

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4021

Introduced by **AKBAYAN** Representatives Walden F. Bello and Kaka J. Bag-ao

EXPLANATORY NOTE

Article XIII, Section 10 of the Constitution expressly protects the poor and marginalized from the practice of forced eviction. It provides that "Urban and rural poor dwellers shall not be evicted nor their dwellings demolished, except in accordance with law and in a just and humane manners." This constitutional guarantee is anchored on a recognition of the right of all persons, regardless of economic status, to human dignity.

This provision is likewise consistent with the Philippine obligation under the International Covenant on Economic, Social and Cultural Rights (ICESCR), particularly Article 11.1 as discussed under General Comment No. 7 of the United Nations Committee on Economic, Social, and Cultural Rights (UN-CESCR), which requires that the State "refrain from forced evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions."

Both mandates, under the Constitution and international law, were implemented statutorily by Congress through the enactment of Republic Act No. 7279, or the Urban Development and Housing Act of 1992 (UDHA). Section 28 of this law, in particular, prohibited eviction as a practice, but allowed for three exceptions – (1) when persons or entities occupied danger areas (such as railroad tracks or riverbanks) or public places (such as sidewalks or roads), (2) when government infrastructure projects were being implemented, and (3) when there was a court order for demolition. In any of these "authorized" evictions, however, the State was mandated to ensure compliance with eight requirements.

However, UDHA, as currently worded, limits the protection of Section 28, and consequently, the scope of implementation of the mandate under the Constitution and the ICESCR, to only those persons who constructed their dwellings prior to the effectivity of the law on 28 March 1992. This "cut-off" has resulted in a tremendous disparity in the substantial rights of members of urban poor communities, based on nothing more than an accident of timing, and has led to thousands of poor Filipinos being arbitrarily deprived of their human right against forced evictions as guaranteed both under the Constitution and international human rights law.

It must be noted that both the Constitution and the ICESCR recognize this right without qualification, and intend it to be fulfilled and protected for all persons without discrimination and regardless of their personal circumstances.

In view of the above considerations, urgent passage of the attached bill is therefore earnestly sought.

A handwritten signature in black ink, appearing to read 'W. Bello', with a stylized, cursive script.

WALDEN F. BELLO

A handwritten signature in black ink, appearing to read 'K. Bag-Ao', with a stylized, cursive script.

KAKA J. BAG-AO

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AN ACT
TO STRENGTHEN THE IMPLEMENTATION OF THE RIGHT AGAINST
FORCED EVICTIONS AMENDING FOR THIS PURPOSE PROVISIONS OF THE
REPUBLIC ACT NO. 7279 OTHERWISE KNOWN AS THE URBAN
DEVELOPMENT AND HOUSING ACT OF 1992

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

SECTION 1. Declaration of Policy – It is hereby declared that it is the policy of the State to ensure that the human right against forced evictions clearly and explicitly established under Article XIII, Section 10 of the Constitution, and under the International Covenant on Economic, Social and Cultural Rights (ICESCR), is to be fulfilled and protected by the State in favor of all persons without discrimination.

SECTION 2. Amendments to Republic Act No. 7279 otherwise known Urban Housing and Development Act of 1992 – Consistent with the above-stated principle, the following Sections of Republic Act No. 7279, otherwise known as the Urban Development and Housing Act of 1992, are hereby amended to read as follows:

“SECTION 16. Eligibility Criteria for Socialized Housing Program Beneficiaries. – To qualify for the socialized housing program, a beneficiary:

- (a) Must be a Filipino citizen;
- (b) Must be an underprivileged and homeless citizen, as defined in Section 3 of this Act;
- (c) Must not own any real property whether in the urban or rural areas; and
- (d) Must not be a professional squatter or a member of squatting syndicates.

These requirements are exclusive and any person who possesses them is entitled to registration as a beneficiary of the socialized housing program and may not be excluded based on any other grounds or consideration.”

“SECTION 28. Eviction and Demolition. — Eviction or demolition as a practice shall be discouraged. Eviction or demolition, however, may be allowed under the following situations:

- (a) When persons or entities occupy danger areas such as esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and other public places such as sidewalks, roads, parks, and playgrounds;
- (b) When government infrastructure projects with available funding are about to be implemented; or
- (c) When there is a court order for eviction and demolition.

In the execution of eviction or demolition orders involving underprivileged and homeless citizens, the following shall be mandatory:

- (1) Notice upon the effected persons or entities at least thirty (30) days prior to the date of eviction or demolition;
- (2) Adequate consultations on the matter of settlement with the duly designated representatives of the families to be resettled and the affected communities in the areas where they are to be relocated;
- (3) Presence of local government officials or their representatives during eviction or demolition;
- (4) Proper identification of all persons taking part in the demolition;
- (5) Execution of eviction or demolition only during regular office hours from Mondays to Fridays and during good weather, unless the affected families consent otherwise;
- (6) No use of heavy equipment for demolition except for structures that are permanent and of concrete materials;
- (7) Proper uniforms for members of the Philippine National Police who shall occupy the first line of law enforcement and observe proper disturbance control procedures; and
- (8) Adequate relocation, whether temporary or permanent: Provided, however, That in cases of eviction and demolition pursuant to a court order involving underprivileged and homeless citizens, relocation shall be undertaken by the local government unit concerned and the National Housing Authority with the assistance of other government agencies within forty-five (45) days from service of notice of final judgment by the court, after which period the said order shall be executed: Provided, further, That should relocation not be possible within the said period, financial assistance in the amount equivalent to the prevailing minimum daily wage multiplied by sixty (60) days shall be extended to the affected families by the local government unit concerned.

Observance of the above requirements shall be mandatory in all cases involving the eviction and demolition of underprivileged and homeless citizens, regardless of whether or not their dwellings or residential structures were constructed after the effectivity of this Act.

This Department of the Interior and Local Government and the Housing and Urban Development Coordinating Council shall jointly promulgate the necessary rules and regulations to carry out the above provision."

"SECTION 30. Prohibition Against New Illegal Structures. — It shall be unlawful for any person to construct any structure in areas mentioned in the preceding section.

After the effectivity of this Act, the barangay, municipal or city government units shall prevent the construction of any kind of illegal dwelling units of structures within their respective localities. Provided however, that any eviction or demolition of underprivileged and homeless citizens conducted in implementation of this Section must be done with observance of and in full compliance with the eight (8) mandatory requirements prescribed under Section 28 of this Act. The head of any local government unit concerned who allows, abets or otherwise tolerates the construction of any structure in violation of this section, or who, in implementation thereof, conducts an eviction or demolition involving underprivileged and homeless citizens without complying with Section 28, shall be liable to administrative sanctions under existing laws and to penal sanctions provided for in this Act."

SECTION 3. Separability Clause. — If any provision of this Act, or any part thereof, is declared unconstitutional, the same shall not affect the validity and effectivity of the other portions.

SECTION 5. Repealing Clause. — All laws, executive orders, presidential decrees, proclamations, rules, regulations, issuances and enactments or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 6. Effectivity — This Act shall take effect after fifteen (15) days from its complete publication either in the *Official Gazette* or in a newspaper of general circulation in the Philippines, whichever comes earlier.

APPROVED.