

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 988



Introduced by REP. TEDDY BRAWNER BAGUILAT

EXPLANATORY NOTE

Our Constitution provides under Article II Section 11 that the State values the dignity of every human person and guarantees full respect for human rights.

Pursuant to this pronouncement, it is necessary for Congress to provide for legislations that ensure that everyone will be treated equally irrespective of his or her gender, sexual orientation, race, ethnicity, and religion.

While the Philippine government has been moving to prevent discrimination in all aspects of life, it is still apparent that there is still discrimination committed against people based on their gender, sexual orientation, race, ethnicity, and religion.

Discriminatory practices affect these people by denying them of their right to political participation and education. They are also denied of an equal chance to be employed and be provided an access to goods and services, accommodation, public places, facilities and public meetings. Furthermore, they are unfairly stereotyped and wrongfully portrayed in advertisements and mass media.

For all these reasons, this representation is refilling House Bill No. 4807 which was co-authored by this representation while including House Bill No. 1483 that was filed by then-Congressman Teddy Casiño and the early passage of this bill is earnestly sought.


TEDDY BRAWNER BAGUILAT
Lone District, Ifugao

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HOUSE BILL NO. **988**

Introduced by REP. TEDDY BRAWNER BAGUILAT

**AN ACT PROHIBITING RACIAL, ETHNIC, GENDER IDENTITY, SEXUAL
ORIENTATION, AND RELIGIOUS DISCRIMINATION**

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, Ethnic, and Gender Identity, Sexual Orientation, and Religious Discrimination Act of 2013”.

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) 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 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) *Accommodation* shall refer to a house, apartment, condominium, townhouse, flat, hotel, villa, motel, boarding house, hostel and dormitory.
- (b) *Discrimination* shall refer to any distinction, exclusion, restriction or reference made on the basis of sexual orientation, gender identity, race, color, descent, national or ethnic origin, religion, or religious affiliation or 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.

(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 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, probationary, 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) *Gender Identity* refers to the personal sense of identity 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) *Goods and services* shall refer to the material and nonmaterial 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 financial establishments, public utilities, professionals, maintenance and repair workers, laborers, etc.

(h) *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.

(i) *Moro peoples* shall refer to indigenous peoples who are of the Islamic faith, and who have historically inhabited some parts of Mindanao and other parts of the Philippine Archipelago.

(j) *Muslims or moslems* shall refer to followers of the Islamic faith, whether from birth or by conversion.

(k) *Religious belief* refers to a strong belief in a supernatural power or powers that control human destiny.

(l) *Sexual Orientation* refers to the direction of emotional sexual attraction or conduct. This is expressed towards people of the same sex (homosexual orientation) or towards people of both sexes (bisexual orientation) or towards people of the opposite sex (heterosexual orientation).

Sexual orientation is not equivalent to sexual behavior since this refers to feelings and self-concept. Persons may or may not express their sexual orientation in their behaviors.

SEC. 4. *Acts of Discrimination.* – Discrimination is committed when a person treats another less favorably on the basis of gender identity, sexual orientation, race, ethnic origin, religion, or religious affiliation or beliefs than the person treats or would treat another without that attribute, or with a different attribute, on the same or similar circumstances in the political, economic, social, cultural, civil, or any other field of public life, to 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 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 sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the person or of any relative, representative or assignee of the 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 and conditions on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs;

(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 on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs; or

(iii) Dismissing an employee, or subjecting an applicant for employment or an employee to any other detriment, on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs.

(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 sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the person or of any relative, representative or assignee of the person seeking employment.

(3) Any person acting as principal or agent of an 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 in employment on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the person or of any relative, representative or assignee of the 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 sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the student or of any relative, representative or assignee of the student.

(d) Discrimination in the Delivery of Goods and Services. – Any person 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 sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the person or of any relative, representative or assignee of the person.

(e) Discrimination in 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 interest or such accommodation to another person on less favorable terms and 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 sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the person or of any relative,

representative or assignee of the 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 term 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 sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the 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 such place, vehicle or facilities that the public or a 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 and 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 the refusal to allow another access to a meeting or assembly by providing onerous terms and 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 wishing to access public places, facilities or public meetings to any other detriment, on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the person or of any relative, representative or assignee of the person.

(g) **Discrimination in Advertisements/Mass Media.** – 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”, “silly”, and the like, on the basis of sexual orientation, gender identity, race, 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 by reason of a provision of this Act.

(h) Discrimination by Wrongful Portrayal. – Any person acting as principal or agent shall be liable for discrimination by portraying, intimating, 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 racially inferior.

(i) Inciting Others to Commit Acts of Discrimination. – Any person acting as principal or agent shall be liable for discrimination by inciting others to commit discrimination or any action that is unlawful by reason of a provision of this Act, or by assisting or promoting, whether through financial assistance or otherwise, the doing of such act.

(j) Discrimination Through Speeches, Utterances, Acts of Hatred and Similar Acts. – 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 sexual orientation, gender identity, race, ethnic background, and/or religion, religious affiliation or religious 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 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 sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs.

SEC. 5. *Persons 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 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.

All government officers and workers are obliged to promote nondiscrimination in the discharge of their duties and responsibilities.

SEC. 6. *Duty of the Commission on Human Rights (CHR).* – It shall be the duty of the Commission on Human Rights (CHR), in coordination with the National Commission on Indigenous Peoples and the National Commission on Muslim Filipinos, 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 for the investigation of discrimination cases and the administrative sanctions therefor;

(b) Ensure the creation of committees on nondiscrimination and equal opportunity

in all agencies, corporations, companies and educational institutions, whether private or public;

(c) Oversee the implementation of this Act by agencies, corporations, companies and educational institutions, whether private or public;

(d) Establish guidelines and mechanisms that will facilitate access of discriminated persons to legal remedies under this 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.

(e) Coordinate with the Department of Education (DepED) for the promotion of understanding and racial harmony in schools, and the review of books and reference materials that portray indigenous peoples or certain religious practices in a discriminatory way;

(f) Conduct consultations with indigenous peoples and religious organizations; and

(g) 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 discrimination such as through the preparation of necessary pleadings, referral letters and counseling;

(2) 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;

(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. 7. Responsibility to Promote a Nondiscrimination and Equal Opportunity Environment. – It shall be the duty of every person, natural or juridical, public or private, to ensure nondiscrimination 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 services shall issue a nondiscrimination and equal opportunity policy, and create a Nondiscrimination 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 9 hereof.

SEC. 8. *Nondiscrimination and Equal Opportunity Committee.* – In order to ensure compliance with this Act, all agencies, corporations, companies and educational institutions, whether private or public, shall create a Nondiscrimination and Equal Opportunity 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 sexual orientation, gender identity, race, ethnic background, religion, religious affiliation or religious beliefs. The results and findings of such investigation shall be submitted to and acted upon by the CHR which shall have the sole jurisdiction over administrative cases of discrimination.

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 sexual orientation, gender identity, race, ethnic background, religion, religious affiliation or religious beliefs, or to any civil claim for damages suffered by the victim of discrimination.

SEC. 9. *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 a 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, partnership 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. 10. *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 the 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. 11. *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. 12. *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. 13. *Repealing Clause.* – Any provision of law or regulations inconsistent herewith is hereby repealed, revoked or modified accordingly.

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

Approved,