

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

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 3312

HOUSE OF REPRESENTATIVES	
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REGISTRATION UNIT BILLS AND INDEX SERVICE	

Introduced by REP. KAKA BAG-AO, REP. HENEDINA ABAD, REP. MA. LOURDES ACOSTA-ALBA, REP. EMMELINE AGLIPAY-VILLAR, REP. MERCEDES ALVAREZ, REP. TEDDY BAGUILAT, JR., REP. JORGE "BOLET" BANAL, REP. NANCY CATAMCO, REP. CHRISTOPHER DE VENECIA, REP. CHERYL DELOSO-MONTALLA, REP. SHARON GARIN, REP. VICTORIA NOEL, REP. JOSEPHINE RAMIREZ-SATO, REP. GERALDINE ROMAN, REP. BAI SANDRA SEMA, REP. SITTI DJALIA TURABIN-HATAMAN, and REP. TOMASITO VILLARIN

EXPLANATORY NOTE

Equality underscores the human rights principles that are embedded in the laws of the country. The legal framework with which we protect and promote human rights, from the 1987 Constitution and several special laws to various international human rights that the Philippines is a signatory of, affirms the equal application of human rights and freedoms.

The denial of basic fairness, however, is an everyday reality for many Filipinos. Indigenous peoples are denied access to basic services because of prejudices against their ethnolinguistic background or cultural expressions. Muslim Filipinos suffer from ridicule and harassment caused by ignorance brought about by religious differences. Biases against one's sexual orientation or gender identity result in the denial of one's right to education or work. HIV-related stigma limits opportunities not just for persons living with HIV (PLHIV), but also for communities that are vulnerable or affected by it. Persons with disability (PWDs) are still treated as second-class citizens in the country because of prejudices against their condition.

This demonstrates that the realities on the ground do not meet the standards and guarantees provided by universally recognized human rights. Cases of human rights violations against vulnerable Filipino communities, some of which are considerably grave, present a serious challenge to the State and the society in general: as the country strives to improve the lives of Filipinos, there are individuals and groups that are left behind.

The fundamental law also declares that the State values the dignity of every human person and

guarantees full respect for human rights (*Section 11, Article II, 1987 Constitution*). It also imposes on the State the duty to ensure the fundamental equality before the law of women and men (Sec. 14, Id.).

Furthermore, the equal protection clause in the Bill of Rights, which according to the eminent constitutionalist Fr. Joaquin Bernas "*is a specific constitutional guarantee of the Equality of a person*", provides a remedy for those who suffer from discrimination. In *J.M. Tuason and Co. vs. The Land Tenure Administration*, the Supreme Court ruled that this clause requires that "*laws operate equally and uniformly on all persons under similar circumstances or that all persons must be treated in the same manner, the conditions not being different, both in the privileges conferred and the liabilities imposed.*"

This proposed measure provides protection against various forms of discriminatory practices. It recognises the intersectionalities and layers of human rights abuses, which requires a more comprehensive framework. The bill does not accord additional entitlements to any communities; instead, it ensures that violations or threats to human rights are addressed.

The bill is also not simply punitive. It also recognises that preventive measures are of equal importance. It responds to stigma, or the dehumanisation of vulnerable individuals or communities, and ensures that respect for diversity is promoted. It thus supports the inclusion of various vulnerable communities in the government's social protection programs, and that within the private and public spheres, 'diversity programs' are established and implemented.

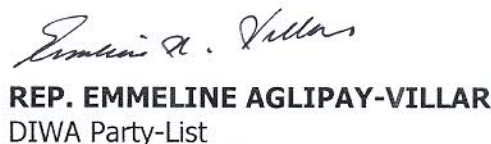
As the country moves towards the fulfillment of the guarantees provided by the Constitution and by various human rights instruments, discrimination needs to be addressed and eliminated. No Filipino should be left behind.

The approval of this bill is urgently sought.

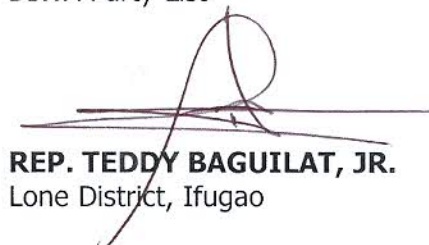

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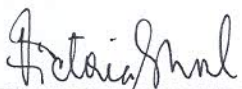
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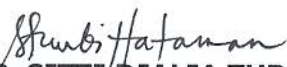
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3312
House Bill No. _____

Introduced by REP. KAKA BAG-AO, REP. HENEDINA ABAD, REP. MA.
LOURDES ACOSTA-ALBA, REP. EMMELINE AGLIPAY-VILLAR,
REP. MERCEDES ALVAREZ, REP. TEDDY BAGUILAT, JR., REP. JORGE
"BOLET" BANAL, REP. NANCY CATAMCO, REP. CHRISTOPHER DE
VENECIA, REP. CHERYL DELOSO-MONTALLA, REP. SHARON GARIN,
REP. VICTORIA NOEL, REP. JOSEPHINE RAMIREZ-SATO, REP.
GERALDINE ROMAN, REP. BAI SANDRA SEMA, REP. SITI DJALIA
TURABIN-HATAMAN, and REP. TOMASITO VILLARIN

AN ACT

**PROHIBITING DISCRIMINATION ON THE BASIS OF ETHNICITY, RACE, RELIGION OR
BELIEF, SEX, GENDER, SEXUAL ORIENTATION, GENDER IDENTITY AND
EXPRESSIONS, LANGUAGE, DISABILITY, HIV STATUS, AND OTHER STATUS, AND
PROVIDING PENALTIES THEREFOR**

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

Section 1. *Short Title.* — This Act shall be known and cited as the "Comprehensive Anti-Discrimination Act."

Section 2. *Declaration of Policies.* — It is the policy of the state to work actively for the elimination of all forms of discrimination that offends the equal protection clause of the Bill of Rights and the State obligations under human rights instruments acceded to by the Republic of the Philippines, particularly those discriminatory practices based on sex or sexual orientation. Towards this end, discriminatory practices as defined herein shall be proscribed and penalized

Section 3. *Definition of Terms* — For the purposes of this Act, the following terms shall be defined as follows:

- a. *Disability* refers to (1) a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual or activities of

such individual; (2) a record of such an impairment; or (3) being regarded as having such an impairment.

- b. *Discrimination* refers to 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, or other status, which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of political, civil, economic, social, and cultural rights. Discrimination, which also includes incitement to discriminate and harassment, is a result or a product of stigma.
- c. *Education and Training* refers to all types and levels of education, training, and other avenues for learning and includes access thereto, the standard and quality thereof, and the conditions under which the same is given.
- d. *Ethnic Origin* refers to race, national origin, and ethno-linguistic origin.
- e. *Employment* refers to 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.
- f. *Gender Identity* refers to the personal sense of identity or expression 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.
- g. *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.
- h. *HIV Status* refers to the presence or absence of the human immunodeficiency virus (HIV) in the body of an individual.
- i. *Indigenous Peoples* refers to 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 nonindigenous 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;

Indigenous Peoples also refers to a group of people or homogenous societies identified by self ascription and ascription by others, who have continuously lived as 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, nonindigenous religions and cultures, became historically differentiated from the majority of Filipinos;

- j. *Profiling* refers to 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.
- k. *Religious Belief* refers to the profession or non-profession of religion or belief of one's choice that may be publicly or privately manifested in worship, observance, practice and teaching.
- l. *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.
- m. *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.
- n. *Vulnerable Communities* refer to communities or sectors that encounter stigma and discrimination based on the grounds enumerated in Section 4.

Section 4. Prohibited Grounds for Discrimination. – For the purposes of this Act, discrimination that is indirectly or directly based on the actual or perceived ethnicity, race, religion or belief, sex, gender, sexual orientation, gender identity, gender expression, civil status, disability, HIV status, or other status is prohibited.

Section 5. Discriminatory Acts. – The following acts shall be prohibited:

- a. *Inflicting stigma* – It shall be unlawful for any person to commit any acts that promote and encourage stigma based on the grounds referred to in Section 4. Content in the media, in educational textbooks, or in other medium that aims to inflict stigma is likewise prohibited.
- b. *Denial of political, civil, and cultural rights* – It shall be unlawful to deny a person enjoyment of political, civil, and cultural rights based on the grounds referred to Section 4.
- c. *Denial of right to education* – It is unlawful for any person to:

1. Refuse admission or expel a person from any educational or training institution on the basis of the grounds defined in Section 4, without prejudice to the right of educational or training institutions to determine the academic qualifications of their students or trainees;
2. Impose disciplinary sanctions, penalties harsher than customary, or similar punishments, requirements, restrictions, or prohibitions that infringe on the rights of the students on the basis of the grounds identified in Section 4; and

This prohibition extends to acts committed against a student or trainee to discriminate his or her parents or legal guardians based on grounds referred to in Section 4.

d. *Denial of right to work* – It is unlawful for any person to:

1. Use the grounds in Section 4 or require the disclosure thereof in the selection, promotion, and termination of workers, and in the determination of compensation, training, incentives, privileges, benefits or allowances, as well as other terms and conditions of employment;
2. Deny employment in government institutions, including police and military service, based directly or indirectly on the grounds referred to in Section 4;
3. Refuse to enter into contract or agreement with persons or group of persons based solely or partly on the grounds provided in Section 4; and
4. deny an application for or revoke a professional license issued by the government directly or indirectly due to the grounds included in Section 4.

e. *Denial of access to goods and services* – It is unlawful for any person to:

1. Deny a person, solely or partly on the basis of the grounds in Section 4, of goods and services available to the general public, such as but not limited to private and public insurance, housing and other forms of accommodation, medical and clinical services;
2. Refuse entry to or evict a person from any establishment, facilities or utilities that are open to the general public, such as but not limited to restaurants, bars, hotels, shopping malls, solely or partly on the basis of the grounds listed in Section 4;
3. Cause undue and unjust deferral of services or provision of inferior services to persons due to the grounds in Section 4; and

There is discrimination if the acts above are committed against organizations or groups of persons based on the grounds identified in Section 4.

f. *Denial of right to organize* – It shall be unlawful to prohibit, prevent, or revoke the accreditation, formal recognition, and/or registration of any organization, group, political party, institution or establishment, in educational institutions, workplaces, communities, and other settings, based partly or solely on the grounds provided for in Section 4.

Discrimination is also committed when additional requirements beyond the customary are imposed directly or indirectly due to the grounds stipulated in Section 4.

- g. *Inflicting harm on health and well-being* – It shall be unlawful to subject any person, without consent, to any unnecessary medical or physical examination, psychological treatment, faith-based practices, and other similar procedures based solely or partly on any of the grounds referred to in Section 4 that aim to change identity or physical attributes or impose behavior or expressions.
- h. *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 or partly on the grounds included in Section 4.
- i. *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 the grounds stipulated in Section 4. This prohibition applies to similar abuses committed by non-state actors.
- j. *Detention and confinement* – It shall be unlawful to detain and confine a person or groups of persons based directly or indirectly on the grounds under Section 4.
- k. *Other analogous circumstances* – Any 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 are also prohibited.

Section 6. *Persons Liable* – Any person, natural or juridical, or their representatives, including government, government-owned and controlled corporations, or any private corporation, institution or company, who commits any of the acts under Section 5, shall be liable under this Act.

Any person, natural or juridical, or their representatives, who requests, instructs, induces, encourages, authorizes, tolerates, or assists another to commit any of the acts under Section 5 shall also be principally liable under this Act.

Section 7. *Programs to promote non-discrimination and diversity* – 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. *Duties of the Commission on Human Rights.* - The Commission shall investigate and prosecute on its own or on complaint by any person acts or omissions violating this Act. If the Commission has reasonable cause to believe that any person or group of persons is engaged in discrimination under this Act, the Commission shall commence a legal action in the regular court.

The Commission shall also direct the officer concerned to take appropriate action against a public officer or employee at fault or who neglect to perform an act or discharge a duty required under this Act, and order revocation of license, removal from office or employment, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith. Refusal by any officer without just cause to comply with an order of the Commission to revoke the license, remove, suspend, demote, fine, censure, or prosecute an officer or employee who is at fault, or who neglects to perform an act or discharge a duty required under this Act, shall be a ground for disciplinary action against said officer.

Section 9. *Penalties.* - Persons found guilty of any of the discriminatory practices under Section 5 (A), 5 (B), 5 (E), 5 (F), and 4 (K) of this Act shall be penalized with a fine of not less than One Hundred Thousand Pesos (P100,000) but not to exceed Two Hundred and Fifty Thousand Pesos (P250,000) or imprisonment of two (2) years but not more than six (6) years, or both at the discretion of the court.

Persons found guilty of any of the discriminatory practices under Section 5 (C), 5 (D), 5 (G), 5 (H), 5 (I), 5 (J) and 5 (K) of this Act shall be penalized with a fine of not less than Two Hundred Fifty Thousand Pesos (P250,000) but not to exceed Five Hundred Thousand Pesos (P500,000) or imprisonment of six (6) years but not more than twelve (12) years, or both at the discretion of the court.

If the violator is a corporation, organization or any similar entity, the officials thereof directly involved shall be liable therefor.

If the violator is an alien or a foreigner, he shall be deported immediately after service of sentence without further deportation proceedings.

Persons found guilty of any of the discriminatory practices prohibited under this Act shall also be civilly liable.

The administrative remedies provided under this Act do not bar prosecution or civil claims in proper courts for any act of discrimination committed under this Act.

If any crime penalized under the Revised Penal Code is committed in pursuit of discrimination, the penalty provided under the Revised Penal Code shall be applied and the discrimination committed shall be considered as an aggravating circumstance.

Section 10. Appropriations. – The initial amount necessary to implement the provisions of this Act shall be charged against the current year's appropriation of the agencies tasked to implement the provisions of this Act. Thereafter, such sums as maybe necessary for the continued implementation of this Act shall be included in the Annual General Appropriations Act.

Section 11. 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 12. Separability clause. – Any portion or provision of this Act that may be declared unconstitutional or invalid shall not have the effect of nullifying the other portions and provisions hereof as long as such remaining portion or provision can still subsist and be given effect in their entirety.

Section 13. Repealing clause. – All laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed, amended, or modified accordingly.

Section 14. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,