

On the Minimum Age Requirement for the New People's Army Fighters

Memorandum to all Party organs and NPA commands

CPP (Executive Committee)

October 15, 1999

Please be informed and guided by the following:

1. Under International Humanitarian Law, specifically Article 77, para. 2 of Protocol I of 8 June 1977 additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts, the parties to the armed conflict “in recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years (...) shall endeavour to give priority to those who are oldest.”

Under Article 4, para. 3 of Protocol II additional to the Geneva Conventions, children who have not attained the age of 15 shall not be allowed to take part in the hostilities. Under Article 4, para 3 (d) of Protocol II, children under the age of 15 who have taken a direct part in hostilities, despite the prohibition in Article 4, para 3© of the same Protocol and are captured remain entitled to the special protection provided to children by Article 4, para 3.

2. Under the United Nations Convention on the Rights of the Child, adopted on 20 November 1989, children are accorded special rights up to the age of 18 years and the minimum age limit stipulated for the participation of children in hostilities is 15 years.

3. The International Committee of the Red Cross and Red Crescent Movement have called for the adoption of an optional protocol to the UN Convention on the Rights of the Child aimed in particular at prohibiting the recruitment of children under 18 years of age into the armed forces and armed groups and their participation in hostilities. The proposed optional protocol is not yet adopted and carries vague terms, such as “direct and indirect participation” and “hostilities”.

So far, existing international humanitarian and human rights laws allow the recruitment of persons between the age of 15 and 18 as combatants of a party to an armed conflict.

Any person, not less than 15 years of age, may be admitted as a trainee or apprentice of the New People's Army and may be assigned to self-defense, militia and other non-combat units and tasks.

The Communist Party of the Philippines, the New People's Army and the National Democratic Front of the Philippines respect the aforesaid law and take into account the following: the fact that the NPA is waging a people's war; that its enemy is brutal and carries out acts of aggression against the people in their territory; and that all persons regardless of age are entitled to the inherent right of self-defense. Entire communities are responsible for their internal security and can carry out self-defense against the aggressor.

In consonance with existing international humanitarian and human rights law, the Politburo of the Party Central Committee adopted in 1988 the policy prohibiting the recruiting of children below the age of 18 years as regular members or armed fighters of combat units of the New People's Army. We continue to uphold such policy and reiterate it now in the face of the intensified psywar campaign being waged by the Manila government.

Furthermore we hereby amend Point 1 of Principle III of the Basic Rules of the New People's Army which reads as follows:

Point 1. Anyone who is physically fit, regardless of age, sex, race, nationality or religion and has the capacity to fight and is ready to participate in a protracted armed struggle against the reactionary state power may be a member of a fighting unit of the New People's Army.

As amended, Point 1 of Principle III shall henceforth read as follows:

Point 1. Any person, who is at least 18 years of age and is physically and mentally fit, regardless of sex, race, nationality or religion, has the capacity to fight and is ready to participate in armed struggle against the reactionary state power, may become a combatant or a member of a fighting unit of the New People's Army.

Any person, not less than 15 years of age, may be admitted as a trainee or apprentice of the New People's Army and may be assigned to self-defense, militia and other non-combat units and tasks.

In the event of enemy aggression against or encroachment on the territory of the people's democratic government, all persons above 15 years of age may be mobilized for self-defense, provided that priority among those below 18 years of age but more than 15 years of age shall be given to the eldest ones in the distribution of weapons for selfdefense.

The foregoing amendment shall take immediate effect.

The New People's Army adheres strictly to the principles and instruments of international humanitarian and human rights law. We must expose as false and malicious the propaganda campaign of the enemy that the NPA is systematically recruiting children who are less than 15 years of age to become combatants.

We must denounce the enemy's practice of murdering children of less than 15 years of age and misrepresenting them as armed fighters of the NPA or kidnapping, torturing, intimidating and forcing them to say that they are NPA combatants and imprisoning them indefinitely and subjecting them to cruel and humiliating treatment.

We challenge the Manila government (GRP) to honor its own signature on the GRP-NDFP Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law and accede to the realization of the GRP-NDFP Joint Monitoring Committee where complaints may be presented or proceed directly to the appropriate international court of law and to complain against any alleged violation of the Geneva Conventions and Protocols I and II.