



Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session



HOUSE BILL NO. 491

Introduced by HON. SITI DJALIA A. TURABIN-HATAMAN
of Anak Mindanao (AMIN) Party-list

EXPLANATORY NOTE

The Bill of Rights of the 1987 Philippine Constitution, particularly Article III, Section 1, provides for "equal protection of the laws." This equal protection clause is a specific constitutional guarantee of the Equality of the All Persons. Under it, each individual is dealt with as an equal person in the law, which does not treat the person differently because of who he/she is or what he/she possesses. However, when this does not happen in the realities of life, like the different and adverse treatment or discrimination against Muslims/MORO people and Indigenous Peoples or Lumads/ Highlanders in Mindanao and elsewhere in the Philippines, then the axiom of constitutional state policy of social justice (Art. II, Sec. 10) steps in, that those who have less in life must have more in law.

It is an established principle of constitutional law that the equal protection clause is not violated by a legislation based on reasonable classification, one which rests on substantial distinctions, is germane to the purpose of the law, is not limited to existing conditions only, and applies equally to all members of the same class. There are indeed substantial distinctions between/among the three classes of peoples in Mindanao --- the majority Christian settlers (and their descendants), the Muslims or MORO people, and the Indigenous Peoples. Unfortunately, their inter-relationships have been characterized, among others, by a historical and current minoritization, marginalization, and discrimination in various areas of life. This must be addressed.

The Constitution likewise provides that the Philippines adopts the generally accepted principles of international law as part of the law of the land (Art. II, Sec. 2). Under the International Covenants on Economic, Social and Cultural Rights, as well as on Civil and Political Rights, States Parties like the Philippines undertake to guarantee and ensure respect for the rights enunciated therein, without discrimination of any kind as to race, color, sex,

language, religion, political or other opinion, national or social origin, property, birth or other status, and to adopt such legislative or other measures as may be necessary to give effect to those rights.

As part of the global community, the Philippines is aware of the United Nations declarations on religious intolerance, which have become more relevant in present times where the backlash of the September 11, 2001 has been greatly felt by Muslims all over the world. The Muslims in Mindanao and elsewhere in the Philippines are no exception. Thus, in keeping with the 1981 Declaration On The Elimination Of All Forms Of Intolerance And Of Discrimination Based On Religion Or Belief, and the 1993 Resolution on the Elimination Of All Forms Of Religious Intolerance, this Act addresses religious and other forms of discrimination.

To be sure, discriminatory attitudes or practice will not be corrected by legislation alone, even penal ones like this Act PROHIBITING DISCRIMINATION AGAINST PERSONS ON ACCOUNT OF ETHNIC ORIGIN AND/OR RELIGIOUS BELIEF. But these legislative sanctions are still part of what should be a holistic response to such discrimination and are one contribution of Congress in this fight.

Approval of this bill is therefore sought.


HON. SITI DJALIA A. TURABIN-HATAMAN



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AN ACT PROHIBITING RACIAL, ETHNIC AND RELIGIOUS DISCRIMINATION

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

SECTION 1. Short Title. - This Act shall be known as "Anti-Racial, Ethnic and Religious Discrimination Act."

SECTION 2. Declaration of Policy. - It shall be the policy of the State to:

- (a.) Maintain peace and order, protect life, liberty and property, and to promote the general welfare for the enjoyment of the blessings of democracy by all people;
- (b.) Promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free peoples from poverty through policies that provide adequate social services, promote full employment, a rising standard of living and an improved quality of life;
- (c.) Recognize and promote the rights of indigenous cultural communities within the framework of national unity and development; and
- (d.) Give the highest priority to the enactment of measures that protect and enhance the right of all people to human dignity; reduce social, economic and political inequalities; and remove cultural inequities by equitability diffusing wealth and political power for the common good.

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

- (a.) **Discrimination** shall refer to any distinction, exclusion, restriction or reference made on the basis of race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise, on an equal footing, of the human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field of public life of a person.
- (b.) **Housing and other Accommodation** shall refer to accommodation in a house, apartment, condominium, townhouse, flat, motel, boarding house, hotel, dormitory, shelters, and detention centers or on a camping ground.
- (c.) **Education** shall refer to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.
- (d.) **Employment** shall refer to both public and private employment, the existence of which shall be determined by the four-fold test:

- 1.) Selection of the employee;
- 2.) Payment of wages;
- 3.) Power of dismissal; and
- 4.) Power of control

This definition shall apply to regular, probationary, contractual, seasonal, and project-based workers. In legitimate contracting or sub-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 ethno-linguistics origin of a person.
- (f.) **Ethno Linguistic Group** shall refer to a group of people that shares a distinct language, cultural inheritance and history that give them a unique identity.
- (g.) **Goods and Services** shall refer to the material and non-material 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 credit or financial establishments, public utilities, professionals, maintenance and repair workers, laborers, etc.

- (h.) **Indigenous Peoples** shall refer to a group of people or homogenous societies indentified 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, tradition and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and culture, became historically differentiated from the majority of Filipinos. 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.
- (i.) **Religious Belief or Faith** shall refer to one's personal conviction or belief in a supernatural power or powers that control human destiny.
- (j.) **Vehicle** shall refer to train, ship, bus, taxi, aircraft, and such other forms of transport for public conveyance

SECTION 4. Acts of Discrimination. - It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, color, descent or national or ethnic origin, religion, or religious affiliation or beliefs which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural, civil or any other field of public life.

Where:

- (a.) A person requires another person to comply with a term, condition or requirement which is not reasonable having regard to the circumstances of the case;
- (b.) The other person does not or cannot comply with the term, condition or requirement; and
- (c.) The requirement to comply has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, by persons of the same race, color, descent or national or ethnic origin, religion, or religious affiliation or beliefs.

Without prejudice to its effectiveness in enforcing this section, **Article 5 of the "International Convention on the Elimination of all Forms of Racial Discrimination"** shall be observed and respected.

Acts of discrimination include, but not limited to:

- a.) **Discrimination in Political Participation.** - Any person acting as principal or agent shall be liable for discrimination through the commission of any of the following acts:
- 1.) Preventing, impeding, prohibiting, obstructing or intervening in the exercise of political rights by another, including but not limited to, the right to vote and be voted upon 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,

on the basis of race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs, of that person or any relative, representative or assignees of that person.

b.) Discrimination in Employment. -

- 1.) Any employer or head of a firm, company or organization shall be liable for discrimination by;
 - (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 or conditions;
 - (ii) 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
 - (iii) Dismissing an employee, or subjecting an applicant for employment or an employee to any other detriment;

On the basis of race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs, of that person or any relative, representative or assignees of that person.

- 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 by treating an applicant seeking employment less favorably than another person in the same circumstances on the basis of race, color, descent,

national or ethnic origin, religion, or religious affiliation or beliefs, of that person or any relative, representative or assignees of that person seeking employment.

- 3.) Any person acting as principal or agent of any organization of employers or employees, or any person acting or purporting to act on behalf of such organization, shall be liable for discrimination by preventing or seeking to prevent another person from offering employment or from continuing another person from offering employment or from continuing another person in employment on the basis of race, color, descent, national or ethnic origin, religion or religious affiliation or beliefs, of that person or any relative, representative or assignees of that person.

- 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 or owner of such institution shall be liable for discrimination by:

- 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.) Subjecting the student to any other detriment

On the basis of race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs, of that student or of any relative, associate, representative, assignees of that person.

- d.) **Discrimination in the Delivery of Goods and Services.** – Any persons 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 by:

- 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

On the basis of race, color, descent, national or ethnic origin, religion or religious affiliation or beliefs, of that person or of any relative, associate, representative or assignees of that person.

e.) Discrimination in Land, Business and other Accommodation. -

1.) Any person acting as principal or agent providing accommodation shall be liable for discrimination by:

- (i) Refusing or failing to accept or process the application for any interest in land, or residential or business accommodation;
- (ii) Disposing of such an estate, land or interest, or such accommodation to another person on less favorable terms or conditions than those which are or would otherwise be offered;
- (iii) 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;
- (iv) Refusing to permit another person to occupy any land or any residential or business accommodation;
- (v) 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
- (vi) Subjecting an applicant to any other detriment

On the basis of race, color, descent, national or ethnic origin, religion or religious affiliation or beliefs, of that person or any relative, associate, representative or assignees of that person.

2.) Any person acting as principal or agent shall also be liable for discrimination by imposing or seeking to impose on another person any terms 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 race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs, of that person or of any relative, associate, representative or assignees of that person.

f.) Discrimination in Accessing Public Places, Facilities and Public Meetings. -

Any person acting as principal or agent shall be liable for discrimination by:

- 1.) refusing to allow another person access to or use of any place, vehicle or facilities that the public or 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 or 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 refusing to allow another access to a meeting or assembly by providing onerous terms or 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.) subjecting a person desiring to access public places, facilities or public meetings on the basis of race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs, of a person or of any relative, associate, representative or assignees of that person.
- g.) **Discrimination in Advertisements/Mass Media.** - It is unlawful for a person to publish or display, or cause or permit 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 provision of this Act. Any person acting as principal or agent shall be liable for discrimination by:
- 1.) portraying certain persons in movies, films, and advertisements on television and other audio-visual forms and other publicly accessible documents as "uncivilized", "barbaric", "savages", "dirty", "wild", "ignorant", "stupid", and the like, on the basis of race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs; or
 - 2.) 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 on the basis of race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs.
- h.) **Discrimination by Wrongful Portrayal.** - Any person acting as principal or agent shall be liable for discrimination by portraying, imitating, 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 inferior religiously, racially or ethically.
- i.) **Inciting Others to Commit Acts of Discrimination.** - Any person acting as principal or agent shall be liable for discrimination by:
- 1.) inciting the doing of an act that is unlawful by reason of a provision of this Act; or

- 2.) assisting or promoting, whether by financial assistance or otherwise, the doing or perpetration of such an act.

j.) Discrimination through Speech, Utterances, Acts of Hatred and Similar Act.-

Any person shall be liable for discrimination by delivering speeches or making utterances, doing acts of hatred or violence against another person, or mocking or ridiculing another person on the basis of race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs.

k.) 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 effect or purpose of impairing or mollifying the recognition, enjoyment or exercise of the person's human rights and fundamental freedoms in the political, economic, social, cultural, civil spheres or any other field of public life on the basis of race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs.

Section 5. Person 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 or 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. Vicarious Liability. If an employee or agent of a person does an act of discrimination in the connection with his or her duties as an employee or agent, then for the purposes of this section, the act is taken to be done because of the person's race, color, descent, national or ethnic origin, religion or religious affiliation or beliefs.

Unless established that the person took all reasonable steps to prevent the employee or agent from doing the discriminatory act, then that person shall be liable of unlawful act under this provision.

Section 7. Duty of the Commission on Human Rights (CHR). - It shall be the duty of the Commission on Human's Rights (CHR), in coordination with the National Commission on Indigenous Peoples and the National Commission on Muslim Filipino, to prevent or deter the commission on 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) Ensure the creation of committees on non-discrimination and equal opportunity in all agencies, corporations, companies and educational institutions, whether private or public
- b) Oversee the implementation of this Act by agencies, corporations, companies and educational institutions, whether private or public;
- c) Establish guidelines and mechanisms that will facilitate access of discriminated persons to legal remedies under the 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.
- d) Coordinate with the department of education (DepED) for the promotion of understanding and appreciation of cultural diversity in schools and other learning modalities, and ensuring that books, reference materials, and other learning resources used in education programs are free from discriminatory content.
- e) Conduct consultations with indigenous peoples and religious organizations; and
- f) 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:
 - a.) Provide legal assistance to victims of discrimination such as through the preparation of necessary pleadings, referral letters, and counseling;
 - b.) 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;
 - c.) Accredite lawyers who will accept pro bono cases under the Act; and
 - d.) Create an efficient system of case referrals to appropriate government department or agencies.

Section 8. 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 non-discrimination 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.

For this purpose , agencies, corporations, companies and educational institutions as well as any person providing employment, housing, education and the delivery of basic goods and service shall create a Non-Discrimination and Equal Opportunity Committee in their respective organizations, as provided for in Section 8 hereof. Failure to do so shall be deemed as refusal to address discrimination and shall be considered as an act of discrimination subject to the penalty provided for in Section 10 hereof.

Section 9. Non-discrimination and Equal Opportunity Committees. - In order to ensure compliance with this Act, all agencies, corporations, companies and educational institutions, whether private or public, shall create a Non-Discrimination and Equal Opportunity Committee (Non-DEO Committee), which shall exercise administrative jurisdiction to investigate acts and practices of discrimination under this Act.

The Committee shall, among others, conduct the initial investigation of cases constituting discrimination on the basis of race, ethnic background, religion, religious beliefs. The result and findings of such investigation shall be submitted to the complaint to the Non-DEO Committee. The said findings shall be acted upon by the CHR which shall have sole jurisdiction over administrative cases of discrimination under this Act.

Any administrative sanction on the perpetrator of discrimination shall not be a bar to any prosecution in the proper courts on any act of discrimination committed on the basis of race, ethnic background, religion, religious affiliation, religious beliefs, or to any civil claim for damages suffered by the victim of discrimination.

Section 10. 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 not 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 (Php 100,000.00), 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, agent 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 offender who is a foreigner shall be deported immediately after service of sentence shall be perpetually barred entry into the country;

- e.) 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
- f.) 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 cash fund and disbursed for the assistance to the victims.

Section 11. 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 and/ or the Department of Interior and Local Government. 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 12. Reparation to Victims. - In addition to existing laws and procedural rules or 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 13. Appropriations. - The Chairperson of the CHR shall include in the CHR's program the implementation of this Act, the initial finding of which shall be charged against the current appropriation of the CHR. Thereafter, the amount necessary for the continued implementation of this Act, shall be included in the General Appropriations Act (GAA).

Section 14. Implementing Rules and Regulations (IRR). - Within ninety (90) days from the approval of this Act, the CHR, in consultation with the NCIP, NCME, 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.

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Section 14. Implementing Rules and Regulations (IRR). - Within ninety (90) days from the approval of this Act, the CHR, in consultation with the NCIP, NCMF, and other stakeholders as determined by the CHR, both private and public, shall promulgate the rules and regulations implementing the provisions of this Act.

Section 15. Repealing Clause.- Any provision of law or regulations inconsistent herewith is hereby repealed, revoked or modified accordingly.

Section 16. Separability Clause. - If any portion of this Act is declared as unconstitutional or invalid, the remaining portions not affected thereby shall continue to have force and effect.

Section 17. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved.