

Republic of the Philippines
HOUSE OF THE REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 6386



Introduced by: Hon. Christopher S. Co, Rodel M. Batocabe and Alfredo A. Garbin, Jr.

EXPLANATORY NOTE

This bill seeks to deter, prosecute, and eliminate bullies and the culture of bullying, especially the commission of such acts against the marginalized, oppressed, and powerless (hereinafter referred to as MOP's), and to establish institutions that caters to the promotion of equality and social justice among citizens, regardless of race, ethnic origin, religion, or religious affiliation or beliefs, sexual orientation, gender identity, social status, age, looks, or political beliefs.

The 1987 Constitution declares that the State values the dignity of every human person and guarantees full respect for human rights. It also imposes on the State the duty to ensure the fundamental equality before the law of men and women. In addition, the Philippines is a signatory to numerous international agreements that seek to ensure respect for the human rights of all persons regardless of race, ethnic origin, religion, or religious affiliation or beliefs, sexual orientation, gender identity, social status, age, looks, or political beliefs.

Unfortunately, people who belong to the marginalized, oppressed, and powerless sectors of society, such as women, children, religious minorities, the LGBT community and indigenous peoples are still subject to the physical and verbal abuses of those who are close-minded and discriminatory against them. No one has yet been prosecuted for these constitutionally offensive acts.

It is high time that we instill in our people that the freedom of speech is not without limits; that in order to attain equality and social justice and maintain the democracy for which our ancestors died, the State needs to install measures to prevent the undue suffering of the marginalized through the bullying of the perpetrators, and to prevent MOP-bullying in society.

Accordingly, the swift passage of this bill is earnestly sought.

Hon. CHRISTOPHER S. CO Hon. RODEL M. BATOCABE Hon. ALFREDO A. GARBIN, JR.

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AN ACT
DEFINING AND PENALIZING THE CRIME OF BULLYING OF THE MARGINALIZED,
OPPRESSED AND POWERLESS

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

SECTION 1. *Title* – This Act shall be known as the “ANTI-MOP-BULLYING ACT OF 2012.”

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 of the blessings of democracy by all people;
- (b) Recognize and promote the rights of the marginalized and oppressed citizens within the framework of national unity and development;
- (c) 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.

SEC. 3. *Definition of terms*. For the purpose of this Act, the following terms shall mean:

- (a) *Discrimination* shall refer to any distinction, exclusion, restriction or reference made on the basis race, ethnic origin, religion, or religious affiliation or beliefs, sexual orientation, gender identity, social status, age, looks, or political beliefs, whether perceived or actual, 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) *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.
- (c) *Electronic devices* shall include, but are not limited to, telephones and mobile phones, computers, laptops and tablets, or any other device, tool or implement that may be developed for instant messaging, text messaging, chatting, emailing, video chatting, interaction in social networking websites, or other virtual interaction.
- (d) *Employment* shall refer to the existence of an employer-employee relationship, which is 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, probational, contractual, seasonal and project-based workers. In legitimate contracting or subcontracting arrangements, the contractor/subcontractor shall be deemed the employer of the contractual employee.

- (e) *Ethnic origin* shall refer to the race, color, descent, national origin and ethnolinguistics origin of a person.
- (f) *Indigenous peoples* as provided under Section 3(h), Chapter II of Republic Act No. 8371 or "The Indigenous Peoples Rights Act of 1997," shall refer to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as an organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, nonindigenous religions and cultures, became historically differentiated from the majority of Filipinos. Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or

colonization, or at the time of inroads of 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.

- (g) *Marginalization* refers to the social process of becoming or being relegated to an unimportant or powerless position within a group, such that communities and individuals are prevented from exercising their rights and from being given opportunities and resources due to them.
- (h) *Oppression* refers to a socially supported mistreatment and exploitation of a group or category of people by anyone, most usually a person or group of persons in the exercise of his/her/their authority.
- (i) *Religious belief* refers to a strong belief in a supernatural power or powers that control human destiny.

SEC. 3. *Acts of MOP-bullying.* For purposes of this Act, bullying of the marginalized, oppressed, and powerless, or "MOP-bullying" shall refer to any severe or repeated use by one or more persons of a written, verbal or electronic expression, or a physical act or gesture, or any combination thereof, directed at another person because of his race, ethnic origin, religion, or religious affiliation or beliefs, sexual orientation, gender identity, social status, age, looks, or political beliefs, that has the effect of actually causing or placing the latter in reasonable fear of physical or emotional harm or damage to his property; creating a hostile environment in the political, economic, social, cultural, civil, or any other field of public life of the latter; infringing on the rights of the latter; or materially and substantially disrupting the public life of the latter or the orderly operation of public establishments intended for the use and enjoyment of the general public; such as, but not limited to, the following:

- (a) Any unwanted physical contact between the bully and the victim like punching, pushing, shoving, kicking, slapping, tickling, headlocks, inflicting pranks, teasing, fighting and the use of available objects as weapons;
- (b) Any act that causes damage to a victim's psyche and/or emotional well-being;
- (c) Any slanderous statement or accusation that causes the victim undue emotional distress like directing foul language or profanity at the target,

name-calling, tormenting and commenting negatively on the victim's looks, clothes and body;

- (d) Any act of discrimination where a person physically or verbally abuses another because of race, ethnic origin, religion or religious affiliation or beliefs, sexual orientation, gender identity, social status, age, looks, or political beliefs; and
- (e) Cyber-bullying or any bullying done through the use of technology or any electronic means.

SEC. 4. *Persons Liable.* Any natural person who commits MOP-bullying through any of the acts described in the preceding section shall be liable under this Act.

Any person, natural or juridical, including government or private corporation, institution or company who requests, instructs, induces, encourages, authorizes or assists another to commit acts of MOP-bullying shall also be liable under this Act. Any natural or juridical 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 act, and shall consequently be held equally liable for MOP-bullying.

All government officers and workers are obliged to discourage and prevent MOP-bullying from occurring in the discharge of their duties and responsibilities.

SEC. 5. *Duty of the Commission on Human Rights (CHR).* It shall be the duty of the Commission on Human Rights (CHR), in coordination with concerned agencies and organizations, to prevent or deter the commission of acts of mar-bullying and to provide the procedures for the resolution, settlement or prosecution of acts of mar-bullying. Towards this end, the CHR shall:

- (a) Promulgate appropriate rules and regulations for the investigation of mar-bullying cases and the administrative sanctions therefore;
- (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 bullied persons to legal remedies under this Act and related laws, and enhance the protection and promotion of the rights of the Filipino people against mar-bullying on the basis of race, ethnic origin, religion or religious affiliation or

beliefs, sexual orientation, gender identity, social status, age, looks, or political beliefs;

- (d) Coordinate with the Department of Education (DepEd) for the promotion of understanding and racial, cultural, gender and social harmony in schools;
- (e) Assist in the filing of cases against individuals, agencies, institutions or establishments, whether private or public, that violate the provisions of this Act. For this purpose, the CHR shall:
 - (1) Provide legal assistance to victims of MOP-bullying such as through the preparation of necessary pleadings, referral letters and counseling;
 - (2) Forget Memoranda of Agreement with Bar Associations, non-governmental organizations, law firms, and organizations that provide legal aid to victims of mar-bullying to ensure adequate and competent legal representation for the complainants;
 - (3) Accredite lawyers who will accept *pro bono* cases under this Act; and
 - (4) Create an efficient system of case referrals to appropriate government departments or agencies.

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

- (a) The penalty provided under this Act shall be imposed in its maximum period if the offender has been previously convicted under this Act;
- (b) When the offender is a corporation, penalty or association, the officer or employee thereof who is responsible for the violation of this Act shall suffer the penalty imposed in its maximum period;
- (c) The penalty provided herein shall be imposed in its maximum period when the perpetrator is an ascendant, parent, guardian, stepparent or collateral relative within the second degree of consanguinity or affinity of the victim, or is the manager or owner of an establishment which has no license to operate or whose license has expired or has been previously revoked;

- (d) An offender who is a foreigner shall be deported immediately after service of sentence and shall be forever 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 a cash fund and disbursed for the assistance of the victims.

SEC. 7. *Administrative Proceedings and Sanctions.* Upon finding by the CHR that a department, agency or instrumentality of government, government-owned and -controlled corporation, or local government unit has violated any provision of this Act and its implementing rules and regulations, the sanctions under administrative law, civil service, or other appropriate laws shall be recommended to the Civil Service Commission (CSC) and/or the Department of Interior and Local Government (DILG). The person directly responsible for the violation as well as the head of the agency or local chief executive shall be held liable under this Act.

SEC. 8. *Reparation to Victims.* In addition to existing laws and procedural rules for reparation to victims, the following measures shall be undertaken:

- (a) The court, administrative agency, or quasi-judicial body shall follow the principles relating to the reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. In their decisions, the court, administrative agency, or quasi-judicial body, may, either upon request or on their own volition, in exceptional circumstances, determine the scope and extent of any damage, loss or injury to the victims, stating therein the principles on which they are acting;
- (b) The court, administrative agency, or quasi-judicial body may make an order directly against a convicted person, specifying appropriate reparation to, or in respect of, victims, including restitution, compensation and rehabilitation; and
- (c) Before making an order under this section, the court, administrative agency, or quasi-judicial body shall invite and shall take into account representations from, or on behalf of, the convicted person, victims or other interested persons.

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

SEC. 4. *Separability Clause.* - If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected thereby shall continue to be in full force and effect.

SEC. 5. *Repealing Clause.* - All laws, decrees, executive orders or rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 6. *Effectivity Clause* - This Act shall take effect fifteen (15) days from its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved.