

FIFTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

SENATE
OFFICE OF THE SECRETARY

10 JUL -7 09:20

SENATE

Senate Bill No. 530

RECEIVED BY



INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

Internally displaced persons (IDPs) are described as those "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. IDPs do not enjoy adequate protection and assistance compared to their counterparts who crossed an internationally recognized border. They therefore experience suffering, neglect and deprivation.

The Philippines ranked third after Burma and Indonesia as countries in Southeast Asia with the most number of internally displaced persons and among the top forty (40) countries all over the world where internal displacement is considered as a significant phenomenon. Counterinsurgency operations and related military activities under the Government's "war on terrorism" are identified as the leading causes of conflict-induced displacement in the country, especially in Mindanao.

The United Nations Guiding Principles on Internal Displacement were formulated to recognize and respect the rights of IDPs to be protected against enforced or involuntary displacement, at the instance of the United Nations Commission on Human Rights (UNCHR). The Philippines, having been one of the original signatories of the Universal Declaration of Human Rights, does not have an existing government mechanism to prevent the occurrence of internal displacement. Adverse consequences of internal displacement are merely considered as collateral damages.

The measure seeks to localize the guiding principles on internal displacement set forth by the United Nations. Through this proposal, the government shall be able to establish a mechanism to support victims of internal displacement in armed conflict, to be able to ensure that the rights and lives of its citizens shall not be placed at risk.

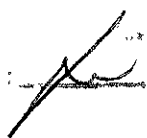
The immediate approval of this bill is requested.


JINGGOY EJERCITO ESTRADA
Senator

10 JUL -7 A9:20

SENATE

Senate Bill No. 530

RECEIVED BY: 

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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 PROTECTION FROM THE ADVERSE EFFECTS OF INTERNAL DISPLACEMENT AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* – This Act shall be known as the “**Internal Displacement Act of 2010**”.

SEC 2. *Declaration of Principles and State Policies.* – The prime duty of the Government is to serve and protect the people. It shall be the policy of the State, consistent with international laws, to safeguard the interests and security of citizens in distress in cases of internal displacement caused by armed conflict, situations of generalized violence, violation of human rights, demolitions, land conversions, environmental destructions, aggressive implementation of development projects and other man-made disasters.

SEC 3. *Definitions.* – For purposes of this Act, the following terms shall mean:

1. “*Internal Displacement*” refers to the forced or obliged movement of person or group of persons to 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;
2. “*Internally displaced person*” refers to any individual who has suffered harm as a direct result of an internal displacement as defined above;

SEC 4. *Prevention of Internal Displacement.* – The State shall respect and ensure for their obligations under international law, including human rights law and humanitarian law, so as to prevent and avoid conditions that might lead to displacement of persons.

SEC 5. *Permanent Prohibition of Internal Displacement.* – The prohibition of arbitrary or 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 6. *“Order of Battle” Not Legal Ground for Arbitrary or Internal Displacement.* – An order of battle, official or otherwise, 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 same corresponding penalties provided in this Act.

SEC 7. *Prohibition Against / Protection from Internal Displacement.* – The State shall protect its citizens from being internally displaced from their place of habitual residence.

- a. In consonance with this policy, the prohibition of arbitrary displacement shall include:
1. those 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;
 2. those in situations of armed conflicts, unless the security of the civilians involved or imperative military reasons so demand;
 3. those in cases of large-scale government development projects which are not justified by compelling and overriding public interests;
 4. those used as a collective punishment.

However, displacement not included in the preceding prohibitions shall not last longer than what is required by the circumstances.

- b. Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are 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.
- c. If displacement is inevitable, the authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated. Indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands shall be protected from displacement.
- d. Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.
- e. If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, 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. adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their

displacement and, where applicable, on compensation and relocation;

3. the free and informed consent of those to be displaced shall be sought;
 4. the authorities concerned shall endeavor to involve those affected, particularly women, in the planning and management of their relocation;
 5. law enforcement measures, where required, shall be carried out by competent legal authorities; and,
 6. the right to an effective remedy, including the review of such decision by appropriate judicial or quasi-judicial authorities, shall be respected.
- f. Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

SEC 8. *Protection During Displacement.* – The following rights shall be afforded internally displaced persons during the period of their displacement:

- (a) 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. Threats and incitement to commit the foregoing acts shall be prohibited;
- (b) Attacks or other acts of violence against internally displaced persons shall be prohibited in all circumstances. In particular, internally displaced persons 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 and other forms of deprivation of basic necessities;
 3. use of internally displaced persons to shield military objectives from attack or to shield, favor or impede military operations;
 4. attacks against the camps or settlements of internally displaced persons; and,
 5. the use of anti-personnel landmines.
- (c) 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 internally displaced persons;

Threats and incitement to commit any of the acts provided in paragraphs (a), (b) and (c) shall be prohibited.

- (d) 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 required by the circumstances;
- (e) They shall be protected from discriminatory arrest and detention as a result of their displacement. In no case shall they be taken hostage;
- (f) In no circumstances shall internally displaced children be recruited nor be required to take part in hostilities;
- (g) Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups. Any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment shall be prohibited in all circumstances;
- (h) Every internally displaced person has the right to liberty of movement and freedom to choose his / her residence. In particular, he / she has the right to move in freely in and out of camps or other settlements;
- (i) Internally displaced persons have the right to:
 1. leave the country;
 2. seek asylum in another country; and,
 3. be protected against forcible return to resettlement in any place where their life, safety, liberty and / or health would be at risk;
- (j) The State shall endeavor to establish the fate and whereabouts of internally displaced persons 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;
- (k) The State 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;
- (l) Grave sites of internally displaced persons shall be protected and respected in all circumstances. Internally displaced persons shall have the right of access to the grave sites of their deceased relatives;
- (m) Members of internally displaced families who wish to remain together shall be allowed to do so. Families separated by displacement shall be reunited as quickly as possible. All appropriate measures shall be taken to expedite the reunion of such families, particularly when children are involved. The State shall encourage the cooperation of international and

local humanitarian organizations engaged in the task of family reunification;

- (n) Members of internally displaced families whose personal liberty has been restricted by internment or confinement in camps shall have the right to remain together;
- (o) At the minimum, regardless of the circumstances and without discrimination, the State shall provide internally displaced persons with and ensure safe access to:
 - 1. essential food and potable water;
 - 2. basic shelter and housing;
 - 3. appropriate clothing; and,
 - 4. essential medical services and sanitation;
- (p) Disabled, wounded and sick internally displaced persons shall receive, to the fullest extent practicable and with the least possible delay, medical care and attention they require. When necessary, internally displaced persons shall have access to psychological and social services;
- (q) Health needs of women shall be given special attention, including access to reproductive health care as well as appropriate counseling for victims of sexual and other abuses;
- (r) Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons;
- (s) The State shall issue to internally displaced persons all documents necessary for the enjoyment and exercise of their legal rights without imposing unreasonable conditions;
- (t) Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names;
- (u) Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights to:
 - 1. freedom of thought, conscience, religion, opinion and expression;
 - 2. seek opportunities for employment and to participate in economic activities without restrictions;
 - 3. associate freely and participate equally in community affairs;
 - 4. vote and to participate in governmental and public affairs; and,
 - 5. communicate in a language they understand.
- (v) The property and possessions of internally displaced persons 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; and,
5. being destroyed or appropriated as a form of collective punishment.

Property and possessions left behind by internally displaced persons should be protected against destruction and illegal appropriation, occupation or use.

- (w) The State shall ensure that internally displaced persons, in particular, internally displaced children, receive education that shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.
- (x) Special efforts should be made to ensure the full and equal participation of women and girls in educational program. Educational and training facilities shall be made available to internally displaced persons, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.

SEC 9. *Addressing the continuing needs of displaced communities.* – All humanitarian assistance to victims of displaced persons, families and communities shall be carried out in accordance with the principles of humanity and impartiality and without discrimination. Humanitarian assistance, which shall be the primary duty and responsibility of national authorities concerned, shall not be diverted, in particular for political or military reasons.

International and local humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced and shall be considered in good faith and not be arbitrarily regarded as an unfriendly act or interference in the government's internal affairs. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.

Persons engaged in humanitarian assistance, their transport and supplies shall be respected and protected. They shall not be the object of attack or other acts of violence.

When providing assistance, international and local humanitarian organizations and other appropriate actors shall give due regard to the protection of the needs and human rights of the internally displaced persons and shall take appropriate measures in this regard.

Law enforcement agencies conducting military operations, the Department of Social Welfare and Development, the Department of Health, the corresponding government hospital and the local government unit concerned shall provide immediate relief to internally displaced persons, families and communities.

SEC 10. *Assistance during the return, resettlement or local integration of the displaced persons.* – Competent authorities, including the local government unit/s concerned, shall have the primary duty and responsibility to establish conditions that allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places or habitual residence, or to resettle voluntarily in another part of the country. Special efforts shall be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.

Competent authorities, including the local government unit/s concerned, have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities, including the local government unit/s concerned, shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

All authorities concerned shall grant and facilitate for international and local humanitarian organizations and other appropriate actors in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.

SEC 11. *Penal Provisions.* –

- a. The penalty of *reclusion perpetua* shall be imposed shall be imposed upon the following persons:
 1. Those who directly committed the act of arbitrary or internal displacement;
 2. Those who directly forced, instigated, encouraged or induced others to commit the act of internal displacement;
 3. Those who cooperated in the act of arbitrary or internal displacement by committing another act without which the act of arbitrary or 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 participated in the act of arbitrary or internal displacement when it is within their power to stop the commission of such act;
 5. Those who cooperated in the execution of the act of arbitrary or internal displacement by previous or simultaneous acts.
- b. The penalty of *reclusion temporal* shall be imposed upon those who attempt to commit the offense of arbitrary or internal displacement;

- c. The penalty of *reclusion temporal* shall also 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 manners:
 - 1. By themselves profiting from or assisting the offender to profit from the effects of the act of arbitrary or internal displacement;
 - 2. By concealing the act of arbitrary or internal displacement, and / or destroying the effects or instruments thereof, in order to prevent its discovery;
 - 3. By harboring, concealing, or assisting in the escape of the principal(s) in the act of arbitrary or internal displacement, provided the accessory acts are done with the abuse of the official's public functions;
- d. A public official or employee found guilty of committing the prohibited acts provided for in Sections 7 and 8 of this Act shall be permanently disqualified from holding any appointive or elective position in the government.
- e. The accessory penalties pertaining to the penalties of *reclusion perpetua* and *reclusion temporal* shall be imposed.

SEC 12. *Role of the Commission on Human Rights.* – The Commission on Human Rights (CHR) shall be designated as the institutional focal point for internally displaced persons. As such, the CHR shall have the following 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 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 populations against internal displacement, in coordination with local government units;
- 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; and,
- g. To hold public information drives on the rights of IDPs.

SEC 13. *Appropriations.* – The amount of Fifty Million Pesos (P50,000,000) shall be appropriated for the initial implementation of the provisions of this Act. The

subsequent annual funding for the implementation of this Act shall be included in the General Appropriations Act.

SEC 14. *Monitoring of Compliance with this Act.* – A Monitoring Group shall be tasked to periodically monitor the compliance with this Act. The group shall be headed by the Chairperson of the Commission on Human Rights. Members of this group shall be composed of:

- a. A representative, with the rank of Undersecretary, from the Department of Social Welfare and Development;
- b. A representative, with the rank of Undersecretary, from the Department of National Defense;
- c. A representative, with the rank of Undersecretary, from the Department of Interior and Local Government;
- d. A representative from the National Disaster Coordinating Council;
- e. A representative of human rights non-governmental organizations (NGOs) and other human rights groups, nominated by a selection board composed of human rights groups and non-governmental organizations (NGOs);
- f. The Chairperson of the Committee on Human Rights of the House of Representatives;
- g. The Chairperson of the Committee on Justice and Human Rights of the Senate.

The monitoring group shall submit an annual report to both Houses of Congress thirty (30) days after the end of each fiscal year. Such annual report shall be the basis for proposed amendments to existing legislation to improve the conditions of internally displaced persons.

SEC 15. *Implementing Rules and Regulations.* – The Commission on Human Rights, in consultation, coordination and collaboration with the Department of Social Welfare and Development, the Department of National Defense, the Department of Interior and Local Government, and human rights non-governmental organizations and people's organizations, shall draft the implementing rules and regulations necessary to carry out the provisions of this Act, within sixty (60) days following its effectivity.

SEC 16. *Repealing Clause.* – All laws, decrees, executive orders, memorandum orders, memorandum circulars, administrative orders, ordinances or any part thereof, inconsistent herewith are hereby deemed, repealed or modified accordingly.

SEC 17. *Separability Clause.* – If any provision of this Act is held invalid, any other provision not affected shall continue to be valid and effective.

SEC 18. *Effectivity Clause.* – This Act shall take effect fifteen (15) days following the completion of its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,