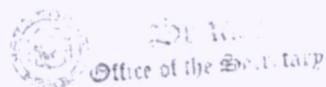


EIGHTEENTH CONGRESS OF THE  
REPUBLIC OF THE PHILIPPINES  
*First Regular Session*



SENATE

19 SEP 30 P12:15

S. No. 1081

REC'D

*JF*

INTRODUCED BY SENATOR RISA HONTIVEROS

**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 Philippines has one of the highest concentrations of urban poor in the East Asia Pacific region. Urban poor communities find themselves in unsafe areas, have poor housing conditions, and have limited access to basic social services. The Constitution is clear that the State shall ensure that underprivileged and homeless citizens have access to adequate, safe, secure, habitable, sustainable, resilient and affordable housing (Section 9, Article XIII). Likewise, the State shall neither evict nor demolish informal settler families, except in accordance with law and in a just and humane manner, and shall promote social justice in all phases of national development.

This bill aims to breathe life into these invocations of the Constitution and installs in place mechanisms to protect the rights of informal settler families when eviction or demolition becomes unavoidable, as for example when the inhabited structure is located in a danger zone, when government infrastructure projects with available funding are to be conducted, or when there is court order for demotion or eviction.

The bill mandates that social preparation activities be conducted before the eviction or demolition – ensuring 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. During the demolition process, the bill establishes a code of conduct to prevent the outbreak of violence and to protect the most vulnerable. It also mandates adequate relocation immediately after demolition.

Our cities are the engines of growth for the country, but many of our urban residents still remain at the fringes of progress – unable to access basic social services, vulnerable to climate-related disasters, and finding their rights and dignity violated. This bill does not aim to address, and eradicate, all the underlying causes of urban poverty; it does, however, aim to respond to an important aspect of it: just and humane housing.

The passage of this bill is earnestly sought.



RISA HONTIVEROS

**Senator**

SENATE

19 SEP 30 P12:15

S. No. 1081

REC'D 10/1/2013 SF

INTRODUCED BY SENATOR RISA HONTIVEROS

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 THEREFORE**

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

1       **Section 1. Short Title.** This act shall be known as the "JUST AND HUMANE  
2       RESETTELLEMENT ACT".

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

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

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

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

19      The State shall encourage more effective people's participation in the urban  
20      development process through a mechanism of adequate and genuine consultation in

1 all stages of the relocation and resettlement process with the affected communities,  
2 which should include a space for children, women and other marginalized groups.

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

5 a. Adequate and Genuine Consultation. – refers to the constitutionally  
6 mandated process whereby the public, on their own or through  
7 people's organizations, is provided an opportunity to be heard and to  
8 participate in the decision making process on matters involving the  
9 protection and promotion of its legitimate collective interest, which  
10 shall include the following:

- 11 1. Effective dissemination and full access, to the public, of  
12 relevant information, plans and documents, including but not  
13 limited to land records, housing budgets, the proposed plan or  
14 project, alternative housing options, technical studies, and  
15 comprehensive resettlement plans;
- 16 2. Reasonable time, which shall not be less than thirty (30) days,  
17 for the public to review, comment and object to the plans and  
18 studies;
- 19 3. Provision by the government or non-government organizations  
20 of legal, technical, and other appropriate advice to affected  
21 persons, households, and/or organizations on their rights and  
22 option;
- 23 4. Separate sessions of open and public consultations with  
24 affected households in general and affected subsectors in  
25 particular, including but not limited to women, children, youth,  
26 senior citizens, persons with disabilities (PWDs), workers,  
27 farmers, fisherfolk, and lesbians, gays, bisexuals, and  
28 transgenders (LGBT);
- 29 5. Public hearings that provide affected ISFs and their advocates  
30 with opportunities to challenge the eviction decision or  
31 present alternative proposals and to articulate their demands  
32 and development priorities; and
- 33 6. The conclusion of any mediation, arbitration, or adjudication  
34 proceedings by an independent body vested with  
35 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

1 project site is proposed to be located, including architecture and  
2 engineering house design, community health, sanitation and security  
3 plans, as well as nonphysical development components such as self-  
4 help development, capability building, and a system of allocation of  
5 socialized housing units. The formulation and the resulting plan  
6 should promote and protect the welfare of women, children, persons  
7 with disabilities, and senior citizens.

8 h. Social Preparation – Refers to the series of activities designed to  
9 prepare the affected ISF to cope with the changes brought about by  
10 government infrastructure or development projects and to encourage  
11 them to actively participate and prepare their societal, community  
12 and personal responsibilities in their quest for tenurial security,  
13 human development and basic services, employment and livelihood  
14 and other government programs for the ISF.

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

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

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

24 a. When ISFs occupy a danger area, such as esteros, railroad tracks,  
25 garbage dumps, riverbanks, shorelines, waterways, and other public  
26 places such as sidewalks, roads, parks, and playgrounds, or a high  
27 risk area which poses a high level of threat to public welfare and  
28 safety that cannot be addressed through or remedied by scientific,  
29 physical and engineering methods and, thereby, is unsuitable for  
30 settlement and permanent structures: Provided, that an area can  
31 only be declared as a danger area or high risk area through an  
32 appropriate technical study, adequate and genuine public  
33 consultation with the affected persons or entities, and certification by  
34 the appropriate government agency. It shall be the duty of the  
35 province and the city or municipality, after one hundred twenty (120)  
36 days from the effectivity of this Act, to conduct the technical studies

1 and public consultations necessary to identify all danger and high  
2 risk areas within their respective jurisdictions.

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

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

- 28 a. Before Eviction or Demolition
- 29     1. Conduct of social preparation activities related to asset reform,  
30         human development and basic services, employment and  
31         livelihood, and other programs of the government for both the  
32         affected underprivileged and homeless citizens and the affected  
33         families of the place where the former will be relocated.  
34         Provided, that, separate social preparation activities for children  
35         of both communities on matters relating to the promotion and

1 protection of their right to development, survival, protection  
2 and participation shall be conducted.

- 3 2. Notice upon the affected persons or entities at least thirty (30)  
4 days prior to the date of eviction or demolition;  
5 3. Adequate and genuine consultations on the matter of  
6 resettlement with the duly designated representatives of the  
7 families to be resettled and the affected communities in the  
8 areas where they are to be relocated: PROVIDED, that a  
9 consultation in the form of an inter-agency pre-eviction or pre-  
10 demolition conference with the affected underprivileged and  
11 homeless citizens shall be convened by the national government  
12 agency or local government unit authorized to evict or demolish  
13 and the same shall be complied with under the following  
14 conditions:

- 15 i. The local Philippine National Police Personnel, whose  
16 function is to provide law enforcement and civil  
17 disturbance control but not to participate in the physical  
18 dismantling of any structure, shall actively participate in  
19 the consultation process and their role shall be clearly set  
20 forth;
- 21 ii. The following agencies shall be represented during the  
22 inter-agency pre-eviction or pre-demolition conference  
23 with the affected underprivileged and homeless citizens:  
24 a) The Department of the Interior and Local  
25 Government (DILG);  
26 b) The Department of Social Welfare and  
27 Development (DSWD);  
28 c) The Department of Education (DepEd);  
29 d) The Department of Public Works and Highways  
30 (DPWH);  
31 e) The Department of Human Settlements and Urban  
32 Development (DHSUD);  
33 f) The National Housing Authority (NHA);  
34 g) The Department of Health (DOH);  
35 h) The Presidential Commission for the Urban Poor  
36 (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 therein clear procedures that will be implemented during the eviction or demolition 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.

- i. Reading of the plan of eviction or demolition agreed upon during the inter-agency pre-eviction or pre-demolition conference;
  - ii. Presence of local government officials or their representatives during eviction or demolition;
  - iii. Proper identification of all persons taking part in the demolition;
  - iv. Execution of eviction or demolition only during regular office hours from Mondays to Fridays and during good weather, unless the affected families consent otherwise;
  - v. No use of heavy equipment for demolition except for structures that are permanent and made of concrete materials;

- 1                         vi. Proper uniforms for members of the Philippine National  
2                         Police who shall occupy the first line of law enforcement  
3                         and observe proper disturbance control procedures:  
4                         Provided, that the PNP, in coordination with the DSWD,  
5                         shall ensure the safety and security of the affected children,  
6                         pregnant and lactating mothers, senior citizens, persons  
7                         with disabilities and other groups or marginalized sectors in  
8                         the areas of eviction or demolition;
- 9                         vii. Observance of a minimum standard of conduct based on  
10                         rules of engagement that apply maximum tolerance in  
11                         order to prevent the outbreak of violence or the escalation  
12                         thereof: Provided, that any legal use of force must respect  
13                         the principles of necessity and proportionality: Provided,  
14                         further, that the child protection policy in the conduct of  
15                         eviction or demolition shall be implemented;
- 16                         viii. Measures to protect the evictees from threats or  
17                         harassment from the government or private persons or  
18                         entities, including gender-based violence: Provided, that  
19                         legal assistance to any complaining party shall be available;  
20                         and
- 21                         ix. Transparency in all stages of the eviction or demolition  
22                         process, allowing the media to cover the whole event.

23                         c. After Eviction or Demolition

- 24                         i. Adequate housing and relocation, whether temporary or  
25                         permanent: Provided, that in cases of eviction and demolition  
26                         pursuant to a court order involving underprivileged and  
27                         homeless citizens, relocation shall be undertaken by the local  
28                         government unit concerned and the National Housing  
29                         Authority with the assistance of other government agencies  
30                         within forty-five (45) days from the service of notice of final  
31                         judgement by the court, after which period the said order  
32                         shall be executed: Provided, However, that should relocation  
33                         not be possible within the said period, financial assistance in  
34                         the amount equivalent to the prevailing and applicable  
35                         minimum daily wage for non-agricultural workers, multiplied  
36                         by sixty (60) days, shall be extended to the affected families

1 by the local government unit concerned: Provided, further,  
2 that the financial assistance shall not replace the requirement  
3 of adequate relocation; and

- 4 ii. Immediately after the eviction, all relief measures, medical  
5 facilities, psychosocial services, documentation of evictees to  
6 prevent displacement or family separation and similar  
7 assistance shall be put in place by the local government units  
8 concerned in partnership with relevant government agencies.

9       **Sec. 8. Coverage.** Observance of the above requirements shall be mandatory  
10 in all cases involving the eviction and demolition of underprivileged and homeless  
11 citizens and ISFs, regardless of whether or not their dwellings or residential  
12 structures were constructed before or after the effectivity of this Act.

13       **Sec. 9. Rules on Coverage.** The Department of Interior and Local  
14 Government and the Department of Human Settlements and Urban Development  
15 shall jointly promulgate the necessary rules and regulations to carry out the  
16 immediately preceding section.

17       **Sec. 10. Prohibition against Building a Perimeter Fence after Fire or**  
18 **Calamity.** It shall be prohibited for any person to secure or build a perimeter fence  
19 on an area or property inhabited by underprivileged and homeless citizens after the  
20 same is razed to the ground by a fire or ruined by a natural calamity: Provided, that  
21 the fencing of the of the property shall be allowed if the person causing the fencing  
22 can show a duly-signed court order allowing the same.

23       **Sec. 11. Designation of a Central Coordinating Body for Eviction,**  
24 **Demolition and Resettlement.** The Presidential Commission for the Urban Poor  
25 (PCUP) is hereby designated as the Central Coordinating Body for the conduct of  
26 eviction and demolition activities involving underprivileged and homeless citizens.

27       **Sec. 12. Functions of Central Coordinating Body.** The PCUP shall exercise  
28 the following functions:

- 29           a. Monitor all evictions and demolitions, whether extrajudicial or court-  
30 ordered, involving underprivileged and homeless citizens;  
31           b. Require a government agency or local government unit proposing to  
32 undertake the eviction or demolition activities to secure first from the  
33 PCUP Central Office, in the case of national projects, or from its  
34 regional office in case of local projects, the checklist and guidelines  
35 for the national and local projects, respectively, on eviction or  
36 demolition prior to the actual implementation thereof and,

1 subsequently, to submit to the PCUP the completed checklist, attested  
2 to under oath by the proponent, indicating that:

- 3       1. Adequate and genuine consultation with the affected families  
4                  have already been undertaken;
  - 5       2. Adequate resettlement site and relocation facilities are  
6                  available; and
  - 7       3. The pre-relocation requirements have been complied with;
- 8 c. Review the basis for application for the conduct of eviction of  
9                  underprivileged and homeless citizens or the demolition of their  
10                 dwellings or appurtenances thereto in a danger area or high risk area,  
11                 or in an area where a government infrastructure project with  
12                 available funding is about to be implemented;
- 13 d. Based on the completed checklist, subject to further verification and  
14                 the review of the basis for application for eviction or demolition in the  
15                 immediately preceding sub-paragraph, issue a demolition and eviction  
16                 certificate of compliance to the national government or local  
17                 government unit proposing the eviction or demolition involving  
18                 underprivileged and homeless citizens;
- 19 e. Initiate, in coordination with relevant government agencies, the  
20                 formulation of rules of engagement in the implementation of eviction  
21                 or demolition based on maximum tolerance and on the principles of  
22                 necessity and proportionality;
- 23 f. Establish a separate protection mechanism for children through the  
24                 formulation of a child protection policy in the conduct of eviction and  
25                 demolition: Provided, that the child protection policy shall be  
26                 developed in partnership with the DSWD, CHR and CWC and in  
27                 consultation with stakeholders including children;
- 28 g. Investigate *motu proprio* or upon complaint by any party any violation  
29                 of the provisions of sections 6, 7 and 8 hereof or the rules and  
30                 regulations issued to implement them;
- 31 h. File *motu proprio* or by way of assistance to any aggrieved party, the  
32                 appropriate criminal, civil or administrative case against any person or  
33                 persons found to have violated the provisions of subsections 6, 7, and  
34                 8 hereof or the rules and regulations issued to implement them;
- 35 i. Recommend to the President appropriate measures for the  
36                 implementation and enforcement of this Act and the rules and

1 regulations issued to implement it, including possible administrative  
2 sanctions against national or local government officials who violate  
3 the same;

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

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

21 **Sec. 13. Penalty for Violation.** – Any person who violates sections 6, 7,  
22 and 8 hereof shall be imposed the penalty of not less than six (6) months but not  
23 more than six (6) years of imprisonment or a fine of not less than twenty-five  
24 thousand pesos (25,000.00) but not more than one hundred thousand pesos  
25 (100,000.00), or both, at the discretion of the court: Provided, that, if the offender is  
26 a corporation, partnership, association, or the government-owned or controlled  
27 corporation, or other juridical entity, the penalty shall be imposed on the officer or  
28 officers of said corporation, partnership, association, government entity, or juridical  
29 entity who caused the violation.

30 **Sec. 14. Appropriations.** - The amount necessary to carry out the purpose  
31 of this Act shall be included in the annual budget of implementing agencies in the  
32 General Appropriations Act of the year following its enactment into law and every  
33 year thereafter.

34 **Sec. 15. Implementing Rules and Regulations.** Within one hundred  
35 twenty (120) days from the effectivity of this Act, the Department of Human  
36 Settlements and Urban Development, Department of the Interior and Local

1     Government, and Presidential Commission for the Urban Poor shall, in consultation  
2     with non-government organizations, people's organizations, informal settler families  
3     and their organizations, and the private sector, jointly promulgate the rules and  
4     regulations implementing the provisions of this Act.

5                 **Sec. 16. Separability Clause.** If any provision of this Act is declared  
6     unconstitutional, the remainder of this Act or any provision not affected thereby shall  
7     remain in full force and effect.

8                 **Sec. 17. Repealing Clause.** All laws, executive orders, presidential decrees,  
9     proclamations, rules, regulations, issuances, and enactments or parts thereof  
10    inconsistent with this Act are hereby repealed or modified accordingly.

11                **Sec. 18. Effectivity.** This Act shall take effect fifteen (15) days after its  
12    publication in the Official Gazette or in a newspaper of general circulation.

13                Approved,