NINETEENTH CONGRESS OF THE REPUBLIC OF THE PHILIPPINES

First Regular Session



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SENATE

S. No. 1243



Introduced by Senator Loren B. Legarda

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

## **EXPLANATORY NOTE**

Forced to flee from the comfort and familiarity of their own homes, often persecuted or under attack, and forced to live under constant threat and vulnerability, internally displaced persons (IDPs) are frequently in a more desperate situation than refugees. By the end of 2021, 89.3 million people around the world were forced to flee their homes. In the Philippines alone, around 700,000 Filipinos are still living in displacement across the country due to armed conflict, natural hazards and human-induced disasters, generalized situations of violence, and atrocities against human rights. 2

Despite this, no law relating specifically to IDPs has been passed. Instead, the treatment of IDPs is based on Republic Act No. 10121, otherwise known as the "Philippine Disaster Risk Reduction and Management Act of 2010 (PDRRMA)". However, after more than a decade since the passage of this landmark legislation, the limitations of this framework as it relates to IDPs have now become evident. Primarily about the response actors rather than the rights of IDPs and the standards of their protection,

<sup>1</sup> https://www.unhcr.org/ph/figures-at-a-glance

<sup>&</sup>lt;sup>2</sup> https://www.internal-displacement.org/countries/philippines

the current framework clearly lacks a human rights-based approach. Consequently, this affects the country's displacement response.

Without specific rights, IDPs are not afforded livelihood opportunities and facilities for emergency health care. The evacuation areas are also overcrowded and do not provide gender-sensitive arrangements leaving women and children open to heightened vulnerability. The movement of IDPs is often restricted since they are required to present identification documents to authorities, even though such documents have been lost or destroyed in flight. Given the prevailing conditions, IDPs opt to temporarily stay with their relatives or other settlements, instead of government evacuation centers. Others have no choice but to endure the limited and overcrowded facilities.

This bill, therefore, seeks to make a difference in the lives of Filipinos who have been forced to flee and run for their lives due to conflict and disaster by providing comprehensive legislation that protects Filipinos against arbitrary displacement and guarantees the rights of the internally displaced in accordance with international standards, particularly the United Nations Guiding Principles on Internal Displacement.

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



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

Be it enacted by the Senate and House of Representatives of the Republic 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 principles 4 of the Constitution, international human rights, and humanitarian standards 5 including the United Nations Guiding Principles on Internal Displacement (UNGPID), international treaties adhered to by the Philippines, and existing 6 7 Philippine laws, it is hereby declared a State policy to adopt a rights-based approach 8 for the promotion and protection of the rights of internally displaced persons in 9 situations of armed conflict, generalized and/or organized violence, clan wars, violations of human rights, implementation of development projects, or natural or 10 11 human-made hazards or disasters. 12 The rights and obligations herein shall not be interpreted as restricting, 13 modifying, or impairing the provisions of any international human rights or 14 international humanitarian law treaties or declarations, or rights granted to persons

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

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

(a) "Apartheid" refers to inhumane acts committed in the context of an institutionalized regime of systematic oppression and domination by one racial group or groups and committed with the intention of maintaining that regime;

- (b) "Armed conflict" refers to any use of force or armed violence between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State: *Provided*, That such force or armed violence gives rise, or may give rise, to a situation to which the Geneva Conventions of 12 August 1949, including their common Article 3, apply. Armed conflict may be either of the following: (1) International, that is, between two (2) or more States, including belligerent occupation; or (2) Non-international, that is, between governmental authorities and organized armed groups or between such groups within a State. Armed conflict does not cover internal disturbances or tensions such as riots, isolated and sporadic acts of violence, or other acts of a similar nature;
- (c) "Clan war" refers to any conflict that may arise between members of different indigenous groups, indigenous cultural communities, or clans, or between and among members of the same indigenous group, cultural community, or clan;
- (d) "Collective punishment" refers to a situation in which a group of people is punished due to acts or omissions, whether real or perceived, of one or several members of the group;
- (e) "Ethnic cleansing" refers to the act of rendering an area ethnically homogenous by using force or intimidation to remove from a given area persons of another ethnic or religious group;
- (f) "Generalized and/or organized violence" refers to the purposeful and systematic use of terror and brutality to control individuals, groups, and communities, through the use of overwhelming force, and is characterized by widespread, massive or sufficient intensity;
- (g) "Implementation of development projects" refers to the carrying out of any undertaking or activity aimed at economic or political growth,

advancement and expansion that results or may result to arbitrary internal displacement of persons: *Provided*, that the term does not include legitimate resettlement schemes and/or programs;

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

Sec. 4. *Scope*. – This Act shall primarily provide for the protection of rights of IDPs during and after displacement, as well as their return, local integration, or settlement elsewhere. This Act shall likewise cover arbitrary internal displacement of civilians as a result of or in order to avoid the effects of armed conflict, violations of human rights, implementation of development projects, or natural hazards or human-induced disasters. To address the risks involved in natural hazards or human-induced

- disasters disasters, due reference shall be made to the pertinent provisions of other relevant laws such as Republic Act No. 9729, otherwise known as the "Climate Change Act of 2009" and Republic Act No. 10121, otherwise known as the "Philippine Disaster Risk Reduction and Management Act of 2010", and other related laws.
  - Sec. 5. *Primary Duty to Protect the IDPs.* National authorities and local government units (LGUs) have the primary duty and responsibility to provide protection and humanitarian assistance to IPDs within their jurisdiction, in accordance with their obligations under international law, including human rights law and humanitarian law, so as to prevent and avoid conditions that might lead to arbitrary internal displacement of persons.
  - Sec. 6. *Rights of IDPs.* All IDPs shall enjoy human rights in accordance with the Philippine Constitution and related laws without discrimination of any kind. In particular, they shall enjoy the following rights:
    - (a) Access to Basic Necessities. At the minimum, and with special attention to gender sensitivity, IDPs shall have the basic right to food, shelter and clothing. Competent authorities shall provide the aforementioned basic rights with due respect to the cultural sensitivities and religious beliefs of IDPs.
    - (b) Health and Education. -

- (1) IDPs shall be entitled to access, to the fullest extent practicable, health services and with the least possible delay. Special attention shall be provided to the health needs of women, children and the elderly and the prevention of contagious and infectious diseases among IDPs; and
- (2) IDP children shall receive free and compulsory education.
- (c) Freedom of Movement. Every IDP has the right to liberty of movement in and out of any evacuation center, transitory sites, or other settlements, subject to its existing rules and regulations. Moreover, they shall be protected against forcible return or resettlement in any place where their lives, safety, liberty and/or health would be at risk.
- (d) Recognition, Issuance and Replacement of Documents. The authorities concerned shall facilitate the issuance to the IDPs of 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, but not limited to, 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 collective 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*. 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. - IDPs have the 2 right to request for protection and humanitarian assistance from 3 national and local authorities. They shall not be punished or persecuted 4 for such acts. 5 (j) Civil or Administrative Liabilities. - Any IDP shall be entitled to claim and 6 be awarded civil damages from any public officer or employee, or any 7 private person, who directly or indirectly obstructs, defeats, violates, or 8 in any manner impedes or impairs any of the above rights and liberties. 9 Any public officer shall be administratively liable for the same acts. 10 Sec. 7. Arbitrary Internal Displacement. - Arbitrary internal displacement refers 11 to the act of causing any person or group of persons to flee or leave the place of 12 residence in the Philippines by force, violence, intimidation, or threat, and on the occasion of, in furtherance of, or in connection with any of the following: 13 14 (1) Policies of apartheid, ethnic cleansing, or similar practices aimed at or 15 resulting in altering the ethnic, religious or racial composition of the 16
  - affected population;
  - (2) Armed conflict, unless the safety and security of civilians are involved;
  - (3) Development projects, including, but not limited to, mines, dams, railways, highways, tunnels, airports, seaports, and the like, unless justified by the compelling and overriding public interest;
  - (4) Natural or human-induced or human-made hazards or disasters, unless the safety and health of those affected require their evacuation;
  - (5) As a form of collective punishment; or

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(6) Clan wars, unless the safety and security of those civilians not involved in the conflict are endangered.

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

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

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

Sec. 10. Assistance During Displacement of IDPs. - The primary duty and responsibility, for providing humanitarian assistance to IDPs lie with national authorities and with the LGUs exercising territorial jurisdiction over the affected areas.

Existing mechanisms of relevant line agencies and those set up under Republic Act No. 10121, or the "Philippine Disaster Risk Reduction and Management Act of 2010" and other relevant laws, rules, and regulations, shall provide immediate relief and humanitarian assistance to IDPs, families, and communities.

Sec. 11. *Early Recovery Plan.* – At the onset of the displacement, the LGUs exercising territorial jurisdiction over the affected areas shall craft and implement an early recovery plan in view of temporary rehabilitation, in consultation with the IDPs.

Sec. 12. Return, Local Integration or Settlement Elsewhere. – Competent national and local authorities shall have the primary duty and responsibility to establish conditions and provide durable solutions as means for IDPs to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to locally integrate or to settle voluntarily in another part of the country, taking into consideration the right of IDPs to choose a residence, and with due respect to the cultural heritage and traditions of Indigenous Peoples.

Said authorities, with the Commission on Human Rights (CHR), shall ensure prior consultations and the full participation of IDPs, during and after the planning and management of their return, local integration, or settlement elsewhere.

Sec. 13. Mechanisms for International Humanitarian Assistance. – International humanitarian organizations, their local counterparts, and other appropriate actors shall have the right to offer their services, including humanitarian assistance, in support of IDPs. Relevant coordination mechanisms, where existing, with

international humanitarian organizations shall facilitate the timely provision of humanitarian assistance to IDPs.

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

Sec. 14. *Penalties.* – The following are criminally liable for arbitrary internal displacement:

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

A superior shall be criminally responsible as a principal for the crime of arbitrary internal displacement committed by subordinates 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 properly exercise control over such subordinates, where: (1) that superior either knew or, owing to the circumstances at the time, should have known that the subordinates were committing or about to commit the crime; and (2) that superior failed to take all necessary and reasonable measures within his/her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

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

(c) Accessory. - Any person who, having knowledge of the commission of the crime of arbitrary internal displacement, and without having participated therein, either as principal or accomplice under this Act, takes part subsequent to its commission in any of the following manner:

(I) by profiting himself or assisting the offender to profit by the effects of the crime; (2) by concealing or destroying the body of the crime, or the effects, or instruments thereof, in order to prevent its discovery; or (3) by harboring, concealing, or assisting in the escape of the principal of the crime, shall suffer the penalty of arresto mayor in its minimum and medium periods.

In case the above acts are committed by a corporation or a juridical entity, the members of the Board of Directors who were present in the meeting and who actually voted for the approval of the resolution or order directing the commission of the crime, and the corporate officers or agents who carried out such resolution or order of the corporation shall be criminally liable for such act. The courts shall impose the corresponding accessory penalties under the Revised Penal Code, especially where the offender is a public officer.

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

Sec. 15. Applicability of the Revised Penal Code and Special Penal Laws. – The provisions of the Revised Penal Code and other relevant special penal laws, insofar as they are applicable, shall be suppletory to this Act.

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

Sec. 17. *Non-Monetary Reparation.* – The Department of Health (DOH), Department of Social Welfare and Development (DSWD), Department of Education (DepEd), Commission on Higher Education (CHED), Technical Education and Skills Development Authority (TESDA), and such other agencies, shall render necessary services as non-monetary reparation for IDPs and their families.

Sec. 18. *Role of the Commission on Human Rights.* – The CHR, as the institutional focal point, shall serve as the authority in monitoring all the obligations and mechanisms in the implementation of the provisions of this Act.

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In addition to its powers, functions, duties, and mandate, the CHR shall provide technical and advisory support to government agencies in ensuring the protection and promotion of the rights of IDPs.

Sec. 19. Role of National Disaster Risk Reduction and Management Council (NDRMMC) and Line Agencies. – The NDRRMC and government line agencies shall exercise its mandate and powers in accordance with Republic Act No. 10121, or the "Philippine Disaster Risk Reduction and Management Act of 2010", in responding to situations of internal displacement. In these situations, the CHR shall be part of the NDRRMC deliberations to provide advice as a non-voting member.

Sec. 20. Joint Congressional Oversight Committee. - A Joint Congressional Oversight Committee is hereby created, composed of the Chairperson of the Senate Committee on Justice and Human Rights, seven (7) other Senators designated by the Senate President, the Chairperson 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) shall represent the Majority and three (3) shall represent the Minority. The Joint Congressional Oversight Committee shall also have the power to inquire into, summon and investigate the Orders of Battle or Watchlists as defined under this Act, and/or any document of similar nature, as well as the legal and factual justifications for the inclusion of specific persons and groups in said Orders of Battle, Watchlists or similar documents. 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, Watchlists, or similar documents. 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, Watchlists, or similar documents.

The invocation of national security as a defense may not prevent the Joint
Congressional Oversight Committee from inquiring into the factual and/or legal
bases for the existence of an Order of Battle, Watchlist, or any similar document, or
the inclusion of specific persons or groups in said Orders of Battle, Watchlists, or
similar documents. Should there be a need to inquire into the factual basis for the
invocation of national security, the Committee shall convene in an executive session
and hear the officials invoking it. Should the basis not be satisfactory to the
Committee, the public hearings will continue and appropriate recommendations shall
thereafter be made by the Committee.
Sec. 21. Monitoring of Compliance An inter-agency coordinating committee
shall be tasked to periodically monitor the compliance with this Act. The Committee
shall be headed by the Chairperson of the CHR. Members of the group shall be
composed of:
(a) One (1) representative, with the rank of Undersecretary, from DSWD;
(b) One (1) representative, with the rank of Undersecretary, from the
Department of National Defense (DND);
(c) One (1) representative, with the rank of Undersecretary, from the
Department of the Interior and Local Government (DILG);
(d) One (1) representative, with the rank of Undersecretary, from DOH;
(e) One (1) representative, with the rank of Undersecretary, from the
Department of Justice (DOJ);
(f) One (1) representative, with the rank of Undersecretary, from DepEd;
(g) The Executive Director of the NDRRMC;
(h) One (1) representative from the National Commission on Muslim
Filipinos (NCMF);
(i) One (1) representative from the National Commission on Indigenous
Peoples (NCIP);
(j) One (1) representative from the Office of the Presidential Adviser on the
Peace Process;
(k) The Chairperson of the Committee on Justice and Human Rights of the
Senate:

1	(l) The Chairperson of the Committee on Human Rights of the House of
2	Representatives; and
3	(m) The Chairperson of the Committee on Justice of the House of
4	Representatives.
5	The Committee shall work towards the collection of data on the number and
6	conditions of IDPs, leading to a registry that will aid the government in efficient
7	planning and policy making regarding issues affecting IDPs.
8	The Committee shall submit an annual report to the Joint Congressional
9	Oversight Committee herein created, thirty (30) days after the end of each fiscal year.
0	Such annual report shall be the basis for proposed amendments to existing legislation
11	to improve the conditions of internally displaced persons.
12	Sec. 22. Appropriations The amount necessary for the initial implementation
13	of this Act shall be charged against the current year's appropriations of the CHR,
4	DSWD, DOH, DND, and DILG. Thereafter, such sums as may be necessary for the
15	continued implementation of this Act shall be included in the GAA.
16	Sec. 23. Implementing Rules and Regulations Within sixty (60) days from the
17	effectivity of this Act, the CHR shall issue the necessary rules and regulations for its
8	implementation. In the formulation of the rules and regulations, the CHR shall take
9	the lead and coordinate with DSWD, DND, DILG, DOH, DOJ, Department of
20	Environment and Natural Resources (DENR), DepEd, AFP, Philippine National
21	Police (PNP), Philippine Commission on Women (PCW), Council for the Welfare of
22	Children (CWC), NCIP, National Commission on Disability Affairs (NCDA),
23	Presidential Commission on Urban Poor (PCUP), Housing and Urban Development
24	Coordinating Council (HUDCC), NDRRMC, National Housing Authority (NHA),
25	and NCMF. It shall also consult with the LGUs concerned and relevant human rights
26	non-governmental organizations and people's organizations.
27	Sec. 24. Separability Clause If any part or provision of this Act shall be declared
28	unconstitutional or invalid, the other provisions hereof which are not affected thereby
29	shall remain in full force and effect.
30	Sec. 25. Repealing Clause All laws, decrees, executive orders, memorandum
31	orders, memorandum circulars, administrative orders, ordinances or parts thereof

- 1 which are inconsistent with the provisions of this Act are hereby deemed repealed,
- 2 amended or modified accordingly.
- 3 Sec. 26. Effectivity. This Act shall take effect fifteen (15) days after its
- 4 publication in the Official Gazette or in a newspaper of national circulation.

Approved,