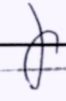


SENATE
S. No. 943

'19 AUG 20 P3:23

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Introduced by Senator Grace Poe

AN ACT
PROTECTING THE RIGHTS OF INTERNALLY DISPLACED
PERSONS, APPROPRIATING FUNDS THEREFOR,
AND FOR OTHER PURPOSES

Explanatory Note

Internally displaced persons (IDPs) are "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border."¹

Internal displacement is a perennial problem in our country. In the clash between the military and local terrorist groups that erupted in Marawi City last 23 May 2017, National Disaster Risk Reduction and Management Council (NDRRMC) Executive Director and Office of Civil Defense (OCD) Chief Ricardo Jalad confirmed that the number of internally displaced persons (IDPs) from Lanao del Sur has reached 324,406 or 66,738 families as of June 14, 2017.²

¹ United Nation Economic and Social Council (ECOSOC). Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39. Addendum- Guidelines on Internal Displacement. E/CN.4/1998/53/Add.2 Retrieved from <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G98/104/93/PDF/G9810493.pdf?OpenElement> Accessed 07/05/16.

² Philippine Information Agency. (June 16, 2017). Gov't assures swift action to aid IDPs from Marawi. Retrieved from <http://news.pia.gov.ph/article/view/2131497538439/gov-t-assures-swift-action-to-aid-idps-from-marawi>

IDPs are not protected under international law. Reports submitted to the United Nation Economic and Social Council (ECOSOC) on this topic state that "while existing law covers many aspects of particular relevance to internally displaced persons, there remain areas in which the law fails to provide sufficient protection for them."³

As a remedy, the Guiding Principles on Internal Displacement were submitted to the ECOSOC. The Guiding Principles state that "(n)ational authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction."⁴ An increasing number of States, United Nations agencies and regional and non-governmental organizations are applying them as a standard.

This proposed measure seeks to provide a legal framework for the promotion and protection of IDPs in accordance with the abovementioned international standards. Furthermore, this bill seeks to ensure that IDPs in the country are accorded the human dignity which the Constitution guarantees them and which they fully deserve. It should be remembered that "human rights" under the Constitution are guarantees of social justice and human dignity to all Filipinos. This is manifested most notably in Article XIII, which is entitled "Social Justice and Human Rights", the first section of which declares: "The Congress shall give highest priority to the enactment of measures that protect and enhance *the right of all the people to human dignity*."⁵

³ United Nation Economic and Social Council (ECOSOC). Report of the Representative of the Secretary-General Mr. Francis Deng, submitted pursuant to Commission on Human Rights resolution 1997/39. Compilation and Analysis of Legal Norms, Part II: Legal Aspects Relating to the Protection against Arbitrary Displacement. Retrieved from <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G98/104/87/PDF/G9810487.pdf?OpenElement> Accessed 07/05/16

⁴ ECOSOC. Guiding Principles.

⁵ Article XIII, Section 1, 1987 Philippine Constitution.

This bill embodies the previous discussions and consultations until the 16th Congress. It has also addressed the perceived legal and policy infirmities which caused a prior version of this bill to be vetoed by the President.⁶

Immediate approval of this bill is eagerly sought.



GRACE POE

⁶ Official Gazette. Veto Message of President Aquino on Senate Bill No. 3317 and House Bill No. 5627. Retrieved from <http://www.gov.ph/2013/05/24/veto-message-of-president-aquino-on-senate-bill-no-3317-and-house-bill-no-5627/> Accessed 07/05/16



SENATE
S. No. 943

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**AN ACT
PROTECTING THE RIGHTS OF INTERNALLY DISPLACED
PERSONS, APPROPRIATING FUNDS THEREFORE,
AND FOR OTHER PURPOSES**

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

1 Section 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 humanitarian
5 standards including the United Nations' Guiding Principles on Internal Displacement
6 (UNGPID), international treaties adhered to by the Philippines, and existing
7 Philippine laws such as Republic Act No. 9851, otherwise known as the Philippine Act
8 on Crimes Against International Humanitarian Law, Genocide, and other Crimes
9 against Humanity, it is hereby declared a State policy to adopt a rights-based
10 approach for the promotion and protection of the rights of internally displaced
11 persons in situations of armed conflict; generalized and/or organized violence; clan
12 wars; violations of human rights; implementation of development projects; or
13 natural or human-made hazards or disasters.

14 The rights and obligations herein shall not be interpreted as restricting,
15 modifying, or impairing the provisions of any international human rights or
16 international humanitarian law treaties or declarations, or rights granted to persons
17 under domestic law.

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

4 Sec. 3. *Definition of Terms.* – As used in this Act:

- 5 a) *Armed Conflict* - refers to any use of force or armed violence between
6 States or a protracted armed violence between governmental
7 authorities and organized armed groups or between such groups within
8 a State: Provided, That such force or armed violence gives rise, or may
9 give rise, to a situation to which the Geneva Conventions of 12 August
10 1949, including their common Article 3, apply. Armed conflict may be
11 international, that is, between two (2) or more States, including
12 belligerent occupation; or non-international, that is, between
13 governmental authorities and organized armed groups or between such
14 groups within a State. It does not cover internal disturbances or
15 tensions such as riots, isolated and sporadic acts of violence or other
16 acts of a similar nature.
- 17 b) *Clan War* - refers to any conflict that may arise between members of
18 different indigenous groups, indigenous cultural communities or clans,
19 or between and among members of the same indigenous group,
20 cultural community or clan.
- 21 c) *Collective Punishment* - refers to a situation in which a group of people
22 are punished due to acts or omissions, whether real or perceived, of
23 one or several members of the group.
- 24 d) *Generalized and/or organized violence* - refers to the purposeful and
25 systematic use of terror and brutality to control individuals, groups and
26 communities, through the use of overwhelming force, and
27 characterized by widespread, massive or sufficient intensity.
- 28 e) *Implementation of development projects* - refers to the carrying out of
29 any undertaking or activity aimed at economic or political growth,
30 advancement and expansion that results or may result to arbitrary
31 internal displacement of persons: *Provided*, that the term does not
32 include legitimate resettlement schemes and/or programs.

- 1 f) *Internal displacement* - refers to the involuntary or coerced movement
2 or relocation of persons, families, or communities from their homes or
3 places of habitual residence within the national borders, as a result of
4 or in order to avoid or minimize the effects of armed conflict; situations
5 of generalized and/or organized violence; violations of human right;
6 implementation of development projects; or natural or human-induced
7 or human-made hazards or disasters.
- 8 g) *Internally displaced person or group of persons (IDP)* - refers to any
9 person or group of persons who has or have been forced or obliged to
10 flee or to leave their homes or places of habitual residence within the
11 national borders, as a result of or in order to avoid or minimize the
12 effects of armed conflict, situations of generalized and/or organized
13 violence, violations of human rights, implementation of development
14 projects, or natural and human-induced or human-made hazards or
15 disasters.
- 16 h) *Order of Battle/Watchlist* - refers to a document or an organizational
17 tool used by military or law enforcement agencies that, inter alia, lists
18 persons or organizations perceived as being hostile to the State, the
19 Government or the Armed or Police Forces, or to any document made
20 by non-state actors, whether natural or juridical, listing the names of
21 persons and organizations, that are perceived to be obstacles to such
22 non-state actor, and making those in such list vulnerable to arbitrary
23 internal displacement.

24 Sec. 4. *Scope*. – This Act shall primarily provide for the protection of rights of
25 IDPs *during* and *after* displacement, as well as their return, local integration or
26 settlement elsewhere. This Act shall likewise cover arbitrary internal displacement of
27 civilians as a result of or in order to avoid the effects of armed conflict; violations of
28 human rights; implementation of development projects; or natural or human-
29 induced or human-made hazards or disasters. To address the risks involved in
30 natural hazards or disasters, and the overall impact of climate change on the rights
31 of those internally displaced, due reference shall be made to the pertinent provisions
32 of other relevant laws such as Republic Act No. 9729, otherwise known as the

1 Climate Change Act of 2009, and Republic Act No. 10121, otherwise known as the
2 Philippine Disaster Risk Reduction and Management Act of 2010, and other related
3 laws.

4 *Sec. 5. Primary Duty to Protect the IDPs.* – National authorities and Local
5 Government Units (LGUs) have the primary duty and responsibility to provide
6 protection and humanitarian assistance to internally displaced persons within their
7 jurisdiction, in accordance with their obligations under international law, including
8 human rights law and humanitarian law, so as to prevent and avoid conditions that
9 might lead to arbitrary internal displacement of persons.

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

13 a) *Access to Basic Necessities.* - At the minimum, and with special
14 attention to gender sensitivity, IDPs shall have the basic right to food,
15 shelter and clothing. Competent authorities shall provide the
16 aforementioned basic rights with due respect to the cultural
17 sensitivities and religious beliefs of IDPs.

18 b) *Health and Education:*

19 1) IDPs shall be entitled to access, to the fullest extent practicable,
20 health services and with the least possible delay. Special
21 attention shall be provided to the health needs of women,
22 children and the elderly and the prevention of contagious and
23 infectious diseases among IDPs.

24 2) IDP children shall receive free and compulsory primary
25 education at a minimum.

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

31 d) *Recognition, Issuance and Replacement of Documents.* - The
32 authorities concerned shall facilitate the issuance to the IDPs all

documents necessary for the enjoyment and exercise of their legal rights, including new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions.

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

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

g) *Property and Possessions.* - The property and possessions of IDPs shall, in all circumstances, be protected against pillage or looting, direct and indiscriminate attacks or other acts of violence, being used to shield military operations or objectives, being made the object of reprisal, being destroyed or appropriated as a form of punishment, and destruction, arbitrary and illegal appropriation, occupation or use. The LGU exercising territorial jurisdiction over the affected area/s, with the assistance of the national Government, shall endeavor to facilitate the transportation of such property and possessions of IDPs, in a safe and secure area, during and after displacement, subject to logistical considerations.

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

1 i) *Right to request protection and humanitarian assistance.* – The IDPs
2 have the right to request for protection and humanitarian assistance
3 from national and local authorities. They shall not be punished or
4 persecuted for such acts.

5 j) *Civil or Administrative Liabilities.* - Any IDP shall be entitled to claim
6 and be awarded civil damages from any public officer or employee, or
7 any private person, who directly or indirectly obstructs, defeats,
8 violates, or in any manner impedes or impairs any of the above rights
9 and liberties. Any public officer shall be administratively liable for the
10 same acts.

11 Sec. 7. *Applicability of the Revised Penal Code and Special Penal Laws.* – An
12 Order of Battle/Watchlist, or any document of similar nature issued by the military,
13 any law enforcement agency of the government, or any armed group, including non-
14 state actors, shall not justify crimes against IDPs and shall subject the perpetrators
15 to the penalties provided under the applicable provisions of the Revised Penal Code
16 and special laws.

17 Criminal offenses and unlawful acts, if found to be committed against any IDP
18 in the course of or during displacement, shall be penalized one degree higher than
19 that provided by the Revised Penal Code and other special penal laws with respect
20 to those acts.

21 Sec. 8. *Assistance During Displacement of IDPs.* – The primary duty and
22 responsibility, for providing humanitarian assistance to IDPs lie with national
23 authorities and with the LGUs exercising territorial jurisdiction over the affected
24 areas. As such, existing mechanisms set up under Republic Act No. 10121 and
25 relevant line agencies shall provide immediate relief and humanitarian assistance to
26 IDPs, families and communities.

27 Sec. 9. *Early Recovery Plan.* – The LGUs exercising territorial jurisdiction over
28 the affected area/s shall craft an early recovery plan, in consultation with the IDPs.

29 Sec. 10. *Return, Local Integration or Settlement Elsewhere.* – Competent
30 national and local authorities shall have the primary duty and responsibility to
31 establish conditions and provide means for IDPs to return voluntarily, in safety and
32 with dignity, to their homes or places of habitual residence, or to locally integrate or

1 to settle voluntarily in another part of the country, taking into consideration the right
2 of IDPs to choose a residence, and with due respect to the cultural heritage and
3 traditions of Indigenous Peoples.

4 Said authorities shall ensure prior consultations and the full participation of
5 IDPs, during and after the planning and management of their return, local
6 integration, or settlement elsewhere.

7 Sec. 11. *Mechanisms for International Humanitarian Assistance.* –
8 International humanitarian organizations, their local counterparts, and other
9 appropriate actors shall have the right to offer their services, including humanitarian
10 assistance, in support of IDPs. Relevant coordination mechanisms, where existing,
11 with international humanitarian organizations shall facilitate the timely provision of
12 humanitarian assistance to IDPs.

13 The importation and donation of food, clothing, medicine and equipment
14 necessary for relief and assistance of IDPs are hereby authorized in accordance with
15 Section 800 of Republic Act No. 10863, otherwise known as the Customs
16 Modernization and Tariff Act, as regards national internal revenue taxes and import
17 duties of national and local government agencies, and the prevailing provisions of
18 the General Appropriations Act (GAA).

19 Sec. 12. *Non-Monetary Reparation.* – The Department of Health (DOH), the
20 Department of Social Welfare and Development (DSWD), the Department of
21 Education (DepEd), the Commission on Higher Education (CHED), the Technical
22 Education and Skills Development Authority (TESDA), and such other agencies, shall
23 render necessary services as non-monetary reparation for IDPs and their families
24 pursuant to the provisions of this Act.

25 Sec. 13. *Role of the National Disaster Risk Reduction and Management*
26 *Council (NDRRMC) and Line Agencies.* – The NDRRMC and government line
27 agencies shall exercise its mandate and powers in accordance with Republic Act No.
28 10121 in responding to situations of internal displacement. In these situations, the
29 CHR shall be part of the NDRRMC deliberations to provide advice as a non-voting
30 member.

1 Sec. 14. *Role of the CHR.* – The CHR shall be designated as the institutional
2 focal point on the human rights of IDPs. As such, the CHR shall have the following
3 additional functions:

- 4 a) To monitor IDP conditions through the development of a system to track
5 concerns, actions taken, and other relevant information to ensure that IDP
6 rights are respected, protected, and fulfilled in all phases of internal
7 displacement;
- 8 b) To establish guidelines to identify the legitimacy of an individual's claim of
9 internal displacement;
- 10 c) To conduct public inquiries, document violations of human rights, assist
11 IDPs in seeking redress of grievances, and work to ensure an effective
12 response by the concerned authorities;
- 13 d) To investigate, on its own or on complaint by any party, all forms of
14 human rights violations against IDPs involving civil and political rights, in
15 accordance with Section 18(1) of Article XIII of the Constitution, and when
16 found in the investigation that the filing of a case in court is warranted,
17 request the assistance of any department, bureau, office or agency, such
18 as the National Prosecution Service of the DOJ, or the Ombudsman, by
19 virtue of Executive Order No. 163, series of 1987;
- 20 e) To render financial assistance at its sole discretion, and to issue necessary
21 guidelines to implement the same;
- 22 f) To recommend to the other agencies of government, taking into
23 consideration their respective mandates and functions, the grant of
24 assistance to IDPs, as may be appropriate;
- 25 g) To follow up on early warning and ensure effective measures to protect
26 the civilian population against arbitrary internal displacement;
- 27 h) To undertake educational activities and training programs for State
28 authorities, including the AFP;
- 29 i) To hold public information drives on the protection and rights of IDPs, and
30 foster their participation in the decision-making process regarding issues
31 that concern them; and

1 j) To carry out such other acts that may be necessary to fully implement the
2 purposes of this Act.

3 Sec. 15. *Role of the DSWD.* – The DWSD shall have the following functions,
4 among others:

- 5 a) To render psycho-social interventions and similar services to IDPs;
6 b) To facilitate linking IDPs to employment opportunities, support services
7 and other livelihood programs, in cooperation with other government
8 agencies, such as, but not limited to, the Department of Labor and
9 Employment (DOLE), Department of Agriculture (DA), Department of
10 Agrarian Reform (DAR) and the Department of Trade and Industry (DTI);
11 c) To provide capital assistance to IDPs, who wish to start their respective
12 trade or business, subject to reasonable rules and regulations; and
13 d) To carry out such other acts that may be necessary to fully implement the
14 aforementioned functions.

15 Sec. 16. *Joint Congressional Oversight Committee.* – A Joint Congressional
16 Oversight Committee is hereby created, composed of the Chairperson of the Senate
17 Committee on Justice and Human Rights and seven (7) other Senators designated
18 by the Senate President, and the Chairperson of the House Committee on Human
19 Rights and seven (7) other Members of the House of Representatives, designated by
20 the Speaker of the House of Representatives: *Provided,* That of the seven (7)
21 Members to be designated by each House of Congress, four (4) shall represent the
22 Majority and three (3) shall represent the Minority.

23 The Joint Congressional Oversight Committee shall also have the power to
24 inquire into, summon and investigate the Orders of Battle/Watchlist as defined under
25 this Act, and/or any document of similar nature, as well as the legal and factual
26 justifications for the inclusion of specific persons and groups in said Orders of
27 Battle/Watchlist or similar documents. In this regard, the Joint Congressional
28 Oversight Committee may issue mandatory process directing the transmission of all
29 such documents relevant and necessary for the Committee to determine the validity
30 of the inclusion of specific persons or groups in the Orders of Battle/ Watchlist, or
31 similar documents. For this purpose, the highest ranking officers or heads of offices

1 shall be charged with testifying before the Joint Congressional Oversight Committee
2 in relation to any inquiries on the Orders of Battle/Watchlist, or similar documents.

3 The invocation of national security as a defense may not prevent the Joint
4 Congressional Oversight Committee from inquiring into the factual and/or legal
5 bases for the existence of an Order of Battle/Watchlist, or any similar document, or
6 the inclusion of specific persons or groups in said Orders of Battle/Watchlist, or
7 similar documents. Should there be a need to inquire into the factual basis for the
8 invocation of national security, the Committee shall convene in an executive session
9 and hear the officials invoking it. Should the basis not be satisfactory to the
10 Committee, the public hearings will continue and appropriate recommendations shall
11 thereafter be made by the Committee.

12 Sec. 17. *Monitoring of Compliance.* – An inter-agency coordinating committee
13 shall be tasked to periodically monitor the compliance with this Act. The Committee
14 shall be headed by the Executive Director of the NDRRMC and shall be composed of:

- 15 a) A representative, with the rank of Undersecretary, from the DSWD;
- 16 b) A representative, with the rank of Undersecretary, from the Department of
17 National Defense (DND);
- 18 c) A representative, with the rank of Undersecretary, from the Department of
19 Interior and Local Government (DILG);
- 20 d) A representative, with the rank of Undersecretary, from the DOH;
- 21 e) A representative, with the rank of Undersecretary, from the DOJ;
- 22 f) A representative, with the rank of Undersecretary, from the DepEd;
- 23 g) A representative from the National Commission on Muslim Filipinos
24 (NCMF);
- 25 h) A representative from the National Commission on Indigenous Peoples
26 (NCIP);
- 27 i) A representative from the Office of the Presidential Adviser on the Peace
28 Process;

29 The Committee shall work towards the collection of data on the number and
30 conditions of IDPs, leading to a registry that will aid the government in efficient
31 planning and policy making regarding issues affecting IDPs.

1 The Committee shall submit an annual report to the Joint Congressional
2 Oversight Committee herein created, thirty (30) days after the end of each fiscal
3 year. Such annual report shall be the basis for proposed amendments to existing
4 legislation to improve the conditions of IDPs.

5 Sec. 18. *Appropriations.* – The amount necessary for the initial
6 implementation of this Act shall be charged against the current year's appropriations
7 of the NDRRMC, CHR, the DSWD, the DOH, the DND, and the DILG. Thereafter,
8 such sums as may be necessary for the continued implementation of this Act shall
9 be included in the GAA.

10 Sec. 19. *Implementing Rules and Regulations.* – Within sixty (60) days from
11 the effectivity of this Act, the NDRRMC in coordination with the CHR, DSWD, DND,
12 DILG, DOH, DOJ, Department of Environment and Natural Resources (DENR),
13 DepEd, AFP, Philippine National Police (PNP), Philippine Commission on Women
14 (PCW), Council for the Welfare of Children (CWC), NCIP, National Commission on
15 Disability Affairs (NCDA), Presidential Commission on Urban Poor (PCUP), Housing
16 and Urban Development Coordinating Council (HUDCC), National Housing Authority
17 (NHA), and NCMF shall issue the necessary rules and regulations for its
18 implementation and consult with the LGUs concerned, relevant non-governmental
19 human rights organizations, and people's organizations.

20 Sec. 20. *Separability Clause.* – If any part or provision of this Act shall be
21 declared unconstitutional or invalid, the other provisions hereof which are not
22 affected thereby shall remain in full force and effect.

23 Sec. 21. *Repealing Clause.* – All laws, decrees, executive orders,
24 memorandum orders, memorandum circulars, administrative orders, ordinances or
25 parts thereof which are inconsistent with the provisions of this Act are hereby
26 deemed repealed or modified accordingly.

27 Sec. 22. *Effectivity.* – This Act shall take effect fifteen (15) days after its
28 publication in the Official Gazette or in a newspaper of national circulation.

Approved.