



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



EIGHTEENTH CONGRESS
First Regular Session

522
House Bill No. _____

Introduced by **DIWA Party-list Representative Hon. Michael Edgar Y. Aglipay**

EXPLANATORY NOTE

The strength, the beauty, the vitality of the Philippines rests in its people, but Filipinos are not a monolithic group: our islands contain a vast diversity of people, different in beliefs and cultures, in talents and capacities, ethnicities and identities. That very diversity is part of our strength, but it can also be a source of misunderstanding and tension. It is a sad fact of human nature that many feel threatened or fearful of those who are not like us, those who are different, and even the most good natured and broad minded will possess biases that can fester if left unexamined. Even worse, there are those unscrupulous groups and individuals who prey on this kind of prejudice and hatred, those who use the tyranny of the majority to exploit and dehumanize vulnerable marginalized groups.

While the government cannot police the hearts and minds of its populace, it can and must educate and regulate, creating an environment conducive to tolerance, unity, and equality. The rights mandated in the Constitution are not solely for the majority to enjoy, but for all Filipinos.

This proposed measure, adopted from House Bill No. 79 that was filed by DIWA Party-list during the 17th Congress, defines discrimination in a broad, inclusive manner, proscribes discriminatory acts, and mandates the creation of programs and initiatives to foster an environment where discrimination has no place.



MICHAEL EDGAR Y. AGLIPAY
Representative, DIWA Party-list



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AN ACT PROHIBITING RACIAL, ETHNIC, GENDER IDENTITY, SEXUAL ORIENTATION, AND RELIGIOUS DISCRIMINATION

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

SECTION 1. Short Title. -This Act shall be known as "The Anti - Discrimination Act."

SECTION 2. Declaration of Policy. - The State recognizes the fundamental right of every person, regardless of sex, age, class, status, ethnicity, color, disability, religious and political beliefs, sexual orientation or gender identity, to be free from any form of discrimination. It shall therefore intensify its efforts to fulfill its duties under international and domestic laws to respect, protect and fulfill the rights and dignity of every individual.

Towards this end, the State shall exert efforts to address all forms of discrimination and violence on the basis of sexual orientation or gender identity and to promote human dignity as enshrined in the United Nations Universal Declaration on Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, particularly the General Recommendation No. 28 on Non-discrimination Based on Sexual Orientation and Gender Identity, Convention on the Rights of the Child, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights and all other relevant and universally accepted human rights instruments and other international conventions to which the Philippines is a signatory of.

SECTION 3. Definition of Terms. -For the purpose of this Act, the following terms shall mean:

- (a) *Accommodation* shall refer to a house, apartment, condominium, townhouse, flat, hotel, villa, motel, boarding house, hostel and dormitory.
- (b) *Discrimination* constitutes any distinction, exclusion, restriction or preference or other

differential treatment that is directly or indirectly based on ethnicity, race, religion or belief, sex, gender, sexual orientation, gender identity, gender expression, disability, HIV status, legitimacy, status as a single or unwed parent or as the child of such, or other status of that person, or of that person's relatives, whether actual or perceived, which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of political, civil, economic, social, or cultural rights. Discrimination, which also includes incitement to discriminate and harassment, is a result of stigma.

- (c) *Education* shall refer to all types and levels of education, and includes access to education, the standard and quality of education, the standard and quality thereof, and the conditions under which the same is given.
- (d) *Employment* shall refer to the existence of an employer-employee relationship, as determined by labor law and prevailing jurisprudence, as well as all terms, conditions, and privileges relating to work in public and private institutions, including recruitment policies, application procedures, training, incentives, compensation, determination of benefits or allowances, promotion, advancement opportunities, transfer, and dismissal.

This definition shall apply to regular, probationary, casual, contractual, fixed-term, and seasonal workers. In legitimate contracting arrangements, the contractor/subcontractor shall be deemed the employer of the contractual employee;

- (e) *Ethnic origin* shall refer to the race, color, descent, national origin and ethnolinguistics origin of a person.
- (f) *Gender Expression* refers to the outward manifestations of the cultural traits that enable a person to identify as male or female according to patterns that, at a particular moment in history, a given society defines as gender appropriate. These manifestations may be a mix of male or female, and may vary according to the environment or context.
- (g) *Gender Identity* refers to the personal sense of identity as characterized, among others, by manners of clothing, inclinations, and behavior in relation to masculine or feminine conventions. A person may have a male or female identity with the physiological characteristics of the opposite sex, or may identify neither as male or female, or as both, and this identity may or may not be static.
- (h) *Goods and services* shall refer to the material and nonmaterial products or things of value offered for sale to satisfy needs and wants for survival, comfort, or pleasure such as, but not limited to, that provided by restaurants, resorts, hotels, clubs, stores and shopping malls or acts or services provided by financial establishments, public utilities, professionals, maintenance and repair workers, laborers, etc.
- (i) *HIV Status* pertains to the presence or absence of the human immunodeficiency virus (HIV) in the body of an individual.

- (j) *Indigenous peoples* as provided under Section 3(h), Chapter II of Republic Act No. 8371 or "The Indigenous Peoples Rights Act of 1997", shall refer to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as an organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the majority of Filipinos. Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.
- (k) *Moro or Bangsamoro peoples* shall refer to indigenous peoples who are of the Islamic faith, and who have historically inhabited some parts of Mindanao and other parts of the Philippine Archipelago.
- (l) *Muslims or moslems* shall refer to followers of the Islamic faith, whether from birth or by conversion.
- (m) *Profiling* means relying on the prohibited grounds of discrimination in subjecting a person or group of persons to investigatory activities, which include unnecessary, unjustified, illegal, and degrading searches, questioning or other investigatory activities, in determining whether an individual is engaged in an activity presumed to be unlawful, immoral, or socially unacceptable.
- (n) *Religious beliefs* refers to a strong belief in a supernatural power or powers that control human destiny, or a strong belief in the lack of such a power/s.
- (o) *Sexual orientation* refers to the direction of emotional sexual attraction or conduct. This can be towards people of the same sex (homosexual orientation), towards people of both sexes (bisexual orientation), towards neither, or towards people of the opposite sex (heterosexual orientation) or towards everyone.
- Sexual orientation is not equivalent to sexual behavior since this refers to feelings and self-concept. Persons may or may not express their sexual orientation in their behaviors.
- (p) *Stigma* refers to the dynamic process of devaluation that significantly discredits an individual in the eyes of others. When stigma is acted upon, the result is discrimination.

(q) *Vulnerable communities* refers to communities or sectors that encounter stigma and discrimination based on the grounds enumerated in this Act.

SECTION 4. Act of Discrimination. – Discrimination is committed when a person treats another less favorably on the basis of actual or perceived ethnicity, race, religion or belief, sex, gender, sexual orientation, gender identity, gender expression, civil status, disability, HIV status, or other status, than the person treats or would treat another without that attribute, or with a different attribute, on the same or similar circumstances in the political, economic, social, cultural, civil, or other field of public life, directly or indirectly, to include, but not limited to:

(a) Discrimination in Political Participation. – Any person acting as principal or agent shall be liable under this Act for discrimination exercised through acts such as the following:

1. Preventing, impeding, prohibiting, obstructing or intervening in the exercise of political rights by another including, but not limited to, the right to vote in a national or local election, both regular or special, or in a plebiscite, both initiative or referendum;
2. Imposing onerous terms before these political rights are granted, preserved or protected; or
3. Subjecting another person who wishes to exercise a political right to any other detriment.

(b) Discrimination in Employment. -

1. Any employer or head of a firm, company or organization shall be liable for discrimination exercised through acts such as the following:
 - i. Refusing or failing to employ another for work of any type or kind which is available and for which the person is qualified, or by imposing on the person onerous terms and conditions;
 - ii. Failing to make reasonable efforts to make facilities accessible to people whose disabilities reduce their range of mobility;
 - iii. Denying or limiting access of an employee to the same terms and conditions of work, opportunities for training, transfer or promotion, or to other benefits connected with the employment, as are made available for other employees having the same qualifications and employed in the same circumstances or work of the same kind or type, or by imposing on the person onerous terms and conditions; or
 - iv. Dismissing an employee, or subjecting an applicant for employment or an employee to any other detriment.

2. Any person acting as principal or agent in procuring employment for other persons or procuring employees for an employer shall be liable for discrimination exercised by treating an applicant seeking employment less favorably than another person.
3. Any person acting as principal or agent of an organization of employers or employees, or any person acting or purporting to act on behalf of such organization, shall be liable for discrimination exercised by preventing or seeking to prevent another person from offering employment or from continuing another person in employment.

(c) Discrimination in Education. – Any person who heads or owns an educational institution, including any officer, employee or person acting on behalf of the head of owner of such institution shall be liable for discrimination exercised through acts such as the following:

1. Refusing or failing to accept an applicant for admission as a student;
2. Denying or limiting access of a student to any benefit or privilege provided by the institution;
3. Expelling a student; or
4. Failing to make reasonable efforts to make facilities accessible to people whose disabilities reduce their range of mobility;
5. Subjecting the student to any other detriment.

(d) Discrimination in the Delivery of Goods and Services. – Any person acting as principal or agent who supplies goods or services to the public or to any section of the public shall be liable for discrimination as exercised through acts such as the following:

1. Refusing or failing on demand to supply those goods or services to a person;
2. Refusing or failing on demand to supply those goods or services to another person except on less favorable terms or conditions than those upon whom they would otherwise supply those goods or services; or
3. Subjecting another person to any other detriment in connection with the provision of goods or services.

(e) Discrimination in Accommodation. –

1. Any person acting as principal or agent providing accommodation shall be liable for discrimination as exercised through acts such as the following:
 - i. Failing to make reasonable efforts to make facilities accessible to people whose disabilities reduce their range of mobility;

- ii. Refusing or failing to accept or process the application for any interest in land, or residential or business accommodation;
 - iii. Disposing of such an interest or such accommodation to another person on less favorable terms and conditions than those which would otherwise be offered;
 - iv. Treating another person who is seeking to acquire or has acquired an estate or interest or such accommodation less favorably than to others in the same circumstances;
 - v. Refusing to permit another person to occupy any land or any residential or business accommodation;
 - vi. Terminating any estate or interest in land of another person or the right of another person to occupy any land or any residential or business accommodation; or
 - vii. Subjecting an applicant to any other detriment.
2. Any person acting as principal or agent shall also be liable under this Act for imposing or seeking to impose on another person any term or condition that limits the persons or class of persons who may be the clients, visitors or guests of any land or residential or business accommodation, on the basis of any grounds that would constitute discrimination.

(f) **Discrimination in Accessing Public Places, Facilities and Public Meetings.** - Any person acting as principal or agent shall be liable for discrimination as exercised through acts such as the following::

- 1. Refusing to allow another person access to or use of any such place, vehicle or facilities that the public or a section thereof is entitled or allowed to enter or use;
- 2. Refusing to allow another person access to or use of any such place, vehicle or facilities by providing onerous terms and conditions not similar to others whom they would otherwise allow access to or use of the place, vehicle or facilities;
- 3. Refusing to allow another person access to a meeting or assembly open to the public or to a section thereof, or the refusal to allow another access to a meeting or assembly by providing onerous terms and conditions not similar to others to which they would otherwise allow access to a meeting or assembly;

4. Requiring another person to leave or cease to use any such place, vehicle or any such facilities; or
 5. Failing to make reasonable efforts to make facilities accessible to people whose disabilities reduce their range of mobility;
 6. Subjecting a person wishing to access public places, facilities or public meetings to any other detriment.
- (g) Discrimination in Advertisements/Mass Media. - Any person acting as principal or agent shall be liable for discrimination as exercised through publishing, displaying, or causing or permitting to be published or displayed an advertisement or notice that indicates or could reasonably be understood as indicating an intention to do an act that is unlawful by reason of a provision of this Act.
- (h) Discrimination by Wrongful Portrayal. - Any person acting as principal or agent shall be liable for discrimination by portraying, intimating, depicting or describing in learning institutions, instructional materials, teaching devices, books and reference materials, especially in Civics and History, certain individuals and/or group/s as racially inferior.
- (i) Inciting Others to Commit Acts of Discrimination. Any person acting as principal or agent shall be liable for discrimination by inciting others to commit discrimination or any action that is unlawful by reason of a provision of this Act, or by assisting or promoting, whether through financial assistance or otherwise, the doing of such act.
- (j) Discrimination Through Speeches, Utterances, Acts of Hatred and Similar Acts. – Any person shall be liable for discrimination exercised through delivering speeches or making utterances, doing acts of hatred or violence against another person, or mocking or ridiculing another person on the basis of ethnicity, race, religion or belief, sex, gender, sexual orientation, gender identity, gender expression, disability, HIV status, legitimacy, status as a single or unwed parent or as the child of such, or other status of that person.
- (k) Inflicting harm on health and well-being - – Any person shall be liable for discrimination exercised through subjecting any person, without consent, to any unnecessary medical or physical examinations, psychological treatments, faith-based practices, and other similar procedures that aim to change identity or physical attributes or impose behavior or expressions.
- (l) Engaging in profiling - It shall be illegal for any person, including members of the military and law enforcement agencies, to engage in profiling based solely on ethnicity, race, religion or belief, sex, gender, sexual orientation, gender identity, gender expression, disability, HIV status, legitimacy, status as a single or unwed parent or as the child of such, or other status of that person, or of that person's relatives; *provided*, that this is not to prevent law enforcement officers from acting on characteristics found in positive descriptions of suspects by witnesses.

- (m) Abuses by state and non-state actors - It shall be unlawful for any government agencies, including local government units, police, military, and immigration, to harass verbally or physically, to curtail freedom of movement, or to extort from a person or a group of persons on the basis of ethnicity, race, religion or belief, sex, gender, sexual orientation, gender identity, gender expression, disability, HIV status, legitimacy, status as a single or unwed parent or as the child of such, or other status of that person, or of that person's relatives, whether actual or perceived. This prohibition applies to similar abuses committed by non-state actors.
- (n) Inflicting stigma - it shall be unlawful for any person to commit any acts that promote and encourage stigma based on ethnicity, race, religion or belief, sex, gender, sexual orientation, gender identity, gender expression, disability, HIV status, legitimacy, status as a single or unwed parent or as the child of such, or other status of that person, or of that person's relatives, whether actual or perceived. Content in the media, in educational textbooks, or in other medium that aims to inflict stigma is likewise prohibited.
- (o) Discrimination Through Analogous Acts That Result in Impairment of the Enjoyment of Human Rights and Fundamental Freedoms. – Any person acting as principal or agent shall be liable for discrimination by analogous acts which have the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise of the person's human rights and fundamental freedoms in the political, economic, social, cultural and civil spheres on the basis of ethnicity, race, religion or belief, sex, gender, sexual orientation, gender identity, gender expression, disability, HIV status, legitimacy, status as a single or unwed parent or as the child of such, or other status of that person.

SECTION 5. Persons Liable. – Any person, natural or juridical, including government or private corporation, institution or company who commits discrimination through any of the acts described in the preceding section shall be liable under this Act.

Any person who requests, instructs, induces, encourages, authorizes or assists another to commit acts of discrimination shall also be liable under this Act. Any person who is duty bound to act on complaints of discrimination under this Act but fails or refuses to do so shall be deemed to have sanctioned the discriminatory act, and shall consequently be held equally liable for discrimination.

All government officers and workers are obliged to promote non-discrimination in the discharge of their duties and responsibilities.

SECTION 6. Duty of the Commission on Human Rights (CHR). – It shall be the duty of the Commission on Human Rights (CHR), in coordination with the National Commission on Indigenous Peoples and the National Commission on Muslim Filipinos, to prevent or deter the commission of acts of discrimination and to provide the procedures for the resolution, settlement or prosecution of acts of discrimination. Towards this end, the CHR shall:

- a) Promulgate appropriate rules and regulations for the investigation of discrimination cases and the administrative sanctions therefore;
- b) Ensure the creation of Committees on non-discrimination and equal opportunity in all agencies, corporations, companies and educational institutions, whether private or public;
- c) Oversee the implementation of this Act by agencies, corporations, companies and educational institutions, whether private or public;
- d) Establish guidelines and mechanisms that will facilitate access of discriminated persons to legal remedies under this Act and related laws, and enhance the protection and promotion of the rights of the Filipino people against discrimination on the basis of racial or ethnic origin and religious belief or affiliation.
- e) Coordinate with the Department of Education (DepEd) for the promotion of understanding and racial harmony and non-discrimination in schools, and the review of books and reference materials that portray indigenous peoples or certain religious practices in a discriminatory way;
- f) Conduct consultations with indigenous peoples and religious organizations and other organizations representing vulnerable groups; and
- g) Assist in the filing of cases against individuals, agencies, institutions or establishments, whether private or public, that violate the provisions of this Act. For this purpose, the CHR shall:
 - 1) Provide legal assistance to victims of discrimination such as through the preparation of necessary pleadings, referral letters and counseling;
 - 2) Forge Memoranda of Agreement with Bar Associations, nongovernmental organizations, law firms, and organizations that provide legal aid to victims of discrimination to ensure adequate and competent legal representation for the complainants;
 - 3) Accredit lawyers who will accept pro bono cases under this Act; and
 - 4) Create an efficient system of case referrals to appropriate government departments or agencies.

SECTION 7. Responsibility to Promote a Non-discrimination and Equal Opportunity Environment. – It shall be the duty of every person, natural or juridical, public or private, to ensure nondiscrimination and equal opportunity for all persons in relating to actual or prospective employees, students, tenants, customers or clients, and that no

discriminatory acts, as defined herein, is committed by them or their agents in the areas defined under Section 4 of this Act.

The State shall endeavor to eliminate all forms of discrimination and shall therefore pursue initiatives and programs that seek to enable an environment free of stigma and discrimination. It shall direct the machinery and resources of the State to ensure non-discrimination and promote equality and shall encourage other sectors of the society to engage and participate in these efforts. It shall ensure the establishment of the following programs:

- A. Social Protection Program -The national government shall implement social protection measures for communities affected by and vulnerable to stigma and discrimination.
- B. Diversity Programs and policies • All government agencies, government-owned and controlled corporations, private companies, public and private educational institutions, and other entities shall establish diversity programs to ensure that discrimination and abuse are prevented. They shall also create an internal redress mechanism to address cases of discrimination and grant administrative remedies or sanctions for such cases.

The Civil Service Commission, Department of Labor and Employment, Department of Interior and Local Government, the Armed Forces of the Philippines, Department of Education, Commission on Higher Education, Technical Education and Skills Development Authority, Department of Justice, Department of Foreign Affairs, and Department of Health shall ensure the implementation of this section.

Failure of the above agencies to ensure the implementation of this provision shall be deemed refusal to address discrimination and shall be penalized as an analogous act of discrimination.

SECTION 8. Common Penal Provisions. - Any person liable under this Act shall be penalized by *arresto mayor* or imprisonment for a period of not less than thirty (30) days or more than six (6) months and/or a fine of not less than Ten thousand pesos (Php10, 000.00) nor more than One hundred thousand pesos (Php100,000.00), taking into consideration the circumstances and gravity of the offense and the following conditions, to wit:

- a) The penalty provided under this Act shall be imposed in its maximum period if the offender has been previously convicted under this Act;
- b) When the offender is a corporation, partnership or association, the officer or employee thereof who is responsible for the violation of this Act shall suffer the penalty imposed in its maximum period;
- c) The penalty provided herein shall be imposed in its maximum period when the perpetrator is an ascendant, parent, guardian, stepparent or collateral relative within

the second degree of consanguinity or affinity of the victim, or is the manager or owner of an establishment which has no license to operate or whose license has expired or has been previously revoked;

- d) The penalty provided for in this Act shall be imposed in its maximum period if the offender is a public official, officer or employee. Provided. That the penalty of suspension shall also be imposed; and
- e) A fine to be determined by the court shall be imposed, which shall be remitted by the courts to the CHR to be administered as a cash fund and disbursed for the assistance of the victims.

SECTION 9. Administrative Proceedings and Sanctions — Upon finding by the CHR that a department, agency or instrumentality of government, government-owned and controlled corporation, or local government unit has violated any provision of this Act and its implementing rules and regulations, the sanctions under administrative law, civil service, or other appropriate laws shall be recommended to the Civil Service Commission (CSC) and/or the Department of the Interior and Local Government (DILG). The person directly responsible for the violation as well as the head of the agency or local chief executive shall be held liable under this Act.

SECTION 10. Implementing Rules and Regulations. -The CHR, Civil Service Commission, Department of Labor and Employment, Department of Interior and Local Government, the Armed Forces of the Philippines, Department of Education, Commission on Higher Education, Technical Education and Skills Development Authority, Department of Justice, Department of Foreign Affairs, Department of Health, National Commission on Indigenous Peoples, and National Commission on Muslim Filipinos shall promulgate the necessary implementing rules and regulations within sixty (60) days from the effectivity of this Act.

SECTION 11. Reparation to victims.— In addition to existing laws and procedural rules for reparation to victims, the following measures shall be undertaken:

- a) The court, administrative agency, or quasi-judicial body shall follow the principles relating to the reparations to, or in respect of victims, including restitution, compensation and rehabilitation. In their decisions, the court, administrative agency, or quasi-judicial body may, either upon request or on their own volition, in exceptional circumstances, determine the scope and extent of any damage, loss or injury to the victims, stating therein the principles on which they are acting;
- b) The court, administrative agency, or quasi-judicial body may make an order directly against a convicted person, specifying appropriate reparation to, or in respect of, victims, including restitution, compensation and rehabilitation; and

- c) Before making an order under this section, the court, administrative agency, or quasi-judicial body shall invite and shall take into account representations from, or on behalf of, the convicted person, victims or other interested persons.

Nothing in this section shall be interpreted as prejudicing the rights of victims under national or international law.

SECTION 12. Separability Clause – If any portion or provision of this Act is declared void or unconstitutional, the remaining portions or provisions hereof shall not be affected by such declaration.

SECTION 13. Repealing Clause – Any provision of law or regulations inconsistent herewith is hereby repealed, revoked or modified accordingly.

SECTION 14. Effectivity – This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in two (2) national newspapers of general circulation in the Philippines.

Approved,