

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5562



**INTRODUCED BY ANAKPAWIS PARTY-LIST REPRESENTATIVE
FERNANDO L. HICAP**

EXPLANATORY NOTE

The 1948 Universal Declaration of Human Rights (UDHR), the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) and several other international treaties, conventions and standards, recognize the right to adequate housing as among the fundamental economic, social and cultural rights to which all persons are entitled.

The UDHR, the first important document that codified the right to adequate housing, states in Article 25.1 that, "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."

Article 11.1 of the ICESCR, as adopted by the member states of the United Nations, declares that, "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent."

The United Nations' first Special Rapporteur on the Right to Adequate Housing, Miloon Kothari, said in 2012 that "the human right to adequate housing is the right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity".

The Special Rapporteur further underscored that the realization of the right to adequate housing is intimately linked to the realization of other basic human rights, such as the right to life, the right to protection of one's private life, of one's family and one's home, the right to not be subjected to inhumane or degrading treatment, the right to land, the right to food, the right to water and the right to health.

In the Philippine context, apart from the country's international commitment to the right to housing, the 1987 Philippine Constitution explicitly guarantees this

basic right. Sections 9 and 10, Article XIII of the Constitution cite not only the Right to Adequate Housing but also the Right against Forced Evictions.

It is but paramount that any local legislation or enabling law on the right to adequate housing must be in full accord with the abovementioned principles. It is however very unfortunate that one such law, Republic Act No. 7279 or the Urban Development and Housing Act of 1992 (UDHA), has proven to have not only failed in addressing the housing needs of the country's urban poor but has in fact made this sector more vulnerable to forced evictions and demolitions.

UDHA was the legal basis for the formation in 1992 of a so-called "National Urban Development and Housing Framework" which sought to guide government programs on housing and the purported development of urban centers.

Urban poor groups however have long exposed such framework's problematic concept of development especially as regards UDHA's commitment to developing urban areas "conducive to commercial and industrial activities" (Article I, Section 2.b.3). UDHA presents urban development as the assumed outcome of the unimpeded enterprise of big business entities including multinational corporations, consequently placing the imperatives of profit above the social needs and welfare of the poor.

In Article I, Section 2.b.4, UDHA states the government's mandate to reduce what it terms as "urban dysfunctions," particularly those that adversely affect public health, safety and ecology. Over the last two decades, this particular provision has been consistently invoked by the authorities in justifying the wanton demolition of numerous urban poor communities. Given that most urban communities easily fall under UDHA's general category of "urban dysfunctions," shanty settlements that lack the facilities, for example, for water and electricity and are not provided for with social services in health and education, are all legally subject to be "reduced" in the main through demolition.

Furthermore, UDHA, in Article VII, Section 29, explicitly exposes its adherence to the demolition function of the state, as it outrightly gives authority to the National Housing Authority to demolish every urban poor community which it should find located along dangerous zones such as canals, railways, dumpsites, shorelines, sidewalks and water ways.

With these provisions, thus, all urban poor communities can practically be deemed as targets for demolition.

Thus, despite recognition of the right to adequate housing in international laws, the Philippines continue to evict, in the name of "beautification" and "development," hundreds of thousands of people in major urban centers, especially the landless urban poor.

In 2006, the Geneva-based Center on Housing Rights and Evictions (COHRE), an international non-government organization that upholds the housing rights of communities, cited the Philippines as one of the world's worst violators of housing rights. COHRE criticized the Philippine government for its blatant disregard of the right to adequate housing and continued failure to abide by its international obligations.

As stipulated in UDHA, "all lands in urban and urbanizable areas, including existing "priority development sites, zonal improvement sites, slum improvement and resettlement sites" and other such areas are "suitable for socialized housing." From 2010 to 2013, the National Housing Authority (NHA) has constructed housing for resettlement projects and for informal settler families living along danger areas in Metro Manila. The NHA has likewise tried to assist victims of calamities whose houses were either damaged or completely destroyed due to flooding, and to upgrade existing settlements through its Community Mortgage Programs (CMP). These efforts, however, have all been under the framework of what urban poor groups have been referring to as housing-as-business" programs of the government.

Article V of UDHA, unsoundly gives premium to the role of private developers in socialized housing programs which may come in the following forms: development of new settlement; slum improvement and resettlement; zonal improvement programs; joint venture projects with either local government units or any of the housing agencies; and participation in the Community Mortgage Program (CMP). To encourage greater private sector participation in socialized housing, the law furthermore grants tax incentive to corporations (Article V, Section 20).

According to the Kalipunan ng Damayang Mahihirap (KADAMAY), an alliance of urban poor organizations, UDHA has not at all served the interest and welfare of the poor but only of the few ruling classes, particularly big business and the private corporate sector. Pursuant to neo-liberal policies, urban poor communities are in constant threat of being demolished to give way to so-called development projects that favor big foreign and local businesses.

Consequently, there has been a significant increase in cases of forced evictions and demolitions in the National Capital Region and other urban areas in the country due to "development projects" such as the rehabilitation of the Philippine National Railway System, Quezon City Central Business District Project, and other Public-Private Partnership (PPP) projects promoted by the government.

Moreover, UDHA concept of "urban renewal and resettlement" (Article VII, Section 261) which include the "rehabilitation and development of blighted and slum areas and the resettlement of Program beneficiaries" is equally problematic. Part of this rehabilitation and development scheme is the determination of Areas for Priority Development to undergo zonal improvements in the form of on-site development within Metro Manila and the Slum Improvement and Resettlement Program for those who will be demolished and relocated outside Metro Manila. While there is an option for "on-site development" or "in-cite relocation," off-city resettlement has however been the default option, which thus further justifies the demolition and eviction of urban poor communities.

Article VIII, Section 28 of the law also provides a list of prerequisites that must be fulfilled before any eviction or demolition could take place, which according to KADAMAY, in effect, has only "legalized demolition" and contradicted the government's principle of discouraging eviction and demolition.

The absence of basic social services and the lack of employment opportunities in resettlement areas and tenement houses are prevalent. The inability of relocatees to find jobs and livelihoods in far-flung sites make it difficult for them to pay for rent, amortization, electricity, water and other housing related

charges, resulting to the denial of essential services and, worse, to renewed threats of eviction.

Countervailing the salient aspects of the right to housing as reflected in various international documents and in the Philippine Constitution, UDHA has been instrumental in the violation of this right. UDHA failed to protect and promote the rights and welfare of the urban poor as it in fact rendered them vulnerable to forced eviction and displacement. Moreover, excessively relying on the private corporate sector participation in the housing provision has only transformed mass housing to a lucrative and predatory business venture.

The recognition of the right to adequate housing implies legal obligations. It requires specific steps which governments should take to turn these legal rights into concrete realities. The right to housing should not be mistakenly thought of as simply requiring government to provide sufficient funds towards this end. The right to housing, as in all economic, social and cultural rights, confers lengthy and complex series of obligations on states. Government should realize that the right to adequate housing should not be narrowly interpreted as merely the claim to a roof over one's head. Neither should shelter be exclusively treated as a commodity. Rather, government should view the housing question as a set of state tasks to provide people with socio-economic security, peace and dignity.

Because of the absence of genuine agrarian reform and national industrialization programs, the two basic requisites to develop the country's economy, people in the countryside are forced to migrate to the cities that cannot however positively absorb them as urban workers, thereby creating massive communities of urban poor citizens very much in need of decent and affordable housing.

Economic development should benefit the majority of the population and can be achieved only if the basic problems of our economy are resolved. It cannot be achieved by forced evictions and demolitions or by throwing the urban poor back to the countryside and remote places without decisively resolving the roots of poverty and oppression.

In view of the foregoing, the immediate passage of this measure is earnestly sought.


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**AN ACT
PROVIDING FOR THE REPEAL OF REPUBLIC ACT NO. 7279 OTHERWISE
KNOWN AS "AN ACT TO PROVIDE FOR A COMPREHENSIVE AND CONTINUING
URBAN DEVELOPMENT AND HOUSING PROGRAM, ESTABLISH THE
MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES"**

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

SECTION 1. Any provision of law to the contrary notwithstanding, Republic Act No. 7279, otherwise known as "An Act to Provide for a Comprehensive and Continuing Urban Development and Housing Program, Establish the Mechanism for its Implementation, and For Other Purposes" is hereby repealed.

SECTION 2. This Act shall take effect fifteen (15) days after the completion of its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved.