

NDFP Declaration and Program of Action for the Rights, Protection and Welfare of Children



NDF-National Council

Preamble

The National Democratic Front of the Philippines (NDFP) hereby reaffirms the rights of children and resolves to carry out a program of action for the protection and welfare of children within the framework of the Guide for Establishing the People's Democratic Government (1972) and the 1996 NDFP Unilateral Declaration of Undertaking to Apply the Geneva Conventions of 1949 and Protocol 1 of 1977 and in accordance with the principles and policies enunciated by the NDFP as well as with the just and applicable provisions of international conventions pertinent to the rights and welfare of children.

The NDFP proclaims this Declaration and Program of Action within the framework of its political authority defined as follows:

1. The National Democratic Front of the Philippines stands for and carries the authority of the people's democratic government consisting of organs of political power in substantial parts all over the Philippines. It is the united front organization of all revolutionary forces of the Filipino people fighting for national independence and democracy. It includes the Communist Party of the Philippines (CPP) as the leading party in the aforesaid government, the New People's Army (NPA) as its armed force, and various mass organizations of workers, peasants, women, youth, professionals and other sectors.
2. There is dual state power in the Philippines. One state power is represented by the Manila-based reactionary government (Government of the Philippines or GPH, formerly designated as GRP) of big compradors and landlords. The other is represented by the rural-based revolutionary government of workers and peasants, which has its own Constitution and Guide for Establishing the People's Democratic Government. The two contending states or governments are co-belligerent forces in a civil war, which has characteristics of both a non-international and an international armed conflict. However, they have agreed since 1992 to engage in peace negotiations within the framework of The Hague Joint Declaration and have forged other important bilateral and binding agreements.
3. In accordance with Article 1, paragraph 4 in relation to Article 96, paragraph 3 of the 1977 Protocol 1 Additional to the 1949 Geneva Conventions, the NDFP issued the Declaration of Undertaking to Apply the said Geneva Conventions and Protocol 1 on 5 July 1996 and submitted it to the proper depository, the Swiss Federal Council on the same date. By proclaiming the said Declaration, the NDFP has assumed rights and duties under Protocol 1, on top of those provided for under common Article 3 of the 1949 Geneva Conventions and under its Protocol 2.

Article I. Declaration to reaffirm, protect and promote the rights of children

Section 1. The NDFP and the revolutionary forces are resolutely committed and are vigorously involved in upholding, protecting and promoting the rights of all Filipino children. At the same time, they are cognizant of the fact that the overwhelming majority of children are the sons and daughters of workers, peasants and the urban poor and are victims of an unjust social system which consigns them to a life of exploitation, poverty, ignorance, malnourishment, disease and underdevelopment as human beings. They are forced to sell their labor. Some are lured into prostitution and pornography, kidnapped and trafficked for body parts, pushed into vagrancy, beggary, petty thievery and drugs, and jailed with hardened criminals.

Section 2. The NDFP regards the continuing gross and systematic violations of the human rights of the majority of Filipino children by the ruling system of big compradors and landlords as one of the compelling reasons for the revolutionary struggle of the Filipino people. Such violations have been aggravated by the deliberate targeting of these children in GRP/GPH military operations against communities suspected to be under the control and/or supportive of the revolutionary movement.

Section 3. The NDFP is ever resolved to ensure that the rights of children are respected and that their welfare is assured under the policies and laws of the people's democratic government and under the programs of its pertinent social agencies and the mass organizations of children, parents, teachers, women and other sectors interested in the rights and welfare of children in all urban and rural areas of the Philippines.

Section 4. As a matter of principle and practical necessity, all of those Philippine entities mentioned in the foregoing section are capable of self-reliantly looking after the rights and welfare of Filipino children. But they also adhere to the just and appropriate conventions and provisions of international law pertaining to children and may undertake appropriate forms of cooperation with foreign or international organizations and agencies for the benefit of children in the Philippines.

Section 5. The NDFP reiterates its commitment under the 1998 GRP/GPH-NDFP Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) to uphold, protect and promote the full scope of human rights and fundamental freedoms, including "the right of children and the disabled to protection, care and a home, especially against physical and mental abuse, prostitution, drugs, forced labor, homelessness, and other similar forms of oppression and exploitation." (Part III, Respect for Human Rights, Article 2, No. 24)

Section 6. The NDFP also reiterates its joint and separate commitment under the CARHRIHL "to provide special attention to women and children to ensure their physical and moral integrity. Children shall not be allowed to take part in hostilities." (Part IV, Respect for International Humanitarian Law, Article 10)

Article II. International law pertaining to the protection of children*

The NDFP and the NPA adhere to conventions and provisions of international law as hereunder cited, which are relevant to the rights and protection of children in general or in a situation of armed conflict and which are deemed mutually binding in agreements between the NDFP and the GRP/GPH.

1. Article 25 of the Universal Declaration of Human Rights declares that childhood is entitled to special care and assistance.
2. By issuing on 5 July 1996 its Unilateral Declaration of Undertaking to Apply the Geneva Conventions of 1949 and Protocol 1 of 1977 in accordance with Article 1, paragraph 4 in relation to Article 96, paragraph 3 of Protocol 1 Additional to the Geneva Conventions and submitting said declaration to the proper depositary, the Swiss Federal Council, the NDFP has assumed rights and duties under Protocol 1, on top of those provided for under common Article 3 of the 1949 Geneva Conventions and under its Protocol 2.
3. Article 4, paragraph 3, Part II of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977 provides:

Children shall be provided with the care and aid they require, and in particular:

- a) they shall receive an education, including religious and moral education, in keeping with the wishes of their parents, or in the absence of parents, of those responsible for their care;
- b) all appropriate steps shall be taken to facilitate the reunion of families temporarily separated;
- c) children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities;
- d) the special protection provided by this Article to children who have not attained the age of fifteen years shall remain applicable to them if they take a direct part in hostilities despite the provisions of subparagraph c) and are captured;
- e) measures shall be taken, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for their safety and well-being.

4. Article 38 of the Convention on the Rights of the Child which came into force on 2 September 1990 states:

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States 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.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

5. The International Labor Organization (ILO) Convention No. 182 on the Elimination of the Worst Forms of Child Labor adopted by the International Labor Conference on 17 June 1999 states in its Articles 1 to 3:

Article 1:

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

Article 2:

For the purposes of this Convention, the term “child” shall apply to all persons under the age of 18.

Article 3:

For the purposes of this Convention, the term “the worst forms of child labour” comprises:

- a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- d) work, which by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Article III. Children in relation to the civil war

The NDFP is cognizant of the rigors and risks for children in communities and areas affected by the civil war. The NDFP and its allied organizations such as the CPP, NPA and people’s associations have constantly taken special care to make decisions and implement measures to protect the children from the adverse consequences of the armed conflict.

Section 1. The NDFP adheres to the decision of the Political Bureau of the CPP’s Central Committee in 1988 stipulating that the New People’s Army may recruit only persons who are

18 years old and older as armed fighters for its combat units even as Article 77, paragraph 2 of the said 1977 Protocol 1 Additional to the Geneva Conventions of 1949 and relating to the Protection of Victims of International Armed Conflicts still legally permits the recruitment of children 15 years and above as soldiers.

Section 2. The policy setting the minimum age of 18 for the recruitment to the NPA was reiterated in 2002 by the 11th Plenum of the CPP Central Committee in a resolution addressed to the NPA. The CPP recognized and commended the faithful adherence of the NPA to the policy. It discussed and reviewed the implementation of this policy in the field, the disciplinary measures that may be imposed on NPA commands as well as the responsible Party units in case of any violation and the participation of the organs of political power and mass organizations in various areas and communities in ensuring strict implementation.

Section 3. The NDFP acknowledges the issuances of the Military Commission of the CPP dated 30 August 1999 entitled “On the NPA’s Alleged Mass Recruitment of Child Guerillas” and of the Executive Committee of the CPP dated 15 October 1999 and entitled “Memorandum on the Minimum Age Requirement for NPA Fighters”.

Section 4. The NDFP confirms the following:

Article 1 of the Basic Rules of the New People’s Army as amended by the Memorandum of October 1999 of the Executive Committee of the Central Committee of the Communist Party of the Philippines, has been replaced by the following text in order to clarify the commitments of the NPA and to avoid any misinterpretation:

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 and other non-combat units and tasks.

The restriction on youth or children below the age of 18 years does not forfeit the primordial right of self-defense in the face of clear and imminent threat to life.

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 of self-defense. The foregoing amendment shall take immediate effect.

Section 5. The NDFP recognizes the 1990 Convention on the Rights of the Child. However, the NDFP considers the 2002 Optional Protocol on the Involvement of Children in Armed Conflict, particularly on the prohibition of recruitment of children under 18 years of age in the armed forces and armed groups and their participation in hostilities, as not legally binding. Hence, it does not impose legal obligations on the NPA.

Article IV. Critique of the Optional Protocol on the Involvement of Children in Armed Conflict and the so-called Paris Principles

Section 1. The Optional Protocol on the Involvement of Children in Armed Conflict contains vague terms which result in the misrepresentation of children as child soldiers and provide the military forces of the reactionary state the license to mislabel children as child soldiers and violate their human rights.

Section 2. The aforesaid Optional Protocol sets the minimum age for recruitment and participation in hostilities at 18 and prohibits “armed groups that are distinct from the armed forces of a State” from recruiting and using persons under the age of 18 in hostilities, under any circumstances (Article 4 paragraph 1) but allows the schools operated or under the control of the States Parties’ armed forces to train persons below 18 years old (Article 3 paragraph 5) while prohibiting other “armed groups” from doing so.

Section 3. The NDFP objects to the clear bias of the said Optional Protocol against national liberation movements, and considers it as a violation of international conventions and customary laws that recognize the right of oppressed nations to struggle for self-determination and establish organs of political power in opposition to the oppressive reactionary state. Nonetheless, the NDFP does not have the obligation to said Optional Protocol with its unacceptable provisions.

Section 4. The NDFP criticizes the non-compliance of the GRP/GPH’s own unilateral declaration in its accession to the said Optional Protocol that the minimum age for voluntary recruitment into the Armed Forces of the Philippines (AFP) is 18 years, except for training purposes. Independent human rights organizations in the Philippines and abroad have confirmed that the GRP/GPH has in fact forcibly recruited children into its armed forces.

Section 5. The NDFP takes note that counterrevolutionary forces have used the 2007 so-called Paris Principles to buttress the Optional Protocol on the Involvement of Children in Armed Conflict in order to falsely accuse the revolutionary movement of recruiting and using child soldiers.

a.) The NDFP views the so-called Paris Principles, as well as the earlier Cape Town Principles — which are not instruments of international law — as carrying a vague, expansive and misleading definition of child soldiers that mixes up and confuses combatant and non-combatant tasks and even innocuous social and community activities.

b.) The so-called Paris Principles are prejudicial to liberation movements. These practically require children to be physically and even permanently separated from parents, families and the community which are or may come under indiscriminate sustained and vicious attacks from the reactionary armed forces.

These actually violate the fundamental right of family union or the right of children to live with their families in communities of their choice, to undergo schooling in their own communities and to share in the legitimate aspirations and just struggles of their parents, guardians and/or other elders for an independent, democratic and prosperous Philippine society.

c.) By giving a misleading and inaccurate definition of child soldiers, these so-called Paris Principles have in effect put children at increased risk by giving an implied license to the GRP/GPH military, police and paramilitary forces and other agencies to accuse children falsely as child soldiers, to treat them as legitimate military targets, to abuse, apprehend or take them away from their parents in any suspected community and subject them to detention and involuntary servitude and even abuse them sexually, and make them generally vulnerable and become open prey to various kinds of human rights violations and abuses in the communities under attack.

Section 6. The NDFP and the NPA have vigorously refuted the allegations by the GRP/GPH and the AFP — which have been confirmed to be false by independent human rights organizations in the Philippines and abroad — that the NPA recruits so-called child soldiers. Such allegations on violations have been unfortunately repeated without data verification and field validation by some international bodies and nongovernmental organizations (NGOs) directed and funded by agencies adverse to the Philippine revolutionary movement.

Section 7. The only recent objective field study, which was conducted by the IBON Foundation in cooperation with the Children’s Rehabilitation Center (CRC) and the Center for Women’s Resources (CWR) at the request of the United Nations Children’s Fund (UNICEF) on the “needs assessment of children and women affected by armed conflict”, has proven that the NPA follows the minimum age limit for NPA soldiers, as stipulated by the NDFP, CPP and NPA and by this Declaration.

Article V. Program of Action

Section 1. The NDFP, CPP, NPA, the organs of political power, the mass organizations and the broad masses of the people in both rural and urban areas shall ensure that all children below the age of 18 years are either at home under the care of their parents, in school under the tutelage of their teachers or at work if they are of ILO-permitted working age under the responsibility of the employer.

Section 2. They shall take all necessary measures to assist child-rearing parents, to provide or permit schools and education for the children; to oppose and prevent the exploitation of children as laborers; to combat child prostitution, pornography, drug peddling, and trafficking of body parts; to encourage and help street or vagabond children to go back to school or to go to an appropriate refuge if for one reason or another they cannot be reunited with their parents or close relatives.

Section 3. They shall take all efforts to educate the children on the revolutionary history of the Filipino people, the basic problems in a semicolonial and semifeudal society and the revolutionary tasks of the people; to organize the children; and to mobilize them in civic, cultural and other social activities for their benefit and for the benefit of the people. They shall ensure that children learn how to conduct themselves in times of natural disasters, military attacks and other emergencies.

Section 4. They shall make the appropriate report to the entire nation and the international community concerning their achievements in this regard, in ensuring and improving the proper care of the children, their education, their good health, their proper nutrition and

cultural activities. However, they shall take care that the information cannot be used by the reactionary state and its armed forces to attack the children and destroy the achievements that benefit the children.

Section 5. The New People's Army is prohibited by its own rules and standing orders, by the policies and decisions of the CPP, NDFP and the people's democratic government and by international law and the rules of war from recruiting and using children below the age of 18 years for combat or placing them in the chain of military command for the purpose of combat.

By virtue of its revolutionary integrity and discipline, the NPA itself shall at all levels and in all units prevent the recruitment and use of child soldiers.

a.) The CPP and NPA have their own internal rules and mechanisms to implement the prohibition of using children for combat. The CPP's Military Commission and the NPA Operational Command direct all commands and units of the NPA in different areas of the country to strictly implement the pertinent CPP policies and the NPA rules.

b.) Upon clear, credible and verifiable allegations of specific violations of any recruitment and use of children, the NDFP shall promptly investigate and ensure that appropriate disciplinary action is taken in line with international minimum standards.

Section 6. In time of an attack on a community by the reactionary military, police and paramilitary forces, the children have the right to join their elders in protecting the community or assisting especially the women, the children below the age of 15 and those in frail or ill health conditions, in saving themselves from enemy atrocities.

Section 7. In the event of military and civil authorities of the reactionary state falsely accusing children below the age of 18 years of being child soldiers, the parents or guardians, the teachers or the employer, the local community official and the priest or pastor of the community, shall be sought to stand up to vouchsafe for the children. Philippine human rights, civic and religious organizations shall also be sought to help them in asserting the truth and fighting for their rights.

Section 8. In the event of children being abducted, tortured, forced to making false confessions to being NPA fighters, detained in a military camp or in a Department of Social Welfare and Development (DSWD) compound or house or killed, the services of human rights, civic and religious organizations are crucial in assisting the children and the parents to fight for their rights and in ventilating the truth. They shall be entitled to the support and assistance of the NDFP should any of them so request.

Section 9. Depending on the progress of the GRP/GPH-NDFP peace negotiations and the effectiveness of the Joint Monitoring Committee (JMC) created under CARHRIHL, measures and mechanisms additional to Sections 6, 7 and 8 above may be made available for investigating any complaint related to the issue of child soldiers.

Section 10. The mechanisms and procedures independent of the NDFP, CPP and NPA for testing and verifying whether or not a child below the age of 18 years, are already stipulated

or indicated in Sections 6, 7 and 8 above. There is, therefore, no need for the NPA and other revolutionary forces to put themselves at risk by allowing any foreign or international entity and its undefined partners to gain direct and unimpeded access to NPA commands and guerrilla fronts or to approach at will any military or political focal points which can be put under enemy surveillance.

Section 11. Upon its own initiative or under its auspices, the NDFP shall continue to investigate and document all grave violations of the rights of children by the reactionary state and its armed forces, including recruitment and use of children; killing and maiming of children; rape and other forms of sexual violence against children; abduction of children; attack against schools or hospitals; and, denial of humanitarian access to children.

Section 12. The NDFP is ever willing to receive from any entity clear, credible and verifiable allegation of specific violations of recruitment and use of children and shall promptly conduct investigation and make reports to the concerned parties. In case of any breach on the prohibition of the recruitment and use of children of less than 18 years of age, the appropriate disciplinary action shall be undertaken against the erring officers and personnel of the NPA.

Section 13. The NDFP shall create and operationalize under its Human Rights Committee within 6 months after approval of this Declaration and Program of Action a Special Office for the Protection of Children. This office will have the following duties and functions:

- a.) Oversee the implementation by all NDFP organizations and instrumentalities of this Program of Action and the conformity of all actions taken by the NPA and all allied organizations of the NDFP.
- b.) Report widely the achievements of the aforementioned forces in upholding the rights of the children, protecting them and promoting their welfare.
- c.) Receive complaints about violations of children's rights in connection with Sections 11 and 12 above and refer the complaints to the organs concerned for the appropriate action.
- d.) Assist all allied organizations and instrumentalities of the NDFP with advice on all matters related to the protection of children in the armed conflict.
- e.) Organize educational programs within all allied organizations of the NDFP on children's rights and encourage the formation of child protection units under the auspices of the organs of political power and mass organizations, especially of children, youth and women.
- f.) Establish and maintain contacts and relations with all relevant international bodies and NGOs.
- g.) Issue an annual report on the situation of children in the Philippines in relation to the armed conflict and on the activities to uphold, defend and promote the rights of children.

Section 14. The NDFP shall direct its Negotiating Panel in the peace negotiations with the GRP/GPH to present to its counterpart panel a draft additional protocol to the CARHRIHL.

Said proposed additional protocol will further elaborate the aforementioned Article 10 of CARHRIHL in order to focus on the protection of minors from adverse effects of the armed conflict as well as against specific violations of the rights of children.

Section 15. The NDFP shall instruct its Negotiating Panel in the peace negotiations with the GRP/GPH to present a proposal to create a special section focused on the rights of children in the Joint Monitoring Committee created under the CARHRIHL.

Section 16. The NDFP shall further direct its Negotiating Panel in the peace negotiations with the GRP/GPH to demand and work for the inclusion in the prospective Comprehensive Agreement on Social and Economic Reforms (CASER) a provision that comprehensively upholds the rights of children, guarantees proper care and education and prohibits the exploitation of child labor.

Article VI. NDFP cooperation with foreign or international entities with regard to children

Section 1. The NDFP is ever ready to engage in dialogue and present pertinent issuances, actions and mechanisms that its organizations, including the CPP and NPA, have undertaken, individually and collectively, in order to uphold the rights of children, protect them and promote their welfare. It is amenable to cooperate with foreign or international institutions, organizations and other entities in this regard.

Section 2. The NDFP is open to practical cooperation with foreign or international entities in investigating and monitoring the conditions and problems of children in areas outside and inside the guerrilla fronts and areas of armed conflict, provided such undertakings are supplementary and complementary to the basic undertakings of qualified Philippine entities and provided further that the political authority of the NDFP and this Declaration are acknowledged and respected by said foreign or international entities.

Section 3. The NDFP continues to respect the reasonable and viable standard of cooperation already established in the relations of the NDFP and the International Committee of the Red Cross (ICRC) and in previous joint missions of Philippine NGOs and their foreign or international partners for the purpose of investigating the human rights situation in the Philippines, including that of the children.

Section 4. The NDFP also appreciates the cooperation between the UNICEF and IBON, together with human rights and other local organizations, in investigating and reporting on the situation of children, particularly in areas of armed conflict. The NDFP is amenable to cooperation with the UNICEF, the UNESCO, ILO, World Health Organization (WHO), World Food Program (WFP) and other United Nations (UN) agencies for the purpose of upholding the rights of children, protecting them and ensuring their welfare in an all-round way.

Section 5. The NDFP urges the United Nations Secretary General's Special Representative on Children and Armed Conflict (UNSG SRCAC) to seriously consider the example of the UNICEF in cooperating with local organizations independent of the reactionary armed forces in order to undertake investigation, reports and recommendations pertaining to children and cautions it from relying on speculations, hearsay and hostile claims of the reactionary armed forces and their agents, merely on the premise that they are instruments of a UN member-

state, to make false conclusions and cause the unjust listing of the NPA as a recruiter and user of child soldiers.

Section 6. The NDFP and the UNSG SRCAC cannot at this point establish and develop positive and productive relations because of the baseless and unwarranted vilification and listing of the NPA as child rights violators in the annual report of the UNSG. So long as such vilification and listing of the NPA persist, the NDFP finds it more useful to cooperate with other UN agencies like the UNICEF in upholding the rights of children, protecting them and looking after their welfare.

Section 7. The NDFP continues to demand that the UNSG remove the NPA from its list of child rights violators and withdraw its previous reports which falsely accuse the NPA of recruiting and using child soldiers. Once this is done, then it becomes possible for the NDFP and the UNSG SRCAC to start and develop their cooperation.

Section 8. The NDFP may, subject to security considerations and under such regulations, terms and conditions set by its responsible political and military authorities, allow access by the pertinent institutions, organizations and other entities with common concern to protect the rights of children, to areas within its jurisdiction after full availment of the basic mechanisms stipulated in Article V, Program of Action of this Declaration. ~

ADOPTED

National Council

National Democratic Front of the Philippines

24 April 2012