



Convention on the Rights of the Child

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WRITTEN REPLIES BY THE GOVERNMENT OF the philippines CONCERNING THE LIST OF ISSUES (CRC/C/OPAC/PHL/Q/1) TO BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION OF THE INITIAL REPORT OF the PHILIPPINES UNDER ARTICLE 8 (1) OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT (CRC/C/OPAC/PHL/1)*

[Replies received on 19 May 2008]

I. Issue No. 1 (CRC/C/OPAC/PHL/Q/1, para. 1)

On the role and mandate of the Office of the Ombudsman and whether it has jurisdiction over military personnel, including the power to initiate preliminary investigation, and eventually prosecution, on cases which may be filed before it, **the Department of Justice (DOJ)** provided the response.

The Ombudsman has certain jurisdiction over military personnel, including the power to initiate preliminary investigation and eventually prosecution, on cases which may be filed before it. As a matter of fact, under Republic Act No. 6770 (Ombudsman Act of 1989), in Section 3 thereof, among the offices under the Office of the Ombudsman, is the Office of the Deputy for the Armed Forces, and in Section 12 thereof, it is stated that the Deputy of the Armed Forces shall hold office in Metropolitan Manila.

It is also pointed out under par. 10 of Section 15 of the same law (RA 6770), among the powers, functions, and duties of the Office of the Ombudsman, is that it can 'Delegate to the Deputies, or its investigators or representatives such authority or duty as shall ensure the effective exercise or performance of the powers, functions, and duties hereinafter provided'.

Again, it may be noted that later on, the Office of the Deputy for the Armed Forces has been changed to the Office of the Deputy Ombudsman for the Military. Thus, in Memo-Circular No. 14, dated 10 October 1995, the Deputy Ombudsman for the Military shall continue to investigate all cases against personnel of the Philippines National Police (PNP), Bureau of Fire Protection (BFP), and the Bureau of Jail Management and Penology (BJMP), so that its authority to investigate members of the Armed Forces has been extended to the PNP, BFP, and BJMP Offices.

In said Circular No. 14, s. 1995, 'The Deputized City/ Provincial Prosecutor and their Assistants shall continue with the preliminary investigation of the aforementioned cases pursuant to the guidelines laid down in DOJ Memorandum Circular No.2, dated 15 April 1994, but shall henceforth forward their recommendations directly to the Deputy Ombudsman for the Military who shall act on the same in accordance with Office Order No. 103, series of 1995'.

And since cases filed with the Ombudsman, in this case, the Deputy Ombudsman for the Military, are filed with the Sandiganbayan (RA NO. 7975), the cases filed and brought before it are those involving '(d) Philippine Army and Air Force colonels, naval captains, and all officers of higher rank'; and '(e) PNP Chief Superintendent and PNP Officers of higher rank'; (See Section 4(a) pars. (d) and (e), 'or cases where the principal accused are occupying positions corresponding to the salary grade 27 or higher, as prescribed in the said RA 6758, or PNP Officers occupying the rank of superintendent or higher, or their equivalent'.

II. Issue No. 2 (CRC/C/OPAC/PHL/Q/1, para. 2)

On investigations, convictions and sanctions imposed in the last five years for the crimes provided under sections 53 and 56 of the Implementing Rules and Regulations (IRR) of Republic Act No. 9208, which prohibit the recruitment, transport or adoption of a child to engage in armed activities in the Philippines or abroad, DOJ provided the response.

Section 53 (Acts of Trafficking in Persons) of the IRR, provides among others, that – Any person, natural or judicial, who commits any of the following acts shall suffer the penalty of imprisonment of twenty (20) years and a fine of not less than one million pesos (P1, 000, 000. 00) but not more than two million pesos (P2, 000, 000. 00) ... to recruit, transport or adopt a child to engage in armed activities in the Philippines or abroad.

On the other hand, Section 55 (Qualified Trafficking in Persons) of the IRR, states that: 'The following are considered as qualified

trafficking and shall be penalized with the penalty of life imprisonment and a fine of not less than two million pesos (P2, 000, 000. 00) but not more than five million pesos (P5, 000, 000. 00); ‘(a) When the trafficked person is a child’.

III. Issue No. 3 (CRC/C/OPAC/PHL/Q/1, para. 3)

On information as to whether the State party assumes extraterritorial jurisdiction over the war crime of conscripting or enlisting children under the age of 15 into the armed forces or using them to participate actively in hostilities, DOJ provided the response.

“Under Article 2 of the Revised Penal Code (Republic Act No. 3815, as amended), except as provided in the treaties and laws of preferential application, the provisions of the Philippine Penal Code ‘shall be enforced not only within the Philippine Archipelago, including its atmosphere, its interior waters and maritime zone, but also outside of the jurisdiction, against those:

Who should commit an offense while on a Philippine ship or airship;

...

....

Who, while being public officers or employees, should commit an offense in the exercise of their functions;

Who should commit any of the crimes against national security and the law of nations, defined in Title One of Book Two of this Code’. As provided under article 114 up to 123, of the Revised Penal Code, this includes: treason, conspiracy, and proposal to commit treason, misprision of treason, espionage, inciting to war or giving motives for reprisals, violation of neutrality, correspondence with hostile country, flight to enemy’s country, piracy in general and mutiny on the high seas or in Philippine waters; and qualified piracy.

The Philippines can certainly assume extraterritorial jurisdiction should ‘the war crime of conscripting or enlisting children under the age of 15 into the armed forces or using them to participate actively in hostilities’, or ‘involvement in hostilities of a person under 18 if committed outside the Philippines, by or against a Philippine citizen’ fall under the foregoing paragraphs of article 2 of the Revised Penal Code. As such, the Philippines certainly may assume jurisdiction over said cases, and Philippine Courts may exercise jurisdiction over the same. Also, under the concept of a continuing offense, the offender may also be extra territorially liable.

If the offender is abroad, the Philippines may ask for the extradition of said individual from a friendly country or a country where we have extradition treaties, otherwise we will just have to wait when he returns to the Philippines to face trial.”

IV. Issue No. 4 (CRC/C/OPAC/PHL/Q/1, para. 4)

On the meaning of ‘direct participation’ in hostilities in the legislation and practices of the State party, the Office of the Presidential Adviser on the Peace Process (OPAPP) provided the response.

The direct participation of children in hostilities refer to the involvement of children as combatants and/or those who take support roles as spies, guides, couriers, messengers, cooks, medics, and other similar capacities. Children involved in armed conflict are either forcibly, compulsory, or voluntarily recruited by either State or non-State armed forces/ groups.

Article X, Section 22 Item (b) of Republic Act 7610 specifically prohibits the recruitment / use of children in armed conflict. Specifically, it provides that ‘Children shall not be recruited to become members of the Armed Forces of the Philippines or its civilian units or other armed groups, not they be allowed to take part in the fighting or used as guides, couriers, or spies.”

V. Issue No. 5 (CRC/C/OPAC/PHL/Q/1, para. 5)

On the one year compulsory Citizen’s Army Training (CAT), which is required for high school students aged 15 and 16, the Department of Education (DepEd) provided the attached copy (Annex I) of the Revised Implementing Guidelines of the Citizenship Advancement Training (CAT) for both Public and Private Secondary Schools.

The said DepEd order states that the Citizenship Advancement Training (CAT) is a restructuring of the Citizen’s Army Training, and is a component of Makabayan, separate from MAPEH in the fourth year of high school. It aims to enhance the students’ social responsibility and commitment to the development of their communities and develop their ability to uphold law and order as they assume active participation in community activities and in assisting the members of the community especially in times of emergency. The components of the CAT program are (a) Military Orientation for students to gain knowledge, skills, and understanding of the rights and duties of citizenship; (b) Community Service that help achieve the general welfare and betterment of life of the community members; and (c) Public Safety and Law Enforcement Service which encompasses all programs and activities which are contributory to the maintenance of peace and order and public safety and observance of and compliance with laws.

VI. Issue No. 6 (CRC/C/OPAC/PHL/Q/1, para. 6)

On the measures taken to implement the Committee’s recommendation upon consideration of the second periodic report of the State party and related to children in armed conflict, this Council would like to refer to the provisions reproduced from the third and fourth periodic reports on the implementation of the Convention (CRC/C/PHL/4, forthcoming).

A. Children in situations of emergency

The following paragraphs are reproduced directly from the third and fourth periodic reports on the implementation of the Convention (CRC/C/PHL/4, forthcoming):

(244.)The number of children displaced by armed conflict every year during the last four years is estimated at around 30,000 to 50,000. These children have lost the security of their normal family and community relationships, the familiarity of their surroundings, suffer serious psychosocial stress, experience school disruption, and have to seek refuge in overcrowded evacuation centres without adequate health and water and sanitation services. Children living in conflict areas also experience the threat of human rights violations, particularly those who are suspected of giving support to armed groups and whose parents and siblings are suspected members of insurgent or rebel groups.

(245.)Involvement of children in armed conflict is still being reported despite denials of the State armed forces and non-State armed groups. Both the government forces and the non-State entities maintain a policy of non-recruitment of children for direct hostilities; however, children have been involved in non-combat duties and mobilization for “self-defense” and “jihad”. There has been no evidence of systematic or forcible recruitment of children by the New Peoples Army (NPA) of the Communist Party of the Philippines (CPP) and the Moro Islamic Liberation Front (MILF), yet the children volunteer their support mainly because of the influence of family, peers, and community members. Based on reports from combined sources (Department of Social Welfare and Development (DSWD), Department of National Defence (DND), Armed Forces of the Philippines (AFP) and non-governmental organizations (NGO)), there were 186 children involved in armed conflict for the period 2001-2006. Of this number, 174 children have been demobilized and reunited with their families and brought back to school. The Department of Labour and Employment (DOLE) also implemented the Community Sala’am (Peace) Corp Project wherein 300 children between the ages of 9 and 17 years old were given education, skills training, employment and livelihood assistance for the period 2005-2006.

(246.)The Philippine Government continues to pursue a comprehensive peace process to address armed conflict with rebel groups. This presently involves the implementation of a National Peace Plan, which is chapter 14 of the Medium-Term Philippine Development Plan. Among the efforts being undertaken with significant contribution to preventing and stopping the recruitment of children in armed hostilities are as follows:

- (a) The peace process with the Moro Islamic Liberation Front (MILF), which includes security through cessation of hostilities, rehabilitation and development of conflict-affected areas, and negotiations on the issue of ancestral domain;
- (b) Implementation of the interim peace agreements with two local communist movements (the Rebolusyonaryong Partidong Manggagawa ng Pilipinas/Revolutionary Proletarian Army/Alex Boncayao Brigade (RPMP-RPA-ABB) and the Rebolusyonaryong Partidong Manggagawa ng Mindanao (RPM)), particularly in terms of rehabilitation of conflict-affected communities, cessation of hostilities, reintegration, and protection of civil and political rights particularly of the alleged political offenders and political prisoners;
- (c) Continuous monitoring of and advocacy on the implementation of the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) between the Philippine Government and the Communist Party of the Philippines-New Peoples Army-National Democratic Front (CPP-NPA-NDF);
- (d) Complementary measures to reduce the level of violence on the ground such as support to local and indigenous peacemaking and peacekeeping mechanisms, including peace zones, and support to the implementation and civilian monitoring of ceasefire agreements;
- (e) Efforts to complete the implementation of existing final peace agreements with the Moro National Liberation Front (MNLF) and the Cordillera Peoples Liberation Army (CPLA);
- (f) Efforts to mainstream former rebels through reintegration and rehabilitation programmes, including the President’s issuance in March 2007 of Administrative Order No. 172, creating the National Committee on Social Integration under the Office of the Presidential Adviser on the Peace Process (OPAPP). The Social Integration Programme includes the process of arms management, forces management, and the transition of former rebels to civilian life;
- (g) Rehabilitation, development and healing of conflict-affected areas through various local and Official development assistance-funded programmes and projects.

(247.)The peace process at the regional level has been strengthened through the issuance of Executive Order No. 569 on 26 September 2006, mandating the Regional KALAHI Convergence Groups (RKCG) and Presidential Assistants as peace process mechanisms and Regional Peace Advisors, respectively. Their tasks include, among others, activating a quick response mechanism to help prevent the outbreak and escalation of armed conflicts, and to address the humanitarian needs and other urgent concerns arising from ongoing hostilities.

(248.)More specifically, the Government has pushed further the implementation of a Comprehensive Programme for Children Involved in Armed Conflict (CP-CIAC) which was launched through Executive Order No. 56 on 26 November 2001. Led by OPAPP and the Council for the Welfare of Children (CWC), the programme seeks to prevent the recruitment of children in armed hostilities, as well as rehabilitate and reintegrate those who have surfaced or been recovered. At present, the programme is implemented by 18 government agencies. Among the efforts undertaken under the programme are: (a) policy development and coordination; (b) database development; (c) case monitoring; (d) provision of services to CIAC; (e) development and implementation of training modules; and (f) development and use of advocacy and information, education and communication (IEC) materials. Also integral to the programme is strengthening the peace constituency and promoting a culture of peace through peace education, promotion of interfaith dialogues, peace forum, and media-based information and education campaign.

(249.)Through the CP-CIAC, the Department of Social Welfare and Development (DSWD) provides a package of social services and interventions designed to protect and rehabilitate children affected directly or indirectly by armed conflict. This package includes provisions for the special needs of girl child soldiers. To provide guidance to various agencies and levels of Government participating in the CP-CIAC, the DSWD issued in 2002 Administrative Order No. 84, “Procedures in the Handling and Treatment of Children Involved in Armed Conflict”. The procedures apply to children involved in armed conflict either as courier, guide, spy, combatant, or any similar capacity. On the other hand, OPAPP monitors compliance of concerned agencies, including the Armed Forces of the

Philippines, to existing guidelines on the handling and treatment of rescued and recovered children involved in armed conflict.

(250.)DSWD also takes custody of children involved in armed conflict based on a "Memorandum of Understanding in the Handling and Treatment of Children Involved in Armed Conflict" forged between and among the Department of National Defence (DND), the Armed Forces of the Philippines (AFP), the Department of the Interior and Local Government (DILG), the Philippine National Police (PNP), the Department of Social Welfare and Development (DSWD), the Department of Justice (DOJ), the Department of Health (DOH), the Commission on Human Rights (CHR), the Office of the Presidential Adviser on the Peace Process (OPAPP), and the National Programme for Unification and Development Council (NPUDEC) signed on 21 March 2000.

(251.)The Emergency Operation Philippines-Assistance to Conflict-Affected Mindanao (EMOP-ACAM) joint initiative of DSWD and the World Food Programme also supports the peace process in Mindanao by addressing the food security needs of its vulnerable population living in conflict-affected communities. The project benefits families in five provinces, namely, Lanao del Norte (Region 10), North Cotabato and Sultan Kudarat (Region 12), Lanao del Sur and Maguindanao in ARMM. As of July 2007, the project scaled up implementation as follows:

(a)**Food for Education I** This component reaches 306,594 school children for take-home ration and 19,226 children for on-site feeding;

(b)**Mother and Child Nutrition** - Food baskets have been provided to 43,448 pregnant and lactating women and 37,709 children below two years old;

(c)**Food for Work (FFW) and Food for Training (FFT) activities** reached 15,174 and 23,052 beneficiaries respectively,

(d)**Food for Internally Displaced Persons (IDP)** - This covered 34,182 affected families in North Cotabato and 68,130 displaced families in Maguindanao.

(e)**Sulu Emergency Operation for IDPs** - More than 276,500 affected families were provided with food assistance.

(252.)Regarding displaced children as a result of armed conflict, various programmes and projects are being implemented to ensure that these children are protected and have access to basic services, including Days of Peace (DoP) campaign. The agreement with the MILF to conduct the Days of Peace campaign has been a result of continuing education on and awareness-raising of the Convention with partners on the ground involving local government units, NGOs and faith-based organizations. With the support of UNICEF and the involvement of OPAPP, DOH, DILG and DepEd, the DoP campaign launched in April 2007 aims at creating a corridor of peace and reaching out to around 250,000 children under 5, 50,000 children under one year old, and 60,000 mothers in 70 conflict-affected barangays in Mindanao. The services provided include immunization, micronutrient supplementation, deworming, breastfeeding counselling, birth registration and distribution of basic school supplies. As a rolling campaign, it shall expand its areas of coverage in other peace agreement areas and the UNICEF-assisted CPC six areas in Luzon and Visayas.

(253.)Also under the GOP-UNICEF sixth Country Programme for Children 2005-2009, special protection measures and basic social services to boys and girls affected by armed conflict have been provided and supported. As of mid-2007, more than 20,000 children in 64 conflict-affected barangays (45 in Mindanao, 15 in Visayas and 4 in Luzon) had been provided basic services such health and nutrition, early childhood care, basic education, and technical-vocational education and training. Other measures taken include youth organizing, advocacy rights, community-based peace education and disaster management. Moreover, in the conflict-ridden regions of Sulu, Samar, Surigao del Sur, Quezon, North Cotabato and Maguindanao over 10,000 families who were displaced because of escalating hostilities between government forces and non-State actors were given emergency relief and psychosocial support services (e.g. art therapy); 3,000 pupils received school packs; and around 60,000 internally displaced persons (IDP) were provided with medicines and water purifiers. The provision of these services was facilitated through NGO partners involved in community organizing in rural, remote and hard-to-reach areas. A sustained community organizing strategy helps empower disadvantaged families and build community resilience and capacity to cope with emergency situations. To enable children and their families to cope with disasters and emergency situations, World Vision Development Foundation (WVDF) has introduced the concept of a child-friendly space. A child-friendly space provides a protective environment for children ensuring their safety and continuous healthy physical, psychosocial, moral and spiritual development despite adverse circumstances.

(254.)The Philippines recently agreed to join the monitoring and reporting mechanism on children and armed conflict initiative following the Security Council Resolution 1612 (2005). In this resolution, the Security Council requests the establishment of the monitoring and reporting mechanism where recruitment of children is still being reported. With support from UNICEF, the Sub-Committee on Children Affected by Armed Conflict and Displacement (SC-CAACD) of the Council for the Welfare of Children has pushed for the establishment of monitoring and reporting mechanism on children involved in armed conflict.

B. Optional Protocol on the involvement of children in armed conflict

(320.)The report of the Philippines on the implementation of the Optional Protocol was submitted in March 2007 (CRC/C/OPAC/PHL/1). Some highlights of that report will be mentioned here. On the whole, the Government of the Philippines has already adopted and implemented several measures to fulfil its obligations to the Optional Protocol. Major policy and legislative measures related to the Comprehensive programme on children involved in armed conflict had already been formulated and enforced (some even before the Philippines ratified the Optional Protocol in August 2003). Some of these policy measures include the following:

(a)The National Strategic Framework for Plan Development for Children 2000-2025 or Child 21, which established a rights-based, open, consultative and participatory process for the implementation of programmes for child protection and development.

(b)The National Plan of Action for Children (NPAC) 2005-2010, which is a five-year strategic plan based on Child 21, aims at

reducing disparities in indicators of rights and well-being of children across regions in the country. A companion document of NPAC is the Comprehensive Programme on Child Protection (CPCP), 2006-2010 which aims at creating a safe, protective, and caring environment for children.

(c) Executive Order No. 56 or the Comprehensive Programme Framework for Children in Armed Conflict was issued on 26 November 2001. This complementary framework outlines and promotes rescue, recovery and reintegration of children involved in armed conflict in the Philippines. This complementary framework has been implemented through the CP-CIAC supervised by the Office of the Presidential Adviser on the Peace Process (OPAPP) in tandem with the Council for the Welfare of Children. It includes an advocacy component which aims to create awareness of the issue and educate the different sectors of society through various media and activities such as peace education, peace camps, and peace forums.

(d) Also underpinning the policy environment in the Philippines for peace and development is Executive Order No. 3 of 2001, which defines policy direction and administrative structure for the government comprehensive peace agenda vis-à-vis the basic issues and contexts related to the armed conflict, including the phenomenon of children involved in armed conflict. The law calls for, among others, the protection of civilians in armed conflict situations; reintegration, rehabilitation and reconciliation programmes for former combatants; and peace education and advocacy programmes including human rights education.

(321.) The main thrusts of government action towards child protection and compliance to the provisions of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict include the following:

(a) The Government has taken legislative and administrative steps to both prohibit and punish compulsory recruitment into the armed forces of children less than 18 years of age.

(b) The Government has prohibited compulsory or voluntary recruitment, and any use of children less than 18 years of age by armed groups distinct from the national armed forces through legislative, administrative and other measures.

(c) The Government has raised the minimum age for voluntary recruitment from that set in the Convention; described safeguards to prevent forced recruitment; and set minimum safeguards to include legitimacy of voluntary recruitment.

(d) The Government has prohibited, prevented and criminalized recruitment of children for use in hostilities by non-State armed forces.

(e) The Government has taken steps to implement and promote the Optional Protocol and to provide for the demobilization, recovery and reintegration of persons recruited or used in hostilities.

(f) The Government has provided legislative and administrative measures to ensure that any child arrested, detained or interned for reasons related to the conflict enjoy the special protection provided by the Optional Protocol, the Convention, and international humanitarian law.

(g) The Government is seriously enhancing local capacities for compliance to the Optional Protocol through technical and financial cooperation and other arrangements with national and international organizations.

(h) The Government has been setting the groundwork for concrete interventions at the community level through the implementation of necessary programmes, projects and activities.

(i) The Government has laid down the framework for pursuing comprehensive and lasting peace in the country, including addressing issues concerning children involved in armed conflict through the implementation, coordination, monitoring, and integration of all government peace initiatives with the participation of civil society organizations and non-State duty bearers.

(322.) Despite the efforts described above, the Government still needs to consider and improve on the following aspects in order to fully comply with the Optional Protocol:

(a) The State policy of prohibiting the recruitment of children and their employment in combat and related activities is only a starting point in the prevention of the involvement of children in armed conflict. The tasks of creating, developing and strengthening institutional consciousness on human rights and international humanitarian concepts, especially those enshrined in the Convention and the Optional Protocol must be continuously pursued in order to help the defence and security forces to properly respond to children involved in armed conflict issues.

(b) The legal and administrative mechanisms on non-recruitment and non-participation of minors in armed conflict have to be reinforced by the implementation of education and training programmes whose objectives, content, methods and strategies must be geared towards clarifying and strengthening institutional policies as well as instilling human rights, especially child rights, and humanitarian concepts.

(c) Training and education programmes are futile when these are not translated into observable positive changes. The national police and military forces who receive training and education must show identifiable indications of effective learning in their values, attitudes, skills and knowledge especially in actual conduct and disposition regarding children involved in armed conflict. The steps and procedures to track, assess, and make responsive actions regarding noted changes must form part of the framework in addressing gaps in compliance to the Optional Protocol.

(d) The proper government agencies must undertake serious investigations and researches especially in remote areas where children are reportedly being recruited into paramilitary structures to provide security and protection against ordinary criminal elements such as cattle rustlers, thieves and other armed bandits. These paramilitary organizations are also often field to fight guerrilla insurgents. Notable of these organizations are the Civilian Volunteers Organizations (CVO) and the Civilian Armed Forces Geographical Units (CAFGU) which are also being organized and trained for civil military operations such as social investigation, counter-propaganda,

and other counter-insurgency functions.

(e)The Government must explore possible and acceptable ways to include the issue of child soldiers in all negotiations and peace talks. It recognizes that including the issue of child soldiers in the current peace talks entails the authorized government agencies to design and situate programmes and projects under the National Peace Plan in the context of the Optional Protocol.

(f)The Government must take all necessary measures to provide adequate human, financial and technical resources for the effective implementation of the Comprehensive Child protection Programme and towards full compliance with the Optional Protocol. The Government must seriously study ways and means to reduce its debt service-interest payments so that adequate resources can be allocated to child protection initiatives.

VII. Issue No. 7 (CRC/C/OPAC/PHL/Q/1, para. 7)

On the treatment received by children who are arrested for reasons related to the armed conflict, including for being associated with an armed group, DSWD provided the inputs below.

Children involved in armed conflict rescued or surrendered and turned-over to the DSWD were provided psychosocial intervention and eventually re-integrated to their family and community. Those who cannot be re-integrated with their families due to security reasons were temporarily admitted in DSWD residential care facilities or placed in licensed foster families, if available, while re-integration is being worked out. Services provided by DSWD residential care facilities include:

Financial Assistance

Legal Assistance

Counselling

Occupational Skills

Non-formal Education

Psychosocial Enhancement

Values Formation and Spiritual Enrichment.

VIII. [Issue No. 8] (CRC/C/OPAC/PHL/Q/1, para. 8)

On the demobilization and integration of children recruited by Moro Islamic Liberation Front (MILF) **OPAPP** provided the response.

“Since the formation of the Joint GRP-MILF Ceasefire Committees in 1998, there had been no reported case of children involved in armed conflict from among the ranks of the MILF who had been rescued/ recovered or apprehended and turned over to local authorities.

With the re-imposition of the ceasefire agreement in 2003, the deployment of the Malaysian-led International Monitoring Team (IMT) in 2004, and the accompanying prospects of a negotiated political statement, most MILF communities (including children found in these communities) have slowly shifted towards a process of normalization and active involvement in rehabilitation and development work. The actual process of demobilization for CIAC is envisioned to take place within the larger context of disarmament, demobilization and reintegration (DDR) for all MILF personnel once a final peace accord with the said group is signed.

Regular monitoring of child recruitment in MILF communities is difficult to establish owing to the relative inaccessibility of Muslim communities and the negative dynamics usually present between the residents and the local authorities. In addition, certain cultural nuances commonly observed among Moro (ethno-linguistic tribes professing Islam) communities complicate the prospects of successfully implementing any DDR-related programme.

While reports of continuing recruitment persist to this day, the Joint Ceasefire Committees and the IMT are tasked to make sure that children’s involvement in actual armed skirmishes is avoided altogether. It is likewise noted that the sharp decrease in the number of armed skirmishes between the AFP/ PNP and MILF significantly insulates children in MILF communities from exposure to actual armed violence.

Direct service providers within the Inter-Agency Committee on the Children involved in armed conflict (IAC CIAC) Programme have existing standard tools and procedures on the handling and treatment of children involved in armed conflict cases in the event that victims surface or are rescued/ recovered.

IX. Issue no. 9 (CRC/C/OPAC/PHL/Q/1, para. 9)

On how the access to arms is regulated within the State party (Philippines), and what are the rules regulating the production, sale and distribution of small arms and other weaponry,PNPprovided the response:

Access to arms in the Philippines is regulated through the Firearms and Explosives Division, Civil Security Group (FED, CSG) of PNP, which has its mandate to “administer, enforce and implement the firearms and explosives laws, rules and regulations of the country.”

The functions of the FED, CSG are as follows:

To supervise and control the importation/exportation, manufacture, dealership, ownership, sale, transport, repair and carrying of firearms and ammunition;

To supervise and control the importation/exportation manufacture, dealership, purchase, sale, transport, possession and use of explosives, blasting agents, explosives ingredients and other explosives materials;

To supervise and control the manufacture, dealership, purchase and sale of firecrackers and pyrotechnics and their ingredients;

To supervise and control the operations of repair shops, gun clubs, hunting clubs and firing ranges;

To support the PNP units and other law enforcement agencies in the operation and investigation of firearms and explosives related cases;

To act as final repository of all firearms records in the country;

To formulate rules and regulations pertinent to laws relative to firearms, ammunition, explosives, firecrackers and pyrotechnics, explosives ingredients and other explosives materials; and,

To conduct education on firearms and explosives laws, rules and regulations; and gun safety and responsible gun ownership seminars.

The following are the laws, rules, regulations and policies on firearms:

Presidential Decree 1866 (Annex II) as amended by RA 8294 (Annex III)

Codified laws on illegal/unlawful possession, manufacture, dealing in, acquisition or disposition of firearms, ammunition or explosives or instruments used in the manufacture of firearms, ammunition or explosives and imposing stiffer penalties for certain violations thereof and for relevant purpose.

Sections 877, 883 and 887 of the Revised Administrative Code (Basic Firearms Law) provide:

Section 877- "Firearm" or "arm", as herein used, includes rifles, muskets, carbines, shotguns, revolvers, pistols and other deadly weapons from which a bullet, ball, shot, shell or other missile may be discharged by means of gunpowder or other explosives. The term also includes air rifles except such as being a small calibre and limited range used as toys. The barrel of any firearm shall be considered a complete firearm for all the purposes hereof;

Section 883 - Any person desiring to manufacture or deal in firearms, parts of firearms or ammunition therefor, or instruments or implements used or intended to be used in the manufacture of firearms, parts of firearms, or ammunition, shall make application to the President of the Philippines for a license, stating therein the facts regarding the amount of business in the manufacture or purchase and sale of said articles intended to be transacted by such applicant, and the classes of arms, ammunition or implements which the applicants intends to manufacture or purchase and sell under the license applied for, and such additional information as may be especially requested by the President before passing upon the application. The President may approve or disapprove such application and, in the event of approval, shall state therein the amount of the bond to be executed by the applicant before the issuance of the license and the time during which the license shall be effective, unless sooner revoked by the authority;

Section 887 - Any person desiring to possess one or more firearms for personal protection or for use in hunting or other lawful purposes only, and ammunition thereof, shall make application for a license to possess such firearm or firearms or ammunition as hereinafter provided.

Annex I

ANNEX II

PRESIDENTIAL DECREE No. 1866

CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION, OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF AND FOR RELEVANT PURPOSES

WHEREAS, there has been an upsurge of crimes vitally affecting public order and safety due to the proliferation of illegally possessed and manufactured firearms, ammunition and explosives;

WHEREAS, these criminal acts have resulted in loss of human lives, damage to property and destruction of valuable resources of the country;

WHEREAS, there are various laws and presidential decrees which penalized illegal possession and manufacture of firearms, ammunition and explosives;

WHEREAS, there is a need to consolidate, codify and integrate said laws and presidential decrees to harmonize their provisions;

WHEREAS, there are some provisions in said laws and presidential decrees which must be updated and revised in order to more effectively deter violators of the law on firearms, ammunition and explosives.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the

Constitution, do hereby decree:lawphil©

Section 1. *Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearms or Ammunition.* - The penalty of reclusion temporal in its maximum period to reclusion perpetua shall be imposed upon any person who shall unlawfully manufacture, deal in, acquire, dispose, or possess any firearm, part of firearm, ammunition or machinery, tool or instrument used or intended to be used in the manufacture of any firearm or ammunition.

If homicide or murder is committed with the use of an unlicensed firearm, the penalty of death shall be imposed.

If the violation of this Section is in furtherance of, or incident to, or in connection with the crimes of rebellion, insurrection or subversion, the penalty of death shall be imposed.

The penalty of reclusion temporal in its maximum period to reclusion perpetua shall be imposed upon the owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall willfully or knowingly allow any of the firearms owned by such firm, company, corporation or entity to be used by any person or persons found guilty of violating the provisions of the preceding paragraphs.

The penalty of prision mayor shall be imposed upon any person who shall carry any licensed firearm outside his residence without legal authority therefor.

Section 2. *Presumption of Illegal Manufacture of Firearms or Ammunition.* - The possession of any machinery, tool or instrument used directly in the manufacture of firearms or ammunition, by any person whose business or employment does not lawfully deal with the manufacture of firearms or ammunition, shall be prima facie evidence that such article is intended to be used in the unlawful/illegal manufacture of firearms or ammunition.

Section 3. *Unlawful Manufacture, Sales, Acquisition, Disposition or Possession of Explosives.* - The penalty of reclusion temporal in its maximum period to reclusion perpetua shall be imposed upon any person who shall unlawfully manufacture, assemble, deal in, acquire, dispose or possess handgrenade(s), rifle grenade(s) and other explosives, including but not limited to "philbox bombs", "molotov cocktail bomb", "fire-bombs", or other incendiary devices capable of producing destructive effect on contiguous objects or causing injury or death to any person. lawphil©ITC

Any person who commits any of the crimes defined in the Revised Penal Code or special laws with the use of the aforementioned explosives, detonation agents or incendiary devices, which results in the death of any person or persons shall be punished with the penalty of death.

If the violation of this Section is in furtherance of, or incident to, or in connection with the crimes of rebellion, insurrection or subversion, the penalty of death shall be imposed.

The penalty of reclusion temporal in its maximum period to reclusion perpetua shall be imposed upon the owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall willfully or knowingly allow any of the explosives owned by such firm, company, corporation or entity to be used by any person or persons found guilty of violating the provisions of the preceding paragraphs.

Section 4. *Presumption of Unlawful Manufacture.* - The possession of any machinery, tool or instrument directly used in the manufacture of explosives, by any person whose business or employment does not lawfully deal with the manufacture of explosives shall be prima facie evidence that such article is intended to be used in the unlawful/illegal manufacture of explosives.

Section 5. *Tampering of Firearm's Serial Number.* - The penalty of prision mayor shall be imposed upon any person who shall unlawfully tamper, change, deface or erase the serial number of any firearm.

Section 6. *Repacking or Altering the Composition of Lawfully Manufactured Explosives.* - The penalty of prision mayor shall be imposed upon any person who shall unlawfully repack, alter or modify the composition of any lawfully manufactured explosives.

Section 7. *Unauthorized Issuance of Authority to Carry Firearm and/or Ammunition Outside of Residence.* - The penalty of prision correccional shall be imposed upon any person, civilian or military, who shall issue authority to carry firearm and/or ammunition outside of residence, without authority therefor.

Section 8. *Rules and Regulations.* - The Chief of the Philippine Constabulary shall promulgate the rules and regulations for the effective implementation of this Decree.

Section 9. *Repealing Clause.* - The provisions of Republic Act No. 4, Presidential Decree No. 9, Presidential Decree No. 1728 and all laws, decrees, orders, instructions, rules and regulations which are inconsistent with this Decree are hereby repealed, amended or modified accordingly.

Section 10. *Effectivity.* - This Decree shall take effect after fifteen (15) days following the completion of its publication in the Official Gazette.

Done in the City of Manila, this 29th day of June, in the year of Our Lord, nineteen hundred and eighty-three.

Annex III
