



HOUSE OF REPRESENTATIVES

H. No. 5627

BY REPRESENTATIVES RODRIGUEZ (R.), RODRIGUEZ (M.), TAÑADA, BELLO,
BAG-AO, EJERCITO, AGLIPAY, RELAMPAGOS, EVARDONE, TEODORO
AND HERRERA-DY, PER COMMITTEE REPORT NO. 1598

AN ACT PROTECTING THE RIGHTS OF INTERNALLY DISPLACED
PERSONS, PROVIDING PENALTIES FOR VIOLATIONS
THEREOF AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* – This Act shall be known as the “Rights of Internally Displaced Persons Act of 2012”.

SEC. 2. *Declaration of Principles and State Policies.* – Consistent with the principles enshrined in the 1987 Constitution, the standards set by international humanitarian law and human rights laws, international treaties and conventions adhered to by the Philippines, it is also hereby declared a State policy to promote and protect the rights of internally displaced persons in situations of armed conflict, generalized violence, violations of human rights, aggressive implementation of development projects and other man-made disasters.

When armed conflict of a non-international character is inevitable, the State shall ensure the promotion and protection of the rights of the citizens who

are noncombatants and who shall enjoy in full equality, the same rights and freedoms under international and domestic law as do other persons in the country. These citizens shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.

SEC. 3. *Definition of Terms.* – The following terms, as defined accordingly, shall be used in this Act:

(a) *Internal displacement* refers to the involuntary movement or forced evacuation or expulsion of any person or group of persons who 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, land conversion and any other land conflict, aggressive implementation of development projects and other man-made disasters.

(b) *Arbitrary internal displacement* refers to acts of displacement or any other coercive act committed by any person or group/s of persons and directed against the civilian population, which are contrary to law, good morals, public order or public policy, or committed with abuse of authority, oppressive or wanton disregard of the right to life, liberty or property and abode of the residents of an area in which they are lawfully present, and characterized by those situations as defined in Section 6 of this Act.

(c) *Internally displaced person*, hereinafter described as an IDP, refers to any individual who has suffered harm as a direct result of internal displacement, whether arbitrary or not, as defined herein.

(d) *Order of Battle/Watchlist* refers to a document or any organizational tool used by the military or law enforcement agencies that, among others, lists persons or organizations perceived as being hostile to the people and the State.

(e) *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.

(f) *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.

(g) *Tribal/Clan war* refers to any conflict that may arise between members of different tribal groups, indigenous groups or clans, or between and among members of the same tribe, indigenous group or clan.

SEC. 4. *Scope.* – This Act shall primarily provide for the protection of rights of IDPs during and after displacement, as well as their resettlement, relocation and reintegration. This Act shall likewise cover arbitrary internal displacement of civilians as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights, aggressive implementation of development projects and other man-made disasters, to the exclusion of internal displacement resulting from natural disasters.

SEC. 5. *Prevention of Arbitrary Internal Displacement.* – State authorities, including local government units (LGUs), and parties to an armed conflict, irrespective of their legal status and applied without any adverse distinction, shall respect and ensure compliance with their obligations under international law, including human rights law and humanitarian law, so as to prevent and avoid conditions that might lead to the arbitrary internal displacement of persons.

SEC. 6. *Prohibited Acts of Arbitrary Internal Displacement.* – The prohibited acts of arbitrary internal displacement shall include those committed:

(a) 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;

(b) in situations of armed conflict, unless the security of civilians is involved;

(c) in cases of large-scale development projects, including land conversion and any other land conflict, which are not justified by compelling and overriding public interest;

(d) in cases of man-made disasters, unless the safety and health of those affected require their evacuation;

(e) used as a form of collective punishment;

(f) in cases of tribal/clan wars, unless the security of those civilians not involved in the conflict is endangered; and

(g) in violation of the rights of IDPs during displacement under Section 9 of this Act.

An Order of Battle/Watchlist issued by the military or any law enforcement agency of the government shall not justify arbitrary internal displacement and shall subject the perpetrators to the penalties provided under Section 13 of this Act.

SEC. 7. Protection from Arbitrary Internal Displacement. – All authorities, including the LGUs concerned, groups and persons, irrespective of their legal status and applied without any adverse distinction, shall protect its citizens against being arbitrarily displaced from their homes or places of habitual residence.

Displacement shall not be carried out in a manner that violates the rights to life, liberty, dignity and security of those affected. Any displacement not included in Section 6 of this Act shall not last longer than what is required by the circumstances as determined by the Commission on Human Rights (CHR).

In addition, the following safeguards against arbitrary internal displacement shall be observed by all concerned authorities, groups and persons:

(a) All feasible alternatives shall be 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;

(b) If displacement is inevitable, the authorities shall ensure, to the greatest practicable extent, that proper accommodation is effected in satisfactory conditions of safety, nutrition, water and sanitation, health and hygiene, and that members of the same family, especially women and children, are not separated;

(c) Indigenous peoples, minorities, peasants, pastoralists and other groups with special dependency on and attachment to their lands shall be protected from arbitrary internal displacement; and

(d) 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) full disclosure of information on the reasons and procedures for the displacement and, when applicable, also on compensation and relocation;

(3) free and informed consent of those persons to be displaced shall be sought;

(4) authorities concerned shall endeavor to involve those affected, particularly women, in the planning and management of their relocation, resettlement and reintegration;

(5) law enforcement measures, when required, shall be carried out by competent legal authorities; and

(6) the right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

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, threat of war, state of war or other public emergencies.

SEC. 9. *Rights During and After Displacement.* – Pursuant to the provisions of the Bill of Rights under Article III of the 1987 Philippine Constitution, the following rights shall be afforded to IDPs during and after their displacement, without discrimination of any kind, such as those based on race, color, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth or on any other similar criteria:

(a) *Provision and Access to Basic Necessities.* – At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide IDPs with and ensure safe access to:

- (1) essential and adequate food and nutrition and potable water;
- (2) basic shelter and housing;
- (3) appropriate clothing; and
- (4) essential medical and dental services and sanitation, including psychological and social services, and essential drugs and medicines;

(b) *Protection Against Criminal Offenses and Other Unlawful Acts.* –

(1) It shall be prohibited to commit any of the following acts against IDPs in all circumstances:

- (i) Murder;
- (ii) Hostage-taking;

(iii) Summary or arbitrary execution and enforced disappearance, including abduction or unacknowledged detention, threatening or resulting in death; and

(iv) Unlawful confinement;

(2) Attacks or other acts of violence against IDPs who do not or no longer participate in hostilities shall be prohibited in all circumstances, without prejudice to being held liable for any offense committed by them. In particular, IDPs shall be protected against:

(i) direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;

(ii) starvation as a method of combat;

(iii) their being used to shield military objectives from attack, or to shield, favor or impede the operations of the military, police or any armed group;

(iv) attacks against any evacuation center, facility, encampment or other settlements; and

(v) use of anti-personnel landmines;

(3) IDPs, whether or not their liberty have been restricted, shall be protected in particular against:

(i) rape, mutilation, torture, cruel, inhumane 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;

(ii) slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation or forced labor of children; and

(iii) acts of violence intended to spread terror among IDPs.

Threats and incitement to commit any of the foregoing acts under paragraph (b), subsections 1 and 3 herein shall be prohibited;

(4) IDPs shall not be interned in or confined in any evacuation center, facility, encampment or other settlements. If in exceptional circumstances such internment or confinement is necessary, it shall not last longer than what is required by the circumstances, as may be determined by the CHR; and

(5) IDPs shall be protected against discriminatory practices of recruitment into the Armed Forces of the Philippines (AFP), law enforcement agencies or any armed group as a result of their displacement. In particular, any cruel, inhumane or degrading practice that compel compliance or punish noncompliance with recruitment shall be prohibited in all circumstances;

(c) Freedom of Movement. – (1) Every IDP has the right to liberty of movement and freedom to choose a residence. In particular, the IDP has the right to move freely in and out of any evacuation center, encampment or other settlements, subject to the facility's existing rules and regulations;

(2) IDPs, whether or not they are living in an evacuation center, encampment or other settlements, shall not be discriminated against in the enjoyment of the following rights:

(i) to enjoy freedom of thought, conscience, religion or belief, opinion and expression;

(ii) to seek freely opportunities for employment and to participate in economic activities;

(iii) to associate freely and participate equally in community affairs;

(iv) to vote and participate in governmental and public affairs, including the right to have access to the means necessary to exercise these rights; and

(v) to communicate in a language they understand;

(3) IDPs have the right to:

(i) seek safety in another part of the country;

(ii) leave the country;

(iii) seek asylum in another country; and

(iv) be protected against forcible return to resettlement in any place where their lives, safety, liberty and/or health would be at risk;

(d) Recognition, Issuance and Replacement of Documents. – The appropriate authorities concerned shall issue to the IDPs all documents necessary for the enjoyment and exercise of their legal rights. In particular, these authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions and without discrimination against men and women, who shall have equal rights to obtain and to be issued the same in their own names;

(e) Family Unity and Missing Persons. – (1) Members of internally displaced families who wish to remain together shall be allowed to do so. Families that are separated by displacement and whose personal liberty have been restricted by internment or confinement in any evacuation center, facility, encampment or other settlements should be reunited immediately, with appropriate measures taken to expedite the reunion, particularly when children are involved;

(2) The State shall encourage cooperation among international and local humanitarian organizations engaged in the task of family reunification;

(3) The authorities concerned shall endeavor to establish the fate and whereabouts of IDPs 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;

(4) The authorities concerned shall endeavor to collect and identify the mortal remains of the deceased, prevent their despoliation or mutilation and facilitate the return of the remains to the next-of-kin or dispose of them respectfully; and

(5) Grave sites of IDPs shall be protected and respected in all circumstances and IDPs shall have the right of access to the grave sites of their deceased relatives;

(f) Health and Education. – (1) Certain IDPs, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of households, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs;

(2) All wounded and sick IDPs, as well as those with disabilities, shall receive to the fullest extent practicable and with the least possible delay the medical care and attention they require, without distinction on any ground other than the medical ones. When necessary, IDPs shall have access to psychological and social services;

(3) Special attention shall be paid to the health needs of women, including access to female health care, providers and services, as well as appropriate counseling for victims of sexual and other abuses;

(4) Special attention shall also be given to the prevention of contagious and infectious diseases, including AIDS, among IDPs; and

(5) The authorities concerned shall ensure that IDPs, in particular, displaced children, receive education that shall be free and compulsory at the primary level. Special efforts shall be made to ensure the full and equal participation of women and girls in educational programs, and that respect for their cultural identity, language and religion, educational and training facilities shall be made available to them as soon as circumstances permit; and

(g) Property and Possessions. – The property and possessions of IDPs shall, in all circumstances, be protected against the following acts:

(1) pillage;

(2) direct and indiscriminate attacks or other acts of violence;

- (3) being used to shield military operations or objectives;
- (4) being made the object of reprisal;
- (5) being destroyed or appropriated as a form of collective punishment;

and

- (6) destruction, arbitrary and illegal appropriation, occupation or use.

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

SEC. 10. *Immediate Relief and Humanitarian Assistance to IDPs.* – The primary duty and responsibility for providing humanitarian assistance to IDPs lie with national authorities. As such, the military and law enforcement agencies conducting operations, the Department of Social Welfare and Development (DSWD), the Department of Health (DOH), the local government hospitals, the LGUs concerned and other appropriate government agencies shall provide immediate relief and humanitarian assistance to IDPs, families and communities.

Humanitarian assistance to IDPs shall not be diverted for any political or military reasons. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance to the internally displaced and ensure rapid, safe and unimpeded access of persons engaged in giving such assistance, their transport and supplies to the displaced communities. They shall not be the objects of attack or other acts of violence.

All concerned authorities shall assist the IDPs in the recovery of their property and possessions, and shall provide or assist these persons in obtaining appropriate compensation or other forms of just reparation.

SEC. 11. *Return, Resettlement and Reintegration.* – Competent authorities, such as the military and law enforcement agencies conducting operations, the DSWD, the DOH, the local government hospitals, the LGUs

concerned and other appropriate government agencies, shall have the primary duty and responsibility to establish conditions and provide means for IDPs to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily.

Said authorities shall likewise ensure the full participation of IDPs in the planning and management of their return, resettlement and reintegration.

SEC. 12. *Mechanisms for International Humanitarian Assistance.* – International humanitarian organizations, their local counterparts and other appropriate actors shall have the right to offer their services in support of the internally displaced. These acts shall be considered in good faith and not as unfriendly acts or interference in the internal affairs of the government. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.

When providing assistance to IDPs, said organizations shall respect relevant domestic laws, international standards and codes of conduct. They shall give due regard to the protection of the needs and human rights of the 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 105 of the Tariff and Customs Code of the Philippines, as amended, and the prevailing provisions of the General Appropriations Act as regards national internal revenue taxes and import duties of national and local government agencies.

SEC. 13. *Penalties.* – (a) The penalty of *reclusion temporal* in its minimum to medium period shall be imposed upon the following persons:

- (1) Those who directly commit the act of arbitrary internal displacement;

(2) Those who directly force, instigate, encourage, induce or incite others to commit the act of arbitrary internal displacement;

(3) Those who cooperate in the act of arbitrary internal displacement by committing another act, without which the act of arbitrary 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 participate in the act of arbitrary internal displacement;

(5) Those who cooperated in the execution of the act of arbitrary internal displacement by previous or simultaneous acts; and

(6) Those commanding officers of the military, police or other law enforcement agencies or other authorities, for acts of arbitrary internal displacement committed by forces under their effective command and control, or effective authority and control as the case may be, as a result of their failure to exercise proper control over such forces, where the commanding officers or authorities knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes, and failed to take all necessary and reasonable means within their power to prevent or repress their commission, or to submit the matter to competent authorities for investigation and prosecution.

(b) The penalty of *prision mayor* in its minimum period shall be imposed upon those who attempt to commit the offense of arbitrary internal displacement.

(c) The penalty of *prision mayor* in its minimum period shall be imposed upon persons who, having knowledge of the act of arbitrary internal displacement and without having participated therein, either as principals or

accomplices, took part subsequent to its commission by any of the following acts:

(1) By themselves profiting from or assisting the offender to profit from the effects of the act of arbitrary internal displacement;

(2) By concealing the act of arbitrary internal displacement and/or destroying the effects or instruments thereof, in order to prevent its discovery; and

(3) By harboring, concealing or assisting in the escape of the principal/s in the act of arbitrary internal displacement: *Provided*, That the accessory acts are done with the abuse of the official's public functions.

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

SEC. 14. *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. 15. *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. 16. *Liability of Concerned Law Enforcement Agencies.* – Where the operations conducted by the military, police and other law enforcement agencies cause damage to IDPs, they shall provide jointly and severally the necessary financial assistance for the return, resettlement or reintegration of IDPs.

SEC. 17. *Compensation.* – The CHR shall determine the damages inflicted against IDPs and direct the parties and agencies responsible for arbitrary internal displacement to award monetary compensation under the following circumstances:

(a) Where death of an individual victim occurs, the amount of Fifty thousand pesos (P50,000.00) shall be granted to the legal heirs of the victim as a death benefit;

(b) Where physical, emotional and/or psychological injury is caused to an individual victim, actual and compensatory damages, including moral, nominal, exemplary and temperate damages resulting from such injury, shall be paid to the victim; and

(c) Where loss of or damage to property of an individual victim occurs, the amount corresponding to the fair market value of the property lost or destroyed or the amount mutually agreed upon by the parties involved, whichever is higher, shall be paid to the victim.

SEC. 18. *Role of the CHR.* – The CHR shall be designated as the institutional focal point for IDPs. As such, the CHR shall have the following additional functions:

(a) 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;

(b) To monitor conditions of IDPs to ensure that their rights are respected and protected in all phases of internal displacement;

(c) To conduct inquiries, document violations of human rights, assist IDPs in seeking redress of grievances and work to ensure an effective response by the concerned authorities;

(d) To determine the damages incurred against IDPs and facilitate award of compensation for such victims by directing the parties and agencies responsible for the violations to grant the same;

(e) To cite any person in contempt for violations of the orders issued by them in accordance with the Rules of Court;

(f) To follow up on early warning and ensure effective measures to protect the civilian population against arbitrary internal displacement;

(g) To advise the government on the rights of IDPs, formulate sound national policy and legislation, and create an inter-agency coordinating body, whenever necessary, to effectively address situations of internal displacement;

(h) To undertake educational activities and training programs for State authorities, including the AFP;

(i) To hold public information drives on the protection and rights of IDPs; and

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

SEC. 19. *Appropriations.* – The amount necessary for the initial implementation of this Act shall be charged against the current year’s appropriations of the CHR, the DSWD, the Department of National Defense (DND) and the Department of the Interior and Local Government (DILG). Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the General Appropriations Act.

SEC. 20. *Joint Congressional Oversight Committee.* – A Joint Congressional Oversight Committee is hereby created, composed of the Chairman of the Senate Committee on Justice and Human Rights and seven (7) other Senators designated by the Senate President, and the Chairman 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) from the Minority.

The Joint Congressional Oversight Committee shall also have the power to inquire into, summon and investigate the Orders of Battle as defined under

this Act, as well as the legal and factual justifications for the inclusion of specific persons and groups in said Orders of Battle. 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. 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.

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 or the inclusion of specific persons or groups in said Orders of Battle. 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 hearing/s will continue and appropriate recommendations shall thereafter be made by the Committee.

The Joint Congressional Oversight Committee shall be in existence for a period of five (5) years and its secretariat shall come from the existing secretariat personnel of the Committee of the Senate and the House of Representatives comprising the oversight committee. Thereafter, its oversight functions shall be exercised by the Senate Committee on Justice and Human Rights and the House Committee on Human Rights, acting separately.

SEC. 21. *Implementing Rules and Regulations.* – The CHR shall issue the necessary rules and regulations to implement the provisions of this Act within sixty (60) days from its effectivity.

In the formulation of the rules and regulations, the CHR shall take the lead and coordinate with the DSWD, the DND, the DILG, the Department of

Environment and Natural Resources (DENR), the DOH, the National Commission on Indigenous Peoples (NCIP), the Presidential Commission on Urban Poor (PCUP), the Housing and Urban Development Coordinating Council (HUDCC), the National Housing Authority (NHA) and consult with the LGUs concerned, human rights nongovernmental organizations and people's organizations.

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

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

SEC. 24. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of national circulation.

Approved,

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