

02 September 2019

SENATOR NANCY BINAY-ANGELES

Chairperson-Designate

Committee on Social Justice, Welfare and Rural Development

Senate of the Philippines

Roxas Blvd., Pasay City

Dear **Senator Binay-Angeles**:

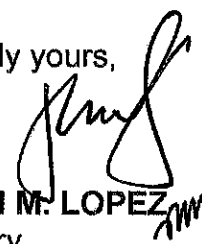
We are pleased to submit the Department's position on Senate Bill No. 380, entitled:

"An Act Strengthening the Regulation of Social Welfare and Development Agencies"

This is without prejudice to the Department's submission of additional inputs.

With my best regards.

Very truly yours,


RAMON M. LOPEZ
Secretary



OFFICE OF THE SECRETARY

DTI Position on

Senate Bill No. 380

**“An Act Strengthening the Regulation of Social Welfare
and Development Agencies”**

The Department acknowledges the intentions of the proposed bill to introduce regulatory measures ensuring the legitimacy, transparency, and linkage of domestic non-government organizations (NGOs), foundations, and all other non-stock, non-profit corporations involved in social welfare and development services, thereby protecting their respective beneficiaries against malpractice, abuse, and exploitation as well as assuring funding/supporting entities on the destination of their donations.

In particular, the proposed bill seeks to establish a framework that accredits and authorizes social welfare and development agencies (SWDAs) to carry out their duly-recognized work as per the criteria laid out by the government, imposing penalties and revocations for those that stray away from or violate their recognized mandate, and forbidding the continued existence of unregistered SWDAs. Aside from the mandatory licensing, it is foreseeable that the proposed bill's provisions on administration and operations¹, use of funds², as well as monitoring and reportorial requirements³, among others, may have a considerable impact on the status quo of foundations and NGOs operating in the country, possibly reducing their numbers and deterring the formation of new ones. We note that the proposed bill has provisions for SWDAs without registration or license⁴, and transitory provisions on the immediate compliance of existing groups within one (1) year of the bill's passing.

The DTI notes that some foreign governments have also introduced regulatory frameworks governing the presence and activities of NGOs and foundations, most notably the United Kingdom's Charities Act, implemented by the UK Charity Commission, which is widely seen as a benchmark for similar laws.⁵ The Charities Act defines “charity” and “charitable purpose,” stipulating organizations created for such to be registered and adhere to the outlined guidelines on organizational structure, monitoring, internal and external responsibilities, solicitation and use of funds/assets, and liability for government intervention.⁶

¹ Section 7 of SBN 380: Individuals in management shall comply with qualifications and criteria to be set out in the implementing rules and regulations of this act; At least 60% of the seats in the governing boards must be held by Filipino citizens

² Section 8 of SBN 380: Registered SWDAs shall utilize at least 70% of their funds for direct implementation of social welfare and development programs and services; Not more than 30% of their funds shall be allocated and spend for administrative costs; Financial transactions, books of accounts, and other similar documents must be made available to monitoring government bodies.

³ Section 9 of SBN 380

⁴ Section 29 of SBN 380

⁵ “Regulating the Non-Governmental Sector” by Eddie Adiin Yaansah and Barbara Harrell-Bond. 04 February 1997. Retrieved from: <https://www.globalpolicy.org/component/content/article/176/31941.html>

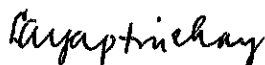
⁶ Retrieved from: <http://www.legislation.gov.uk/ukpga/2011/25/contents>

We recognize that the proposed bill contains provisions similar to the primary features of the UK Charities Act – the only difference being that the Department of Social Welfare and Development (DSWD) would take the place of a separate Charity Commission. There is already a Philippine Council for NGO Certification (PCNC) which is a private, voluntary, non-stock, non-profit corporation whose role is to certify other non-profit organizations that meet established minimum criteria for fiscal management and accountability.⁷ The PCNC has a memorandum of agreement (MOA) with the Department of Finance (DOF) to facilitate application of donee institution status in pursuant to relevant tax laws on donations. The proposed bill includes the participation of PCNC by endorsing registered SWDAs for the latter's certification, however, the bulk of the monitoring and accreditation process is still held by the DSWD although such responsibilities may be deputized.

The DTI embarks on several programs catering to women, people with disabilities (PWDs), and youth entrepreneurs within its economic inclusion agenda and in support of the overall whole-of-government approach to improve the lives of Filipinos. In the implementation of these programs, we cooperate with civil society groups, including NGOs and foundations. However, due to the passage of this proposed bill, we express concern over the possible mass interruption of services, if not the termination/involuntary closure of operations, of existing groups whose work are legitimately non-profit and in keeping with their objectives. The mandatory licensing of registered SWDAs and imposition of standards may also delay on-going projects and discourage the establishment of other social welfare and development institutions.

Therefore, our recommendations are to solicit the inputs of various domestic NGOs, foundations, as well as the DSWD, and incorporate their comments on the establishment of any relevant regulations, particularly on the registration process which must be streamlined. We acknowledge the bill's provisions for unregistered or unlicensed SWDAs and the transitory provisions but reiterate that the process must prioritize the processing of already existing and operating organizations.

The Department reiterates its favorable position to the intentions of the proposed bill with consideration of its views.



Bureau of Trade and Industrial Policy Research

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⁷ Retrieved from: <https://www.pcnc.com.ph/aboutus.php> ; <https://www.pcnc.com.ph/pcnc-rationale.php>