

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Manila

DEPARTMENT ORDER 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 halfblood.

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 (₱1,000) but not more than Ten Thousand (₱10,000) 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 of May, 1994 in the City of Manila, Philippines.

(Sgd.) MA. NIEVES R. CONFESOR
Secretary

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 (₱2,000.00).

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 person 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 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 (₱2,400.00) or by imprisonment of not more than one (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.

(Sgd.) FRANKLIN M. DRILON
Secretary of Justice

CONFORME:

(Sgd.) 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 (₱500.00). 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 (₱500.00).

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.

(Sgd.) FRANKLIN M. DRILON
Secretary of Justice

CONFORME:

(Sgd.) 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 Community 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 (₱5,000.00) nor more than ten thousand pesos (₱10,000.00).

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.

(Sgd.) FRANKLIN M. DRILON
Secretary of Justice

CONFORME:

(Sgd.) CORAZON ALMA DE LEON
Secretary of Social Welfare
and Development

RULES AND REGULATIONS ON CHILDREN IN SITUATIONS OF 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 geographic 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 of 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 impossible 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 subjected 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.

(Sgd.) FRANKLIN M. DRILON
Secretary of Justice

CONFORME:

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