



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

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2781

Introduced by HON. TUPAY T. LOONG of the 1st District of Sulu

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.


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**AN ACT PROHIBITING DISCRIMINATION AGAINST PERSONS ON
ACCOUNT OF ETHNIC ORIGIN AND/OR RELIGIOUS BELIEF**

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-Racial and Religious Discrimination Act of 2010.**"

SEC. 2. Declaration of Policy. - It is the policy of the State to:

- a) Maintain peace and order, protect life, liberty and property, and promote the general welfare for the enjoyment by all people the blessings of democracy;
- b) Promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living and an improved quality of life for all;
- 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 the people to human dignity; reduce social, economic and political inequalities; and remove cultural inequities by equitably diffusing wealth and political power for the common good.
- e) **SEC. 3. Meaning of Discrimination.** - The term "discrimination" as used in this Act shall mean any distinction, exclusion or restriction made on the basis of ethnic origin or religious affiliation or beliefs, which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by them of their human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field, especially including, but not limited to, employment, livelihood, housing, education and basic services.

SEC. 4. Definition of Terms. -

- 1) "**Ethnic origin**" includes race, national origin and ethno-linguistics origin.
- 2) "**Indigenous peoples**" shall, as provided under Section 3(h), Chapter II of Republic Act No. 8371 or the "Indigenous People's Rights Act (IPRA) of 1997", refers to a group of people 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.
- 3) "**Moro people**" refers to the indigenous people who have historically inhabited Mindanao, Palawan and Sulu, and who are largely of the Islamic faith.
- 4) "**Muslims**" refers to those who are followers of the Islamic faith, whether from birth or by conversion.
- 5) "**Religious belief**" means holding or not holding a religious belief or view and engaging in, not engaging in or refusing to engage in a religious activity.
- 6) "**Accommodation**", as mentioned herein, includes a house, apartment, condominium, townhouse, flat, hotel, motel, boarding house, hostel and dormitory.

SEC. 5. Acts of Discrimination. - Discrimination is committed when a person treats another less favorably on the basis of ethnic origin and/or religious affiliation or belief than the person treats or would treat another without that attribute, or with a different attribute, on the same or similar circumstances in employment, education, housing and delivery of basic services, to wit:

- a) **Discrimination in Employment.** - An employer or his agents must not discriminate against an applicant for a job by refusing employment to the person or by imposing on that person onerous terms and conditions on the basis of his ethnic background and/or religious affiliation or beliefs. Likewise, an employer or his agents shall be liable for discrimination by denying or limiting access of the employee to opportunities for promotion, transfer or training, or to any other benefits connected with the employment or by dismissing the employee, or by subjecting the employee to any other detriment on the basis of ethnic background and/or religious affiliation or beliefs;
- b) **Discrimination in Education** - A public or private educational institution, their officers or employees, or any person acting on their behalf shall be liable for discrimination by refusing, or failing to accept, another for application for admission as a student or by denying or limiting access of a student to any benefit or privilege provided by the said institution, or by expelling the student, or by subjecting the student to any other detriment on the basis of ethnic background and/or religious affiliation or beliefs;
- c) **Discrimination in the Delivery of Goods and Services** - Any person who, by reason of ethnic background and/or religious affiliation or belief, shall be liable for discrimination if he refuses to provide goods or services to another; or imposes onerous terms on which goods or services are provided; or subjects another to any other detriment in connection with the provision of goods or services to him;



- d) **Discrimination in Accommodation** - A person or his agents shall be liable for discrimination by refusing, or failing to accept or process the application for accommodation of another by providing onerous terms and conditions not similar to other applicants, or by subjecting another to any other detriment in connection with the provision of accommodation to that person on the basis of ethnic background and/or religious beliefs; and
- e) Any other analogous act which has 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 ethnic background and/or religious beliefs.

SEC. 6. *Persons Liable.* - Any person, natural or juridical, including any government or private corporation, institution or company, who commits discrimination against any person on account of ethnic origin and/or religious affiliations or beliefs, as provided for above, 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. Likewise, a 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.

SEC. 7. *Equal Opportunity.* - It shall be the duty of every person, natural or juridical, public or private, to ensure that there is 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 of employment, housing, education and delivery of basic goods and services.

For this purpose, every agency, corporation, company and educational institution, as well as any other person providing employment, housing, education and delivery of basic goods and services, shall issue an equal opportunity policy, including the creation of an Equal Opportunity Committee, as provided for in Section 8 hereof. Failure to do so shall be deemed refusal to address discrimination, and shall be penalized as an act of discrimination.

SEC. 8. *Equal Opportunity Committees.* - In order to ensure the compliance of this Act, agencies, corporations, companies and educational institutions, whether private or public, shall create an Equal Opportunity Committee which shall have administrative jurisdiction over cases involving discrimination under this Act.

The committee shall be tasked, among others, to conduct the investigation of alleged cases constituting discrimination on the basis of ethnic origin and/or religious affiliation or beliefs.

Administrative sanctions shall not be a bar to any prosecution in the proper courts or any act of discrimination committed on the basis of ethnic origin and/or religious affiliation or beliefs, or to any civil claims for damages caused by said act.

SEC. 9. *Penal Clause.* - Any person liable under this Act shall be penalized by imprisonment for a period of not less than thirty (30) days, nor more than six (6) months and/or a fine of not less than Ten thousand pesos (Php 10,000.00) nor more than One hundred thousand pesos (Php 100,000.00), taking into consideration the circumstances and gravity of the offense.

SEC. 10. *Duty of the Commission on Human Rights (CHR).* - It shall be the duty of the Commission on Human Rights (CHR), in coordination with the Office on Muslim Affairs (OMA) and the National Commission on Indigenous Peoples (NCIP) 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 prescribing the procedure for the investigation of discrimination cases against their people and the administrative sanctions therefore;
- b) Ensure the creation of committees on equal opportunity in different agencies, corporations, companies and educational institutions, whether private or public; and
- c) Require and supervise the agencies, corporations, companies and educational institutions, whether private or public, in the implementation of this Act.

SEC. 11. *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.

SEC. 12. *Repealing Clause.* - Any provision of law or regulations inconsistent herewith is hereby repealed, revoked or modified accordingly.

SEC. 13. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,



HON. TUPAY T. LOONG