

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

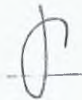
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SENATE

S.B. No. 370

RECEIVED BY: 

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

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

1 SECTION 1. *Short Title.* – This act shall be known as the “Just and Humane
2 Resettlement 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 housing.
6 Pursuant to Section 10, Article XIII and Section 10, Article II of the Constitution, the State
7 shall neither evict nor demolish informal settler families, except in accordance with law
8 and in a just and humane manner, and shall promote social justice in all phases of national
9 development.

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

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

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

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

- 3 a. Adequate and Genuine Consultation. – refers to the constitutionally mandated
4 process whereby the public, on their own or through people's organizations, is
5 provided an opportunity to be heard and to participate in the decision making
6 process on matters involving the protection and promotion of its legitimate
7 collective interest, which shall include the following:
- 8 i. Effective dissemination and full access, to the public, of relevant
9 information, plans and documents, including but not limited to land records,
10 housing budgets, the proposed plan or project, alternative housing options,
11 technical studies, and comprehensive resettlement plans;
 - 12 ii. Reasonable time, which shall not be less than thirty (30) days, for the public
13 to review, comment and object to the plans and studies;
 - 14 iii. Provision by the government or non-government organizations of legal,
15 technical, and other appropriate advice to affected persons, households,
16 and/or organizations on their rights and option;
 - 17 iv. Separate sessions of open and public consultations with affected
18 households in general and affected subsectors in particular, including but
19 not limited to women, children, youth, senior citizens, persons with
20 disabilities (PWDs), workers, farmers, fisherfolk, and lesbians, gays,
21 bisexuals, and transgenders (LGBT);
 - 22 v. Public hearings that provide affected ISFs and their advocates with
23 opportunities to challenge the eviction decision or present alternative
24 proposals and to articulate their demands and development priorities; and
 - 25 vi. The conclusion of any mediation, arbitration, or adjudication proceedings
26 by an independent body vested with constitutional authority such as a court
27 of law, when appropriate and availed of, in case no agreement is reached
28 on the proposals of the concerned parties.
- 29 b. Danger Area - Refers to areas which, when occupied for residential purposes,
30 actually pose a danger to the life and safety and property of either the concerned
31 residents or of the general community. The danger is due to an unavoidable source
32 of probable harm to human life or well-being.
- 33 c. Demolition - Refers to the dismantling by the LGU, or any legally authorized
34 agency of government, of all structures within the premises subject for clearing.
- 35 d. Eviction - Refers to the removal of persons and their belongings from a subject
36 building/structure or area, or both, in accordance with law.

- 1 e. High Risk Area – An area which poses a high level of threat to the public welfare
2 and safety that cannot be addressed through scientific, physical and engineering
3 methods and, thereby, is unsuitable for settlement and permanent structures.
- 4 f. Informal Settler Families (ISF) –refers to individuals or households living in any of
5 the following places:
- 6 i. Lots, buildings, dwelling units, or other structures without the consent of
7 the property owner;
 - 8 ii. Danger areas;
 - 9 iii. Areas for government infrastructure projects;
 - 10 iv. Protected or forest areas, except for indigenous peoples;
 - 11 v. Areas for priority development as declared under Proclamation No. 1967,
12 series of 1980, if applicable;
 - 13 vi. Government or public lands or facilities **not intended** for human habitation;
14 or
 - 15 vii. Any other places, after being displaced due to natural or man-made
16 hazards.
- 17 g. People’s Plan. – refers to the plan formulated and initiated by the beneficiary
18 associations, with the assistance of the concerned government agencies, in
19 cooperation with the Presidential Commission for the Urban Poor, with or without
20 the support of CSOs, which shall contain a site development plan that conforms to
21 standards of adequate housing and to the comprehensive land use plan of the
22 local government unit under whose jurisdiction the project site is proposed to be
23 located, including architecture and engineering house design, community health,
24 sanitation and security plans, as well as nonphysical development components
25 such as self-help development, capability building, and a system of allocation of
26 socialized housing units. The formulation and the resulting plan should promote
27 and protect the welfare of women, children, persons with disabilities, and senior
28 citizens.
- 29 h. Social Preparation – Refers to the series of activities designed to prepare the
30 affected ISF to cope with the changes brought about by government infrastructure
31 or development projects and to encourage them to actively participate and prepare
32 their societal, community and personal responsibilities in their quest for tenurial
33 security, human development and basic services, employment and livelihood and
34 other government programs for the ISF.

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

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

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

10 a. When ISFs occupy a danger area, such as esteros, railroad tracks, garbage dumps,
11 riverbanks, shorelines, waterways, and other public places such as sidewalks,
12 roads, parks, and playgrounds, or a high risk area which poses a high level of
13 threat to public welfare and safety that cannot be addressed through or remedied
14 by scientific, physical and engineering methods and, thereby, is unsuitable for
15 settlement and permanent structures: *Provided*, that an area can only be declared
16 as a danger area or high risk area through an appropriate technical study,
17 adequate and genuine public consultation with the affected persons or entities,
18 and certification by the appropriate government agency. It shall be the duty of the
19 province and the city or municipality, after one hundred twenty (120) days from
20 the effectivity of this Act, to conduct the technical studies and public consultations
21 necessary to identify all danger and high risk areas within their respective
22 jurisdictions.

23 b. When government infrastructure projects with available funding are about to be
24 implemented: *Provided*, that evictions or displacements of population due to any
25 development project or business venture involving the government should be
26 avoided or minimized: *Provided*, further, that if eviction is unavoidable under the
27 circumstances, the government shall conduct a comprehensive and holistic impact
28 assessment, before the project is implemented, to determine whether the project
29 will serve the public interest and to explore alternatives and strategies to minimize
30 harm and further violation of human rights of the affected communities,
31 particularly children, women and other marginalized groups: *Provided*, finally, that
32 the agency which seeks to implement the eviction or demolition shall establish the
33 budget pertaining to it upon its application to the Presidential Commission for the
34 Urban Poor for an eviction or demolition certificate of compliance; and

35 c. When there is a court order for eviction and demolition: *Provided*, however, that
36 no execution of eviction or demolition order shall proceed and be carried out during

1 the pendency of an appeal, notwithstanding the failure to file a supersedeas bond
2 to stay the execution of the order if the appellant is an underprivileged and
3 homeless citizen.

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

8 A. Before Eviction or Demolition

- 9 I. Conduct of social preparation activities related to asset reform, human
10 development an basic services, employment and livelihood, and other
11 programs of the government for both the affected underprivileged and
12 homeless citizens and the affected families of the place where the
13 former will be relocated. Provided, that, separate social preparation
14 activities for children of both communities on matters relating to the
15 promotion and protection of their right to development, survival,
16 protection and participation shall be conducted.
- 17 II. Notice upon the affected persons or entities at least thirty (30) days
18 prior to the date of eviction or demolition;
- 19 III. Adequate and genuine consultations on the matter of resettlement with
20 the duly designated representatives of the families to be resettled and
21 the affected communities in the areas where they are to be relocated:
22 PROVIDED, that a consultation in the form of an inter-agency pre-
23 eviction or pre-demolition conference with the affected underprivileged
24 and homeless citizens shall be convened by the national government
25 agency or local government unit authorized to evict or demolish and the
26 same shall be complied with under the following conditions:
- 27 i. The local Philippine National Police Personnel, whose function is to
28 provide law enforcement and civil disturbance control but not to
29 participate in the physical dismantling of any structure, shall actively
30 participate in the consultation process and their role shall be clearly
31 set forth;
- 32 ii. The following agencies shall be represented during the inter-agency
33 pre-eviction or pre-demolition conference with the affected
34 underprivileged and homeless citizens:
- 35 a. The Department of the Interior and Local Government (DILG);
36 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 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;

1 vi. The inter-agency pre-eviction or pre-demolition conference with the
2 affected underprivileged and homeless citizens shall be conducted
3 after seven (7) days from service of notice of eviction or demolition
4 upon the affected persons and entities; and

5 vii. Any request for police assistance shall be accompanied by a
6 certification from the Presidential Commission for the Urban Poor
7 that an inter-agency pre-eviction or pre-demolition conference with
8 the affected underprivileged and homeless citizens was conducted.

9 IV. Submission to the Barangay Officials, before any eviction or demolition,
10 of the following:

11 i. Certificate of Compliance secured from the Presidential
12 Commission for the Urban Poor;

13 ii. Names of all personnel, staff, and crew taking part in the
14 eviction or demolition activity, including private security, and
15 the names of the Philippine National Police Personnel assigned
16 to maintain law and order;

17 iii. Notice of the date of demolition which shall be at least five
18 (5) calendar days from such notice; and

19 iv. List of officers of the agencies forming part of the inter-agency
20 body convened to extend support and assistance.

21 B. During Eviction and Demolition.

22 I. Reading of the plan of eviction or demolition agreed upon during the inter-
23 agency pre-eviction or pre-demolition conference;

24 II. Presence of local government officials or their representatives during
25 eviction or demolition;

26 III. Proper identification of all persons taking part in the demolition;

27 IV. Execution of eviction or demolition only during regular office hours from
28 Mondays to Fridays and during good weather, unless the affected families
29 consent otherwise;

30 V. No use of heavy equipment for demolition except for structures that are
31 permanent and made of concrete materials;

32 VI. Proper uniforms for members of the Philippine National Police who shall
33 occupy the first line of law enforcement and observe proper disturbance
34 control procedures: Provided, that the PNP, in coordination with the DSWD,
35 shall ensure the safety and security of the affected children, pregnant and

1 lactating mothers, senior citizens, persons with disabilities and other groups
2 or marginalized sectors in the areas of eviction or demolition;

3 VII. Observance of a minimum standard of conduct based on rules of
4 engagement that apply maximum tolerance in order to prevent the
5 outbreak of violence or the escalation thereof: Provided, that any legal use
6 of force must respect the principles of necessity and proportionality:
7 Provided, further, that the child protection policy in the conduct of eviction
8 or demolition shall be implemented;

9 VIII. Measures to protect the evictees from threats or harassment from the
10 government or private persons or entities, including gender-based violence:
11 Provided, that legal assistance to any complaining party shall be available;
12 and

13 IX. Transparency in all stages of the eviction or demolition process, allowing
14 the media to cover the whole event

15 C. After Eviction or Demolition

16 I. Adequate housing and relocation, whether temporary or permanent:
17 Provided, that in cases of eviction and demolition pursuant to a court order
18 involving underprivileged and homeless citizens, relocation shall be
19 undertaken by the local government unit concerned and the National
20 Housing Authority with the assistance of other government agencies within
21 forty-five (45) days from the service of notice of final judgement by the
22 court, after which period the said order shall be executed: Provided,
23 However, that should relocation not be possible within the said period,
24 financial assistance in the amount equivalent to the prevailing and
25 applicable minimum daily wage for non-agricultural workers, multiplied by
26 sixty (60) days, shall be extended to the affected families by the local
27 government unit concerned: Provided, further, that the financial assistance
28 shall not replace the requirement of adequate relocation; and

29 II. Immediately after the eviction, all relief measures, medical facilities,
30 psychosocial services, documentation of evictees to prevent displacement
31 or family separation and similar assistance shall be put in place by the local
32 government units concerned in partnership with relevant government
33 agencies.

34 *Sec. 8. Observance of Requirements.* – Observance of the above requirements
35 shall be mandatory in all cases involving the eviction and demolition of underprivileged

1 and homeless citizens and ISFs, regardless of whether or not their dwellings or residential
2 structures were constructed before or after the effectivity of this Act.

3 *Sec. 9. Rules and Regulations.* – The Department of Interior and Local Government
4 and the Department of Human Settlements and Urban Development shall jointly
5 promulgate the necessary rules and regulations to carry out the immediately preceding
6 section.

7 *Sec. 10. Requirement for Perimeter Fencing.* – It shall be prohibited for any person
8 to secure or build a perimeter fence on an area or property inhabited by underprivileged
9 and homeless citizens after the same is razed to the ground by a fire or ruined by a
10 natural calamity: Provided, that the fencing of the of the property shall be allowed if the
11 person causing the fencing can show a duly-signed court order allowing the same.

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

16 *Sec. 12. Functions of Central Coordinating Body.* – The PCUP shall exercise the
17 following functions:

- 18 1. Monitor all evictions and demolitions, whether extrajudicial or court-
19 ordered, involving underprivileged and homeless citizens;
- 20 2. Require a government agency or local government unit proposing to
21 undertake the eviction or demolition activities to secure first from the PCUP
22 Central Office, in the case of national projects, or from its regional office in
23 case of local projects, the checklist and guidelines for the national and local
24 projects, respectively, on eviction or demolition prior to the actual
25 implementation thereof and, subsequently, to submit to the PCUP the
26 completed checklist, attested to under oath by the proponent, indicating
27 that:
 - 28 a. Adequate and genuine consultation with the affected families have
29 already been undertaken;
 - 30 b. Adequate resettlement site and relocation facilities are available; and
 - 31 c. The pre-relocation requirements have been complied with;
- 32 3. Review the basis for application for the conduct of eviction of
33 underprivileged and homeless citizens or the demolition of their dwellings
34 or appurtenances thereto in a danger area or high risk area, or in an area
35 where a government infrastructure project with available funding is about
36 to be implemented;

- 1 4. Based on the completed checklist, subject to further verification and the
2 review of the basis for application for eviction or demolition in the
3 immediately preceding sub-paragraph, issue a demolition and eviction
4 certificate of compliance to the national government or local government
5 unit proposing the eviction or demolition involving underprivileged and
6 homeless citizens;
- 7 5. Initiate, in coordination with relevant government agencies, the formulation
8 of rules of engagement in the implementation of eviction or demolition
9 based on maximum tolerance and on the principles of necessity and
10 proportionality;
- 11 6. Establish a separate protection mechanism for children through the
12 formulation of a child protection policy in the conduct of eviction and
13 demolition: Provided, that the child protection policy shall be developed in
14 partnership with the DSWD, CHR and CWC and in consultation with
15 stakeholders including children;
- 16 7. Investigate *motu proprio* or upon complaint by any party any violation of the
17 provisions of sections 6, 7 and 8 hereof or the rules and regulations issued
18 to implement them;
- 19 8. File *motu proprio* or by way of assistance to any aggrieved party, the
20 appropriate criminal, civil or administrative case against any person or
21 persons found to have violated the provisions of subsections 6, 7, and 8
22 hereof or the rules and regulations issued to implement them;
- 23 9. Recommend to the President appropriate measures for the implementation
24 and enforcement of this Act and the rules and regulations issued to
25 implement it, including possible administrative sanctions against national or
26 local government officials who violate the same;
- 27 10. Require assistance and necessary information from any government agency
28 in the discharge of its functions under this Act;
- 29 11. Publicize matters covered by its investigation of violations of the provisions
30 of sections 6, 7, and 8 hereof or the rules and regulations issued to
31 implement them, when circumstances so warrant and with due prudence:
32 Provided, however, that the PCUP shall, under the rules and regulations
33 that shall hereafter be promulgated, determine what cases may be made
34 public: Provided, further, that any public report or press release from the
35 PCUP shall be balanced, fair and true;

1 12. Administer oaths, issue subpoenas duces tecum, and take the testimonies
2 of witnesses in the course of its investigation;

3 13. Adopt its own operational guidelines and rules of procedures, as well as
4 rules and regulations not otherwise inconsistent with existing laws, rules
5 and regulations, to effectively carry out its mandate; and

6 14. Perform such other functions as may hereafter be provided by law.

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

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

16 *Sec. 14. Appropriations.* – The amount necessary to carry out the purpose of this
17 Act shall be included in the annual budget of implementing agencies in the General
18 Appropriations Act of the year following its enactment into law and every year thereafter.

19 *Sec. 15. Implementing Rules and Regulations.* – Within one hundred twenty (120)
20 days from the effectivity of this Act, the Department of Human Settlements and Urban
21 Development, Department of the Interior and Local Government, and Presidential
22 Commission for the Urban Poor shall, in consultation with non-government organizations,
23 people's organizations, informal settler families and their organizations, and the private
24 sector, jointly promulgate the rules and regulations implementing the provisions of this
25 Act.

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

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

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

Approved,