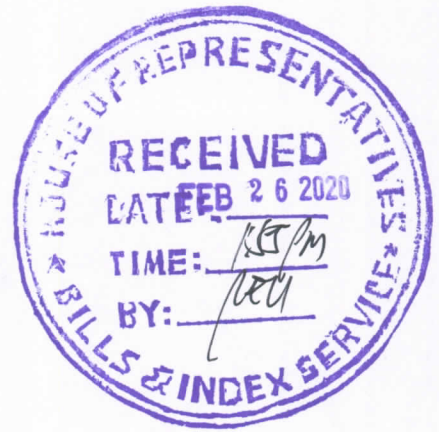


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 6392



INTRODUCED BY HONORABLE CHERYL P. DELOS-O-MONTALLA

AN ACT
PROTECTING THE RIGHTS OF INTERNALLY DISPLACED PERSONS AND
PENALIZING THE ACTS OF ARBITRARY INTERNAL DISPLACEMENT

EXPLANATORY NOTE

This bill seeks to protect the rights of internally displaced persons (IDPs) and penalize all forms of arbitrary internal displacement.

Internally displaced people are those who have been forced or obliged to leave their homes behind, notably for reasons related to armed conflict or other violence, and who remain within the borders of their country. There is no universal, legally binding instrument equivalent to the 1951 Refugee Convention that specifically addresses their plight. Nonetheless, internally displaced people are protected by international human rights law and in situations of armed conflict, by international humanitarian law (IHL).¹

Apart from natural disasters and hazards, frequent conflicts in the Philippines, particularly in Mindanao, force residents to seek refuge in evacuation centers.² Though the Philippine population in 2016 hit more than 102 million, the United Nations High Commissioner on Refugees (UNHCR) reported 348,370 persons of concern in the Philippines by the end of 2016. More than 87,000 of these are internally displaced persons (IDPs) who fled home because of armed clashes, internal wars, and other forms of violence.³

According to the Internal Displacement Monitoring Centre (IDMC), “displacement caused by conflict tends to affect the same deprived communities repeatedly, gradually undermining their resilience and pushing them further into poverty.”⁴

Without specific rights, IDPs cannot readily claim particular entitlements from the government, demand concrete actions or engage in dialogue on the standards and quality of responses to displacement. More participative processes and more human rights commitments made at the institutional level could greatly improve the responses to internal displacement in this case. An approach that incorporates the Guiding Principles on Internal Displacement has the potential to facilitate emergency response and rehabilitation that are efficient and compliant with human rights commitments. Laws on internal displacement have been drafted, including provisions – in line with the Guiding Principles – that would ensure IDPs’ access to goods and services, and culpability for those responsible for arbitrary displacement. Those drafts, however, have languished in the Congress of the Philippines for around a decade.⁵

¹ <https://www.icrc.org/en/document/internally-displaced-persons-and-international-humanitarian-law>

² <https://www.rappler.com/newsbreak/iq/175236-fast-facts-world-population-internally-displaced-persons-conflict>

³ Ibid.

⁴ Ibid.

⁵ <https://chr.gov.ph/a-disaster-approach-to-displacement-idps-in-the-philippines/>

The absence of a national policy on internal displacement prompted the Philippines to use a disaster management framework to address displacement caused by terrorism-related conflict in Marawi City. Such a response, however, suffers from the absence of a rights-based foundation. It is on this premise that this bill is being filed.

Immediate passage of this bill is earnestly sought.



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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” or the “RIDPA.”

SECTION. 2. *Declaration of Principles and State Policies.* — Consistent with the principles of the Constitution, international human rights and humanitarian standards including the United Nations' Guiding Principles on Internal Displacement (UNGPID), international treaties adhered to by the Philippines, and existing Philippine laws, it is hereby declared a State policy to adopt a rights-based approach for the promotion and protection of the rights of internally displaced persons in situations of armed conflict; generalized and/or organized violence; clan wars; violations of human rights; implementation of development projects; or natural or human-made hazards or disasters.

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 treaties or declarations, or rights granted to persons under domestic law. The State shall harmonize all legal measures pertinent to "Internally Displaced Persons or group of persons" (IDPs), and ensure that such are consistent with this Act.

SECTION. 3. *Definition of Terms.* — As used in this Act:

- a. *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.
- b. *Armed Conflict* means any use of force or armed violence between States or a protracted armed violence between governmental authorities and organized armed groups or between such groups within a State: Provided, That such force or armed violence gives rise, or may give rise, to a situation to which the Geneva Conventions of 12 August 1949, including their common Article 3, apply. Armed conflict may be international, that is, between two (2) or more States, including belligerent occupation; or non-international, that is, between governmental authorities and organized armed groups or between such groups within a State. It does not cover internal disturbances or tensions such as riots, isolated and sporadic acts of violence or other acts of a similar nature.
- c. *Clan War* refers to any conflict that may arise between members of different indigenous groups, indigenous cultural communities or clans, or between and among members of the same indigenous group, cultural community or clan.

- d. *Collective Punishment* refers to a situation in which a group of people are punished due to acts or omissions, whether real or perceived, of one or several members of the group.
- e. *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.
- f. *Generalized and/or organized violence* refers to the purposeful and systematic use of terror and brutality to control individuals, groups and communities, through the use of overwhelming force, and characterized by widespread, massive or sufficient intensity.
- g. *Implementation of development projects* refers to the carrying out of any undertaking or activity aimed at economic or political growth, advancement and expansion that results or may result to arbitrary internal displacement of persons: *Provided*, that the term does not include legitimate resettlement schemes and/or programs.
- h. *Internal displacement* refers to the involuntary or coerced movement or relocation of persons, families, or communities from their homes or places of habitual residence within the national borders, as a result of or in order to avoid or minimize the effects of armed conflict; situations of generalized and/or organized violence; violations of human right; implementation of development projects; or natural or human-induced or human-made hazards or disasters.
- i. *Internally displaced person or group of persons (IDP)*, refers to any person or group of persons who has or have been forced or obliged to flee or to leave their homes or places of habitual residence within the national borders, as a result of or in order to avoid or minimize the effects of armed conflict, situations of generalized and/or organized violence, violations of human rights, implementation of development projects, or natural and human-induced or human-made hazards or disasters.
- j. *Order of Battle/Watchlist* refers to a document or an organizational tool used by military or law enforcement agencies that, inter alia, lists persons or organizations perceived as being hostile to the State, the Government or the Armed or Police Forces, or to any document made by non-state actors, whether natural or juridical, listing the names of persons and organizations, that are perceived to be obstacles to such non-state actor, and making those in such list vulnerable to arbitrary internal displacement.

SECTION. 4. Scope. — This Act shall primarily provide for the protection of rights of IDPs *during* and *after* displacement, as well as their return, local integration or settlement elsewhere. This Act shall likewise cover arbitrary internal displacement of civilians as a result of or in order to avoid the effects of armed conflict; violations of human rights; implementation of development projects; or natural or human-induced or human-made hazards or disasters. To address the risks involved in natural hazards or disasters, due reference shall be made to the pertinent provisions of other relevant laws such as Republic Act No. 9729, otherwise known as the Climate Change Act of 2009 and Republic Act No. 10121, otherwise known as the Philippine Disaster Risk Reduction and Management Act of 2010, and other related laws.

SECTION. 5. Primary Duty to Protect the IDPs. — National authorities and Local Government Units (LGUs) have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction, in accordance with their obligations under international law, including human rights law and humanitarian law, so as to prevent and avoid conditions that might lead to arbitrary internal displacement of persons.

SECTION. 6. *Rights of IDPs* – All IDPs shall enjoy human rights in accordance with the Philippine Constitution and related laws without discrimination of any kind. In particular, they shall enjoy the following rights:

- a. *Access to Basic Necessities.* — At the minimum, and with special attention to gender sensitivity, IDPs shall have the basic right to food, shelter and clothing. Competent authorities shall provide the aforementioned basic rights with due respect to the cultural sensitivities and religious beliefs of IDPs.
- b. *Health and Education:*
 - 1) IDPs shall be entitled to access, to the fullest extent practicable, health services and with the least possible delay. Special attention shall be provided to the health needs of women, children and the elderly and the prevention of contagious and infectious diseases among IDPs.
 - 2) IDP children shall receive free and compulsory education.
- c. *Freedom of Movement.* — Every IDP has the right to liberty of movement in and out of any evacuation center, transitory sites or other settlements, subject to its existing rules and regulations. Moreover, they shall be protected against forcible return or resettlement in any place where their lives, safety, liberty and/or health would be at risk.
- d. *Recognition, Issuance and Replacement of Documents.* — The authorities concerned shall facilitate the issuance to the IDPs all documents necessary for the enjoyment and exercise of their legal rights, including new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions.
- e. *Family Reunification, Missing Persons and Deceased.* — Competent authorities shall provide conditions to expedite family reunification, search of missing persons and collection and identification of remains of the deceased, with due respect to cultural sensitivities and religious beliefs.
- f. *Security and Protection.* – Competent authorities shall take necessary measures to ensure that IDPs are received, without discrimination of any kind and live in satisfactory conditions of safety, dignity and security. Special protection and assistance must be provided for IDPs with special needs, including, but not limited to, separated and unaccompanied children, women, expectant mothers, mothers with young children, the elderly, and persons with disabilities or with communicable diseases.
- g. *Property and Possessions.* — The property and possessions of IDPs shall, in all circumstances, be protected against pillage or looting, direct and indiscriminate attacks or other acts of violence, being used to shield military operations or objectives, being made the object of reprisal, being destroyed or appropriated as a form of collective punishment, and destruction, arbitrary and illegal appropriation, occupation or use. The LGU exercising territorial jurisdiction over the affected area/s, with the assistance of the national Government, shall endeavor to facilitate the transportation of such property and possessions of IDPs, in a safe and secure area, during and after displacement, subject to logistical considerations.
- h. *Right to participation:* IDPs shall have the right to actively participate in the planning and management of their displacement situation as well as return, local integration or settlement elsewhere. In addition, IDPs shall be provided with conditions to facilitate the exercise of their right to political participation.

- i. *Right to request protection and humanitarian assistance:* IDPs have the right to request for protection and humanitarian assistance from national and local authorities. They shall not be punished or persecuted for such acts.
- j. *Civil or Administrative Liabilities.* — Any IDP shall be entitled to claim and be awarded civil damages from any public officer or employee, or any private person, who directly or indirectly obstructs, defeats, violates, or in any manner impedes or impairs any of the above rights and liberties. Any public officer shall be administratively liable for the same acts.

SECTION. 7. *Arbitrary Internal Displacement.* — *Arbitrary internal displacement* refers to the act of causing any person or group of persons to flee or leave the place of residence in the Philippines by force, violence, intimidation, or threat, and on occasion of, in furtherance of, or in connection with any of the following:

- i. Policies of apartheid, ethnic cleansing, or similar practices aimed at or resulting in altering the ethnic, religious or racial composition of the affected population;
- ii. Armed conflict, unless the safety and security of civilians are involved;
- iii. Development projects, including, but not limited to, mines, dams, railways, highways, tunnels, airports, seaports, and the like, unless justified by compelling and overriding public interest;
- iv. Natural or human-induced or human-made hazards or disasters, unless the safety and health of those affected require their evacuation;
- v. As a form of collective punishment;
- vi. Clan wars, unless the safety and security of those civilians not involved in the conflict are endangered.

An Order of Battle/Watchlist, or any document of similar nature issued by the military, any law enforcement agency of the government, or any armed group, including non-state actors, shall not justify arbitrary internal displacement and shall subject the perpetrators to the penalties provided under Section 14 of this Act.

SECTION. 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.

SECTION. 9. *Protection against Criminal Offenses and other Unlawful Acts.* — Criminal offenses and unlawful acts, if found to be committed in the course of or during displacement, shall be penalized one degree higher than that provided by the Revised Penal Code and other special penal laws with respect to those acts.

SECTION. 10. *Assistance During Displacement of IDPs.* — The primary duty and responsibility, for providing humanitarian assistance to IDPs lie with national authorities and with the LGUs exercising territorial jurisdiction over the affected areas. Existing mechanisms of relevant line agencies and those set up under Republic Act No. 10121 and other relevant laws, rules, and regulations, shall provide immediate relief and humanitarian assistance to IDPs, families, and communities.

SECTION. 11. *Early Recovery Plan.* — At the onset of the displacement, the LGUs exercising territorial jurisdiction over the affected area/s shall craft and implement an early recovery plan in view of temporary rehabilitation, in consultation with the IDPs.

SECTION. 12. *Return, Local Integration or Settlement Elsewhere.* — Competent national and local authorities shall have the primary duty and responsibility to establish conditions and provide durable solutions as means for IDPs to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to locally integrate or to settle voluntarily in another part of the country, taking into consideration the right of IDPs to choose a residence, and with due respect to the cultural heritage and traditions of Indigenous Peoples.

Said authorities, with the CHR, shall ensure prior consultations and the full participation of IDPs, during and after the planning and management of their return, local integration, or settlement elsewhere.

SECTION. 13. *Mechanisms for International Humanitarian Assistance.* — International humanitarian organizations, their local counterparts, and other appropriate actors shall have the right to offer their services, including humanitarian assistance, in support of IDPs. Relevant coordination mechanisms, where existing, with international humanitarian organizations shall facilitate the timely provision of humanitarian assistance to 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 800 of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act, as amended, as regards national internal revenue taxes and import duties of national and local government agencies, and the prevailing provisions of the General Appropriations Act (GAA).

SECTION. 14. *Penalties.* — *Persons criminally liable for arbitrary internal displacement.*
– The following are criminally liable for arbitrary internal displacement:

- a. Principal. — Any person who: (1) takes a direct part in the execution of the crime of arbitrary internal displacement; (2) directly forces or induces others to commit the crime; or (3) cooperates in the commission of the crime by another act without which it would not have been accomplished, shall suffer the penalty of *prision correctional* in its medium and maximum periods.

A superior shall be criminally responsible as a principal for the crime of arbitrary internal displacement committed by subordinates under his/her effective command and control, or effective authority and control as the case may be, as a result of his/her failure to properly exercise control over such subordinates, where: (1) that superior either knew or, owing to the circumstances at the time, should have known that the subordinates were committing or about to commit the crime; and (2) that superior failed to take all necessary and reasonable measures within his/her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

- b. Accomplice. — Any person who, not being a principal under Section 14 (a) of this Act, cooperates in the execution of the crime of arbitrary internal displacement by previous or simultaneous acts shall suffer the penalty of *arresto mayor* in its *maximum period* to *prision correctional* in its minimum period.
- c. Accessory. — Any person who, having knowledge of the commission of the crime of arbitrary internal displacement, and without having participated therein, either as principal or accomplice under this Act, takes part subsequent to its commission in any of the following manner: (1) by profiting himself or assisting the offender to profit by the effects of the crime; (2) by concealing or destroying the body of the crime, or the effects, or instruments thereof, in order to prevent its discovery; or (3) by harboring, concealing, or assisting in the escape of the principal of the crime, shall suffer the penalty of *arresto mayor* in its minimum and medium periods.

In case the above acts are committed by a corporation or a juridical entity, the members of the Board of Directors who were present in the meeting and who actually voted for the approval of the resolution or order directing the commission of the crime, and the corporate officers or

agents who carried out such resolution or order of the corporation shall be criminally liable for such act. The courts shall impose the corresponding accessory penalties under the Revised Penal Code, especially where the offender is a public officer.

The criminal liability of the offender under this section shall be independent of or without prejudice to the prosecution and conviction of the said offender for any violation of the applicable provisions of the Revised Penal Code and other special laws.

SECTION. 15. *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 supplementary to this Act.

SECTION. 16. *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.

SECTION. 17. *Non-Monetary Reparation.* — The DOH, the DSWD, the Department of Education (DepEd), the Commission on Higher Education (CHED), the Technical Education and Skills Development Authority (TESDA), and such other agencies, shall render necessary services as non-monetary reparation for IDPs and their families.

SECTION. 18. *Role of the CHR.* — The CHR, as the institutional focal point, shall serve as the authority in monitoring all the obligations and mechanisms in the implementation of the provisions of this Act.

In addition to its powers, functions, duties, and mandate, the CHR shall provide technical and advisory support to government agencies in ensuring the protection and promotion of the rights of IDPs.

SECTION. 19. *Role of National Disaster Risk Reduction and Management Council (NDRMMC) and Line Agencies.* The NDRRMC and government line agencies shall exercise its mandate and powers in accordance with Republic Act No. 10121 in responding to situations of internal displacement. In these situations, the CHR shall be part of the NDRRMC deliberations to provide advice as a non-voting member.

SECTION. 20. *Joint Congressional Oversight Committee.* — A Joint Congressional Oversight Committee is hereby created, composed of the Chairperson of the Senate Committee on Justice and Human Rights and seven (7) other Senators designated by the Senate President, and the Chairperson 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) shall represent the Minority. The Joint Congressional Oversight Committee shall also have the power to inquire into, summon and investigate the Orders of Battle/Watchlists as defined under this Act, and/or any document of similar nature, as well as the legal and factual justifications for the inclusion of specific persons and groups in said Orders of Battle/Watchlists or similar documents. 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/ Watchlists, or similar documents. 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/Watchlists, or similar documents.

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/Watchlist, or any similar document, or the inclusion of specific persons or groups in said Orders of Battle/Watchlists, or similar documents. 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 hearings will continue and appropriate recommendations shall thereafter be made by the Committee.

SECTION. 21. *Monitoring of Compliance.* — An inter-agency coordinating committee shall be tasked to periodically monitor the compliance with this Act. The Committee shall be headed by the Chairperson of the CHR. Members of the group shall be composed of:

- a. A representative, with the rank of Undersecretary, from the Department of Social Welfare and Development;
- b. A representative, with the rank of Undersecretary, from the Department of National Defense;
- c. A representative, with the rank of Undersecretary, from the Department of Interior and Local Government;
- d. A representative, with the rank of Undersecretary, from the Department of Health;
- e. A representative, with the rank of Undersecretary, from the Department of Justice;
- f. A representative, with the rank of Undersecretary, from the Department of Education;
- g. The Executive Director of the National Disaster Risk Reduction and Management Coordinating Council;
- h. A representative from the National Commission on Muslim Filipinos;
- i. A representative from the National Commission on Indigenous Peoples;
- j. A representative from the Office of the Presidential Adviser on the Peace Process;
- k. The Chairperson of the Committee on Justice and Human Rights of the Senate;
- l. The Chairperson of the Committee on Human Rights of the House of Representatives; and
- m. The Chairperson of the Committee on Justice of the House of Representatives.

The Committee shall work towards the collection of data on the number and conditions of IDPs, leading to a registry that will aid the government in efficient planning and policy making regarding issues affecting IDPs.

The Committee shall submit an annual report to the Joint Congressional Oversight Committee herein created, thirty (30) days after the end of each fiscal year. Such annual report shall be the basis for proposed amendments to existing legislation to improve the conditions of internally displaced persons.

SECTION. 22. *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 DOH, 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 GAA.

SECTION. 23. *Implementing Rules and Regulations.* — Within sixty (60) days from the effectivity of this Act, the CHR shall issue the necessary rules and regulations for its

implementation. In the formulation of the rules and regulations, the CHR shall take the lead and coordinate with DSWD, DND, DILG, DOH, DOJ, Department of Environment and Natural Resources (DENR), Department of Education (DepEd), AFP, Philippine National Police (PNP), Philippine Commission on Women (PCW), Council for the Welfare of Children (CWC), National Commission on Indigenous Peoples (NCIP), National Commission On Disability Affairs (NCDA), Presidential Commission on Urban Poor (PCUP), Housing and Urban Development Coordinating Council (HUDCC), National Disaster Risk Reduction and Management Council (NDRRMC), National Housing Authority (NHA), NCMF and consult with the LGUs concerned, relevant human rights non-governmental organizations and people's organizations.

SECTION. 24. *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.

SECTION. 25. *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.

SECTION. 26. *Effectivity.* — This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of national circulation.