
Introduced by Senator Loren Legarda

EXPLANATORY NOTE

Internally-Displaced Persons (IDPs) are defined 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 are differentiated from refugees in that the latter "flee across international frontiers with a well-founded fear of persecution based on racial, religious, national, social or political grounds." As such, unlike refugees, who have been deprived of the protection of their state of origin, IDPs remain legally under the protection of national authorities of their country of habitual residence. IDPs should therefore enjoy the same rights as the rest of the population.

However, the United Nations Refugee Agency stated that as of May 2009, the biggest displacement came from the Philippines, where 600,000 people fled fighting between the government and armed groups in the southern region of Mindanao. As of May 2010, the Internal Displacement Monitoring Centre (IDMC) reported that the number of IDPs in the country still ranges from 60,000 to 160,000. These IDPs face many threats to their physical security and integrity, including the enjoyment of the basic necessities of life, education, property, livelihoods and other rights.

At the instance of the United Nations Commission on Human Rights (UNCHR), 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. It is sad to note that the Philippines, despite being 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.

This bill therefore 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 due to armed conflict and natural or man-made disasters, to be able to ensure that the rights and lives of its citizens shall not be placed at risk.

Immediate approval of this Bill is earnestly sought.


LOREN LEGARDA
Senator

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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 House of Representatives of the Philippines in
Congress assembled:*

1 **SECTION 1. *Title.*** - This Act shall be known as the "**Internal Displacement**
2 **Act of 2010.**"
3

4 **SECTION 2. *Declaration of Principles and State Policies.*** - It shall be the
5 policy of the State, consistent with international laws, to safeguard the interests and
6 security of citizens in distress in cases of internal displacement caused by armed
7 conflict, situations of generalized violence, violation of human rights, demolitions,
8 land conversions, environmental destruction, aggressive implementation of
9 development projects and other man-made disasters.
10

11 **SECTION 3. *Definitions.*** - For purposes of this Act, the following terms shall
12 mean:
13

14 a. "**Internal Displacement**" refers to the forced or obliged movement of person or
15 group of persons to flee or leave their homes or places of habitual residence,
16 without crossing an internationally recognized State border, as a result of or
17 in order to avoid the effects of armed conflict, situations of generalized
18 violence, violations of human rights or other natural or human made
19 disasters;
20

21 b. "**Internally displaced person**" refers to any individual who has suffered harm as
22 a direct result of an internal displacement as defined above.
23

24 **SECTION 4. *Prevention of Internal Displacement.*** - The State shall respect
25 and ensure its obligations under international law, including human rights law and
26 humanitarian law, to prevent and avoid conditions that might lead to displacement
27 of persons.
28

29 **SECTION 5. *Permanent Prohibition of Internal Displacement.*** - The
30 prohibition of arbitrary or internal displacement and the fundamental safeguards for

1 its prevention shall not be suspended under any circumstances including political
2 instability, threat of war, state of war or other public emergencies.

3
4 **SECTION 6. "Order of Battle" not Legal Ground for Arbitrary or Internal**
5 **Displacement".** - An order of battle, official or otherwise, issued by the military,
6 police or any law-enforcement agency of the government, shall not justify an
7 arbitrary or internal displacement and shall subject the perpetrators to the same
8 corresponding penalties provided in this Act.

9
10 **SECTION 7. Prohibition Against/ Protection from Internal Displacement.** -
11 The State shall protect its citizens from being internally displaced from his/her place
12 of habitual residence.

13
14 a. In consonance with this policy, the prohibition of arbitrary displacement shall
15 include:

- 16
17 1. Those based on policies of apartheid, "ethnic cleansing" or similar
18 practices aimed at/or resulting in altering the ethnic, religious or racial
19 composition of the affected population;
- 20
21 2. Those in situations of armed conflicts, unless the security of the civilians
22 involved or imperative military reasons so demand;
- 23
24 3. Those in cases of large-scale government development projects, which are
25 not justified by compelling and overriding public interests;
- 26
27 4. Those used as a collective punishment.

28
29 However, displacement not included in the preceding prohibitions shall
30 not last longer than what is required by the circumstances.

31
32 b. Prior to any decision requiring the displacement of persons, the authorities
33 concerned shall ensure that all feasible alternatives are explored in order to
34 avoid displacement. Where no alternatives exist, all measures shall be
35 undertaken to minimize displacement and its adverse effects on the
36 population that will be affected.

37
38 c. If displacement is inevitable, the authorities undertaking such displacement
39 shall ensure, to the greatest practicable extent, that proper accommodation is
40 provided to the displaced persons; that such displacements are effected in
41 satisfactory conditions of safety, nutrition, health and hygiene; and that
42 members of the same family are not separated. Indigenous peoples,
43 minorities, peasants, pastoralists and other groups with a special dependency
44 on and attachment to their lands shall be protected from displacement.

45
46 d. Displacement shall not be carried out in a manner that violates the rights to
47 life, dignity, liberty and security of those affected.

48
49 e. If displacement occurs in situations other than during the emergency stages
50 of armed conflicts and disasters, the following guarantees shall be complied
51 with:

- 52
53 1. A specific decision shall be taken by the authority empowered by law to
54 order such measures;

- 1 2. Adequate measures shall be taken to guarantee to those to be displaced
2 full information on the reasons and procedures for their displacement
3 and, where applicable, on compensation and relocation;
4
- 5 3. The free and informed consent of those to be displaced shall be sought;
6
- 7 4. The authorities concerned shall endeavor to involve those affected,
8 particularly women, in the planning and management of their relocation;
9
- 10 5. Law enforcement measures, where required, shall be carried out by
11 competent legal authorities; and,
12
- 13 6. The right to an effective remedy, including the review of such decision by
14 appropriate judicial or quasi-judicial authorities, shall be respected.
15
- 16 f. Displacement shall not be carried out in a manner that violates the rights to
17 life, dignity, liberty and security of those affected.
18

19 **SECTION 8. *Protection during Displacement.*** - The following rights shall be
20 afforded internally displaced persons during the period of their displacement:
21

- 22 a. Internally displaced persons shall be protected against genocide, murder,
23 summary or arbitrary executions and enforced disappearances, including
24 abduction or unacknowledged detention, threatening or resulting in death.
25 Threats and incitement to commit the foregoing acts shall be prohibited;
26
- 27 b. Attacks or other acts of violence against internally displaced persons shall be
28 prohibited in all circumstances. In particular, internally displaced persons
29 shall be protected against:
30
 - 31 1. Direct or indiscriminate attacks or other acts of violence, including the
32 creation of areas wherein attacks on civilians are permitted;
33
 - 34 2. Starvation as a method of combat and other forms of deprivation of basic
35 necessities;
36
 - 37 3. Use of internally displaced persons to shield military objectives from
38 attack or to shield, favor or impede military operations;
39
 - 40 4. Attacks against the camps or settlements of internally displaced persons;
41 and
42
 - 43 5. The use of anti-personnel landmines;
44
- 45 c. Internally displaced persons, whether or not their liberty has been restricted,
46 shall be protected against:
47
 - 48 1. Rape, mutilation, torture, cruel, inhuman or degrading treatment or
49 punishment and other outrages upon personal dignity, such as acts of
50 gender-specific violence, forced prostitution and any form of indecent
51 assault;
52
 - 53 2. Slavery or any contemporary form of slavery, such as sale into marriage,
54 sexual exploitation, or forced labor of children; and

1 3. Acts of violence intended to spread terror among internally displaced
2 persons;

3
4 Threats and incitement to commit any of the acts provided in paragraphs (a),
5 (b) and (c) shall be prohibited;

6
7 d. Internally displaced persons shall not be interned in or confined to a camp. If
8 in exceptional circumstances, such internment or confinement is necessary, it
9 shall not last longer than required by the circumstances;

10
11 e. They shall be protected from discriminatory arrest and detention as a result
12 of their displacement. In no case shall they be taken hostage;

13
14 f. In no circumstances shall internally displaced children be recruited nor be
15 required to take part in hostilities;

16
17 g. Internally displaced persons shall be protected against discriminatory
18 practices of recruitment into any armed forces or group. Any cruel, inhuman
19 or degrading practice that compels compliance or punish non-compliance
20 with recruitment shall be prohibited in all circumstances;

21
22 h. Every internally displaced person has the right to liberty of movement and
23 freedom to choose his/her residence. In particular, he/she has the right to move
24 in freely in and out of camps or other settlements;

25
26 i. Internally displaced persons have the right to:

27
28 1. Leave the country,

29 2. Seek asylum in another country; and

30 3. Be protected against forcible return to resettlement in any place where
31 their life, safety, liberty and/or health would be at risk;

32
33 j. The State shall endeavor to establish the fate and whereabouts of internally
34 displaced persons reported missing, and cooperate with relevant
35 international organizations engaged in this task. They shall inform the next of
36 kin on the progress of the investigation and notify them of any result;

37
38 k. The State shall endeavor to collect and identify the mortal remains of those
39 deceased, prevent their despoliation or mutilation, and facilitate the return of
40 those remains to the next of kin or dispose of them respectfully;

41
42 l. Grave sites of internally displaced persons shall be protected and respected in
43 all circumstances. Internally displaced persons shall have the right of access
44 to the gravesites of their deceased relatives;

45
46 m. Members of internally displaced families who wish to remain together shall
47 be allowed to do so. Families separated by displacement shall be reunited as
48 quickly as possible. All appropriate measures shall be taken to expedite the
49 reunion of such families, particularly when children are involved. The State
50 shall encourage the cooperation of international and local humanitarian
51 organizations engaged in the task of family reunification;

52
53 n. Members of internally displaced families whose personal liberty has been
54 restricted by internment or confinement in camps shall have the right to

1 remain together;

2
3 o. At the minimum, regardless of the circumstances and without discrimination,
4 the State shall provide internally displaced persons with and ensure safe
5 access to:

- 6
7 1. Essential food and potable water;
8 2. Basic shelter and housing;
9 3. Appropriate clothing; and
10 4. Essential medical services and sanitation;

11
12 p. Disabled, wounded and sick internally displaced persons shall receive, to the
13 fullest extent practicable and with the least possible delay, medical care and
14 attention they require. When necessary, internally displaced persons shall
15 have access to psychological and social services;

16
17 q. Health needs of women shall be given special attention, including access to
18 reproductive health care as well as appropriate counseling for victims of
19 sexual and other abuses.

20
21 r. Special attention should also be given to the prevention of contagious and
22 infectious diseases, including AIDS, among internally displaced persons.

23
24 s. The State shall issue to internally displaced persons all documents necessary
25 for the enjoyment and exercise of their legal rights without imposing
26 unreasonable conditions.

27
28 t. Women and men shall have equal rights to obtain such necessary documents
29 and shall have the right to have such documentation issued in their own
30 names.

31
32 u. Internally displaced persons, whether or not they are living in camps, shall
33 not be discriminated against as a result of their displacement in the
34 enjoyment of the following rights to:

- 35
36 1. Freedom of thought, conscience, religion, opinion and expression;
37 2. Seek opportunities for employment and to participate in economic
38 activities without restrictions;
39 3. Associate freely and participate equally in community affairs;
40 4. Vote and to participate in governmental and public affairs; and
41 5. Communicate in a language they understand.

42
43 v. The property and possessions of internally displaced persons shall in all
44 circumstances be protected against the following acts:

- 45
46 1. Pillage;
47 2. Direct or indiscriminate attacks or other acts of violence;
48 3. Being used to shield military operations or objectives;
49 4. Being made the object of reprisal; and,
50 5. Being destroyed or appropriated as a form of collective punishment.

51
52 Property and possessions left behind by internally displaced persons should
53 be protected against destruction and illegal appropriation, occupation or use.
54

1 w. The State shall ensure that internally displaced persons, in particular,
2 internally displaced children, receive education that shall be free and
3 compulsory at the primary level. Education should respect their cultural
4 identity, language and religion.

5
6 x. Special efforts should be made to ensure the full and equal participation of
7 women and girls in educational programs. Educational and training facilities
8 shall be made available to internally displaced persons, in particular
9 adolescents and women, whether or not living in camps, as soon as
10 conditions permit.

11
12 **SECTION 9. *Addressing the Continuing Needs of Displaced Communities.*** -

13 All humanitarian assistance to victims of displaced persons, families and
14 communities shall be carried out in accordance with the principles of humanity and
15 impartiality and without discrimination. Humanitarian assistance, which shall be
16 the primary duty and responsibility of national authorities concerned, shall not be
17 diverted, in particular for political or military reasons.

18
19 International and local humanitarian organizations and other appropriate
20 actors have the right to offer their services in support of the internally displaced and
21 shall be considered in good faith and not be arbitrarily regarded as an unfriendly act
22 or interference in the government's internal affairs. All authorities concerned shall
23 grant and facilitate the free passage of humanitarian assistance and grant persons
24 engaged in the provision of such assistance rapid and unimpeded access to the
25 internally displaced.

26
27 Persons engaged in humanitarian assistance, their transport and supplies
28 shall be respected and protected. They shall not be the object of attack or other acts
29 of violence.

30
31 When providing assistance, international and local humanitarian
32 organizations and other appropriate actors shall give due regard to the protection of
33 the needs and human rights of the internally displaced persons and shall take
34 appropriate measures in this regard.

35
36 Law enforcement agencies conducting military operations, the Department of
37 Social Welfare and Development, the Department of Health, the corresponding
38 government hospital and the local government unit concerned shall provide
39 immediate relief to internally displaced persons, families and communities.

40
41 **SECTION 10. *Assistance during the Return, Resettlement or Local***
42 ***Integration of Displaced Persons.*** - Competent authorities, including the local
43 government unit/s concerned, shall have the primary duty and responsibility to
44 establish conditions that allow internally displaced persons to return voluntarily, in
45 safety and with dignity, to their homes or places or habitual residence, or to resettle
46 voluntarily in another part of the country. Special efforts shall be made to ensure the
47 full participation of internally displaced persons in the planning and management of
48 their return or resettlement and reintegration.

49
50 Internally displaced persons who have returned to their homes or places of
51 habitual residence or who have resettled in another part of the country shall not be
52 discriminated against as a result of their having been displaced. They shall have the
53 right to participate fully and equally in public affairs at all levels and have equal
54 access to public services.

1 Competent authorities, including the local government unit/s concerned,
2 have the duty and responsibility to assist returned and/or resettled internally
3 displaced persons to recover, to the extent possible, their property and possessions
4 which they left behind or were dispossessed of upon their displacement. When
5 recovery of such property and possessions is not possible, competent authorities,
6 including the local government units concerned, shall provide or assist these
7 persons in obtaining appropriate compensation or another form of just reparation.
8

9 All authorities concerned shall grant and facilitate for international and local
10 humanitarian organizations and other appropriate actors in the exercise of their
11 respective mandates, rapid and unimpeded access to internally displaced persons to
12 assist in their return or resettlement and reintegration.
13

14 **SECTION 11. Penal Provisions. -**

- 15
- 16 a. The penalty of *reclusion perpetua* shall be imposed upon the following persons:
- 17
- 18 1. Those who directly committed the act of arbitrary or internal
19 displacement;
 - 20
 - 21 2. Those who directly forced, instigated, encouraged or induced others to
22 commit the act of internal displacement;
 - 23
 - 24 3. Those who cooperated in the act of arbitrary or internal displacement by
25 committing another act without which the act of arbitrary or internal
26 displacement would not have been carried out;
 - 27
 - 28 4. Those commanding officers, as well as all elements of the military, police
29 and/or other law enforcement agencies who actually and/or directly
30 participated in the act of arbitrary or internal displacement when it is
31 within their power to stop the commission of such act;
 - 32
 - 33 5. Those who cooperated in the execution of the act of arbitrary or internal
34 displacement by previous or simultaneous acts.
- 35
- 36 b. The penalty of *reclusion temporal* shall be imposed upon those who attempt to
37 commit the offense of arbitrary or internal displacement.
38
- 39 c. The penalty of *reclusion temporal* shall also be imposed upon the persons who,
40 having knowledge of the act of arbitrary or internal displacement, and
41 without having participated therein, either as principals or accomplices, took
42 part subsequent to its commission in any of the following manners:
- 43
- 44 1. By profiting from or assisting the offender to profit from the effects of the
45 act of arbitrary or internal displacement;
 - 46
 - 47 2. By concealing the act of arbitrary or internal displacement, and/or
48 destroying the effects or instruments thereof, in order to prevent its
49 discovery;
 - 50
 - 51 3. By harboring, concealing, or assisting in the escape of the principal(s) in
52 the act of arbitrary or internal displacement, provided the acts of the
53 accessory are done with the abuse of the official's public functions.
54

1 d. A public official or employee found guilty of committing the prohibited acts
2 provided for in Sections 7 and 8 of this Act shall be permanently disqualified
3 from holding any appointive or elective position in the government.

4
5 e. The accessory penalties pertaining to the penalties of *reclusion perpetua* and
6 *reclusion temporal* shall be imposed.

7
8 **SECTION 12. *Role of the Commission on Human Rights.*** - The Commission
9 on Human Rights (CHR) shall be designated as the institutional focal point for
10 internally displaced persons. As such, the CHR shall have the following functions:

11
12 a. To monitor IDP conditions to ensure that their rights are respected and
13 protected in all phases of displacement;

14
15 b. To conduct inquiries, document violations of human rights, assist IDPs in
16 seeking redress of grievances and work to ensure an effective response by the
17 authorities;

18
19 c. To investigate, on its own or on complaint by any party, all forms of human
20 rights violations against IDPs involving civil and political rights in
21 accordance with Section 18(1) of Article XII1 of the 1987 Constitution;

22
23 d. To follow up on early warning and ensure effective measures to protect
24 populations against internal displacement, in coordination with local
25 government units;

26
27 e. To advise the government on the rights of IDPs towards the shaping of a
28 sound national policy and legislation to effectively address situations of
29 internal displacement;

30
31 f. To undertake educational activities and training programs for state
32 authorities, including the armed forces; and

33
34 g. To hold public information drives on the rights of IDPs.

35
36 **SECTION 13. *Appropriations.*** - The amount of Fifty Million Pesos
37 (P50,000,000.00) shall be appropriated for the initial implementation of the
38 provisions of this Act. The subsequent annual funding for the implementation of
39 this Act shall be included in the General Appropriations Act.

40
41 **SECTION 14. *Monitoring of Compliance with this Act.*** - A Monitoring
42 Group shall be tasked to periodically monitor the compliance with this Act. The
43 group shall be headed by the Chairperson of the Commission on Human Rights.
44 Members of this group shall be composed of:

45
46 a. A representative, with the rank of Undersecretary, from the Department of
47 Social Welfare and Development;

48
49 b. A representative, with the rank of Undersecretary, from the Department of
50 National Defense;

51
52 c. A representative, with the rank of Undersecretary, from the Department of
53 Interior and Local Government;

54

- 1 d. A representative from the National Disaster Coordinating Council;
2
3 e. A representative of human rights non-governmental organizations (NGOs)
4 and other human rights groups, nominated by a selection board composed of
5 human rights groups and non-governmental organizations (NGOs);
6
7 f. The Chairperson of the Committee on Human Rights of the House of
8 Representatives; and
9
10 g. The Chairperson of the Committee on Justice and Human Rights of the
11 Senate.
12

13 The monitoring group shall submit an annual report to both Houses of
14 Congress, thirty (30) days after the end of each fiscal year. Such annual report shall
15 be the basis for proposed amendments to existing legislation to improve the
16 conditions of internally displaced persons.
17

18 **SECTION 15. *Implementing Rules and Regulations.*** - The Commission on
19 Human Rights, in consultation, coordination and collaboration with the Department
20 of Social Welfare and Development, the Department of National Defense, the
21 Department of Interior and Local Government, and human rights non-governmental
22 organizations and people's organizations, shall draft the implementing rules and
23 regulations necessary to carry out the provisions of this Act, within sixty (60) days
24 following its effectivity.
25

26 **SECTION 16. *Repealing Clause.*** - All laws, decrees, executive orders,
27 memorandum orders, memorandum circulars, administrative orders, ordinances or
28 any part thereof, inconsistent herewith are hereby deemed, repealed or modified
29 accordingly.
30

31 **SECTION 17. *Separability Clause.*** - If any part or provision of this Act is
32 declared unconstitutional, the remaining provisions hereof not affected thereby shall
33 continue to have the force and effect of law.
34

35 **SECTION 18. *Effectivity.*** This Act shall take effect fifteen (15) days after its
36 publication in at least two (2) newspapers of general circulation.
37

38 Approved,