

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 3334

Introduced by **AKBAYAN! Party-List Representative Loretta Ann P. Rosales, Mario Joyo Aguja and Ana Theresia Hontiveros-Baraquel, AMIN Party-List Representative Mujiv S. Hataman, Representatives Gerry A Salappudin and Manuel "Way Kurat" E. Zamora**

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 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". 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 has a considerable share of internally displaced persons and continue to experience this phenomenon as a result of armed conflicts and development aggressions although the prevailing idea of a disaster in the country is those brought about by typhoons, earthquakes and floods. Counter-insurgency operations and related military activities under the government's "war on terrorism" remain as the leading cause of conflict-induced displacement in the Philippines. The main area of fighting is in Mindanao, the second largest island in the country, where Islamized ethnic groups have been struggling for autonomy or independence for the last thirty years.

The MILF is today the main armed opposition group in the southern Philippines since the Moro National Liberation Front (MNLF) agreed to abandon their armed struggle with the signing of a peace accord with the government in 1996.¹ Military actions against the communist New Peoples Army and other

armed groups accused of terrorist activities like the Abu Sayyaf Group and the Pentagon gang which have forced more people to flee from harm.

Many would tend to view this kind of situation as a "natural occurrence" in southern Philippines, and a reminder that life is indeed difficult. In many instances, civilians caught in the line of fire have been regarded as "collateral damage" --- a military jargon that found its way into the vocabulary of the Philippine armed forces. The term was widely used by American soldiers during their occupation of Vietnam in the early 70s to desensitize them from the suffering and loss of civilians lives as a result of their war of aggression. The same term has been used by MILF commanders in some occasion to describe the inevitability of civilian casualties in the aftermath of their attack in the towns of Maigo, Lanao Del Norte and in Siocon, Zamboanga Del Norte in May 2003.

Hence, the phenomenon of internal displacement as a consequence of armed conflict has already reached a proportion that could no longer be ignored. From 1997 to 2004, records show a rising number of civilians who fled their homes as a result of armed conflict² as the following statistical data presents: 1997 - 189,000 IDPs; 1998 - 122,820 IDPs; 1999 - 100,000 IDPs; 2000 - 1,000,000 IDPs; and, 2003 - 400,000.

The "total war" policy of former President Joseph Estrada and "punitive actions" of the Arroyo Administration alone against the Moro rebels has taken their toll on the lives of more than one million people in southern Philippines.³

Incidents of displacement has been noted also in Luzon such as in Mindoro and Rizal where military operations against suspected NPA rebels have driven indigenous Mangyans and Dumagats to seek safety in nearby areas.⁴ Altogether, this figure is as much as the 1.5 million people displaced by natural calamities as cited in a 2001 report of the Norwegian Refugee Council on internal displacement in the Philippines.⁵ This has placed the Philippines on the list of top 40 countries all over the world where internal displacement is considered as a great disaster⁶ that has perpetuated a climate of hostility that feeds on the denial of justice and respect for human rights. The country now ranks third after Burma and Indonesia as countries in Southeast Asia with most number of internally displaced persons.⁷

At the instance of the UN Commission on Human Rights (UNCHR), the United Nations Guiding Principles on Internal Displacement were formulated and developed to provide guidance not only to States faced with the phenomenon of

² ECDFC and DSWD

³ DSWD

⁴ Balay Rehabilitation

⁵ NRC

⁶ USCR

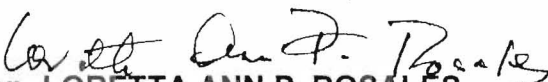
⁷ USCR

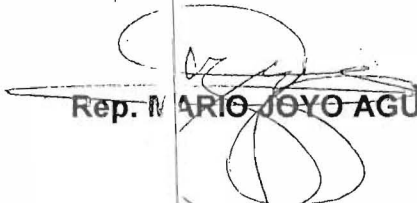
internal displacement and the appropriate UN authority but also to intergovernmental organizations and all other authorities, groups and persons concerned with internal displacement and basically for the protection and assistance of the internally displaced. Said Guiding Principles, submitted to the UNCHR during its 54th session, seek to recognize and respect the right of IDPs to be protected against enforced or involuntary displacement, to receive humanitarian assistance, to be protected during displacement and to return in safety to one's home or to resettle.

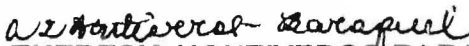
As one of the original signatory of the Universal Declaration of Human Rights (UDHR) and having been a party to at least thirty four (34) international human rights instruments, the Philippine government has the sacred duty to preserve peace and order and to protect society by ensuring the proper enforcement of the Constitution and other national laws. Unfortunately, there is no existing government mechanism that prevents the occurrence of and protection of victims of internal displacement. Damages and injuries which come in the form of physical and/or psychological injuries, death and/or destruction of properties suffered by those affected by internal displacement are just considered as collateral damages.

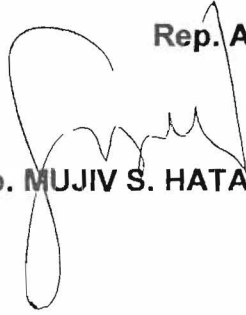
This proposed measure, a localization of the UN Guiding Principles on Internal Displacement, seeks to institutionalize the protection the citizens from and during arbitrary displacement. It hopes to install a mechanism of support to victims of internal displacement such that damage and injury may be minimized in cases when they cannot be prevented. It establishes the norm that the government has a duty to defend and protect its people from domestic threats.

Immediate passage of this bill is earnestly sought.

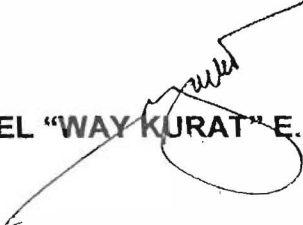

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AN ACT
IMPROVING PHILIPPINE COMMITMENT TO HUMAN RIGHTS PROMOTION AND PROTECTION BY PROVIDING THE NECESSARY MECHANISMS FOR THE PREVENTION OF THE OCCURRENCE AND PROTECTION FROM THE ADVERSE EFFECTS OF INTERNAL DISPLACEMENT AND FOR OTHER PURPOSES

Be 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 2004".

SEC. 2. Declaration of Principles and State Policies. The prime duty of the Government is to serve and protect the people. The maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.

The Philippines renounces war as an instrument of national policy and adopts the generally accepted principles of international law as part of the law of the land. When an 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 non-combatants appurtenant to the standards set by the International Humanitarian Law and the international human rights instruments the Philippines has signed, ratified or acceded to as a State Party,

The State shall ensure that the liberty of abode and of changing the same within the limits prescribed by law is not impaired except upon order of the court. The right of all people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable,

It shall be the policy of the State to promote social justice in all phases of national development as it values the dignity of every human person and guarantees full respect for human rights. Hence, the State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.

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

- (a) *Internal displacement* refers to the involuntary and arbitrary or coerced movement or relocation of persons, families, or communities from their areas of habitual abode and source of subsistence within the national borders as a result of natural or human-made disasters. Simply referred to as displacement in this Act, it can be classified into:
- i) *temporary displacement* when the victims are compelled to transfer from their usual place of abode or community for a relatively brief period of time after which they return to their usual place of abode or community to resume their usual personal, social and economic activities;
 - ii) *repeated displacement* when families or communities are driven to move elsewhere a number of times due to the recurrence of violence and violations of human rights which tend to repeatedly disrupt their lives and usual activities; or,
 - iii) *long-term displacement* when the affected persons or families are forced to stay in temporary settlements for an indefinite period of time and are unable to return to their original place of residence for fear of their lives and safety, destruction of their properties and source of subsistence, or lack of economic and political means to go back and rebuild their community.
- (b) *Internally displaced persons* are persons or group 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 and natural or human-made disasters.
- (c) *Natural calamities* are environmental disturbances beyond human control that threaten the lives and limbs of a particular community or communities thereby forcing the inhabitants to leave their place of habitual abode.
- (d) *Human-made disasters* are situations induced by humans through coercive actions that result to generalized violence thereby disturbing the public order and security of a particular community or communities forcing the inhabitants to involuntarily relocate for fear of their lives.

- (e) *Internal armed conflict* refers to an armed conflict within the internationally recognized borders of a particular State not of international in character wherein the actors are military, police or armed groups mobilized by the government against insurgents and other armed groups that threaten the security of the State.
- (f) *Reintegration* is the ability of returning displaced persons to secure the necessary political, economic, legal and social conditions to maintain their life, livelihood and dignity.
- (g) *Rehabilitation* refers to the restoration of social and economic infrastructure destroyed during armed conflict in areas of return to enable communities to pursue sustainable livelihoods or actions that enable the affected population to resume more or less normal patterns of life.
- (h) *Resettlement* refers to the movement of people from their habitual abode to another part of the country to start a new life after a disaster has made the usual abode unlivable due to constant fear for the lives of the people.
- (i) *Reconstruction* is the re-establishment of political order, institutions and productive capacity to create a base for sustainable development.
- (j) *Humanitarian assistance* refers to activities or programs by which humanitarian aid in the form of money, goods and services, without compensation and without conditions concerning territorial, national, religious, political and other affiliations, are provided to natural and legal persons who, through no fault of their own, find themselves in need for such aid.
- (k) *Humanitarian organization* refers to an organization established by citizens, their families, a few citizens and their families, citizens' associations, religious communities and their organizations, and corporations and associations established by corporations and other legal persons, both international and local, which voluntarily carry out activities on the principles of humanity, impartiality and independence.

SEC. 4. ***Prohibition Against/Protection from Arbitrary Displacement.***

The State shall protect its citizens against being arbitrarily displaced from his/her home or place of habitual residence.

- (a) In consonance with this policy, the prohibition of arbitrary displacement shall include:
 - (1) displacement 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) in situations of armed conflicts, unless the security of the civilians involved or imperative military reasons so demand;
- (3) in cases of large-scale development projects, which are not justified by compelling and overriding public interests;
- (4) in cases of disasters, unless the safety and health of those affected requires their evacuation; and,
- (5) when it is 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) 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 decisions by appropriate judicial authorities, shall be respected.
- (e) Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

SEC. 5. **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 who do not or no longer participate in hostilities 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;
 - (3) their use to shield military objectives from attack or to shield, favor or impede military operations;
 - (4) attacks against their camps or settlements; 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 foregoing acts 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 displaced children be recruited nor be required or permitted to take part in hostilities.

(g) Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their

displacement. In particular, 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 have the right to move 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 authorities concerned 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 authorities concerned 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 that are separated by displacement should be reunited as quickly as possible and all appropriate measures shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by family members and encourage and cooperate with the work of 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, competent authorities shall provide internally displaced persons with and ensure safe access to:

(1) commercial food and potable water;

- (2) basic shelter and housing;
 - (3) appropriate clothing; and,
 - (4) essential medical services and sanitation with special efforts to ensure the full participation of women in the planning and distribution of these basic supplies.
- (p) All wounded and sick internally displaced persons 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 grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.
- (q) Special attention should be paid to the health needs of women, including access to female health care, providers and services, such as reproductive health care as well as appropriate counseling for victims of sexual and other abuses. Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons.
- (r) The authorities concerned shall issue to the internally displaced persons all documents necessary for the enjoyment and exercise of their legal rights. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions.
- (s) 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.
- (t) 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 destructions and arbitrary and illegal appropriation, occupation or use.
- (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 or belief, opinion and expression;
 - (2) seek freely opportunities for employment and to participate in economic activities;
 - (3) associate freely and participate equally in community affairs;
 - (4) vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right; and,
 - (5) communicate in a language they understand.
- (v) The authorities concerned shall ensure that internally displaced persons, in particular displaced children, receive education that shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.
- (w) 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. 6. *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.

~~The "Department of Health" (DOH), the corresponding government hospital and the~~

local government unit concerned shall provide immediate relief to displaced persons, families and communities.

SEC. 7. Assistance during the return, resettlement or local integration of the displaced persons. Concerned government agencies, including the local government unit/s concerned, have the primary duty and responsibility to establish conditions, as well as provide the means, that allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of 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.

Concerned government agencies, 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 disposed of upon their displacement. When recovery of such property and possessions is not possible, the concerned agencies, including the local government unit/s concerned, shall provide or assist these persons in obtaining appropriate compensation or other forms of just reparation.

All authorities concerned shall grant and facilitate for international and local humanitarian organizations and other appropriate non-government 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. 8. Penalties. Actual and/or direct participation in the prohibited acts provided for in this Act shall be considered as mitigating circumstance in the criminal prosecution of the same. Persons who indirectly participated in the prohibited acts provided for in this Act shall be prosecuted, charged and held liable as accessories to the crime committed before a criminal court.

A public official or employee found guilty of committing the prohibited acts provided for in this Act shall be held administratively liable. Repeated commission of the prohibited acts provided for in this Act shall be ground for perpetual disqualification from holding any appointive or elective position in the government.

SEC. 9. **Liability of Concerned Law Enforcement Agency.** Where the operation conducted by the military, police and/or other law enforcement agencies causes damages to internally displaced persons, the concerned military, police and/or other law enforcement agency shall provide jointly and severally the necessary financial assistance for the return, resettlement or local integration of internally displaced persons.

The 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 prohibited acts provided for in this Act shall be prosecuted, charged and held liable before a criminal court.

SEC. 10. **Appropriations.** The amount necessary to carry out the provisions of this Act shall be charged against the funds of the Commission on Human Rights (CHR) specifically set aside for assistance to victims of human rights violations and the funds of the Department of Social Welfare and Development (DSWD), the National Disaster Coordinating Council (NDCC), law enforcement agencies and local government units earmarked for assistance to internally displaced persons.

SEC. 11. **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 at least two (2) human rights non-governmental organizations and people's organizations working for the welfare of the internally displaced persons, shall prepare the implementing rules and regulations necessary to carry out the provisions of this Act.

SEC. 12. **Monitoring of Compliance with this Act.** A Monitoring Group shall be tasked to periodically monitor and check 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 from the Department of Social Welfare and Development
- b) A representative from the Department of National Defense;
- c) A representative from the Department of Interior and Local Government;
- d) A representative from the National Disaster Coordinating Council; and,
- e) At least two (2) representatives coming from and selected among human rights non-governmental organizations (NGOs) and other human rights groups working for the welfare of internally displaced persons.

SEC. 13. **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. 14. **Separability Clause.** If and when parts or portions of this Act shall be deemed invalid and/or unconstitutional, other parts and portions not affected thereby shall remain in full force and effect.

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

Approved,