

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 3432



Introduced by
Hon. Kaka J. Bag-ao, Hon. Teddy Brawner Baguilat, Jr., Hon. Maria Leonor
Gerona-Robredo, Hon. Sharon S. Garin, Hon. Mercedes K. Alvares, and
Hon. Jorge "Bolet" Banal, Jr.

EXPLANATORY NOTE

Equality underscores the human rights principles that are embedded in the laws of the country. The legal framework with which we protect and promote human rights, from the 1987 Constitution and several special laws to various international human rights that the Philippines is a signatory of, affirms the equal application of human rights and freedoms.

The denial of basic fairness, however, is an everyday reality for many Filipinos. Indigenous peoples are denied access to basic services because of prejudices against their ethnolinguistic background or cultural expressions. Biases against one's sexual orientation or gender identity result in the denial of one's right to education or work. HIV-related stigma limits opportunities not just for persons living with HIV (PLHIV), but also for communities that are vulnerable or affected by it. Persons with disability (PWDs) are still treated as second-class citizens in the country because of prejudices against their condition.

This demonstrates that the realities on the ground do not meet the standards and guarantees provided by universally recognized human rights. Cases of human rights violations against vulnerable Filipino communities, some of which are considerably grave, present a serious challenge to the State and the society in general: as the country strives to improve the lives of Filipinos, there are individuals and groups that are left behind.

The fundamental law also declares that the State values the dignity of every human person and guarantees full respect for human rights (*Section 11, Article II, 1987 Constitution*). It also imposes on the State the duty to ensure the fundamental equality before the law of women and men (Sec. 14, Id.).

Furthermore, the equal protection clause in the Bill of Rights, which according to the eminent constitutionalist Fr. Joaquin Bernas "*is a specific constitutional guarantee of the Equality of a person*", provides a remedy for those who suffer from discrimination. In *J.M.*

Tuason and Co. vs. The Land Tenure Administration, the Supreme Court ruled that 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."

This proposed measure provides protection against various forms of discriminatory practices. It recognises the intersectionalities and layers of human rights abuses, which requires a more comprehensive framework. The bill does not accord additional entitlements to any communities; instead, it ensures that violations or threats to human rights are addressed.

The bill is also not simply punitive. It also recognises that preventive measures are of equal importance. It responds to stigma, or the dehumanisation of vulnerable individuals or communities, and ensures that respect for diversity is promoted. It thus supports the inclusion of various vulnerable communities in the government's social protection programs, and that within the private and public spheres, 'diversity programs' are established and implemented.

As the country moves towards the fulfillment of the guarantees provided by the Constitution and by various human rights instruments, discrimination needs to be addressed and eliminated. No Filipino should be left behind.

The approval of this bill is urgently sought.



Hon. Kaka J. Bag-ao



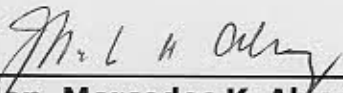
Hon. Teddy Brawner Baguilat, Jr.



Hon. Maria Leonor Gerona-Robredo



Hon. Sharon S. Garin



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24 **AN ACT PROHIBITING DISCRIMINATION ON THE BASIS OF ETHNICITY, RACE, RELIGION OR**
25 **BELIEF, SEX, GENDER, SEXUAL ORIENTATION, GENDER IDENTITY AND EXPRESSIONS,**
26 **LANGUAGE, DISABILITY, HIV STATUS, AND OTHER STATUS, AND PROVIDING PENALTIES**
27 **THEREFOR**
28
29

30 *Be it enacted by the Senate and the House of Representatives of the Congress assembled:*

31 **Section 1. *Short Title*** – This bill shall be known as the Anti-Discrimination Act of 2013.

32
33 **Section 2. *Declaration of policies.*** - It is the policy of the state to work actively for the
34 elimination of all forms of discrimination that offends the equal protection clause of the Bill of
35 Rights and the State obligations under human rights instruments acceded to by the Republic of
36 the Philippines, particularly those discriminatory practices based on sex or sexual orientation.
37 Towards this end, discriminatory practices as defined herein shall be proscribed and penalized

38 **Section 3. *Definition of Terms*** – For the purposes of this Act, the following terms shall
39 be defined as follows:
40

- 41 a. "Disability" shall mean 1) a physical or mental impairment that substantially
42 limits one or more psychological, physiological or anatomical function of an
43 individual or activities of such individual; 2) a record of such an impairment; or 3)
44 being regarded as having such an impairment.

- 1
2 b. "Discrimination" constitutes any distinction, exclusion, restriction or preference
3 or other differential treatment that is directly or indirectly based on ethnicity,
4 race, religion or belief, sex, gender, sexual orientation, gender identity, gender
5 expression, disability, HIV status, or other status, which has the intention or
6 effect of nullifying or impairing the recognition, enjoyment or exercise, on an
7 equal footing, of political, civil, economic, social, and cultural rights.
8 Discrimination, which also includes incitement to discriminate and harassment,
9 is a result or a product of stigma.
10
11 c. "Education and Training" refers to all types and levels of education, training, and
12 other avenues for learning and includes access thereto, the standard and quality
13 thereof, and the conditions under which the same is given.
14
15 d. "Ethnic Origin" includes race, national origin, and ethno-linguistic origin.
16
17 e. "Employment" refers to all terms, conditions, and privileges relating to work in
18 public and private institutions, including recruitment policies, application
19 procedures, training, incentives, compensation, determination of benefits or
20 allowances, promotion, advancement opportunities, transfer, and dismissal.
21
22 This definition shall apply to regular, probationary, casual, contractual, fixed-
23 term, and seasonal workers. In legitimate contracting arrangements, the
24 contractor/subcontractor shall be deemed the employer of the contractual
25 employee.
26
27 f. "Gender Identity" refers to the personal sense of identity or expression as
28 characterized, among others, by manners of clothing, inclinations, and behavior
29 in relation to masculine or feminine conventions. A person may have a male or
30 female identity with the physiological characteristics of the opposite sex.
31
32 g. "Gender Expression" refers to the outward manifestations of the cultural traits
33 that enable a person to identify as male or female according to patterns that, at
34 a particular moment in history, a given society defines as gender appropriate.
35
36 h. "HIV Status" pertains to the presence or absence of the human
37 immunodeficiency virus (HIV) in the body of an individual.
38
39 i. "Indigenous Peoples" include Peoples who are regarded as indigenous on
40 account of their descent from the populations which inhabited the country, at
41 the time of conquest or colonization, or at the time of inroads of nonindigenous
42 religions and cultures, or the establishment of present state boundaries, who
43 retain some or all of their own social, economic, cultural and political
44 institutions, but who may have been displaced from their traditional domains or
45 who may have resettled outside their ancestral domains;
46

1 "Indigenous Peoples" also refers to a group of people or homogenous societies
2 identified by self ascription and ascription by others, who have continuously
3 lived as organized community on communally bounded and defined territory,
4 and who have, under claims of ownership since time immemorial, occupied,
5 possessed and utilized such territories, sharing common bonds of language,
6 customs, traditions and other distinctive cultural traits, or who have, through
7 resistance to political, social and cultural inroads of colonization, nonindigenous
8 religions and cultures, became historically differentiated from the majority of
9 Filipinos;

- 10
11
12 j. "Profiling" means relying on the prohibited grounds of discrimination in
13 subjecting a person or group of persons to investigatory activities, which include
14 unnecessary, unjustified, illegal, and degrading searches, questioning or other
15 investigatory activities, in determining whether an individual is engaged in an
16 activity presumed to be unlawful, immoral, or socially unacceptable.
17
18 k. "Religious Belief" covers the profession or non-profession of religion or belief of
19 one's choice that may be publicly or privately manifested in worship,
20 observance, practice and teaching.
21
22 l. "Sexual Orientation" refers to the direction of emotional sexual attraction or
23 conduct. This can be towards people of the same sex (homosexual orientation),
24 towards people of both sexes (bisexual orientation), towards neither, or
25 towards people of the opposite sex (heterosexual orientation) or towards
26 everyone.
27
28 m. "Stigma" refers to the dynamic process of devaluation that significantly
29 discredits an individual in the eyes of others. When stigma is acted upon, the
30 result is discrimination.
31
32 n. "Vulnerable communities" refers to communities or sectors that encounter
33 stigma and discrimination based on the grounds enumerated in Section 4.
34

35 **Section 4. Prohibited grounds for discrimination.** – For the purposes of this Act,
36 discrimination that is indirectly or directly based on the actual or perceived ethnicity,
37 race, religion or belief, sex, gender, sexual orientation, gender identity, gender
38 expression, civil status, disability, HIV status, or other status is prohibited.
39

40 **Section 5. Discriminatory Acts.** - The following acts shall be prohibited:
41

- 42 A. Inflicting stigma – it shall be unlawful for any person to commit any acts that
43 promote and encourage stigma based on the grounds referred to in Section 4.
44 Content in the media, in educational textbooks, or in other medium that aims to
45 inflict stigma is likewise prohibited.
46

1 B. Denial of political, civil, and cultural rights – it shall be unlawful to deny a person
2 enjoyment of political, civil and cultural rights based on the grounds referred to
3 Section 4.

4
5 C. Denial of right to education – It is unlawful for any person to:

- 6
7 1. Refuse admission or expel a person from any educational or training
8 institution on the basis of the grounds defined in Section 4, without
9 prejudice to the right of educational or training institutions to determine
10 the academic qualifications of their students or trainees;
11 2. Impose disciplinary sanctions, penalties harsher than customary, or
12 similar punishments, requirements, restrictions, or prohibitions that
13 infringe on the rights of the students on the basis of the grounds
14 identified in Section 4; and
15

16 This prohibition extends to acts committed against a student or trainee to
17 discriminate his or her parents or legal guardians based on grounds referred to in
18 Section 4.
19

20 D. Denial of right to work – it is unlawful for any person to:

- 21
22 1. Use the grounds in Section 4 or require the disclosure thereof in the
23 selection, promotion, and termination of workers, and in the
24 determination of compensation, training, incentives, privileges, benefits
25 or allowances, as well as other terms and conditions of employment;
26 2. Deny employment in government institutions, including police and
27 military service, based directly or indirectly on the grounds referred to in
28 Section 4;
29 3. Refuse to enter into contract or agreement with persons or group of
30 persons based solely or partly on the grounds provided in Section 4; and
31 4. deny an application for or revoke a professional license issued by the
32 government directly or indirectly due to the grounds included in Section
33 4.
34

35 E. Denial of access to goods and services – it is unlawful for any person to:

- 36
37 1. Deny a person, solely or partly on the basis of the grounds in Section 4, of
38 goods and services available to the general public, such as but not limited
39 to private and public insurance, housing and other forms of
40 accommodation, medical and clinical services;
41 2. Refuse entry to or evict a person from any establishment, facilities or
42 utilities that are open to the general public, such as but not limited to
43 restaurants, bars, hotels, shopping malls, solely or partly on the basis of
44 the grounds listed in Section 4;
45 3. Cause undue and unjust deferral of services or provision of inferior
46 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 right 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 groups 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, or any private corporation, 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 also be principally liable under this Act.

1
2 **Section 7. Programs to promote non-discrimination and diversity** – The State shall
3 endeavor to eliminate all forms of discrimination and shall therefore pursue initiatives
4 and programs that seek to enable an environment free of stigma and discrimination. It
5 shall direct the machinery and resources of the State to ensure non-discrimination and
6 promote equality and shall encourage other sectors of the society to engage and
7 participate in these efforts. It shall ensure the establishment of the following programs:

8
9 A. Social Protection Program – The national government shall implement social
10 protection measures for communities affected by and vulnerable to stigma and
11 discrimination.

12
13 B. Diversity Programs and policies - All government agencies, government-owned
14 and controlled corporations, private companies, public and private educational
15 institutions, and other entities shall establish diversity programs to ensure that
16 discrimination and abuse are prevented. They shall also create an internal
17 redress mechanism to address cases of discrimination and grant administrative
18 remedies or sanctions for such cases.

19
20 The Civil Service Commission, Department of Labor and Employment,
21 Department of Interior and Local Government, the Armed Forces of the
22 Philippines, Department of Education, Commission on Higher Education,
23 Technical Education and Skills Development Authority, Department of Justice,
24 Department of Foreign Affairs, and Department of Health shall ensure the
25 implementation of this section.

26
27 Failure of the above agencies to ensure the implementation of this provision shall be
28 deemed refusal to address discrimination and shall be penalized as an analogous act of
29 discrimination.

30
31 **Section 8. Duties of the Commission on Human Rights.** - The Commission shall
32 investigate and prosecute on its own or on complaint by any person acts or omissions
33 violating this Act. If the Commission has reasonable cause to believe that any person or
34 group of persons is engaged in discrimination under this Act, the Commission shall
35 commence a legal action in the regular court.

36
37 The Commission shall also direct the officer concerned to take appropriate action
38 against a public officer or employee at fault or who neglect to perform an act or
39 discharge a duty required under this Act, and order revocation of license, removal from
40 office or employment, suspension, demotion, fine, censure, or prosecution, and ensure
41 compliance therewith. Refusal by any officer without just cause to comply with an order
42 of the Commission to revoke the license, remove, suspend, demote, fine, censure, or
43 prosecute an officer or employee who is at fault, or who neglects to perform an act or
44 discharge a duty required under this Act, shall be a ground for disciplinary action against
45 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 (P250,000) 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 a 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 any 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 CHR, 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, National 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.

1
2 **Section 13. *Repealing clause.*** -- All laws, decrees, orders, rules and regulations or
3 parts thereof inconsistent with this Act are hereby repealed, amended, or modified
4 accordingly.

5
6 **Section 14. *Effectivity.*** -- This Act shall take effect fifteen (15) days after its publication
7 in the *Official Gazette* or in at least two (2) newspapers of general circulation.

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9
10 Approved,