




SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

'16 JAN 26 AIO 36

SENATE

RECEIVED BY: 

S. B. No. 3132

Introduced by Senator TEOFISTO "TG" GUINGONA III

**AN ACT
PROTECTING THE RIGHTS OF INTERNALLY DISPLACED
PERSONS AND PENALIZING THE ACTS OF ARBITRARY
INTERNAL DISPLACEMENT**

EXPLANATORY NOTE

The key tests for an effective law are whether: 1) officials will have flexibility in drafting implementing rules; 2) standards for the rules and accountability are clearly set forth in the law; and 3) compliance by those expected to abide by the law is practical.

This bill aims to protect the rights of internally displaced persons (IDPs). Also, it seeks to provide clear lines of standards and accountability that is easily understood not only by the officials implementing it but also by the citizens affected by it.

This bill further addresses the President's veto message on the previous IDP bill by omitting all provisions relating to financial assistance. It also includes a specific, clear and exclusive definition of the crime of Arbitrary Internal Displacement (AID). Several other improvements were incorporated to make it more effective in deterring acts causing internal displacement and in facilitating the IDPs safe return, relocation or local integration.

In view of the foregoing, the passage of this bill is earnestly sought.


TEOFISTO "TG" GUINGONA III
Senator



Senate
Office of the Secretary

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INTERNAL DISPLACEMENT"**

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

1 SEC. 1. *Short Title.* — This Act shall be known as the "Rights of Internally
2 Displaced Persons Act" or the "RIDPA."

3 SEC. 2. *Declaration of Principles and State Policies.* — Consistent with the
4 principles of the Constitution, international human rights and
5 humanitarian standards including the United Nations' Guiding Principles
6 on Internal Displacement (UNGPID), international treaties adhered to by
7 the Philippines, and existing Philippine laws, it is hereby declared a State
8 policy to adopt a rights-based approach for the promotion and protection of
9 the rights of internally displaced persons in situations of armed conflict;
10 generalized and/or organized violence; clan wars; violations of human
11 rights; implementation of development projects; or natural or human-
12 made hazards or disasters.

13 The rights and obligations herein shall not be interpreted as restricting,
14 modifying, or impairing the provisions of any international human rights

1 or international humanitarian law treaties or declarations, or rights
2 granted to persons under domestic law.

3 The State shall harmonize all legal measures pertinent to "Internally
4 Displaced Persons or group of persons" (IDPs), and ensure that such are
5 consistent with this Act.

6 **SEC. 3. *Definition of Terms.* — As used in this Act:**

7 a. *Apartheid* refers to inhumane acts committed in the context
8 of an institutionalized regime of systematic oppression and
9 domination by one racial group or groups and committed with the
10 intention of maintaining that regime.

11 b. *Armed Conflict* means any use of force or armed violence between
12 States or a protracted armed violence between governmental
13 authorities and organized armed groups or between such groups
14 within a State: Provided, That such force or armed violence gives
15 rise, or may give rise, to a situation to which the Geneva
16 Conventions of 12 August 1949, including their common Article 3,
17 apply. Armed conflict may be international, that is, between two (2)
18 or more' States, including belligerent occupation; or non-
19 international, that is, between governmental authorities and
20 organized armed groups or between such groups within a State. It
21 does not cover internal disturbances or tensions such as riots,
22 isolated and sporadic acts of violence or other acts of a similar
23 nature.

24 c. *Clan War* refers to any conflict that may arise between members of
25 different indigenous groups, indigenous cultural communities
26 or clans, or between and among members of the same indigenous
27 group, cultural community or clan.

- 1 d. *Collective Punishment* refers to a situation in which a group of people
2 are punished due to acts or omissions, whether real or perceived, of
3 one or several members of the group.
- 4 e. *Ethnic Cleansing* refers to the act of rendering an area ethnically
5 homogenous by using force or intimidation to remove from a given
6 area persons of another ethnic or religious group.
- 7 f. *Generalized and/or organized violence* refers to the purposeful and
8 systematic use of terror and brutality to control individuals, groups
9 and communities, through the use of overwhelming force, and
10 characterized by widespread, massive or sufficient intensity.
- 11 g. *Implementation of development projects* refers to the carrying out of any
12 undertaking or activity aimed at economic or political growth,
13 advancement and expansion that results or may result to
14 arbitrary internal displacement of persons: *Provided*, that the
15 term does not include legitimate resettlement schemes and/or
16 programs.
- 17 h. *Internal displacement* refers to the involuntary or coerced
18 movement or relocation of persons, families, or communities
19 from their homes or places of habitual residence within the
20 national borders, as a result of or in order to avoid or minimize the
21 effects of armed conflict; situations of generalized and/or organized
22 violence; violations of human right; implementation of development
23 projects; or natural or human-induced or human-made hazards or
24 disasters.
- 25 i. *Internally displaced person or group of persons (IDP)*, refers to any
26 person or group of persons who has or have been forced or
27 obliged to flee or to leave their homes or places of habitual
28 residence within the national borders, as a result of or in order to

1 avoid or minimize the effects of armed conflict; situations of
2 generalized and/or organized violence; violations of human rights;
3 implementation of development projects; or natural or human-
4 induced or human-made hazards or disasters.

5 j. *Order of Battle/Watchlist* refers to a document or an organizational
6 tool used by military or law enforcement agencies that, inter
7 alia, lists persons or organizations perceived as being hostile to
8 the State, the Government or the Armed or Police Forces, or to any
9 document made by non-state actors, whether natural or
10 juridical, listing the names of persons and organizations, that are
11 perceived to be obstacles to such non-state actor, and making those
12 in such list vulnerable to arbitrary internal displacement.

13 SEC. 4. *Scope.* — This Act shall primarily provide for the protection of
14 rights of IDPs *during* and *after* displacement, as well as their return, local
15 integration or settlement elsewhere. This Act shall likewise cover
16 arbitrary internal displacement of civilians as a result of or in order to
17 avoid the effects of armed conflict; violations of human rights;
18 implementation of development projects; or natural or human-induced
19 or human-made hazards or disasters. To address the risks involved in
20 natural hazards or disasters, due reference shall be made to the pertinent
21 provisions of other relevant laws such as Republic Act No. 9729,
22 otherwise known as the Climate Change Act of 2009 and Republic Act No.
23 10121, otherwise known as the Philippine Disaster Risk Reduction and
24 Management Act of 2010, and other related laws.

25 SEC. 5. *Primary Duty to Protect the IDPs.* — National authorities and Local
26 Government Units (LGUs) have the primary duty and responsibility to
27 provide protection and humanitarian assistance to internally displaced

1 persons within their jurisdiction, in accordance with their obligations
2 under international law, including human rights law and humanitarian
3 law, so as to prevent and avoid conditions that might lead to arbitrary
4 internal displacement of persons.

5 SEC. 6. *Rights of IDPs* – All IDPs shall enjoy human rights in accordance
6 with the Philippine Constitution and related laws without discrimination
7 of any kind. In particular, they shall enjoy the following rights:

8 a. *Access to Basic Necessities.* – At the minimum, and with special
9 attention to gender sensitivity, IDPs shall have the basic right to
10 food, shelter and clothing. Competent authorities shall provide the
11 aforementioned basic rights with due respect to the cultural
12 sensitivities and religious beliefs of IDPs.

13 b. *Health and Education:*

14 1) IDPs shall be entitled to access, to the fullest extent practicable,
15 health services and with the least possible delay. Special attention
16 shall be provided to the health needs of women, children and the
17 elderly and the prevention of contagious and infectious diseases
18 among IDPs.

19 2) IDP children shall receive free and compulsory primary education
20 at a minimum.

21 c. *Freedom of Movement.* – Every IDP has the right to liberty of
22 movement in and out of any evacuation center, transitory sites
23 or other settlements, subject to its existing rules and regulations.
24 Moreover, they shall be protected against forcible return or
25 resettlement in any place where their lives, safety, liberty and/or
26 health would be at risk.

1 d. *Recognition, Issuance and Replacement of Documents.* — The authorities
2 concerned shall facilitate the issuance to the IDPs all documents
3 necessary for the enjoyment and exercise of their legal rights,
4 including new documents or the replacement of documents lost
5 in the course of displacement, without imposing unreasonable
6 conditions.

7 e. *Family Reunification, Missing Persons and Deceased.* — Competent
8 authorities shall provide conditions to expedite family
9 reunification, search of missing persons and collection and
10 identification of remains of the deceased, with due respect to
11 cultural sensitivities and religious beliefs.

12 f. *Security and Protection.* — Competent authorities shall take necessary
13 measures to ensure that IDPs are received, without discrimination of
14 any kind and live in satisfactory conditions of safety, dignity and
15 security. Special protection and assistance must be provided for IDPs
16 with special needs, including separated and unaccompanied children,
17 women, expectant mothers, mothers with young children, the elderly,
18 and persons with disabilities or with communicable diseases.

19 g. *Property and Possessions.* — The property and possessions of IDPs
20 shall, in all circumstances, be protected against pillage or looting,
21 direct and indiscriminate attacks or other acts of violence, being
22 used to shield military operations or objectives, being made the object
23 of reprisal, being destroyed or appropriated as a form of collective
24 punishment, and destruction, arbitrary and illegal appropriation,
25 occupation or use.

26 The LGU exercising territorial jurisdiction over the affected area/s,
27 with the assistance of the national Government, shall endeavor to
28 facilitate the transportation of such property and possessions of

1 IDPs, in a safe and secure area, during and after displacement,
2 subject to logistical considerations.

3 h. *Right to participation*: IDPs shall have the right to actively participate
4 in the planning and management of their displacement situation as
5 well as return, local integration or settlement elsewhere. In addition,
6 IDPs shall be provided with conditions to facilitate the exercise of
7 their right to political participation.

8 i. *Right to request protection and humanitarian assistance*: IDPs have the
9 right to request for protection and humanitarian assistance from
10 national and local authorities. They shall not be punished or
11 persecuted for such acts.

12 *Civil or Administrative Liabilities.* — Any IDP shall be entitled to claim and be
13 awarded civil damages from any public officer or employee, or any private
14 person, who directly or indirectly obstructs, defeats, violates, or in any
15 manner impedes or impairs any of the above rights and liberties. Any
16 public officer shall be administratively liable for the same acts.

17 *SEC. 7. Arbitrary Internal Displacement.* — *Arbitrary internal displacement* refers
18 to the act of causing any person or group of persons to flee or leave the place
19 of residence in the Philippines by force, violence, intimidation, or threat, and
20 on occasion of, in furtherance of, or in connection with any of the following:

21 i. Policies of apartheid, ethnic cleansing, or similar practices aimed
22 at or resulting in altering the ethnic, religious or racial
23 composition of the affected population;

24 ii. Armed conflict, unless the safety and security of civilians are
25 involved;

26 iii. Large-scale development projects, including, but not limited to,
27 mines, dams, railways, highways, tunnels, airports, seaports,

- 1 and the like, unless justified by compelling and overriding
2 public interest;
- 3 iv. Natural or human-induced or human-made hazards or
4 disasters, unless the safety and health of those affected require
5 their evacuation;
- 6 v. As a form of collective punishment;
- 7 vi. Clan wars, unless the safety and security of those civilians not
8 involved in the conflict are endangered.

9 An Order of Battle/Watchlist, or any document of similar nature issued
10 by the military, any law enforcement agency of the government, or any
11 armed group, including non-state actors, shall not justify arbitrary internal
12 displacement and shall subject the perpetrators to the penalties provided
13 under Section 14 of this Act.

14 **SEC. 8. *Permanent Prohibition Against Arbitrary Internal Displacement.*** —
15 The prohibition on arbitrary internal displacement and the
16 fundamental safeguards for its prevention shall not be suspended
17 under any circumstance, including political instability, threat of war,
18 state of war, or other public emergencies.

19 **SEC. 9. *Protection against Criminal Offenses and other Unlawful Acts.*** —
20 Criminal offenses and unlawful acts, if found to be committed in the
21 course of or during displacement, shall be penalized one degree
22 higher than that provided by the Revised Penal Code and other
23 special penal laws with respect to those acts.

24 **SEC. 10. *Assistance During Displacement of IDPs.*** — The primary
25 duty and responsibility, for providing humanitarian assistance to IDPs lie
26 with national authorities and with the LGUs exercising territorial
27 jurisdiction over the affected areas. As such, existing mechanisms set

1 up under Republic Act No. 10121 and relevant line agencies shall
2 provide immediate relief and humanitarian assistance to IDPs, families
3 and communities.

4 SEC. 11. *Early Recovery Plan.* - The LGUs exercising territorial jurisdiction
5 over the affected area/s shall craft an early recovery plan, in consultation
6 with the IDPs.

7 SEC. 12. *Return, Local Integration or Settlement Elsewhere.* --
8 Competent national and local authorities shall have the primary duty
9 and responsibility to establish conditions and provide means for IDPs to
10 return voluntarily, in safety and with dignity, to their homes or places of
11 habitual residence, or to locally integrate or to settle voluntarily in
12 another part of the country, taking into consideration the right of IDPs to
13 choose a residence, and with due respect to the cultural heritage and
14 traditions of Indigenous Peoples.

15 Said authorities, with the CHR, shall ensure prior consultations and the full
16 participation of IDPs, during and after the planning and management of their
17 return, local integration, or settlement elsewhere.

18 SEC. 13. *Mechanisms for International Humanitarian Assistance.* -- International
19 humanitarian organizations, their local counterparts, and other
20 appropriate actors shall have the right to offer their services, including
21 humanitarian assistance, in support of IDPs. Relevant coordination
22 mechanisms, where existing, with international humanitarian
23 organizations shall facilitate the timely provision of humanitarian
24 assistance to IDPs.

25 The importation and donation of food, clothing, medicine and equipment
26 necessary for relief and assistance of IDPs are hereby authorized in
27 accordance with Section 105 of the Tariff and Customs Code of the

1 Philippines, as amended, as regards national internal revenue taxes and
2 import duties of national and local government agencies, and the
3 prevailing provisions of the General Appropriations Act (GAA).

4 SEC. 14. *Penalties. — Persons criminally liable for arbitrary internal displacement.*

5 – The following are criminally liable for arbitrary internal displacement:

6 a. Principal. – Any person who: (1) takes a direct part in the
7 execution of the crime of arbitrary internal displacement; (2)
8 directly forces or induces others to commit the crime; or (3)
9 cooperates in the commission of the crime by another act without
10 which it would not have been accomplished, shall suffer the
11 penalty of *prision correctional* in its medium and maximum periods.

12 A commanding officer of the military, police or other law enforcement
13 agencies or other authorities shall be criminally responsible as a
14 principal for the crime of arbitrary internal displacement committed by
15 subordinates under his/her effective command and control, or effective
16 authority and control as the case may be, as a result of his/her failure to
17 properly exercise control over such subordinates, where: (1) that
18 commanding officer either knew or, owing to the circumstances at the
19 time, should have known that the subordinates were committing or
20 about to commit the crime; and (2) that commanding officer failed to
21 take all necessary and reasonable measures within his/her power to
22 prevent or repress their commission or to submit the matter to the
23 competent authorities for investigation and prosecution.

24 b. Accomplice. – Any person who, not being a principal under Section
25 14 (a) of this Act, cooperates in the execution of the crime of
26 arbitrary internal displacement by previous or simultaneous acts
27 shall suffer the penalty of *arresto mayor* in its *maximum period* to
28 *prision correctional* in its minimum period.

1 c. Accessory. - Any person who, having knowledge of the commission
2 of the crime of arbitrary internal displacement, and without having
3 participated therein, either as principal or accomplice under this
4 Act, takes part subsequent to its commission in any of the following
5 manner: (1) by profiting himself or assisting the offender to profit
6 by the effects of the crime; (2) by concealing or destroying the body
7 of the crime, or the effects, or instruments thereof, in order to
8 prevent its discovery; or (3) by harboring, concealing, or assisting in
9 the escape of the principal of the crime, shall suffer the penalty of
10 *arresto mayor* in its minimum and medium periods.

11 In case the above acts are committed by a corporation or a juridical entity, the
12 members of the Board of Directors who were present in the meeting and who
13 actually voted for the approval of the resolution or order directing the
14 commission of the crime, and the corporate officers or agents who carried out
15 such resolution or order of the corporation shall be criminally liable for such
16 act.

17 The courts shall impose the corresponding accessory penalties under the
18 Revised Penal Code, especially where the offender is a public officer.

19 The criminal liability of the offender under this section shall be independent
20 of or without prejudice to the prosecution and conviction of the said offender
21 for any violation of the applicable provisions of the Revised Penal Code and
22 other special laws.

23 **SEC. 15. *Applicability of the Revised Penal Code and Special Penal Laws.* —**

24 The provisions of the Revised Penal Code and other relevant special penal
25 laws, insofar as they are applicable, shall be suppletory to this Act.

1 SEC. 16. *Jurisdiction of the Courts.* — The proper and competent civilian
2 courts shall have jurisdiction over the offense of arbitrary internal
3 displacement, as defined and penalized in this Act.

4 SEC. 17. *Non-Monetary Reparation.* — The DOH, the DSWD, the
5 Department of Education (DepEd), the Commission on Higher Education
6 (CHED), the Technical Education and Skills Development Authority
7 (TESDA), and such other agencies, shall render necessary services as non-
8 monetary reparation for IDPs and their families, as may be determined, in
9 coordination with the CHR, pursuant to the provisions of this Act.

10 SEC. 18. *Role of the CHR.* — The CHR shall be designated as the institutional
11 focal point on the human rights of IDPs in accordance with its mandate and
12 powers.

13 SEC. 19. *Role of National Disaster Risk Reduction and Management Council*
14 *(NDRRMC) and Line Agencies.* The NDRRMC and government line agencies
15 shall exercise its mandate and powers in accordance with Republic Act No.
16 10121 in responding to situations of internal displacement. In these
17 situations, the CHR shall be part of the NDRRMC deliberations to provide
18 advice as a non-voting member.

19 SEC. 20. *Joint Congressional Oversight Committee.* — A Joint
20 Congressional Oversight Committee is hereby created, composed of
21 the Chairperson of the Senate Committee on Justice and Human Rights
22 and seven (7) other Senators designated by the Senate President, and the
23 Chairperson of the House Committee on Human Rights and seven (7) other
24 Members of the House of Representatives, designated by the Speaker of the
25 House of Representatives: *Provided*, That of the seven (7) Members to be
26 designated by each House of Congress, four (4) shall represent the Majority
27 and three (3) shall represent the Minority. The Joint Congressional

1 Oversight Committee shall also have the power to inquire into, summon
2 and investigate the Orders of Battle/Watchlists as defined under this
3 Act, and/or any document of similar nature, as well as the legal and factual
4 justifications for the inclusion of specific persons and groups in said
5 Orders of Battle/Watchlists or similar documents. In this regard, the
6 Joint Congressional Oversight Committee may issue mandatory
7 process directing the transmission of all such documents relevant and
8 necessary for the Committee to determine the validity of the inclusion of
9 specific persons or groups in the Orders of Battle/ Watchlists, or similar
10 documents. For this purpose, the highest ranking officers or heads of
11 offices shall be charged with testifying before the Joint Congressional
12 Oversight Committee in relation to any inquiries on the Orders of
13 Battle/Watchlists, or similar documents.

14 The invocation of national security as a defense may not prevent the
15 Joint Congressional Oversight Committee from inquiring into the factual
16 and/or legal bases for the existence of an Order of Battle/Watchlist, or
17 any similar document, or the inclusion of specific persons or groups in
18 said Orders of Battle/Watchlists, or similar documents. Should there be a
19 need to inquire into the factual basis for the invocation of national security,
20 the Committee shall convene in an executive session and hear the officials
21 invoking it. Should the basis not be satisfactory to the Committee, the
22 public hearings will continue and appropriate recommendations shall
23 thereafter be made by the Committee.

24 *SEC. 21. Monitoring of Compliance.* — An inter-agency coordinating committee
25 shall be tasked to periodically monitor the compliance with this Act. The
26 Committee shall be headed by the Chairperson of the CHR. Members of
27 the group shall be composed of:

- 1 a. A representative, with the rank of Undersecretary, from the
2 Department of Social Welfare and Development;
- 3 b. A representative, with the rank of Undersecretary, from the
4 Department of National Defense;
- 5 c. A representative, with the rank of Undersecretary, from the
6 Department of Interior and Local Government;
- 7 d. A representative, with the rank of Undersecretary, from the
8 Department of Health;
- 9 e. A representative, with the rank of Undersecretary, from the
10 Department of Justice;
- 11 f. A representative, with the rank of Undersecretary, from the
12 Department of Education;
- 13 g. The Executive Director of the National Disaster Risk Reduction and
14 Management Coordinating Council;
- 15 h. A representative from the National Commission on Muslim Filipinos;
- 16 i. A representative from the National Commission on Indigenous
17 Peoples;
- 18 j. A representative from the Office of the Presidential Adviser on the
19 Peace Process
- 20 k. The Chairperson of the Committee on Justice and Human Rights
21 of the Senate;
- 22 l. The Chairperson of the Committee on Human Rights of the
23 House of Representatives; and
- 24 m. The Chairperson of the Committee on Justice of the House of
25 Representatives.

26 The Committee shall work towards the collection of data on the
27 number and conditions of IDPs, leading to a registry that will aid the