

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1556

HOUSE OF REPRESENTATIVES	
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Introduced by HONORABLE LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.
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EXPLANATORY NOTE

The fundamental human rights are well-enshrined in the 1987 Philippine Constitution. The State values the dignity of every human person and guarantees full respect for human rights.¹ Oppression, maltreatment, and discrimination have no place in a civilized nation. More often than not, the hapless victims are left with an almost indelible scar and emotional trauma on their consciousness as a human being. The framers of the Constitution put in place provisions that would safeguard the citizen's rights and liberties. Every citizen has now a bundle of rights which must be upheld and respected by all and no less than the supreme law of the land demand of this treatment.

As a matter of policy, the State should always apply the law equally to all persons. The equal protection clause², according to an eminent constitutionalist, is the specific constitutional guarantee of the equality of the person.³ 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.⁴

Moreover, our country is signatory to the *United Nations Universal Declaration of Human Rights* (UDHR) which gives paramount recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world. The UDHR provides that everyone is entitled to all the rights and freedoms without distinction of any kind such as race, color, sex or gender or sexual orientation language, religion political or other

¹ Phil. Const. art. II, § 11

² Phil. Const. art. III, § 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

³ J. Bernas, S.J., *Constitutional Rights and Social Demands: Notes and Cases*, Vol. II [1991], p. 48

⁴ *JM Tuason and Co. v. The Land Tenure Administration*, 31 SCRA 413 (1970)

opinion, educational attainment, national or social origin, property, birth or other status⁵.

We are likewise a party to the *International Covenant on Economic, Social and Cultural Rights* which recognizes non-discrimination and equality as fundamental components of international human rights law and essential to the exercise and enjoyment of economic, social and cultural rights. It obliges each State Party to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.⁶ The equal and inalienable rights of “everyone” to the various Covenant rights such as, inter alia, the right to work, just and favourable conditions of work, social security, an adequate standard of living, and health and education must be upheld at all times.

More and more local statutes previously enacted are geared towards the promotion of equality. RA 6725 amended the Labor Code in order to strengthen the prohibition of discrimination against women with respect to terms and conditions of employment.⁷ It imposes criminal liability for the willful commission of unlawful acts of discrimination respecting terms of compensation and career opportunities. We also have RA 7277 otherwise known as the *Magna Carta for Disabled Persons*. Under this law, disabled persons should have the same rights as other people to take their proper place in society and the State should exert all efforts to remove all social, cultural, economic, environmental and attitudinal barriers that are prejudicial to disabled persons.⁸ It also prohibits and penalizes acts of discrimination against disabled persons in terms of employment⁹, riding public transportation¹⁰, and using public accommodations and services¹¹.

While these pieces of legislation are excellent means to curb discrimination against women and persons with disability, there are still other sectors of Philippine society which suffer from oppression and maltreatment. At present, acts of discrimination towards certain groups are still prevalent as shown in some news articles:

- In 2003, a Manobo family were forced out of their ancestral land. Accordingly, they were unduly discriminated because of their indigenous ancestry¹².
- Lesbian Gay Bisexual and Transgender (LGBT) persons are targeted with physical and verbal assaults that affect their economic, cultural, social,

⁵ Retrieved from: <http://www.un.org/en/documents/udhr/>

⁶ International Covenant on Economic, Social and Cultural Rights art. 2 (2)

⁷ RA No. 6725 § 1 Discrimination Prohibited. — It shall be unlawful for any employer to discriminate against any woman employee with respect to terms and conditions of employment solely on account of her sex.

⁸ RA No. 7277 Magna Carta for Disabled Persons § 2

⁹ Ibid. § 32

¹⁰ Ibid. § 34

¹¹ Ibid. § 36

¹² www.humanrights.asia/news/forwarded-news/FA-19-2003

health, and other well-being. There are countless reported cases of LGBT members suffering from discrimination in their employment¹³.

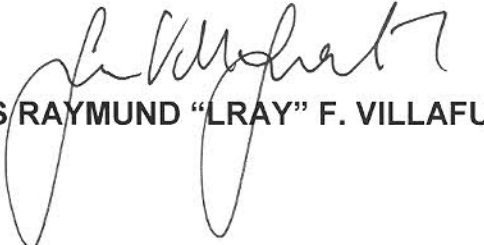
- Incidents of racial profiling and discrimination against Muslims. The NBI Western Mindanao caused public outrage for using the label 'Muslim type' in an artist sketch of a suspect in the Zamboanga blast¹⁴.
- A hairdresser who was tested positive for human immunodeficiency virus (HIV) won a labor dispute against his employer, celebrity hairstylist Ricky Reyes, who was found guilty by a labor-management mediation court of "discrimination and unlawful termination."¹⁵

Discrimination on account of ethnicity, race, religion or belief, sexual orientation and/or gender identity, and HIV status directly affects the lives of the victims. It creates a stigma which undermines not only their psychological well-being but also deprives them of economic, political, and social rights and access to opportunities.

This measure seeks to enhance the basic rights enshrined in the Constitution and several international declarations, prevent and criminalize various forms of discrimination and penalize such. Any form of discrimination may be categorized as a crime against humanity and human dignity in that several international declarations promote the equal treatment of all people and prevent discrimination on the basis of race, ethnicity, and other status.

Under this measure, discriminatory acts such as inflicting stigma, denial of education, political, civil and cultural rights, right to work, access to goods and services, and the right to organize, inflicting harm on health and well-being, engaging in profiling, abuses by state and non-state agencies, and detention and confinement are strictly prohibited and will be met with corresponding penalties.

In view of the foregoing circumstances, approval of this bill is fervently sought.



LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.

¹³ As an illustration, www.philstar.com/headlines/2014/03/28

¹⁴ <http://www.rappler.com/nation/106963-doj-investigation-muslim-type-nbi>

¹⁵ <http://newsinfo.inquirer.net/762454/worker-with-hiv-wins-case-vs-ricky-reyes>

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HOUSE BILL NO. 1556

Introduced by HONORABLE LUIS RAYMUND “LRAY” F. VILLAFUERTE, JR.

AN ACT PROHIBITING DISCRIMINATION ON THE BASIS OF ETHNICITY, RACE, RELIGION OR BELIEF, SEX OR GENDER OR SEXUAL ORIENTATION, LANGUAGE, DISABILITY, EDUCATIONAL ATTAINMENT AND OTHER FORMS OF DISCRIMINATION AND PROVIDING PENALTIES FOR THE PURPOSE

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

SECTION 1. *Short Title* – This bill shall be known as “the Anti-Discrimination Act of 2016.”

SECTION 2. *Declaration of Policies* – It is the policy of the State to work actively for the elimination of all forms of discrimination that offend 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. 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 shall be defined as follows:

- a. *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 and gender, disability, 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 also includes incitement to discriminate and harassment as a result or a product of stigma.

- b. *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.
- c. *Employment* – refers to all terms, conditions, and privileges relating to work in public and private institution, including 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.

- d. *Indigenous Peoples* – 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;

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, tradition 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;

- e. *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.
- f. *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.
- g. *Vulnerable communities* – refers to communities or sectors that encounter stigma and discrimination based on the ground's enumerated in Section 4.

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

Ethnicity, race, religion or belief, sex or gender or sexual orientation, civil status, disability, educational attainment or other status that differentiates or any form of discrimination shall be interpreted in their most common or universal definitions and with due regard to the promotion of meaningful implementation of non-discrimination policy.

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 sanction, penalties harsher than customary, or similar punishment, 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 on the basis of the grounds in Section 4, and 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 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 rights 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 group 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, 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 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 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 the vulnerable to stigma and discrimination.
- b. *Diversity Programs and Policies* – All government agencies, non-government agencies, government-owned and controlled corporation, 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 sanction 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 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 is engaged in discrimination under this Act, the Commission shall commence a legal action in the regular court. *Provided*, That Any act or omission committed against any person other than public officers and employees under Section 5 d (1) of this Act shall be under the jurisdiction of the National Labor Relations Commission in relation to Article 135 of the Labor Code.

The duty of the Secretary of Justice to investigate pattern or practice of discrimination and commence legal actions under Section 44 of the Magna Carta for Disabled Persons is hereby transferred to the Commission.

The Commission on Human Rights shall 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 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 (250,000) 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 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 an 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 Commission on Human Rights, 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, 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 regulation 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) newspaper of general circulation.

Approved