in its maximum period and a fine of not less than fifty thousand pesos (P50,000): *Provided*, That this provision shall not apply to any person who is related within the fourth degree of consanguinity or affinity or any bond recognized by law, local custom and tradition, or acts in the performance of a social, moral or legal duty.

(c) Any person who shall induce, deliver or offer a minor to any one prohibited by this Act to keep or have in his company a minor as provided in the preceding paragraph shall suffer the penalty of *prision mayor* in its medium period and fine of not less than Forty thousand pesos (P40,000): *Provided, however*, That should the perpetrator be an ascendant, step-parent or guardian of the minor, the penalty to be imposed shall be *prision mayor* in its maximum period, a fine of not less than Fifty thousand pesos (P50,000), and the loss or parental authority over the minor.

(d) Any person, owner, manager or one entrusted with the operation of any public or private place of accommodation, whether for occupancy, food drink, or otherwise, including residential places, who allows any person to take along with him to such place or places any minor herein described shall be imposed a penalty of *prision mayor* in its medium period and a fine of not less than Fifty thousand pesos (P50,000.00) and the loss of the license to operate such a place or establishment.

(e) Any person who shall use, coerce, force or intimidate a stretchchild or any other child to:

- (1) Beg or use begging as a means of living;
- (2) Act as conduit or middlemen in drug trafficking or pushing; or
- (3) Conduct any illegal activities, shall suffer the penalty of *prision*

correccional in its medium period to *reclusion perpetua*.

For purposes of this Act, the penalty for the commission of acts punishable under Articles 248, 249, 262, paragraph 2, and 263, paragraph 1 of Act No. 3815, as amended, the Revised Penal Code, for the crimes of murder, homicide, other intentional mutilation, and serious physical injuries, respectively, shall be *reclusion perpetua* when the victim is under twelve (12) years of age. The penalty for the commission of acts punishable under Articles 337, 339, 340 and 341 of Act No. 3815, as amended, the Revised Penal Code, for the crimes of qualified seduction, acts of lasciviousness with the consent of the offended party, corruption of minors, and white slave trade, respectively, shall be one (1) degree higher than that imposed by law when the victim is under twelve (12) years of age.

The victim of the acts committed under this section shall be entrusted to the care of the Department of Social Welfare and Development.

ARTICLE VII SANCTIONS FOR ESTABLISHMENTS OR ENTERPRISES

SEC. 11. *Sanctions for Establishments or Enterprises which Promote, Facilitate, or Conduct Activities Constituting Child Prostitution and Other Sexual Abuse, Child Trafficking, Obscene Publications and Indecent Shows, and Other Acts of Abuse.* - All establishments and enterprises which promote or facilitate child prostitution and other sexual abuse, child trafficking, obscene publications and indecent shows, and other acts of abuse shall be immediately closed and their authority or license to operate cancelled, without prejudice to the owner or manager thereof being prosecuted under this Act and/or the Revised Penal Code, as amended, or special laws. A sign with the words "off limits" shall be conspicuously displayed outside the establishments or enterprises by the Department of Social Welfare and Development for such period which shall not be less than one (1) year, as the Department may determine. The unauthorized removal of such sign shall be punishable by *prision correccional*.

An establishment shall be deemed to promote or facilitate child prostitution and other sexual abuse, child trafficking, obscene publications and indecent shows, and other acts of abuse if the acts constituting the same occur in the premises of said establishment under this Act or in violation of the Revised Penal Code, as amended. An enterprise such as a sauna, travel agency, or recruitment agency which: promotes the aforementioned acts as part of a tour for foreign tourists; exhibits children in a lewd or indecent show; provides child masseurs for adults of the same or opposite

sex and said services include any lascivious conduct with the customer; or solicits children for activities constituting the aforementioned acts shall be deemed to have committed the acts penalized herein.

ARTICLE VIII WORKING CHILDREN

SEC. 12. *Employment of Children.** - Children below fifteen (15) years of age may be employed: *Provided, That*, the following minimum requirements are present:

(a) The employer shall secure for the child a work permit from the Department of Labor and Employment;

(b) The employer shall ensure the protection, health, safety and morals of the child;

(c) The employer shall institute measures to prevent exploitation or discrimination taking into account the system and level of remuneration, and the duration and arrangement of working time; and

(d) The employer shall formulate and implement a continuous program for training and skills acquisition of the child.

The Department of Labor and Employment shall promulgate rules and regulations necessary for the effective implementation of this section.

SEC. 13. *Non-formal Education for Working Children.* - The Department of Education, Culture and Sports shall promulgate a course design under its non-formal education program aimed at promoting the intellectual, moral and vocational efficiency of working children who have not undergone or finished elementary or secondary education. Such course design shall integrate the learning process deemed most effective under given circumstances.

SEC. 14. *Prohibition on the Employment of Children in Certain Advertisements.* - No person shall employ child models in all commercials or advertisements promoting alcoholic beverages, intoxicating drinks, tobacco and its byproducts, and violence.

SEC. 15. *Duty of Employer.* - Every employer shall comply with the duties provided for in Articles 108 and 109 of Presidential Decree No. 603.

SEC. 16. *Penalties.* - Any person who shall violate any provision of this Article shall suffer the penalty of a fine of not less than One Thousand Pesos (P1,000.00) but not more than Ten Thousand Pesos (P10,000.00) or imprisonment of not less than three (3) months but not more than three (3)

* - Amended by Republic Act No. 7658

years, or both at the discretion of the court: *Provided, that*, in case of repeated violations of the provisions of this Article, the offender's license to operate shall be revoked.

ARTICLE IX CHILDREN OF INDIGENOUS CULTURAL COMMUNITIES

SEC. 17. *Survival, Protection and Development.* - In addition to the rights guaranteed to children under this Act and other existing laws, children of indigenous cultural communities shall be entitled to protection, survival and development consistent with the customs and traditions of their respective communities.

SEC. 18. *System of and Access to Education.* - The Department of Education, Culture and Sports shall develop and institute an alternative system of education for children of indigenous cultural communities which is culture-specific and relevant to the needs and the existing situation in their communities. The Department of Education, Culture and Sports shall also accredit and support non-formal but functional indigenous educational programs conducted by nongovernmental organizations in said communities.

SEC. 19. *Health and Nutrition.* - The delivery of basic social services in health and nutrition to children of indigenous cultural communities shall be given priority by all government agencies concerned. Hospitals and other health institutions shall ensure that children of indigenous cultural communities are given equal attention. In the provision of health and nutrition services to children of indigenous cultural communities, indigenous health practices shall be respected and recognized.

SEC. 20. *Discrimination.* - Children of indigenous cultural communities shall not be subjected to any and all forms of discrimination.

Any person who discriminates against children of indigenous cultural communities shall suffer a penalty of *arresto mayor* in its maximum period and a fine of not less than Five Thousand Pesos (P5,000) nor more than Ten Thousand Pesos (P10,000).

SEC. 21. *Participation.* - Indigenous cultural communities, through their duly-designated or appointed representatives shall be involved in planning, decision-making, implementation, and evaluation of all government programs affecting children of indigenous cultural communities. Indigenous institutions shall also be recognized and respected.

ARTICLE X
CHILDREN IN SITUATIONS OF ARMED CONFLICT

SEC. 22. *Children as Zones of Peace.* - Children are hereby declared as Zones of Peace. It shall be the responsibility of the State and all other sectors concerned to resolve armed conflicts in order to promote the goal of children as zones of peace. To attain this objective, the following policies shall be observed:

- (a) Children shall not be the object of attack and shall be entitled to special respect. They shall be protected from any form of threat, assault, torture or other cruel, inhumane or degrading treatment;
- (b) Children shall not be recruited to become members of the Armed Forces of the Philippines or its civilian units or other armed groups, nor be allowed to take part in the fighting, or used as guides, couriers, or spies;
- (c) Delivery of basic social services such as education, primary health and emergency relief services shall be kept unhampered;
- (d) The safety and protection of those who provide services including those involved in fact-finding missions from both government and non-government institutions shall be ensured. They shall not be subjected to undue harassment in the performance of their work;
- (e) Public infrastructure such as schools, hospitals and rural health units shall not be utilized for military purposes such as command posts, barracks, detachments, and supply depots; and
- (f) All appropriate steps shall be taken to facilitate the reunion of families temporarily separated due to armed conflict.

SEC. 23. *Evacuation of Children During Armed Conflict.* - Children shall be given priority during evacuation as a result of armed conflict. Existing community organizations shall be tapped to look after the safety and well-being of children during evacuation operations. Measures shall be taken to ensure that children evacuated are accompanied by persons responsible for their safety and well-being.

SEC. 24. *Family Life and Temporary Shelter.* - Whenever possible, members of the same family shall be housed in the same premises and given separate accommodation from other evacuees and provided with facilities to lead a normal family life. In places of temporary shelter, expectant and nursing mothers and children shall be given additional food in proportion to their physiological needs. Whenever feasible, children shall be given

opportunities for physical exercise, sports and outdoor games.

SEC. 25. *Rights of Children Arrested for Reasons Related to Armed Conflict.*- Any child who has been arrested for reasons related to armed conflict, either as combatant, courier, guide or spy is entitled to the following rights:

- (a) Separate detention from adults except where families are accommodated as family units;
- (b) Immediate free legal assistance;
- (c) Immediate notice of such arrest to the parents or guardian of the child; and
- (d) Release of the child on recognizance within twenty-four (24) hours to the custody of the Department of Social Welfare and Department or any responsible member of the community as determined by the court.

If after hearing the evidence in the proper proceeding the court should find that the aforesaid child has committed the acts charged against him, the court shall determine the imposable penalty, including any civil liability chargeable against him. However, instead of pronouncing judgment of conviction, the court shall suspend all further proceedings and shall commit such child to the custody or care of the Department of Social Welfare and Development or to any training institution operated by the Government, or duly-licensed agencies or to any other responsible person, until he has had reached eighteen (18) years of age or, for a shorter period as the court may deem proper, after considering the reports and recommendations of the Department of Social Welfare and Development or the agency or responsible individual under whose care he has been committed.

The aforesaid child shall be subject to visitation and supervision by a representative of the Department of Social Welfare and Development or any duly-licensed agency or such other officer as the court may designate subject to such conditions as it may prescribe.

The aforesaid child whose sentence is suspended can appeal from the order of the court in the same manner as appeals in criminal cases.

SEC. 26. *Monitoring and Reporting of Children in Situations of Armed Conflict.*- The chairman of the barangay affected by the armed conflict shall submit the names of children residing in said barangay to the municipal social welfare and development officer within twenty-four (24) hours from the occurrence of the armed conflict.

ARTICLE XI REMEDIAL PROCEDURES

SEC. 27. *Who May File a Complaint.* - Complaints on cases of unlawful acts committed against children as enumerated herein may be filed by the following:

- (a) Offended party;
- (b) Parents or guardians;
- (c) Ascendant or collateral relative within the third degree of consanguinity;
- (d) Officer, social worker or representative of a licensed child-caring institution;
- (e) Officer or social worker of the Department of Social Welfare and Development;
- (f) Barangay chairman; or
- (g) At least three (3) concerned, responsible citizens where the violation occurred.

SEC. 28. *Protective Custody of the Child.* - The offended party shall be immediately placed under the protective custody of the Department of Social Welfare and Development pursuant to Executive Order No. 56, series of 1986. In the regular performance of this function, the officer of the Department of Social Welfare and Development shall be free from any administrative, civil or criminal liability. Custody proceedings shall be in accordance with the provisions of Presidential Decree No. 603.

SEC. 29. *Confidentiality.* - At the instance of the offended party, his name may be withheld from the public until the court acquires jurisdiction over the case.

It shall be unlawful for any editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in case of television and radio broadcasting, producer and director of the film in case of the movie industry, to cause undue and sensationalized publicity of any case of violation of this Act which results in the moral degradation and suffering of the offended party.

SEC. 30. *Special Court Proceedings.* - Cases involving violations of this Act shall be heard in the chambers of the judge of the Regional Trial Court duly designated as Juvenile and Domestic Relations Court.

Any provision of existing law to the contrary notwithstanding and with the exception of *habeas corpus*, election cases, and cases involving detention prisoners and persons covered by Republic Act. No. 4908, all courts

shall give preference to the hearing or disposition of cases involving violations of this Act.

ARTICLE XII COMMON PENAL PROVISIONS

SEC. 31. *Common Penal Provisions.*-

(a) The penalty provided under this Act shall be imposed in its maximum period if the offender has been previously convicted under this Act;

(b) When the offender is a corporation, partnership or association, the officer or employee thereof who is responsible for the violation of this Act shall suffer the penalty imposed in its maximum period;

(c) The penalty provided herein shall be imposed in its maximum period when the perpetrator is an ascendant, parent, guardian, stepparent or collateral relative within the second degree of consanguinity or affinity, or a manager or owner of an establishment which has no license to operate or its license has expired or has been revoked;

(d) When the offender is a foreigner, he shall be deported immediately after service of sentence and forever barred from entry to the country;

(e) The penalty provided for in this Act shall be imposed in its maximum period if the offender is a public officer or employee: *Provided, however,* That if the penalty imposed is *reclusion perpetua* or *reclusion temporal*, then the penalty of perpetual or temporary absolute disqualification shall also be imposed: *Provided, finally,* That if the penalty imposed is *prision correccional* or *arresto mayor*, the penalty of suspension shall also be imposed; and

(f) A fine to be determined by the court shall be imposed and administered as a cash fund by the Department of Social Welfare and Development and disbursed for the rehabilitation of each child victim, or any immediate member of his family if the latter is the perpetrator of the offense.

ARTICLE XIII FINAL PROVISIONS

SEC. 32. *Rules and Regulations.*- Unless otherwise provided in this Act, the Department of Justice, in coordination with the Department of Social Welfare and Development, shall promulgate rules and regulations for the effective implementation of this Act.

Such rules and regulations shall take effect upon their publication in two (2) national newspapers of general circulation.

SEC. 33. *Appropriations.*- The amount necessary to carry out the provisions of this Act is hereby authorized to be appropriated in the General Appropriations Act of the year following its enactment into law and thereafter.

SEC. 34. *Separability Clause.*-If any provision of this Act is declared invalid or unconstitutional, the remaining provisions not affected thereby shall continue into full force and effect.

SEC. 35. *Repealing Clause.*-All laws, decrees, or rules inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 36. *Effectivity Clause.*-This Act shall take effect upon completion of its publication in at least two (2) national newspapers of general circulation.

(Original Signed)
NEPTALI A. GONZALES
President of the Senate

(Original Signed)
RAMON V. MITRA
Speaker of the House of
Representatives

This Act which is a consolidation of House Bill Nos. 6946, 29431, 35354 and Senate Bill No. 1209 was finally passed by the House of Representatives and the Senate on February 7, 1992.

(Original Signed)
ANACLETO D. BADOY, JR.
Secretary of the Senate

(Original Signed)
CAMILO L. SABIO
Secretary-General
House of Representatives

Approved: June 17, 1992

(Original Signed)
CORAZON C. AQUINO
President of the Philippines

Republic of the Philippines
Congress of the Philippines
Metro Manila

Second Regular Session

Begun and held in Metro Manila, on Monday the twenty-sixth day of July nineteen hundred and ninety three.

(REPUBLIC ACT. NO. 7658)

AN ACT PROHIBITING THE EMPLOYMENT OF CHILDREN BELOW 15 YEARS OF AGE IN PUBLIC AND PRIVATE UNDERTAKINGS. AMENDING FOR THIS PURPOSE SECTION 12, ARTICLE VIII OF R.A. 7610

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

SECTION 1. Section 12, Article VIII of R.A. No. 7610 otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act" is hereby amended to read as follows.

"SEC. 12. Employment of Children - Children below fifteen (15) years of age shall not be employed except:

- 1.) When a child works directly under the sole responsibility of his parents or legal guardian and where only members of the employer's family are employed: *Provided, however,* That his employment neither endangers his life, safety, health, and morals, nor impairs his normal development: *Provided, further,* That the parent or legal guardian shall provide the said minor child with the prescribed primary and/or secondary education; or
- 2.) Where a child's employment or participation in public entertainment or information through cinema, theater, radio or television is essential: *Provided,* That employment contract is concluded by the child's parents or legal guardian, with the express agreement of the child concerned, if possible, and the approval of the Department of Labor and Employment: and *Provided,* That the following requirements in all instances are strictly complied with:
 - (a) The employer shall ensure the protection, health, safety, morals and normal development of the child;

- (b) The employer shall institute measures to prevent the child's exploitation or discrimination taking into account the system and level of remuneration, and the duration and arrangement of working time; and
- (c) The employer shall formulate and implement , subject to the approval and supervision of competent authorities, a continuing program for training and skills acquisition of the child.

In the above exceptional cases where any such child may be employed, the employer shall first secure, before engaging such child, a work permit from the Department of Labor and Employment which shall ensure observance of the above requirements.

The Department of Labor and Employment shall promulgate rules and regulations necessary for the effective implementation of this Section.

SEC. 2. All laws, decrees, executive orders, rules and regulations or parts thereof contrary to, or inconsistent with this Act are hereby modified or repealed accordingly.

SEC. 3. This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* in at least two (2) national newspaper of general circulation whichever comes earlier.

Approved,

(Original Signed)
 JOSE DE VENECIA, JR.
 Speaker of the House of Representatives

(Original Signed)
 EDGARDO I. ANGARA
 President of the Senate

This bill which is a consolidation of the Senate Bill No. 1155 and House Bill No. 8179, was finally passed by the Senate and the House of Representatives on October 7, 1993 and October 6, 1993, respectively.

(Original Signed)
 CAMILO L. SABIO
 Secretary General
 House of Representative

(Original Signed)
 EDGARDO E. TUMANGAN
 Secretary of the Senate

Approved: November 9, 1993

(Original Signed)
 FIDEL V. RAMOS
 President of the Philippines

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Manila

DEPARTMENT ORDER NO. 18

**Rules and Regulations Implementing
Republic Act. No. 7658**

By virtue of the provisions of Section 2 of Republic Act No. 7658, An Act Prohibiting the Employment of Children Below Fifteen (15) Years of Age in Public and Private Undertaking, amending Section 12, Article VIII of Republic Act. No. 7610, the following Rules and Regulations governing the employment of children are hereby issued:

SECTION 1. General Prohibition. — Except otherwise provided in this Rules, children below 15 years of age shall not be employed, permitted or suffered to work, in any public or private establishment in the Philippines.

SECTION 2. Definition of Terms.

- a. "Employer" - any parent, legal guardian or producer acting as employer who hires or engages the services of any child below 15 years of age.
- b. "Legal guardian" - any person duly appointed by a court of competent authority to exercise care and custody of or parental authority over the person of such child/employee.
- c. "Producer" - any individual or group of individuals engaged in the production of movies, films, motion pictures, shows or advertisements, whether on cinema, theater, radio or television, wherein the services of such child/employee are hired.
- d. "Members of the Family" - those persons having family relations referred to under Article 150 of the Family Code of the Philippines. It shall include the employer-parent's or legal guardian's husband or wife, parents, children, other ascendants or descendants, brothers and sisters whether of full or half blood.
- e. "Department" - the Department of Labor and Employment.

SECTION 3. Exceptions and Conditions. — The following shall be the only exceptions to the prohibition on the employment of children

below 15 years of age and the conditions for availment of said exceptions:

- a. When the child works directly under the sole responsibility of his/her parents or legal guardian who employs members of his/her family only, under the following conditions:
 1. the employment does not endanger the child's life, safety, health and morals;
 2. the employment does not impair the child's normal development;
 3. the employer-parent or legal guardian provides the child with the primary and/or secondary education prescribed by the Department of Education, Culture and Sports.
- b. Where the child's employment or participation in public entertainment or information through cinema, theater, radio or television is essential, provided that:
 1. the employment does not involve advertisements or commercials promoting alcohol beverages, intoxicating drinks, tobacco — and its by-products or exhibiting violence;
 2. there is a written contract approved by the Department of Labor and Employment; and
 3. the conditions prescribed in Section 3a above are met.

SECTION 4. *Pre-employment Requirements.* — Before an employer engages a child for employment under the exceptions enumerated above, he/she must first secure a work permit from the Regional Office of the Department having jurisdiction over the workplace.

The Regional Office shall require the employer to submit the following documents in support of the application for a work permit:

- a. Two (2) pictures of the child, one full body and the other showing the child's face, both of which must be recently taken and recognizable;
- b. the child's Birth Certificate or in its absence, his/her Baptismal Certificate and a joint affidavit of his/her two nearest kin showing the year he/she was born and a duly authenticated proof of legal guardianship where the employer is a legal guardian;

- c. a certificate of enrollment issued by the school where he/she is currently or last enrolled or a statement from the parent or legal guardian that the child is attending school;
- d. a written undertaking that:
 1. measures shall be instituted by the employer to prevent the child's exploitation and discrimination such as payment of minimum wage, hours of work and other terms and conditions required by law; and
 2. the employer shall ensure the protection, health, safety, morals and normal development of the child;
- e. a medical certificate showing that the child is fit for employment.
- f. a certification of a continuing program for training and skills acquisition approved and supervised by any competent authority, nearest the place of work, which may be recognized vocational or training school, the regional or local office of the Department of Social Welfare and Development and the National Manpower and Youth Council; and
- g. a written contract of employment concluded by the child's parents or legal guardian with the employer in cases of employment or participation in public entertainment or information through cinema, theater, radio or television. Said contract shall bear the express agreement of the child concerned, if possible, and shall state the nature or full description of the job and the justification that the child's employment or participation is essential.

SECTION 5. ***Hours of Work.*** — Subject to consultations with the sectors concerned, the Department shall by appropriate regulations, issue standards governing the hours of work and time of day that children may be allowed to work.

SECTION 6. ***Effect on Other Issuances.*** — The provisions of existing rules and administrative issuances not otherwise repealed, modified or inconsistent with this Order shall continue to have full force and effect.

SECTION 7. ***Penalties.*** — Any person who shall violate any provision of Article 12 of RA 7610 as amended by RA 7658, shall suffer the penalty of a fine of not less than One Thousand Pesos (P1,000) but not more than Ten Thousand Pesos (P10,000) or imprisonment of not less than

three (3) months but not more than three (3) years, or both at the discretion of the court: Provided, that in case of repeated violations of the provisions of this Article, the offender's license to operate shall be revoked.

SECTION 8. *Effectivity.* — This Rules and Regulations shall take effect fifteen (15) days after its publications in a newspaper of general circulation.

Signed this 12th day of May, 1994 in the City of Manila, Philippines.

(SGD.) MA. NIEVES R. CONFESOR
Secretary

Received by the AS-Records on May 13, 1994 and disseminated on May 13, 1994.

RULES AND REGULATIONS ON THE REPORTING AND INVESTIGATION OF CHILD ABUSE CASES

Pursuant to Section 32 of Republic Act No. 7610 ("An Act Providing For Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, Providing Penalties For Its Violation And For Other Purposes"), the following Rules and Regulations are hereby promulgated concerning the reporting and investigation of child abuse cases:

Section 1. Objectives. — These Rules and Regulations seek to encourage the reporting of cases of physical or psychological injury, sexual abuse or exploitation, or negligent treatment of children and to ensure the early and effective investigation of cases of child abuse towards the prosecution of the offender consistent with the need to promote the best interests of the child victim.

Sec. 2. Definition of Terms. — As used in these Rules, unless the context requires otherwise -

- a) "Child" shall refer to a person below eighteen (18) years of age or one over said age and who, upon evaluation of a qualified physician, psychologist or psychiatrist, is found to be incapable of taking care of himself fully because of a physical or mental disability or condition or of protecting himself from abuse;
- b) "Child abuse" refers to the infliction of physical or psychological injury, cruelty to, or neglect, sexual abuse or exploitation of a child;
- c) "Cruelty" refers to any act by word or deed which debases, degrades or demeans the intrinsic worth and dignity of a child as human being. Discipline administered by a parent or legal guardian to a child does not constitute cruelty provided it is reasonable in manner and moderate in degree and does not constitute physical or psychological injury as defined herein;
- d) "Physical injury" includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe injury or serious bodily harm suffered by a child;
- e) "Psychological injury" means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of said behaviors, which may be demonstrated by a change in behavior, emotional response or cognition;

- f.) "Neglect" means failure to provide, for reasons other than poverty, adequate food, clothing, shelter, basic education or medical care so as to seriously endanger the physical, mental, social and emotional growth and development of the child;
- g.) "Sexual abuse" includes the employment, use, persuasion, inducement, enticement or coercion of a child to engage in, or assist another person to engage in, sexual intercourse or lascivious conduct or the molestation, prostitution, or incest with children;
- h.) "Lascivious conduct" means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person;
- i.) "Exploitation" means the hiring, employment, persuasion, inducement, or coercion of a child to perform in obscene exhibitions and indecent shows, whether live or in video or film, or to pose or act as a model in obscene publications or pornographic materials, or to sell or distribute said materials; and
- j.) "Department" shall refer to a duly authorized officer or social worker of the Department of Social Welfare and Development or similar agency of a local government unit.

Sec. 3. **Reporting.** — A person who learns of facts or circumstances that give rise to the belief that a child has suffered abuse may report the same, either orally or in writing, to the Department, to the police or other law enforcement agency or to a Barangay Council for the Protection of Children.

Sec. 4. **Mandatory Reporting.** — The head of any public or private hospital, medical clinic and similar institution, as well as the attending physician and nurse, shall report, either orally or in writing, to the Department the examination and/or treatment of a child who appears to have suffered abuse within forty-eight (48) hours from knowledge of the same.

Sec. 5. **Duty of Government Workers to Report.** — It shall be the duty of all teachers and administrators in public schools, probation officers, government lawyers, law enforcement officers, barangay officials, corrections officers and other government officials and employees whose work

involves dealing with children to report all incidents of possible child abuse to the Department.

Sec. 6. *Failure to Report.* — Failure of the individuals mentioned in Section 4 above and the administrator or head of the hospital, clinic or similar institution concerned to report a possible case of child abuse shall be punishable with a fine of not more than two thousand pesos (P2,000.00).

Sec. 7. *Immunity for Reporting.* — A person who, acting in good faith, reports a case of child abuse shall be free from any civil or administrative liability arising therefrom. There shall be presumption that any such person acted in good faith.

Sec. 8. *Investigation.* — Not later than forty-eight (48) hours after receipt of a report on a possible incident of child abuse, the Department shall immediately proceed to the home or establishment where the alleged child victim is found and interview said child to determine whether an abuse was committed, the identity of the perpetrator and the need of removing the child from his home or the establishment where he may be found or placing him under protective custody pursuant to Section 9 of these Rules.

Whenever practicable, the Department shall conduct the interview jointly with the police and/or barangay official.

To minimize the number of interviews of the child victim, his statement shall be transcribed or recorded on voice or video tape.

Sec. 9. *Protective Custody.* — If the investigation discloses sexual abuse, serious physical injury or life-threatening neglect of the child, the duly authorized officer or social worker of the Department shall immediately remove the child from his home or the establishment where he was found and place him under protective custody to ensure his safety.

Sec. 10. *Immunity of Officer Taking The Child Under Protective Custody.* — The duly authorized officer or social worker of the Department and the assisting police officer or barangay official, if any, who shall take a child under protective custody shall be exempt from any civil, criminal and administrative liability therefor.

Sec. 11. *Notification of Police.* — The Department shall inform the police or other law enforcement agency whenever a child victim is placed under protective custody.

Sec. 12. *Physical Examination: Interview.* — The Department shall

refer the child who is placed under protective custody to a government medical or health officer for a physical/mental examination and/or medical treatment. Thereafter, the Department shall determine the rehabilitation or treatment program which the child may require and to gather data relevant to the filing of criminal charges against the abuser.

Sec. 13. *Involuntary Commitment.* — The Department shall file a petition for the involuntary commitment of the child victim under the provisions of Presidential Decree No. 603, as amended, if the investigation confirms the commission of child abuse.

Sec. 14. *Suspension or Deprivation of Parental Authority.* — The Department shall ask the Court to suspend the parental authority of the parent or lawful guardian who abused the victim, *Provided*, that in cases of sexual abuse, the Department shall ask for the permanent deprivation of parental authority of the offending parent or lawful guardian.

Sec. 15. *Transfer of Parental Authority.* — The Department shall, in case of suspension or deprivation of parental authority and if the child victim cannot be placed under care of a next of kin, ask the proper Court to transfer said authority over the child victim to the Department or to the head of a duly accredited children's home, orphanage or similar institution.

Sec. 16. *Who May File A Complaint.* — A complaint against a person who abused a child may be filed by the -

- a. offended party;
- b. parent or legal guardian;
- c. ascendant or collateral relative of the child within the third degree of consanguinity;
- d. duly authorized officer or social worker of the Department;
- e. officer, social worker or representative of a licensed child caring institution;
- f. Barangay Chairman; or
- g. at least three (3) concerned responsible citizens of the community where the abuse took place who have personal knowledge of the offense committed.

Sec. 17. *Filing of Criminal Case.* — The investigation report of the Department and/or of the police or other law enforcement agency on the abuse of a child, together with the results of the physical/mental examination and/or medical treatment and other relevant evidence, shall be immediately forwarded to the provincial or city prosecutor concerned for the preparation and filing of the appropriate criminal charge against the per-

son who allegedly committed the abuse.

Sec. 18. Closure of Establishment. — The Department shall immediately close the establishment or enterprise found to have promoted, facilitated or conducted activities constituting child abuse. The closure shall be for a period of not less than one (1) year. Upon said closure, the Department shall post signs with the words "off limits" in conspicuous places outside the premises of the closed establishments or enterprise. The unauthorized removal of said sign shall be punishable by *prision correccional*.

The Department shall seek the assistance of the local government unit concerned or the police or other law enforcement agency in the closure of an offending establishment or enterprise.

The Department shall also file the appropriate criminal complaint against the owner or manager of the closed establishment or enterprise under the provisions of R.A. 7610, the Revised Penal Code, as amended, or special laws.

An establishment or enterprise shall be presumed to promote or facilitate child abuse if the acts constituting the same occur within its premises. An establishment such as sauna parlor, travel agency, or recruitment agency which promotes acts of child sexual abuse as part of a tour program; exhibits children in a lewd or indecent show; provides child masseurs or masseuses for adults of the same or opposite sex and includes any lascivious conduct as part of the services that are rendered; or solicits children for activities constituting sexual abuse shall be deemed to have promoted or facilitated child abuse.

Sec. 19. Guardian Ad Litem. — Upon the filing of the criminal complaint for child abuse, the Department shall ask the appropriate court to appoint a guardian *ad litem* to represent the best interest of the child.

The guardian *ad litem* shall -

- a) explain to the child the legal proceedings in which the child will be involved;
- b) advise the judge, when appropriate, and as a friend of the court, regarding the child's ability to understand the proceedings and questions propounded therein;
- c) advise the prosecutor concerning the ability of the child cooperate as a witness for the prosecution;
- d) attend all investigations, hearings and trial proceedings in which the child is a participant; and
- e) monitor and coordinate concurrent administrative and court actions.

Sec. 20. Confidentiality of Identity of Victim. — At the request of the victim or his representative, the name of the child shall be withheld by the Department until the court has acquired jurisdiction over his case.

Sec. 21. Speedy Trial of Child Abuse Cases. — The trial of child abuse cases shall take precedence over all other cases before the courts, except election and habeas corpus cases. The trial in said cases shall commence within three (3) days from the date the accused is arraigned and no postponement of the child initial hearing shall be granted except on account of the illness of the accused or other grounds beyond his control.

Sec. 22. Protection of Victim from Undue Publicity. — The prosecutor in a child abuse case shall, taking into consideration the age, psychological maturity and understanding of the child victim, the nature of the unlawful acts committed, the desire of the victim and the interest of the child's family, take the necessary steps to exclude the public during the giving of testimony of the child victim; to limit the publication of information, photographs or artistic renderings that may identify the victim; and to prevent the undue and sensationalized publicity of the case.

Sec. 23. Confidentiality of Records. — All records pertaining to cases of sexual abuse shall be strictly confidential and no information relating thereto shall be disclosed except in connection with any court or official proceeding based thereon.

The unauthorized disclosure of the aforementioned records shall be punishable by a fine of not more than two thousand four hundred pesos (P2,400.00) or by imprisonment of not more than (1) year or such fine and imprisonment.

Section 24. Effectivity. — These Rules shall take effect upon the approval of the Secretary of Justice and fifteen (15) days after its publication in two (2) national newspapers of general circulation.

Done in the city of Manila this ___ day of October 1993.

(Original Signed)
FRANKLIN M. DRILON
Secretary of Justice

CONFORME:

(Original Signed)
CORAZON ALMA DE LEON
Secretary of Social Welfare and Development

RULES AND REGULATIONS ON THE TRAFFICKING OF CHILDREN

Pursuant to Section 32 of Republic Act No. 7610 entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION AND FOR OTHER PURPOSES", the following rules and regulations are hereby issued to implement Article IV of said Act concerning "Child Trafficking":

SECTION 1. DEFINITION OF TERMS —As used in these Rules, unless the context otherwise requires -

- a. "Child" shall refer to a Filipino citizen who is below eighteen (18) years of age;
- b. "Trafficking" shall refer to the act of trading or dealing with children, including but not limited to, the buying and selling of children for money, or for any other consideration, or barter;
- c. "Parent" shall refer to the natural parents, legal guardian of a child or one exercising parental authority over the child;
- d. "Department" shall refer to the Department of Social Welfare and Development; and
- e. "Code" shall refer to Presidential Decree No. 603, "The Child and Youth Welfare Code".

SEC. 2. CHILD ABANDONED IN AN INSTITUTION. — A hospital, clinic or duly licensed child-caring or placement agency shall report to the Department any child in its care whenever the parent has left the child in the said hospital clinic or child-caring or placement agency for seven (7) days without any valid reason and without providing for his care and support.

SEC. 3. CHILD LEFT WITH A PRIVATE INDIVIDUAL. — If a child is left by the parent with a private individual for the same period mentioned in Section 2 above without providing for the care and support of the child, the private individual who has custody over the child shall report such fact to the Department.

SEC. 4. PRESUMPTION OF ABANDONMENT OF CHILD. — The following shall be presumed as an intent on the part of a parent to abandon a child:

- a. failure to provide for the care and support of a child for at least six (6) continuous months for no valid reason shall be presumed as an intent to abandon the child unless said failure is due to reasons beyond the control of the parent or is due to financial reasons; or
- b. failure to report to a law enforcement agency or to the Department that the child is missing within seventy-two (72) hours after his disappearance is discovered.

SEC. 5. **ACTION OF DEPARTMENT.** — Upon receipt of the report of the presence of an abandoned child in a hospital, clinic or private individual, the Department shall, if found true, immediately take custody of said child and arrange for the immediate transfer of the child to a duly accredited child-caring or placement agency. Thereafter, the Department shall file a petition for the involuntary commitment of the abandoned child in favor of a duly accredited child placement agency or private individual in accordance with the provisions of the Code. The Department shall also file the appropriate criminal complaint against the parent who abandoned the child.

SEC. 6. **PROHIBITED ACT.** — It shall be unlawful for a hospital, clinic, duly accredited child placement agency or person to deliver an abandoned child under its custody to a public institution or private individual without the written consent of the parent or person who entrusted such child to its or his care, or in the absence of the latter, of the Department.

Violation of this provision will subject the guilty party to the penalty of *arresto mayor* and payment of a fine not exceeding five hundred pesos (P500.00). This is without prejudice to the filing of a separate complaint against the guilty party under Article 210 of the Code.

SEC. 7. **CRIMINAL LIABILITY FOR ABANDONMENT OF CHILD.** — A parent who abandons a child who is under seven (7) years of age for six (6) continuous months shall, if found guilty, be punished with *arresto mayor* and payment of a fine not exceeding five hundred pesos (P500.00).

If the child dies as a result of the abandonment, the culprit shall be punished by *prision correccional* in its medium and maximum periods.

If the child is merely exposed to danger by reason of the abandonment, the culprit shall be punished by *prision correccional* in its minimum periods.

SEC. 8. UNACCOMPANIED FOREIGN TRAVEL OF A CHILD. —

A child shall not be allowed to travel alone to a foreign country without a travel clearance therefor issued by the Department or a written permit issued under oath by both natural or adoptive parents, or the legal guardian or other person having legal custody of the child.

SEC. 9. DEPARTMENT TRAVEL CLEARANCE. — An application for travel clearance authorizing the unaccompanied foreign travel of a child shall be filed with the Department. The application shall be in the form prescribed by the Department and shall be signed under oath by both natural or adoptive parents of the child, or the guardian or legal custodian of the child.

SEC. 10. PARENTAL TRAVEL PERMIT. — The written permission given by the natural or adoptive parents, guardian or legal custodian for the unaccompanied foreign travel of their child shall be in the form prescribed by the Department. It shall be under oath and signed by both natural parents, the adoptive parent/s or the legal guardian or other person having legal custody of the child.

If the child will travel in the company of one of the natural parents or adoptive parents, the permit shall be signed by the parent who will stay behind in the Philippines.

SEC. 11. CONTENTS OF APPLICATION FOR DEPARTMENT TRAVEL CLEARANCE AND PARENTAL TRAVEL PERMIT. — An application for a Department travel clearance and a parental travel permit shall, among others, indicate the exact address of the child at the point of destination, the date of departure, the purpose and duration of the child's travel and the arrangements for the welfare of the child in the country of destination.

SEC. 12. SUPPORTING DOCUMENTS OF APPLICATION FOR DEPARTMENT TRAVEL CLEARANCE AND PARENTAL TRAVEL PERMIT. — An application for the issuance of a Department travel clearance and a parental travel permit shall be accompanied by certified true copies of the following documents:

- a. the passport or other travel document of the child, including the visa or other appropriate documentation;
- b. the child's birth certificate and marriage certificate of the natural parents or if the same are not available, other proof of the child's age and filiation, or the adoption decree, guardianship or custody papers of the adoptive parent or person having legal custody of the

child; and

- c. proof that the child will not become a public charge in the country of destination.

SEC. 13. DEPARTMENT ACTION ON A PARENTAL TRAVEL PERMIT. — A copy of the parental travel permit shall be filed with the Department at least seven (7) working days before the scheduled departure of the child.

If the Department, after investigation, finds that the foreign travel is inimical to the interest, it shall request the Bureau of Immigration to place the child in its hold-departure list and shall notify the parent of the child of said action.

SEC. 14. HOLDING OF DEPARTURE OF CHILD. — An unaccompanied child shall not be allowed by the Bureau of Immigration personnel at the port of embarkation to depart for a foreign destination except upon presentation of the Department travel clearance or parental travel permit, as the case may be, duly stamped having been received by the Department.

The authorized representative of the Department at the port of embarkation shall provide the immigration personnel thereat with such assistance as may be necessary.

SEC. 15. ATTEMPT TO COMMIT CHILD TRAFFICKING. — The following shall be liable for the offense of attempt to commit child trafficking as defined and penalized under Section 8 of Republic Act No. 7610:

- a. The parent or other person who is responsible for the travel arrangements of the unaccompanied child,
- b. The pregnant mother who executes an affidavit consenting to the adoption of her unborn child for a consideration;
- c. The head of an agency, establishment, child-caring institution or person who recruits women to bear children or couples to procreate;
- d. The physician, surgeon, public officer or other person who, in violation of his profession or office, cooperates in the simulation of the birth for the purpose of trafficking;
- e. The person, whether natural or juridical, who locates children

among low-income families, hospitals, clinics, nurseries, day care centers, or other child-caring institutions for the purpose of offering said children for placement or adoption.

SEC. 16. PRESUMPTION OF CHILD TRAFFICKING. — There shall be presumption of child trafficking if a person, whether natural or juridical, has under his custody two or more children without any legal basis or without being licensed to act as a foster parent or a child placement agency.

SEC. 17. CRIMINAL LIABILITY. — If any of the offenses described herein is committed by a juridical person, the penalty shall be imposed upon the manager, administrator, representative, director, agent, or employee who committed the violation or who caused, directed, cooperated or participated in said violation.

SEC. 18. EFFECTIVITY. — These Rules shall take effect upon approval by the Secretary of Justice and fifteen (15) days after its publication in two (2) newspapers of general circulation.

Done in the city of Manila this 24th day of January 1994.

(Original Signed)
FRANKLIN M. DRILON
Secretary of Justice

CONFORME:

(Original Signed)
CORAZON ALMA G. DE LEON
Secretary of Social Welfare
and Development

RULES AND REGULATIONS ON CHILDREN OF INDIGENOUS CULTURAL COMMUNITIES

Pursuant to Section 32 of Republic Act No. 7610 ("An Act providing For Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, Providing Penalties For Its Violation And For Other Purposes"), the following Rules and Regulations are hereby promulgated concerning children of indigenous cultural communities:

SECTION 1. **OBJECTIVES** — These Rules and Regulations seek to provide children of indigenous cultural communities with basic health, nutrition and other basic social services to ensure their protection, survival and development consistent with the customs and traditions of their respective communities.

SEC. 2. **DEFINITION OF TERMS.** — As used in these Rules, unless the context requires otherwise -

- a. "indigenous cultural community" refers to a native community whose members are bound by a common ethnic origin, language, culture, or religion or beliefs and whose existence as a distinct community with its own particular characteristics should be preserved;
- b. "child" refers to a person below eighteen (18) years of age who is a member of an indigenous cultural community;
- c. "DECS" refers to the Department of Education, Culture and Sports;
- d. "DOH" refers to the Department of Health;
- e. "DSWD" refers to the Department of Social Welfare and Development or similar agency of a local government unit; and
- f. "NGOs" refers to non-government organizations.

SEC. 3. **ACCESS TO EDUCATION.** — The DECS shall ensure that a child is provided with the opportunity to obtain an education and to develop his skills.

SEC. 4. **BASIC EDUCATION.** — The DECS, in coordination with the Office of Northern Cultural Communities, Office for Southern Cultural Communities, Office on Muslim Affairs and concerned NGOs, shall develop and/or strengthen programs that will enable a child to attend a

school offering elementary and secondary education programs.

SEC. 5. ALTERNATIVE EDUCATION. — Consistent with the expressed desire or need of an indigenous cultural community to preserve its ethno-cultural characteristics, the DECS, in coordination with the government agencies named in Section 4 above and concerned NGOs, shall develop, establish and maintain an alternative system of education for the children of said community. Whenever practicable, the dialect of the community shall be used as the medium of instruction.

SEC. 6. NON-FORMAL EDUCATION. — The DECS shall accredit and support non-formal programs of NGOs that provide a child with practical skills and crafts that will propagate and develop the traditional arts, culture and vocational skills of the indigenous cultural community to which the child belongs.

SEC. 7. HEALTH SERVICES. — The DOH, in coordination with the local government unit concerned and NGOs, shall make essential nutrition and health services available to a child. It shall provide a child with basic immunization services, protect him from endemic diseases, and establish programs as will ensure that the child will be given medical attention in regional and provincial hospitals, rural and municipal health centers and other field units of the DOH.

The health and nutrition programs that may be established by the DOH shall take into account the beliefs, customs and practices of the indigenous cultural community to which the child belongs. The DOH shall train workers in the health practices of the indigenous cultural community to be served and shall encourage the use of scientifically acceptable traditional medicine.

SEC. 8. COORDINATING COMMITTEE FOR CHILDREN OF INDIGENOUS CULTURAL COMMUNITIES. — A city/municipal government shall establish a Coordinating Committee for Children of Indigenous Cultural Communities, hereinafter referred to as the Committee, composed of representatives of the local government unit, concerned NGOs and of the indigenous cultural communities in the locality.

The Committee shall elect its Chairman and other officers from among its members. The municipality/city social worker shall act as the convenor of the Committee and shall serve as its secretary.

SEC. 9. FUNCTIONS OF COMMITTEE. — The Committee shall -

a) identify the barangays where the indigenous cultural community

- resides and prepare a mapping plan thereof;
- b) determine the number of indigenous cultural community households in a barangay and the number of children in each household;
 - c) identify, coordinate, monitor and evaluate all programs affecting the children of an indigenous cultural community in the area and submit a report thereon to the local government unit concerned and if necessary, recommend the establishment of other programs to meet the identified needs of the children; and
 - d) assist the indigenous cultural community and its members in resolving disagreements, disputes or difficulties relating to discrimination and the implementation of government and private programs and projects intended to benefit said community.

SEC. 10. **DISCRIMINATION.** — No person or entity, whether public or private, shall discriminate against a child by reason of his being a member of an indigenous cultural community in, among others, the hiring, promotion and in the enjoyment of the terms and conditions of employment; in the use of public transport; in the enjoyment or use of public accommodations and services; and in the availment of health, recreational, nutrition and educational at services and facilities.

Any other act, practice, process or treatment which results in the deprivation or curtailment of the rights, freedoms and privileges to which a child is entitled under the Universal Declaration of Human Rights, the United Nations Convention on the Rights of a Child, The Child and Youth Welfare Code (Presidential Decree 603, as amended) and similar issuances and laws on the sole basis of said child being a member of an indigenous cultural community shall be considered discrimination.

SEC. 11. **COMPLAINT FOR DISCRIMINATION.** — A complaint for discrimination may be filed by aggrieved child or by his parent or guardian with the Chairman of the Coordinating Committee for Indigenous Cultural Communities, the Barangay Chairman, the DSWD, or directly with Philippine National Police.

SEC. 12. **PENALTY FOR DISCRIMINATION.** — Any person or entity that practices acts of discrimination against a child shall, if found guilty, suffer the penalty of *arresto mayor* in its maximum period and a fine of not less than five thousand pesos (P5,000.00) nor more than ten thousand pesos (P10,000.00).

SEC. 13. ***EFFECTIVITY.*** — These Rules and Regulations shall take effect upon completion of its publication in at least two (2) newspapers of general circulation.

Done in the City of Manila this 24th day of November 1993.

(Original Signed)
FRANKLIN M. DRILON
Secretary of Justice

CONFORME:

(Original Signed)
CORAZON ALMA DE LEON
Secretary of Social Welfare
and Development

RULES AND REGULATIONS ON CHILDREN IN SITUATIONS ON ARMED CONFLICT

Pursuant to Section 32 of Republic Act. No. 7610 entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION AND FOR OTHER PURPOSES", the following rules and regulations are hereby issued to implement Article X of said Act concerning "Children In Situations Of Armed Conflict":

SECTION 1. **DEFINITION OF TERMS.** — As used in these Rules, unless the context otherwise requires —

- a. "armed conflict" refers to any conflict between government forces and organized groups which involves the actual use of armed force and which disrupts normal social, economic, political and cultural activities in a specific geographical area;
- b. "government forces" refers to the Armed Forces of the Philippines, the Philippine National Police and other armed groups supporting the government forces;
- c. "child" refers to one who is below eighteen (18) years of age;
- d. "social worker" refers to a social welfare and development officer of a local government unit;
- e. "non-government worker" refers to a member of a duly licensed private group or entity that has been accredited by the appropriate government agency concerned to perform primary health and emergency relief services. The term includes doctors, nurses, dentists, trained community health workers and allied professionals such as social workers and volunteer relief workers;
- f. "government worker" refers to a public officer or employee who provides health, educational, social and relief services;
- g. "service worker" refers to a social worker, a government or non-government worker;
- h. "Department" refers to the Department of Social Welfare and Development of the national government or a duly authorized officer thereof; and

i. "Commission" refers to the Commission on Human Rights.

SEC. 2. POLICY. — Children shall be considered as zones of peace and shall enjoy the protection of the State against dangers arising from an armed conflict.

Measures shall be undertaken to protect them from harm and assure their survival and well-being. Children in situations of armed conflict shall be accorded special treatment by government forces.

SEC. 3. NON-RECRUITMENT OF CHILDREN. — Children shall not be recruited or employed by government forces to perform or engage in activities necessary to and in direct connection with an armed conflict either as a soldier, guide, courier or in a similar capacity which would result in his being identified as an active member of an organized group that is hostile to the government forces.

SEC. 4. USE OF PUBLIC INFRASTRUCTURE FOR MILITARY PURPOSES. — Hospitals, rural health units, school buildings, *madaris*, day care centers, barangay halls, places of worship and similar places shall not be utilized by government forces as a command post, detachment, supply depot or similar facility.

SEC. 5. DELIVERY OF BASIC SERVICES BY GOVERNMENT WORKERS. — Consistent with the needs of public safety, government forces shall facilitate and assure the delivery by government workers of goods and basic services, such as education, primary health and emergency relief services, to their field units in areas of armed conflict.

SEC. 6. DELIVERY OF BASIC SERVICES BY NON-GOVERNMENT WORKERS. — Government forces shall allow non-government workers to visit evacuation centers to provide health, educational and social services and to render relief assistance to the evacuees thereat.

SEC. 7. FREE PASSAGE OF SERVICE WORKERS AND FLOW OF GOODS. — The government forces shall coordinate with the Peace and Order Council (POC) concerned and the social worker in ensuring, under normal conditions, the immediate and unimpeded flow to and from areas of armed conflict, of health personnel and patients, medical supplies and equipment, foodstuffs and other basic necessities, and relief goods.

SEC. 8. LIMITATION OF ENTRY INTO AREAS OF ARMED CONFLICT. — The government forces may prevent or limit the entry of

service workers and the delivery goods into an area of armed conflict if the same will interfere directly with ongoing combat operations, or will endanger the lives or safety of service workers or those delivering the goods.

Any dispute arising from the restriction of the flow of goods and services shall be resolved by the POC concerned.

If the POC upholds the temporary restriction of the flow of goods and services, the POC shall expedite the release of the goods or the rendition the services upon the termination of combat operations, provided that in no case shall said temporary suspension be for a period longer than three (3) days, and provided further, that in no case shall the restriction lead to the starvation of those inside the combat area.

In emergency situations, the government forces shall adopt special measures to allow relief goods and needed services to reach children in the combat area. In such a case, the government forces may, if requested, provide protection to ensure the delivery of said goods and services to the children.

SEC. 9. ACTIVITIES PRIOR TO ARMED CONFLICT. — In case of a threatened or impending outbreak of an armed conflict, a social worker shall -

- a. identify, in consultation with government forces, the areas where serious combat action is likely to occur and evacuation areas or centers;
- b. prepare a master list of the families in the affected areas, with a separate list of children, and a written assessment of their requirements for food, medicine and other basic needs;
- c. recommend the activation of the local Disaster Coordinating Council; and
- d. conduct disaster preparedness orientation meetings in coordination with government and non-government organizations.

The social worker shall submit a copy of the results of the activities enumerated in paragraphs a and b above to the Department.

SEC. 10. EVACUATION PRIORITY. — Before and upon the outbreak of an armed conflict, children shall be the first to be rescued, evacuated and given assistance.

In the evacuation of children, the social worker shall, in coordination with the government forces and the local Disaster Coordinating Council and non-government organizations, place the children to be evacuated under the care of persons who shall be responsible for their transfer to an evacuation area/center; Provided, that the separation of children from their families shall be avoided and if this is not possible, the social worker shall ensure that at least one parent or relative shall accompany the child in the evacuation area/center.

SEC. 11 MONITORING AND REPORT ON CHILDREN IN SITUATIONS OF ARMED CONFLICT. — Within twenty-four (24) hours from the occurrence of combat action between the government and hostile forces, the chairman of the affected barangay, or in his absence, any member of the Sangguniang Barangay, shall submit to the social worker a list of the children residing in the barangay. The list shall be used to determine the children who were evacuated and to ascertain their whereabouts.

SEC. 12. FAMILY LIFE AND TEMPORARY SHELTER. — The Department shall establish the minimum standards for evacuation centers.

Whenever possible, members of the same family shall be housed in the same premises in an evacuation center or other temporary shelter; given separate accommodations from other evacuees; and provided with facilities to enable them to lead a normal family life. Children shall be given opportunities for early childhood care and development, alternative learning system, physical exercise, sports and outdoor games. They shall be given immunization and protection from endemic diseases and with nursing mothers, given food in proportion to their physiological needs. When necessary, children shall be provided psycho-social intervention.

SEC. 13. UNACCOMPANIED CHILDREN. — The social worker shall identify the children who have been separated from their parents or guardians during an evacuation. Said children shall be provided with individual and sustained care in the evacuation center to minimize stress. The name of the unaccompanied child shall be registered by the head of the evacuation center or social worker in a record book to be opened and maintained for said purpose. Whenever practicable, the child shall be photographed and an individual file shall be made containing all available information about him.

Efforts shall be made to ensure the early reunion of the unaccompanied child with his parents or guardians.

SEC. 14. RETURN OF EVACUEES TO THEIR HOMES. — The government forces shall allow the evacuees to return to their homes or to

be reunited with their families as soon as tactical consideration permit.

SEC. 15. RIGHTS OF CHILD UNDER THE CUSTODY OF GOVERNMENT FORCES. — A child who is taken into custody by government forces in an area of armed conflict shall be informed of his constitutional rights and treated humanely. He shall not be subjected to torture or to cruel, inhuman or degrading treatment, or used in a military operation in any capacity. The government forces shall ensure, the physical safety of the child under its custody; provide him with food and the necessary medical attention or treatment; and remove him from the area of armed conflict and transfer him at the earliest possible time to higher echelons of command/office for proper disposition.

The government forces shall, within twenty-four hours after the child is transferred to a military camp, inform the parents or guardian of the child and the social worker or the Department, of the presence of the child in the said camp.

SEC. 16. TRANSFER OF CHILD TO THE PHILIPPINE NATIONAL POLICE. — In case a child is taken into custody by the Armed Forces of the Philippines, the military commander concerned shall immediately transfer custody over said child to the nearest station of the Philippine National Police, preferably to the Child and Youth Relations unit thereof. Whenever possible, the parents of the child shall be given previous notice of said transfer.

In the proper case, the affidavits/statements of the persons who have personal knowledge of the child's offense shall be transmitted by the military commander concerned to the Philippine National Police.

SEC. 17. DUTY OF PHILIPPINE NATIONAL POLICE. — Immediately after a child is taken into custody by the Philippine National Police in an area of armed conflict or upon receipt of custody of a child from the Armed Forces of the Philippines, the police officer concerned shall -

- a. arrest/detain the suspect and notify the parents or guardian of the child and the Commission, the Department or social worker of the detention;
- b. refer the case of the child to the nearest public or private agency which provides free legal assistance; and
- c. give the child a thorough physical and mental examination as required under Article 10 of Presidential Decree No. 603, as amended.

SEC. 18. PLACE OF DETENTION OF CHILD. — The government forces shall keep the child who is taken into custody in a detention/jail facility that is separate from adults, except where the child and his family are accommodated in a family detention unit.

Whenever practicable, the child shall be provided alternative education while under detention.

SEC. 19. VISITATION RIGHTS OF THE CHILD. — The family members, relatives, friends, legal counsels of the child under custody shall be granted free access to the detention center where the child is held. Private physicians and other health personnel shall be given the same access in accordance with existing government guidelines on the matter.

SEC. 20. REFERRAL OF CASE TO PROSECUTOR. — If warranted, the Philippine National Police shall forward the records of the investigation of the case of the child under custody to the prosecutor concerned for the conduct of an inquest and/or preliminary investigation to determine whether or not the child should remain under custody and corresponding charged in court.

SEC. 21. VISITATION OF CHILD. — Upon being informed of the detention/arrest of the child by the government forces, the Department or the local representative of the Commission shall immediately visit the child to determine the observance by the government forces of the human rights of the suspect.

As used herein, the term "human rights" refers to the rights of children under the Philippine Constitution, Presidential Decree No. 603, as amended, Republic Act. No. 7610, the Universal Declaration of Human Rights adopted by the United Nations General Assembly on 10 December 1948, the Declaration of the Rights of the Child, the United Nations Convention on the Rights of the Child, the International Covenant on Economic, Social and Cultural Rights and the Geneva Convention of 12 August 1949 and the Protocol Additional to said Geneva Convention Relating to the Protection of Victims on Non-International Conflicts (Protocol II), relevant laws and government issuances.

SEC. 22. REPORTS OF VIOLATION OF RIGHTS OF CHILDREN. — Reports of specific incidents of violations of human rights of children in situations of armed conflict shall be filed with the Department or the Commission or non-governmental organizations duly accredited by the Commission to monitor human rights violations. The Commission shall forward said reports to the general headquarters of the government forces or

may file the same directly with the office of the city/provincial prosecutor for appropriate action.

SEC. 23. FILING OF COMPLAINT/INFORMATION. — If the evidence submitted in the inquest/preliminary investigation engenders a well-founded belief that a crime has been committed and the child is probably guilty thereof, the prosecutor shall file the corresponding complaint/information against the child in court.

SEC. 24. RELEASE OF CHILD ON RECOGNIZANCE. — Within twenty-four (24) hours after the filing of a criminal complaint/information against the child in court, the legal counsel of the child, or in his absence, the representative of the Department or Commission may request the appropriate Court to release the child on recognizance to the representative of the Department or Commission or to any responsible member of the community who shall be responsible for the child's appearance in court. The child who is released on recognizance may be placed with a family, in a government rehabilitation center, or in accredited welfare agency.

SEC. 25. SUSPENSION OF SENTENCE. — If after hearing, the court finds that the child committed the acts charged against him, the court shall determine the imposable penalty, including any civil liability chargeable against him.

However, instead of pronouncing judgement of conviction, the court shall suspend all further proceedings and, shall commit the child to the custody or care of the Department or to any training institution operated by the Government, or duly licensed agency, or any responsible person, until he has reached eighteen years of age or for a shorter period as the court may deem proper, after considering the reports and recommendation of the Department, or the licensed agency, or responsible individual under whose care the child had been committed.

The child shall be subject to visitation and supervision by the Department or any duly licensed agency or such other officer as the court may designate, subject to such conditions as it may prescribe.

SEC. 26. APPEAL. — The child whose sentence is suspended can appeal from the order of the court in the same manner as appeals in criminal cases. He shall be accorded the rights and privileges enjoyed by a Youth Offender under the provisions of Presidential Decree No. 603, as amended.

SEC. 27. EFFECTIVITY. — These Rules shall take effect upon approval by the Secretary of Justice and fifteen (15) days after its publication in two (2) newspapers of general circulation.

Done in the City of Manila this 21st day of January 1994.

(Original Signed)
FRANKLIN M. DRILON
Secretary of Justice

CONFORME:

(Original Signed)
CORAZON ALMA G. DE LEON
Secretary of Social Welfare
and Development

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