

FOURTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
SECOND REGULAR SESSION )

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SENATE

S.B. No. 3239

RECEIVED BY



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Introduced by Senator Ramon Bong Revilla, Jr.

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**EXPLANATORY NOTE**

The armed confrontation in the southern part of Mindanao, specifically in Regions X, XII and ARMM, is a serious one. The armed struggle between the military and militant forces of the south raises questions on the security and protection of the people affected by this situation. Families are forced to flee their homes – their established sanctuary – due to the fear of being killed or stranded in the crossfire. To safeguard the lives of their families, they braved the uncertainty outside their dwellings. But the situation in Mindanao is not the only picture of the occurring internal displacement in the country. Such event is happening nationally.

Because of situations like armed aggression, general violence, violation of human rights and/or natural or human-made disasters, people are forced to flee or obligated to flee their residences, their supposed havens. In a sense they are different from refugees as refugees cross internationally recognized state borders whereas these people relocate themselves within state borders.

With the level of counter-insurgency operations being done in the country, one can expect a large number of families being displaced. Not only hundreds are displaced but thousands. As of December 2008, 37, 033 families were affected by the military operations in Regions X, XII and ARMM. And according to the March 17, 2009 report of the National Disaster Coordinating Council, at least 210,000 persons are internally displaced.

These alarming numbers establish the intense situation of internal displacement in our country. With this in mind, this bill's purpose is to establish a support system for the internally displaced persons in the events of armed conflict or situations of aggression. The State, as such, must guarantee the protection of the rights and lives of the people and not compromise its role to the people.

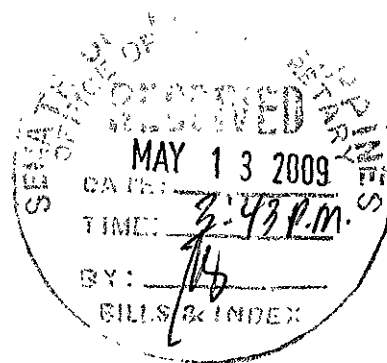
In view of the foregoing, the early approval of this measure is sought.



RAMON BONG REVILLA, JR.

FOURTEENTH CONGRESS OF THE )  
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AN ACT  
IMPROVING PHILIPPINE COMMITMENT TO HUMAN RIGHTS PROMOTION AND  
PROTECTION BY PROVIDING THE NECESSARY MECHANISMS FOR THE  
PREVENTION OF THE OCCURRENCE AND THE PROTECTION FROM ADVERSE  
EFFECTS OF INTERNAL DISPLACEMENT AND FOR OTHER PURPOSES

*Be it enacted by the Senate and House of Representatives of the Philippines in the Congress assembled:*

**SECTION 1. Short Title.** -- This Act shall be known as the "Internal Displacement Act of 2009".

**SEC. 2. Declaration of Principles and State Policies.** - Consistent with the principles enshrined in the 1987 Constitution, the standards set by international humanitarian law and human rights laws, international treaties and conventions adhered to by the Philippines, it is also hereby declared a State policy to promote and protect the rights of internally-displaced persons in situations of armed conflict, generalized violence, violations of human rights, land conversion and any other land conflict, environmental destruction, aggressive implementation of development projects and other natural or human-made disasters.

When an armed conflict of a non-international character is inevitable, the State shall ensure the promotion and protection of the rights of the citizens who are noncombatants, who shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. These citizens shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally-displaced.

**SEC. 3. Definition of Terms.** - The following terms, as defined accordingly, shall be used in this Act:

(a) "Internal displacement" refers to the involuntary movement or forced evacuation or expulsion of any person or group of persons who flee or leave their homes or places of habitual residence, without crossing an internationally recognized State border as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or other natural or human-made disasters.

(b) "Arbitrary internal displacement" refers to acts of displacement or any other coercive act committed by my person or group of persons and directed against the civilian population, which are contrary to law, good morals, public order or public policy, or committed with abuse of authority, oppressive or wanton disregard of the right to life, liberty or property and abode of the residents of an area in which they we lawfully present, and characterized by those situations as defined in Section 5 of this Act.

(c) "Internally-Displaced Person" hereinafter described as an IDP, refers to any individual who has suffered harm as a direct result of an arbitrary internal displacement as defined above.

(d) “Order of Battle” refers to a document made by the military, police or any law enforcement agency of the government, which lists the names of persons and organizations that it perceives to be enemies of the State and that it considers as legitimate targets as combatants that it could deal with, through the use of coercive means allowed by domestic and international law.

(e) “Apartheid” refers to inhumane acts, including murder, extermination, enslavement, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, torture, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and other forms of sexual violence of comparable gravity, persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognized as impermissible under international law, enforced disappearance of persons and other similar acts intentionally causing great suffering, or serious injury to body, or to mental or physical health, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime.

(f) “Ethnic cleansing” refers to the use of force or intimidation to remove people of a certain ethnic or religious group from an area to make it ethnically homogenous, and carried out by means of murder, torture, arbitrary arrest and detention, extrajudicial executions, rape and sexual assault, confinement of the civilian population, deliberate military attacks or threats of attacks on civilians and civilian areas, wanton destruction of property, mass murder, mistreatment of civilian prisoners and prisoners of war, use of civilians as human shields, destruction of cultural property, robbery of personal property and attacks on hospitals, medical personnel and locations with the red cross/red crescent emblem, and other similar criminal offenses.

**SEC. 4. *Prevention of Internal Displacement.*** - All authorities, groups and persons, irrespective of their legal status and applied without any adverse distinction, shall respect and ensure compliance with their obligations under international law, including human rights law and humanitarian law, so as to prevent and avoid conditions that might lead to internal displacement of persons.

**SEC. 5. *Prohibition Against Arbitrary Internal Displacement.*** – The prohibited acts of arbitrary internal displacement shall include those committed

- (a) based on policies of apartheid, “ethnic cleansing” or similar practices aimed at or resulting in altering the ethnic, religious or racial composition of the affected population;
- (b) in situations of armed conflict, unless the security of the civilians is involved;
- (c) in cases of large-scale development projects, which are not justified by compelling and overriding public interest;
- (d) in cases of disasters, unless the safety and health of those affected required their evacuation;
- (e) when used as a collective punishment; and
- (f) violations of the rights of IDPs during displacement under Section 8 of this Act.

An Order of Battle, issued by the military, police or any law enforcement agency of the government, shall not justify an arbitrary or internal displacement and shall subject the perpetrators to the penalties provided under Section 10 of this Act.

**SEC. 6. *Protection from Arbitrary Internal Displacement.*** – All authorities, including the local government units (LGUs) concerned, groups and persons, irrespective of their legal status and applied without any adverse distinction, shall protect its citizens against being arbitrarily displaced from their homes or places of habitual residence.

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected. Any displacement not included in Section 5 of this Act

shall not last longer than what is required by the circumstances as determined by the Commission on Human Rights (CHR).

In addition, the following safeguards against arbitrary internal displacement shall be observed by all concerned authorities, groups and persons:

(a) All feasible alternatives shall be explored in order to avoid displacement. Where no alternatives exist, all measures shall be undertaken to minimize displacement and its adverse effects on the population that will be affected;

(b) If displacement is inevitable, the authorities shall ensure, to the greatest practicable extent, that proper accommodation is effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated;

(c) Indigenous peoples, minorities, peasants, pastoralists and other groups with special dependency on and attachment to their lands shall be protected from displacement;

(d) In situations other than during the emergency stages of armed conflict and disaster, the following guarantees shall be complied with:

(1) A specific decision shall be taken by the authority empowered by law to order such measures;

(2) Full disclosure of information on the reasons and procedures for the displacement and, when applicable, also on compensation and relocation;

(3) Free and informed consent of those persons to be displaced shall be sought;

(4) Authorities concerned shall endeavor to involve those affected, particularly women, in the planning and management of their relocation, resettlement and reintegration;

(5) Law enforcement measures, when required, shall be carried out by competent legal authorities; and

(6) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

**SEC. 7. *Permanent Prohibition Against Arbitrary Displacement.*** – The prohibition of arbitrary internal displacement and the fundamental safeguards for its prevention shall not be suspended under any circumstances, including political instability, threat of war, state of war or other public emergencies.

**SEC. 8. *Rights During Displacement.*** - The following rights shall be afforded IDPs during the period of their displacement, without discrimination of any kind, such as those based on race, color, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth or on any other similar criteria:

(a) At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide IDPs with and ensure safe access to:

(1) essential and adequate food and nutrition and potable water;

(2) basic shelter and housing;

(3) appropriate clothing; and

(4) essential medical and dental services and sanitation, including psychological and social services, and essential drugs and medicines;

(b) Internally-displaced persons shall be protected against genocide, murder, summary or arbitrary executions and enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death. They shall be protected from arbitrary and discriminatory arrest and detention as a result of their displacement and, in no case, shall they be taken hostage. Threats and incitement to commit the foregoing acts shall be prohibited;

(c) Attacks or other acts of violence against IDPs who do not or no longer participate in hostilities shall be prohibited in all circumstances. In particular, IDPs shall be protected against:

(1) direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;

(2) starvation as a method of combat;

(3) their being used to shield the objectives of the military, police or any armed group from attack, or to shield, favor or impede the operations of the military, police or any armed group;

- (4) attacks against their camps, settlements or evacuation centers; and
- (5) the use of anti-personnel landmines;

(d) Internally-displaced persons, whether or not their liberty has been restricted, shall be protected against:

(1) rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender specific violence, forced prostitution and any form of indecent assault;

(2) slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation or forced labor of children; and

(3) acts of violence intended to spread terror among IDPs. Threats and incitement to commit any of the foregoing acts shall be prohibited;

(e) Internally-displaced persons shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is necessary, it shall not last longer than what is required by the circumstances, as may be determined by the CHR;

(f) Internally-displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular, any cruel, inhuman or degrading practices that compel compliance or punish noncompliance with recruitment shall be prohibited in all circumstances;

(g) Every IDPs has the right to liberty of movement and freedom to choose higher residence. In particular, he/she has the right to move freely in and out of camps or other settlements, subject to existing camp rules and regulations;

(h) Internally-displaced persons, whether or not they are living in camps, shall not be discriminated against in the enjoyment of the following rights:

(1) Freedom of thought, conscience, religion or belief, opinion and expression;

(2) To seek freely opportunities for employment and to participate in economic activities;

(3) To associate freely and participate equally in community affairs;

(4) To vote and participate in governmental and public affairs, including the right to have access to the means necessary to exercise these rights; and

(5) To communicate in a language they understand;

(i) Internally-displaced persons have the right to:

(1) leave the country;

(2) seek safety in another part of the country;

(3) seek asylum in another country; and

(4) be protected against forcible return to resettlement in any place where their lives, safety, liberty and/or health would be at risk;

(j) The authorities concerned shall issue to the IDPs all documents necessary for the enjoyment and exercise of their legal rights. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions and without discrimination against women and men, who shall have equal rights to obtain and to be issued the same in their own names;

(k) The authorities concerned shall endeavor to establish the fate and whereabouts of IDPs reported missing and cooperate with relevant international organizations engaged in this task. They shall inform the next-of-kin on the progress of the investigation and notify them of any result;

(l) The authorities concerned shall endeavor to collect and identify the mortal remains of those deceased, prevent their despoliation or mutilation and facilitate the return of those remains to the next-of-kin or dispose of them respectfully;

(m) Grave sites of IDPs shall be protected and respected in all circumstances and IDPs shall have the right of access to the grave sites of their deceased relatives;

(n) Members of internally-displaced families who wish to remain together shall be allowed to do so. Families that are separated by displacement and whose personal liberty has been restricted by internment or confinement in camps should be reunited as quickly as possible and all appropriate measures shall be taken to expedite the reunion of such families, particularly when children are involved;

(o) The State shall encourage the cooperation of international and local humanitarian organizations engaged in the task of family reunification;

(p) Certain IDPs, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of households, persons with disabilities and elderly persons, including the wounded and the sick, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs such as, but not limited to, their health needs, reproductive health care as well as appropriate counseling, prevention of contagious and infectious diseases, including AIDS, and access to psychological and social services. The right to privacy of married couples shall likewise be protected;

(q) The property and possessions of IDPs shall, in all circumstances, be protected against the following acts:

- (1) Pillage;
- (2) Direct or indiscriminate attacks or other acts of violence;
- (3) Being used to shield military operations or objectives;
- (4) Being made the object of reprisal;
- (5) Being destroyed or appropriated as a form of collective punishment; and
- (6) Destruction and arbitrary and illegal appropriation, occupation or use; and

(r) The authorities concerned shall ensure that IDPs, in particular displaced children, receive education that shall be free and compulsory at the primary level, Special efforts should be made to ensure the full and equal participation of women and girls in educational program, and that respect for their cultural identity, language and religion, educational and training facilities shall be made available to IDPs as soon as circumstances permit.

The rights herein shall not be interpreted as restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted to persons under domestic law.

**SEC. 9. Assistance During Displacement, Return, Resettlement or Local Integration of the Displaced Persons.** - The military and law enforcement agencies conducting operations, the Department of Social Welfare and Development (DSWD), the Department of Health (DOH), the corresponding government hospital and the LGUs concerned shall provide immediate relief and humanitarian assistance to IDPs, families and communities.

Humanitarian assistance shall not be diverted for any political or military reasons. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance to the internally-displaced and ensure rapid, safe and unimpeded access of persons engaged in giving such assistance, their transport and supplies, to the displaced communities.

All concerned authorities shall assist the IDPs in the recovery of their property and possessions, and shall provide or assist these persons in obtaining appropriate compensation or other forms of just reparation.

When providing assistance, international and local humanitarian organizations and other appropriate actors shall respect relevant international standards and codes of conduct and give due regard to the protection of the needs and human rights of the IDPs. Such organizations have the right to offer their services in support of the internally displaced and this shall be considered in good faith and not as an unfriendly act or interference in the government's internal affairs. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.

**SEC.10. Penalties. –**

- (a) The penalty of *reclusion temporal* shall be imposed upon the following persons:
- (1) Those who directly commit the act of arbitrary internal displacement;
  - (2) Those who directly force, instigate, encourage, induce or incite others to commit the act of arbitrary internal displacement;
  - (3) Those who cooperate in the act of arbitrary internal displacement by committing another act, without which the act of arbitrary internal displacement would not have been carried out;
  - (4) Those commanding officers, as well as all elements of the military, police and/or other law enforcement agencies, who actually and/or directly participate in the act of arbitrary internal displacement;
  - (5) Those who cooperated in the execution of the act of arbitrary internal displacement by previous or simultaneous acts; and
  - (6) Those commanding officers of the military, police or other law enforcement agencies or other authorities, for acts of arbitrary internal displacement committed by forces under his/her effective command and control, or effective authority and control as the case may be, as a result of his/her failure to exercise control properly over such forces, where said commanding officers or authorities knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes, and failed to take all necessary and reasonable means within his/her power to prevent or repress their commission, or to submit the matter to the competent authorities for investigation and prosecution.
- (b) The penalty of *prision mayor* shall be imposed upon those who attempt to commit the offense of arbitrary internal displacement.
- (c) The penalty of *prision mayor* shall be imposed upon the persons who having knowledge of the act of arbitrary or internal displacement and without having participated therein either as principals or accomplices, took part subsequent to its commission in any of the following manner
- (1) By themselves profiting from or assisting the offender to profit from the effects of the act of arbitrary internal displacement;
  - (2) By concealing the act of arbitrary internal displacement and/or destroying the effects or instruments thereof, in order to prevent its discovery; and
  - (3) By harboring, concealing or assisting in the escape of the principal(s) in the act of arbitrary internal displacement, provided the accessory acts are done with the abuse of the official's public functions.
- (d) The penalty of *prision correccional* shall be imposed upon those who threaten to commit the act of arbitrary internal displacement.
- (e) A public official or employee found criminally liable of having committed the prohibited acts provided for in Sections 5, 6, 7, 8 and 9 of this Act shall also be held administratively liable.
- (f) The accessory penalties pertaining to the penalties of *reclusion temporal* and *prision mayor* shall be imposed.
- (g) The penalty of *prision correccional* shall be imposed upon those who violate any of the rights as provided for in Section 8 of this Act.

**SEC. 11. *Liability of Concerned Law Enforcement Agency.*** – Where the operation conducted by the military, police and/or other law enforcement agencies causes damage to IDPs, the concerned military, police and/or other law enforcement agency shall provide jointly and severally the necessary financial assistance for the return, resettlement or local integration of IDPs.

**SEC. 12. *Jurisdiction of the Courts.*** - The proper and competent civilian courts shall have jurisdiction over the offense of arbitrary displacement as defined and penalized in this Act.

**SEC. 13. *Compensation.*** - The law enforcement agency/ies conducting the operation that caused arbitrary internal displacement, the DSWD and the LGUs concerned shall award the following:

(a) Where death of an individual victim occurs in the course of an operation conducted by the military, police and/or other law enforcement agencies, the amount of Fifty thousand pesos (P50,000.00) shall be granted to the legal heirs of the victim by way of a death benefit;

(b) Where physical, emotional and/or psychological injury is caused to an individual victim in the course of an operation conducted by the military, police and/or other law enforcement agencies, actual and compensatory damages, including moral, nominal, exemplary and temperate damages resulting from such injury, shall be reimbursed;

(c) Where loss of or damage to property of an individual victim is caused in the course of an operation conducted by the military, police and/or other law enforcement agencies, the amount corresponding to the fair market value of the property lost or destroyed or the amount mutually agreed upon, whichever is higher, shall be paid to the victim; and

(d) Non-state actors who caused arbitrary internal displacement shall be similarly held liable to pay the amount of Fifty thousand pesos (P50,000.00) which shall be granted to the legal heirs of the victim by way of a death benefit, and shall also include damages to be paid to the victim or his heirs.

The utilization of compensation/award by the agencies concerned shall be subject to audit by the Commission on Audit (COA).

**SEC. 14. *Role of the Commission on Human Rights (CHR).*** - The CHR shall be designated as the institutional focal point for IDPs. As such, the CHR shall have the following additional functions:

(a) To monitor IDP conditions to ensure that their rights are respected and protected in all phases of displacement;

(b) To conduct inquiries, document violations of human rights, assist IDPs in seeking redress of grievances and work to ensure an effective response by the concerned authorities;

(c) To investigate, on its own or on complaint by any party, all forms of human rights violations against IDPs involving civil and political rights in accordance with Section 18(1) of Article XIII of the 1987 Constitution;

(d) To follow up on early warning and ensure effective measures to protect the civilian population against internal displacement;

(e) To advise the government on the rights of IDPs towards the shaping of a sound national policy and legislation to effectively address situations of internal displacement;

(f) To undertake educational activities and training programs for State authorities, including the armed forces;

(g) To hold public information drives on the protection and rights of IDPs; and

(h) To carry out such other acts that may be necessary to fully implement the purposes.

**SEC. 15. *Appropriations.*** - The amount necessary for the initial implementation of this Act shall be charged against the current year's appropriations of the CHR, the DSWD, the Department of National Defense, the Department of the Interior and Local Government (DILG) and the National Disaster Coordinating Council. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the General Appropriations Act.

**SEC. 16. *Joint Congressional Oversight Committee.*** - A Joint Congressional Oversight Committee is hereby created, composed of the Chairman of the Senate Committee on Justice and



Human Rights and seven (7) other Senators designated by the Senate President, and the Chairman of the House Committee on Human Rights and seven (7) other Members of the House of Representatives, designated by the Speaker of the House of Representatives: Provided, That, of the seven (7) Members to be designated by each House of Congress, four (4) should represent the Majority and three (3) from the Minority.

The Joint Congressional Oversight Committee shall have the power to review, revise, amend and approve the implementing rules and regulations promulgated by the CHR.

The Joint Congressional Oversight Committee shall also have the power to inquire into, summon and investigate the Orders of Battle that are created pursuant to this Act, as well as the legal and factual justifications for the inclusion of specific persons and groups in the said Orders of Battle. In this regard, the Joint Congressional Oversight Committee may issue mandatory process directing the transmission of all such documents relevant and necessary for the Committee to determine the validity of the inclusion of specific persons or groups in the Orders of Battle. For this purpose, the highest ranking officers or heads of offices shall be charged with testifying before the Joint Congressional Oversight Committee in relation to any inquiries on the Orders of Battle.

The defense of national security may not prevent the Joint Congressional Oversight Committee from inquiring into the factual and/or legal bases for the creation of a specific Order of Battle or the inclusion of specific persons or groups in the said Orders of Battle. Should there be a need to inquire into the factual basis for the invocation of national security, the Committee shall adjourn the public hearing, convene in executive session and hear the factual basis for such invocation. Should the Committee be satisfied of the factual basis, the Committee will reflect this finding on the record. Should the basis not be satisfactory to the Committee, the public hearing will continue and the invocation may not be used as justification to prevent an inquiry into the factual or legal basis for the creation of the Order of Battle or the inclusion of specific names of persons or groups.

**SEC. 17. *Implementing Rules and Regulations.*** - The CHR shall issue the necessary rules and regulations to implement the provisions of this Act within sixty (60) days from its effectivity. The implementing rules and regulations shall be submitted to the Joint Congressional Oversight Committee created by virtue of this Act for prior approval.

In the formulation of the rules and regulations, the Commission shall coordinate with the DSWD, the Department of National Defense, the DILG, the Department of Environment and Natural Resources, the DOH and shall likewise consult with the LGUs and human rights nongovernmental organizations and people's organizations.

**SEC. 18. *Repealing Clause.*** - All laws, decrees, executive orders, memorandum orders, memorandum circulars, administrative orders, ordinances or any part thereof which are inconsistent with the provisions of this Act are hereby deemed repealed or modified accordingly.

**SEC. 19. *Separability Clause.*** - If any part or provision of this Act shall be declared unconstitutional or invalid, the other provisions hereof which are not affected thereby shall remain in full force and effect.

**SEC. 20. *Effectivity.*** - This Act shall take effect fifteen (15) days upon its publication in at least two (2) newspapers of national circulation.

Approved,