

Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

EIGHTEENTH CONGRESS

First Regular Session

House Bill No. 6402



**INTRODUCED BY
REP. ALFRED VARGAS**

**AN ACT
PRESCRIBING A JUST AND HUMANE CODE OF CONDUCT FOR THE
RESETTLEMENT OF UNDERPRIVILEGED AND HOMELESS CITIZENS,
PROVIDING PENALTIES FOR VIOLATION THEREOF, AND
APPROPRIATING FUNDS THEREFOR**

EXPLANATORY NOTE

The State has the mandate and responsibility to implement a land and housing reform program and to protect the rights of urban and rural poor tenants as enshrined in Article XIII of the 1987 Philippine Constitution:

“Section 9. The State shall, by law, and for the common good, undertake, in cooperation with the private sector, a continuing program of urban land reform and housing which will make available at affordable cost decent centers and resettlement areas. It shall also promote adequate employments of such programs that the Senate shall respect the rights of small property owners.”

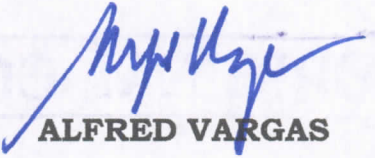
“Section 10. Urban and rural poor dwellers shall not be evicted nor their dwellings demolished, except in accordance with law and in a just and humane manner.”

No resettlement of urban or rural dwellers shall be undertaken without adequate consultation with them and the communities where they are to be located.”

Thus, Republic Act No. 7279 or the "Urban Development and Housing Act of 1992" was enacted into law. However, current laws and policies on housing lack the emphasis on providing proper enforcement of a just and humane code of conduct for the resettlement of informal settler families (ISFs). Opportunities for proper resettlement are often replaced by violent dispersals and displacements without due recognition of the rights of the underprivileged, the homeless, and the poor.

This bill seeks to prescribe a just and humane code of conduct for the resettlement of underprivileged and homeless citizens, and to prohibit unjust eviction of informal settler families or demolition of the structures they live in or any appurtenance thereto.

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



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Be it 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 “Just and Human Resettlement Act”.

SECTION 2. Declaration of Policy. – Pursuant to Section 9, Article XIII of the Constitution, the State shall ensure that underprivileged and homeless citizens have access to adequate, safe, secure, habitable, sustainable, resilient, and affordable housing.

Pursuant to Section 10, Article XIII and Section 10, Article II of the Constitution, the State shall neither evict nor demolish informal settler families, except in accordance with law, in a just and humane manner, and shall promote social justice in all phases of national development.

The State shall, by law and for the common good, undertake in cooperation with the private sector a continuing program of housing and urban development which shall make available decent housing and basic services at affordable cost to underprivileged and homeless citizens in urban centers and resettlement areas.

In addition, the State shall encourage on-site development in the implementation of housing programs and shall promote the creation of new settlements and the development of sustainable urban renewal programs while guaranteeing the preservation of agricultural lands necessary for food security.

The State shall encourage more effective people's participation in the urban development process through a mechanism of adequate and genuine consultation in all stages of the relocation and resettlement process with the affected communities, which should include a space for children, women, and other marginalized groups.

SECTION 3. *Definition of Terms.* – As used in this Act, the following terms are defined as follows:

- a. Adequate and Genuine Consultation. – refers to the constitutionally mandated process whereby the public, on their own or through people's organizations, is provided an opportunity to be heard and to participate in the decision making process on matters involving the protection and promotion of its legitimate collective interest, which shall include the following:
 - 1) Effective dissemination and full access to the public of relevant information, plans and documents, including - but not limited to - land records, housing budgets, the proposed plan or project, alternative housing options, technical studies, and comprehensive resettlement plans;
 - 2) Reasonable time, which shall not be less than thirty (30) days, for the public to review, comment, and object to the plans and studies;
 - 3) Provision by the government or non-government organizations of legal, technical, and other appropriate advice to affected persons, households, and/or organizations on their rights and options;
 - 4) Separate sessions of open and public consultations with affected households in general and affected subsectors in particular, including but not limited to women, children, youth, senior citizens, persons with disabilities (PWDs), workers, farmers, fisherfolk, and lesbians, gays, bisexuals, and transgender persons (LGBT);

- 5) Public hearings that provide affected ISFs and their advocates with opportunities to challenge the eviction decision or present alternative proposals and to articulate their demands and development priorities; and
 - 6) The conclusion of any mediation, arbitration, or adjudication proceedings by an independent body vested with constitutional authority such as a court of law, when appropriate and availed of, in case no agreement is reached on the proposals of the concerned parties.
- b. Danger Area - Refers to areas which, when occupied for residential purposes, actually pose a danger to the life and safety and property of either the concerned residents or of the general community. The danger is due to an unavoidable source of probable harm to human life or well-being.
 - c. Demolition - Refers to the dismantling by the LGU, or any legally authorized agency of government, of all structures within the premises subject for clearing.
 - d. Eviction - Refers to the removal of persons and their belongings from a subject building/structure or area, or both, in accordance with law.
 - e. High Risk Area – An area which poses a high level of threat to the public welfare and safety that cannot be addressed through scientific, physical and engineering methods and, thereby, is unsuitable for settlement and permanent structures.
 - f. Informal Settler Families (ISF) –refers to individuals or households living in any of the following places:
 - 1) Lots, buildings, dwelling units, or other structures without the consent of the property owner;
 - 2) Danger areas;
 - 3) Areas for government infrastructure projects;
 - 4) Protected or forest areas, except for indigenous peoples;
 - 5) Areas for priority development as declared under Proclamation No. 1967, series of 1980, if applicable;
 - 6) Government or public lands or facilities not intended for human habitation; or
 - 7) Any other places, after being displaced due to natural or man-made hazards.

- g. **People's Plan.** – refers to the plan formulated and initiated by the beneficiary associations, with the assistance of the concerned government agencies, in cooperation with the Presidential Commission for the Urban Poor, with or without the support of CSOs, which shall contain a site development plan that conforms to standards of adequate housing and to the comprehensive land use plan of the local government unit under whose jurisdiction the project site is proposed to be located, including architecture and engineering house design, community health, sanitation and security plans, as well as nonphysical development components such as self-help development, capability building, and a system of allocation of socialized housing units. The formulation of and the resulting plan should promote and protect the welfare of women, children, persons with disabilities, and senior citizens.
- h. **Social Preparation** – Refers to the series of activities designed to prepare the affected ISFs to cope with the changes brought about by government infrastructure or development projects and to encourage them to actively participate and prepare their societal, community and personal responsibilities in their quest for tenurial security, human development and basic services, employment and livelihood, and other government programs for the ISF.

SECTION 4. Coverage. – This law shall apply in all cases of demolition or eviction, whether undertaken by the government or private individuals or entities, and whether ordered by the courts or otherwise.

SECTION 5. Policy on Eviction and Demolition. – As a general rule, any eviction of informal settler families or demolition of the structures they live in or any appurtenance thereto shall be prohibited.

SECTION 6. Exceptions. – Eviction of informal settler families or demolition of the structures they live in or any appurtenance thereto shall be allowed only in the following exceptional cases:

- a. When ISFs occupy a danger area, such as *esteros*, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and other public places such as sidewalks, roads, parks, and playgrounds, or a high risk area which poses a high level of threat to public welfare and safety that cannot be addressed through or remedied by scientific, physical and engineering methods and, thereby, is unsuitable for settlement and permanent structures: Provided, that an area can only be declared as a danger area or high risk area through an appropriate

technical study, adequate and genuine public consultation with the affected persons or entities, and certification by the appropriate government agency. It shall be the duty of the province and the city or municipality, after one hundred twenty (120) days from the effectivity of this Act, to conduct the technical studies and public consultations necessary to identify all danger and high risk areas within their respective jurisdictions.

- b. When government infrastructure projects with available funding are about to be implemented: *Provided*, that evictions or displacements of population due to any development project or business venture involving the government should be avoided or minimized: *Provided*, further, that if eviction is unavoidable under the circumstances, the government shall conduct a comprehensive and holistic impact assessment, before the project is implemented, to determine whether the project will serve the public interest and to explore alternatives and strategies to minimize harm and further violation of human rights of the affected communities, particularly children, women and other marginalized groups: *Provided*, finally, that the agency which seeks to implement the eviction or demolition shall establish the budget pertaining to it upon its application to the Presidential Commission for the Urban Poor for an eviction or demolition certificate of compliance; and
- c. When there is a court order for eviction and demolition: *Provided*, however, that no execution of eviction or demolition order shall proceed and be carried out during the pendency of an appeal, notwithstanding the failure to file a supersedeas bond to stay the execution of the order if the appellant is an underprivileged and homeless citizen.

SECTION 7. *Mandatory Requirements Before, During, and After the Conduct of Eviction or Demolition.* – No eviction or demolition involving ISFs shall be executed without full compliance with the following mandatory requirements to uphold human dignity and prevent any violation of human rights:

a. Before Eviction or Demolition

- 1) Conduct of social preparation activities related to asset reform, human development and basic services, employment, and livelihood, and other programs of the government for both the affected underprivileged and homeless citizens and the affected

families of the place where the former will be relocated. Provided, that, separate social preparation activities shall be conducted on matters relating to the promotion and protection of their right to development, survival, protection and participation for children of both communities.

- 2) Notice served upon the affected persons or entities at least thirty (30) days prior to the date of eviction or demolition;
- 3) Adequate and genuine consultations on the matter of resettlement with the duly designated representatives of the families to be resettled and the affected communities in the areas where they are to be relocated: PROVIDED, that a consultation in the form of an inter-agency pre-eviction or pre-demolition conference with the affected underprivileged and homeless citizens shall be convened by the national government agency or local government unit authorized to evict or demolish and the same shall be complied with under the following conditions:
 - i. The local Philippine National Police Personnel, whose function is to provide law enforcement and civil disturbance control but not to participate in the physical dismantling of any structure, shall actively participate in the consultation process and their role shall be clearly set forth;
 - ii. The following agencies shall be represented during the inter-agency pre-eviction or pre-demolition conference with the affected underprivileged and homeless citizens:
 - a. The Department of the Interior and Local Government (DILG);
 - b. The Department of Social Welfare and Development (DSWD);
 - c. The Department of Education (DepEd);
 - d. The Department of Public Works and Highways (DPWH);
 - e. The Department of Human Settlements and Urban Development (DHSUD);
 - f. The National Housing Authority (NHA);

- g. The Department of Health (DOH);
- h. The Presidential Commission for the Urban Poor (PCUP);
- i. The Commission on Human Rights (CHR);
- j. The Philippine Commission on Women (PCW);
- k. The Council for the Welfare of Children (CWC);
- l. Appropriate Key Shelter Agencies;
- m. Representatives from non-government organizations and/or people's organizations working for the interest of the informal settler families; and
- n. The concerned local government units.

If the conference is convened by the local government, the PCW and CWC shall be replaced by the Local GAD Focal Point System and the Local Council for the Protection of Children representatives, respectively, of the concerned LGUs.

- iii. The inter-agency pre-eviction or pre-demolition conference with the affected underprivileged and homeless citizens shall be presided by the Presidential Commission for the Urban Poor, which may call on the assistance of other agencies whenever necessary;
- iv. A plan for eviction or demolition shall be formulated during the inter-agency pre-eviction or pre-demolition conference, setting forth clear procedures that will be implemented during the eviction or demolition in order to prevent any human rights violation;
- v. The details of the inter-agency pre-eviction or pre-demolition conference with the affected underprivileged and homeless citizens shall be documented or recorded, and a summary of the points of the agreements arrived at as well as the disagreements shall be considered and given weight by the inter-agency body in coming up with a decision on matters relating to the conduct of eviction or demolition: *Provided*, that copies of the documentation and summary shall be provided to all the stakeholders present three (3) days after the pre-eviction or pre-demolition conference;

- vi. The inter-agency pre-eviction or pre-demolition conference with the affected underprivileged and homeless citizens shall be conducted after seven (7) days from service of notice of eviction or demolition upon the affected persons and entities; and
 - vii. Any request for police assistance shall be accompanied by a certification from the Presidential Commission for the Urban Poor that an inter-agency pre-eviction or pre-demolition conference with the affected underprivileged and homeless citizens was conducted.
- 4) Submission to the Barangay Officials, before any eviction or demolition, of the following:
- i. Certificate of Compliance secured from the Presidential Commission for the Urban Poor;
 - ii. Names of all personnel, staff, and crew taking part in the eviction or demolition activity, including private security, and the names of the Philippine National Police Personnel assigned to maintain law and order;
 - iii. Notice of the date of demolition which shall be at least five (5) calendar days from such notice; and
 - iv. List of officers of the agencies forming part of the inter-agency body convened to extend support and assistance.

b. During Eviction and Demolition.

- 1) Reading of the plan of eviction or demolition agreed upon during the inter-agency pre-eviction or pre-demolition conference;
- 2) Presence of local government officials or their representatives during eviction or demolition;
- 3) Proper identification of all persons taking part in the demolition;
- 4) Execution of eviction or demolition only during regular office hours from Mondays to Fridays and only during good weather, unless the affected families consent otherwise;
- 5) No use of heavy equipment for demolition except for structures that are permanent and made of concrete materials;
- 6) Proper uniforms and identification shall be worn by members of the Philippine National Police who shall occupy the first line of law enforcement and observe proper disturbance control

procedures: Provided, that the PNP, in coordination with the DSWD, shall ensure the safety and security of the affected children, pregnant and lactating mothers, senior citizens, persons with disabilities, and other groups or marginalized sectors in the areas of eviction or demolition;

- 7) Observance of a minimum standard of conduct - based on rules of engagement - that applies maximum tolerance in order to prevent the outbreak of violence or the escalation thereof: Provided, that any legal use of force must respect the principles of necessity and proportionality: Provided, further, that the child protection policy in the conduct of eviction or demolition shall be implemented;
- 8) Measures to protect the evictees from threats or harassment from the government or private persons or entities, including gender-based violence: Provided, that legal assistance shall be made available to any complaining party; and
- 9) Transparency in all stages of the eviction or demolition process, including allowing the media to cover the whole event.

c. After Eviction or Demolition

- 1) Adequate housing and relocation, whether temporary or permanent: Provided, 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 the service of notice of final judgement by the court, after which period the said order shall be executed: Provided, However, that should relocation not be possible within the said period, financial assistance in the amount equivalent to the prevailing and applicable minimum daily wage for non-agricultural workers, multiplied by sixty (60) days, shall be extended to the affected families by the local government unit concerned: Provided, further, that the financial assistance shall not replace the requirement of adequate relocation; and
- 2) Immediately after the eviction, all relief measures, medical facilities, psychosocial services, documentation of evictees to prevent displacement or family separation and similar assistance shall be put in place by the local government units concerned in partnership with relevant government agencies.

SECTION 8. *Enforcement of Mandatory Provisions.* – Observance of the above requirements shall be mandatory in all cases involving the eviction and demolition of underprivileged and homeless citizens and ISFs, regardless of whether or not their dwellings or residential structures were constructed before or after the effectivity of this Act. The Department of Interior and Local Government and the Department of Human Settlements and Urban Development shall jointly promulgate the necessary rules and regulations to carry out the immediately preceding section.

SECTION 9. *Prohibiting Illegal Perimeter Fences.* – It shall be prohibited for any person to secure or build a perimeter fence on an area or property inhabited by underprivileged and homeless citizens after the same is razed to the ground by a fire or ruined by a natural calamity: *Provided*, that the fencing of the of the property shall be allowed if the person causing the fencing can show a duly-signed court order allowing the same.

SECTION 10. *Designation of a Central Coordinating Body for Eviction, Demolition and Resettlement.* – The Presidential Commission for the Urban Poor (PCUP) is hereby designated as the Central Coordinating Body for the conduct of eviction and demolition activities involving underprivileged and homeless citizens.

SECTION 11. *Functions of Central Coordinating Body.* – The PCUP shall exercise the following functions:

- a. Monitor all evictions and demolitions, whether extrajudicial or court-ordered, involving underprivileged and homeless citizens;
- b. Require any government agency or local government unit proposing to undertake the eviction or demolition activities to first secure from the PCUP Central Office, in the case of national projects, or from its regional office in case of local projects, the checklist and guidelines on eviction or demolition for the national and local projects, respectively, prior to the actual implementation thereof and, subsequently, to submit to the PCUP the completed checklist, attested to under oath by the proponent, indicating that:
 - 1) Adequate and genuine consultation with the affected families has already been undertaken;
 - 2) Adequate resettlement site and relocation facilities are available; and
 - 3) The pre-relocation requirements have been complied with;

- c. Review the basis for application for the conduct of eviction of underprivileged and homeless citizens or the demolition of their dwellings or appurtenances thereto in a danger area or high risk area, or in an area where a government infrastructure project with available funding is about to be implemented;
- d. Based on the completed checklist, subject to further verification and the review of the basis for application for eviction or demolition in the immediately preceding sub-paragraph, issue a demolition and eviction certificate of compliance to the national government or local government unit proposing the eviction or demolition involving underprivileged and homeless citizens;
- e. Initiate, in coordination with relevant government agencies, the formulation of rules of engagement in the implementation of eviction or demolition activities which are based on maximum tolerance and on the principles of necessity and proportionality;
- f. Establish a separate protection mechanism for children through the formulation of a child protection policy in the conduct of eviction and demolition: Provided, that the child protection policy shall be developed in partnership with the DSWD, CHR, and CWC, and in consultation with stakeholders including children;
- g. Investigate *motu proprio* or upon complaint by any party any violation of the provisions of sections 6, 7, and 8 hereof, or the rules and regulations issued to implement them;
- h. File *motu proprio* or by way of assistance to any aggrieved party, the appropriate criminal, civil, or administrative case against any person or persons found to have violated the provisions of subsections 6, 7, and 8 hereof or the rules and regulations issued to implement them;
- i. Recommend to the President appropriate measures for the implementation and enforcement of this Act and the rules and regulations issued to implement it, including possible administrative sanctions against national or local government officials who violate the same;
- j. Require assistance and necessary information from any government agency in the discharge of its functions under this Act;

- k. Publicize matters covered by its investigation of violations of the provisions of sections 6, 7, and 8 hereof or the rules and regulations issued to implement them, when circumstances so warrant and with due prudence: Provided, however, that the PCUP shall, under the rules and regulations that shall hereafter be promulgated, determine what cases may be made public: Provided, further, that any public report or press release from the PCUP shall be balanced, fair and true;
- l. Administer oaths, issue subpoenas *duces tecum*, and take the testimonies of witnesses in the course of its investigation;
- m. Adopt its own operational guidelines and rules of procedures, as well as rules and regulations not otherwise inconsistent with existing laws, rules and regulations, to effectively carry out its mandate; and
- n. Perform such other functions as may hereafter be provided by law.

The PCUP shall designate additional personnel to carry out its mandate.

SECTION 12. *Penalty for Violation.* – Any person who violates sections 6, 7, and 8 hereof shall be imposed the penalty of not less than six (6) months but not more than six (6) years of imprisonment or a fine of not less than Twenty-Five Thousand Pesos (PhP25,000.00) but not more than One Hundred Thousand Pesos (PhP100,000.00), or both, at the discretion of the court: Provided, that, if the offender is a corporation, partnership, association, or a government-owned or controlled corporation, or other juridical entity, the penalty shall be imposed on the officer or officers of said corporation, partnership, association, government entity, or juridical entity who caused the violation.

SECTION 13. *Appropriations.* – The amount necessary to carry out the purpose of this Act shall be included in the annual budget of implementing agencies in the General Appropriations Act of the year following its enactment into law and every year thereafter.

SECTION 14. *Implementing Rules and Regulations.* – Within one hundred twenty (120) days from the effectivity of this Act, the Department of Human Settlements and Urban Development, Department of the Interior and Local Government, and Presidential Commission for the Urban Poor shall, in consultation with non-government organizations, people's organizations, informal settler families and their organizations, and the

private sector, jointly promulgate the rules and regulations implementing the provisions of this Act.

SECTION 15. *Separability Clause.* – If any provision of this Act is declared unconstitutional, the remainder of this Act or any provision not affected thereby shall remain in full force and effect.

SECTION 16. *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 17. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,