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SENATE

P. S. RES. NO. 589

RECEIVED BY: 

Introduced by **SENATOR LEILA M. DE LIMA**

RESOLUTION

DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE RECRUITMENT OF CHILDREN AS COMBATANTS BY ARMED INSURGENTS AND EXTREMIST GROUPS, WITH THE END IN VIEW OF PUTTING AN END TO THE INVOLVEMENT OF CHILD SOLDIERS IN ARMED CONFLICT AND PROMOTE MECHANISMS THAT FACILITATE THE RIGHTS AND SAFETY OF THE CHILD

WHEREAS, Article II, Section 2 of the Constitution provides that “[t]he Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations”;

WHEREAS, Article II, Section 5 of the same further states that “[t]he maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy”;

WHEREAS, Article XV, Section 3(2) of the same provides for “[t]he right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development”;

WHEREAS, Article X, Section 22(b) of Republic Act No. 7610, otherwise known as Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, states that “[c]hildren shall not be recruited to become members of the Armed Forces of the Philippines or its civilian units or other armed groups, nor be allowed to take part in the fighting, or used as guides, couriers, or spies”;

WHEREAS, Republic Act No. 9851, otherwise known as the *Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity*” (IHL) reiterates the State Policy set forth in RA 7610 that children are “zones of peace”;

WHEREAS, the IHL in Chapter III Section 4 on “war crimes” or “crimes against International Humanitarian law, proscribes the using children under eighteen (18) years to participate actively in hostilities¹;

WHEREAS, the IHL also prohibits the enlistment or recruitment of children the age of eighteen (18) or below into an armed force or group other than the national armed forces²;

WHEREAS, then President Benigno S. Aquino III in 2013 issued Executive Order No. 138 which established the Inter-Agency Committee on Children in Armed Conflict with mandate to ascertain faithful compliance with international treaty obligations of the Philippine government concerning children in armed conflict;

WHEREAS, the Department of National Defense in 2016 also issued a circular on child protection on armed conflict;

WHEREAS, Section 4(k) of Republic Act No. 10364, otherwise known as the *Expanded Anti-Trafficking in Persons Act of 2012*, penalizes persons who “recruit, transport, harbor, obtain, transfer, maintain, hire, offer, provide, adopt or receive a child for purposes of exploitation or trading them, including but not limited to, the act of baring and/or selling a child for any consideration or for barter for purposes of exploitation”, and prohibits “all forms of slavery or practices similar to slavery, involuntary servitude, debt bondage and forced labor, **including recruitment of children for use in armed conflict**”;

WHEREAS, Article 38(3) of the Convention of the Rights of the Child provides that “(s)tates Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavor to give priority to those who are oldest”;

WHEREAS, Article 4 of the First Optional Protocol (OP) to the Convention on the Rights of the Child or the OP on Children in Armed Conflict, ratified by the Philippines in 2003, obligates State Parties to ensure absolute prohibition, including criminalization of the recruitment of persons under age eighteen (18) by armed groups other than those of the armed forces of States;

WHEREAS, Article 6(3) of the OP on Children on Armed Conflict, further compels States Parties to “take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the present Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration”;

WHEREAS, the Principles and Guidelines on Children Associated with Armed Forces and Armed Groups, adopted at the conference “Free Children from War”³

1 Chapter III Section 4 (c) (24) (iii)

2 Ibid subparagraph ii

3 UNICEF. 6 December 2013. Child Protection from violence, exploitation and abuse. https://www.unicef.org/protection/57929_58012.html. Accessed on 27 September 2017.

explains the vulnerabilities of children during armed conflict, the push factors of their recruitment to participate in hostilities, and responsibilities of government to adopt strategic and child rights-based measures against this phenomenon;

WHEREAS, Article 77(1) of the Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts states that “[c]hildren shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason”;

WHEREAS, the April 2017 report of the United Nations Secretary General on children in armed conflict,⁴ finds continuing existence of grave violations against children in armed conflict, including their recruitment;

WHEREAS, on 30 May 2017, United Nations Children's Fund (UNICEF) reported that UNICEF Philippines Representative Lotta Sylwander “also expressed deep concern that some of the children may have been used in the armed conflict, either as combatants, camp accessories, informants or as human shields against government forces”⁵;

WHEREAS, on 11 July 2017, CNN reported Armed Forces of the Philippines (AFP) Spokesperson Brigadier General Restituto Padilla saying there are “narratives from escapees that children are being employed in the firefight” and that “military and police on the ground are doing all they can to avoid casualties among the minors who are with the Maute group”⁶;

WHEREAS, the same report cited an interview with “Benjie”, a former child combatant, who was recruited with the promise he will be trained by the Philippine Army in self-defense, learning the Arabic language, and how to handle torture if they are captured, with a monthly pay of ₱15,000⁷;

WHEREAS, on 14 June 2017, Rappler reported an interview with a child soldier from a poor family to whom Maute offered to study the Koran, but instead got a rifle a month into the lessons and was taught how to kill⁸;

WHEREAS, United Nations Security Council Resolution (UNSCR) 1261 “[u]rges all parties to armed conflicts to ensure that the protection, welfare and rights of children are taken into account during peace negotiations and throughout the process of consolidating peace in the aftermath of conflict”⁹;

4 United Nations Security Council. 5 April 2017. Report of the Secretary-General on children and armed conflict in the Philippines - S/2017/294. http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2017_294.pdf

5 UNICEF. 30 May 2017. Marawi conflict: UNICEF calls for efforts to keep children safe, protected and able to resume school on time. https://www.unicef.org/philippines/media_26580.html#.WWyX9oiGNPa

6 CNN Philippines. 11 July 2017. PH military exercising caution vs. Maute child soldiers in Marawi. <http://cnnphilippines.com/news/2017/07/10/Marawi-Maute-child-soldiers.html>

7 *Ibid.*

8 Rappler. 14 June 2017. I met a former Maute soldier. He's a child. <http://www.rappler.com/newsbreak/in-depth/172587-maute-child-soldiers-marawi>

9 United Nations Security Council Resolution 1261. 25 August 1999. [http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1261%20\(1999\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1261%20(1999))

WHEREAS, UNSCR 1265 further “[e]xpresses its support for the inclusion, where appropriate, in peace agreements and mandates of United Nations peacekeeping missions, of specific and adequate measures for the disarmament, demobilization and reintegration of ex-combatants, with special attention given to the demobilization and reintegration of child soldiers”¹⁰;

WHEREAS, the alarming recruitment of children to insurgent and extremist groups brings to surface the deep-rooted effects of poverty and challenging access to social services in the ground, making children and their families easy prey to aggressors who take advantage to expand their ranks;

WHEREAS, children should neither bear arms nor be the collateral damage of warfare and given accounts of successful releases of child combatants in the country, such as the Moro Islamic Liberation Front’s recent disengagement of 1,858 combatants under 18¹¹, monitoring and continuity of psychosocial interventions must be ensured not only for those who surrendered under peace agreements but also for child soldiers formerly fighting for extremist groups;

WHEREAS, government has the obligation to safeguard the rights and welfare of children who remain defenseless and vulnerable to threat, be rigorous in its commitment to prevent violent extremism, and must strengthen mechanisms to facilitate the successful reintegration of former child combatants to mainstream society;

WHEREAS, the Philippine government was urged to continue to do all that is necessary to prevent and combat the involvement of children in armed conflict¹²;

WHEREAS, an investigation must be conducted to study the existing factors that contribute to the recruitment of children as combatants by armed insurgent and extremist groups;

WHEREAS, there is need to enact legislation that would protect the children and families who are vulnerable to recruitment by armed insurgent and extremist groups;

WHEREAS, there is also need to enact legislation that would establish a separate criminal liability under our domestic laws for individuals who would recruit children as armed combatants;

NOW THEREFORE, BE IT RESOLVED, as it is hereby resolved, to direct the appropriate Senate Committee to conduct an inquiry, in aid of legislation, on the recruitment of children as combatants by armed insurgents and extremist groups, with the end in view of putting an end to the involvement of

¹⁰ United Nations Security Council Resolution 1265. 17 September 1999. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/267/94/PDF/N9926794.pdf?OpenElement>

¹¹ Rappler. 20 February 2017. Unicef lauds MILF for releasing child soldiers. <http://www.rappler.com/nation/162049-milf-release-child-combatants>

¹² United Nations Human Rights Council. 18 July 2017. Report of the Working Group on the Universal Periodic Review Philippines - A/HRC/36/12. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/194/21/PDF/G1719421.pdf?OpenElement>

child soldiers in armed conflict and promote mechanisms that facilitate the rights and safety of the child.

Adopted,


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