

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

Sixteenth Congress
First Regular Session

House Bill No. **4448**



Introduced by AKBAYAN Representatives
Ibarra "Barry" M. Gutierrez III and Walden F. Bello

EXPLANATORY NOTE

The 1987 Constitution declares that the State values the dignity of every human person and guarantees full respect for human rights (*Section 11, Article II, 1987 Constitution*). Furthermore, the equal protection clause in the Bill of Rights guarantees that no person shall be denied equal protection of the laws.

As a signatory to the *International Covenant on Civil and Political Rights*, the State is obligated to create laws which shall prohibit discrimination to guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. "Twenty eight years have passed since the Philippines became a State Party to the *ICCPR*, yet laws to address discrimination in the Philippines have yet to be adopted.

It is a sad reality that stigma and discrimination based on grounds such as race and color, ethnic origin, language, religion and religious belief or affiliation, political belief or affiliation, sex, sexual orientation, gender identity, national or social origin, birth, disability, physical appearance, age, marital and family status, health status, and economic and social situation—among others—continue to be prevalent in our society today.

This bill seeks to provide equal opportunities for all, in all fields of human endeavors. Every person is rightfully entitled to live in a society free from any prejudice and discrimination. This

bill also serves as a measure of protection against all forms of discrimination and abuse that individuals are subjected to each and every day.

There is an urgent need to define and penalize practices which violate the basic human rights of every individual, preventing their free and open participation in the community. Through the elimination of discrimination, equal and inalienable rights for all will be achieved.

In view of the foregoing, the passage of this bill is earnestly sought.



IBARRA "BARRY" M. GUTIERREZ III



WALDEN F. BELLO

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AN ACT
PROHIBITING DISCRIMINATION ON THE BASIS OF RACE AND COLOR,
ETHNIC ORIGIN, LANGUAGE, RELIGION AND RELIGIOUS BELIEF OR
AFFILIATION, POLITICAL BELIEF OR AFFILIATION, SEX, SEXUAL
ORIENTATION, GENDER IDENTITY, NATIONAL OR SOCIAL ORIGIN,
BIRTH, DISABILITY, PHYSICAL APPEARANCE, AGE, MARITAL AND FAMILY
STATUS, HEALTH STATUS, ECONOMIC AND SOCIAL SITUATION OR OTHER
STATUS, PROVIDING PENALTIES THEREFOR, AND FOR OTHER PURPOSES

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 “*Comprehensive Anti-Discrimination Act of 2014.*”

SECTION 2. *Declaration of Policy.*—Pursuant to Article II (State Policies), Section 11 of the 1987 Philippine Constitution, which declared that the State values the dignity of every human person and thereby guarantees full respect for human rights, to Article III (Bill of Rights), Section 1, which affords every person equal protection of the laws, and to obligations under various human rights instruments to which the Philippines is a signatory, it is hereby declared the policy of the State to work actively for the elimination of all forms of discrimination. Towards this end, discriminatory practices as defined herein shall be proscribed and penalized.

SECTION 3. *Definition of Terms.*—As used in this Act:

(a) “*Disability*” refers to the following:

(1) A physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual;

(2) A record of such an impairment; or

(3) Being regarded as having such impairment.

(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 institutions, including recruitment policies, application procedures, training, incentives, compensation, determination of benefits or allowances, promotion, advancement opportunities, transfer, and dismissal.

Employment shall apply to regular, probationary, casual, contractual, fixed-term, seasonal and project-based workers. In legitimate contracting or subcontracting arrangements, the contractor/subcontractor shall be deemed the employer of the contractual employee.

(d) "*Ethnic origin*" refers to the race, national origin and ethno-linguistic origin.

(e) "*Gender identity*" refers to the personal sense of identity or expression 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.

(f) "*Gender expression*" refers to the outward manifestations of the cultural traits that enable a person to identify as male or female according to patterns that, at a particular moment in history, a given society defines as gender appropriate.

(g) "*Health status*" refers to a person's physical or mental health.

(h) "*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 nonindigenous religions and cultures, or the

1 establishment of present state boundaries, who retain some or all of their own social,
2 economic, cultural and political institutions, but who may have been displaced from their
3 traditional domains or who may have resettled outside their ancestral domains;

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

12
13 (i) "*Profiling*" means relying on the prohibited grounds of discrimination in subjecting a person
14 or group of persons to investigatory activities, which include unnecessary, unjustified, illegal,
15 and degrading searches, questioning or other investigatory activities, in determining whether
16 an individual is engaged in an activity presumed to be unlawful, immoral, or socially
17 unacceptable.

18
19 (j) "*Religious belief*" refers to the profession or non-profession of religion or belief of one's
20 choice that may be publicly or privately manifested in worship, observance, practice and
21 teaching.

22
23 (k) "*Sexual orientation*" refers to the direction of emotional sexual attraction or conduct. This can
24 be expressed towards people of the same sex (homosexual orientation) or towards people of
25 both sexes (bisexual orientation), towards neither, or towards people of the opposite sex
26 (heterosexual orientation) or towards everyone.

27
28 (l) "*Stigma*" refers to the dynamic process of devaluation that significantly discredits an
29 individual in the eyes of others. When stigma is acted upon, the result is discrimination.

30
31 (m) "*Vulnerable communities*" refers to communities or sectors that encounter stigma and
32 discrimination based on the grounds enumerated in Section 5.

1 **SECTION 4. *Meaning of discrimination.***—Any distinction, exclusion or restriction or
2 preference which is based on any ground such as race and color, ethnic origin, language, religion
3 and religious belief or affiliation, political belief or affiliation, sex, sexual orientation, gender
4 identity, national or social origin, birth, disability, physical appearance, age, marital and family
5 status, health status, economic and social situation or other status, and which has the purpose or
6 effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on equal
7 footing, of all rights and freedoms.

8
9 **SECTION 5. *Acts of discrimination; unlawful.***—Acts of discrimination include, but are not
10 limited to, the following:

11
12 (a) *Inflicting stigma.*

13
14 It shall be unlawful for any person to commit any acts that promote and encourage stigma
15 based on the grounds referred to in Section 4. Content in the media, in educational
16 textbooks, or in other medium that aims to inflict stigma is likewise prohibited.

17
18 (b) *Denial of political, civil and cultural rights.*

19
20 It shall be unlawful to deny a person enjoyment of political, civil and cultural rights based on
21 the grounds referred to in Section 4.

22
23 (c) *Denial of right to education.*

24
25 It is unlawful for any person to:

- 26
27 (1) Refuse admission or expel a person from any educational or training institution on the
28 basis of the grounds defined in Section 4, without prejudice to the right of educational or
29 training institutions to determine the academic qualifications of their students or trainees;
30 and
31 (2) Impose disciplinary sanctions, penalties harsher than customary, or similar punishments,
32 requirements, restrictions, or prohibitions that infringe on the rights of the students on
33 the basis of the grounds identified in Section 4.
34

1 The prohibition to deny the right to education on the basis of the grounds in Section 4
2 extends to acts committed against a student or trainee to discriminate his or her parents or
3 legal guardians based on grounds referred to in Section 4.

4
5 (d) *Denial of right to work.*
6

7 It is unlawful for any person to:
8

- 9 (1) Use the grounds in Section 4 or require the disclosure thereof in the selection,
10 promotion, and termination of workers, and in the determination of compensation,
11 training, incentives, privileges, benefits or allowances, as well as other terms and
12 conditions of employment;
13 (2) Deny employment in government institutions, including police and military service,
14 based directly or indirectly on the grounds referred to in Section 4;
15 (3) Refuse to enter into contract or agreement with persons or group of persons based solely
16 or partly on the grounds provided in Section 4; and
17 (4) Deny an application for or revoke a professional license issued by the government
18 directly or indirectly due to the grounds included in Section 4.
19

20 (e) *Denial of access to goods and services*
21

22 It is unlawful for any person to:
23

- 24 (1) Deny a person, solely or partly on the basis of the grounds in Section 4, of goods and
25 services available to the general public, such as but not limited to private and public
26 insurance, housing and other forms of accommodation, medical and clinical services;
27 (2) Refuse entry to or evict a person from any establishment, facility or utility that is open to
28 the general public, such as but not limited to restaurants, bars, hotels, shopping malls,
29 solely or partly on the basis of the grounds listed in Section 4; and
30 (3) Cause undue and unjust deferral of services or provision of inferior services to persons
31 due to the grounds in Section 4.
32

33 There is discrimination if the acts above are committed against organizations or groups of
34 persons based on the grounds identified in Section 4.

1
2 (f) *Denial of right to organize.*

3
4 It shall be unlawful to prohibit, prevent, or revoke the accreditation, formal recognition,
5 and/or registration of any organization, group, political party, institution or establishment, in
6 educational institutions, workplaces, communities, and other settings, based partly or solely
7 on the grounds provided for in Section 4.

8
9 Discrimination is also committed when additional requirements beyond the customary are
10 imposed directly or indirectly due to the grounds stipulated in Section 4.

11
12 (g) *Inflicting harm on health and well-being.*

13
14 It shall be unlawful to subject any person, without consent, to any unnecessary medical or
15 physical examination, psychological treatment, faith-based practices, and other similar
16 procedures based solely or partly on any of the grounds referred to in Section 4 that aim to
17 change identity or physical attributes or impose behavior or expressions.

18
19 (h) *Engaging in profiling.*

20
21 It shall be illegal for any person, including members of the military and law enforcement
22 agencies, to engage in profiling based solely or partly on the grounds included in Section 4.

23
24 (i) *Abuses by state and non-state actors.*

25
26 It shall be unlawful for any government agency, including local government units, police,
27 military, and immigration agencies, to harass verbally or physically, to curtail freedom of
28 movement, or to extort from a person or a group of persons on the basis of the grounds
29 stipulated in Section 4.

30
31 This prohibition applies to similar abuses committed by non-State actors.

32
33 (j) *Detention and confinement.*

1 It shall be unlawful to detain and confine a person or groups of persons based directly or
2 indirectly on the grounds under Section 4.

3
4 (k) *Other analogous circumstances.*

5
6 Any analogous act which has the effect or purpose of impairing or nullifying the recognition,
7 enjoyment, or exercise of the person's human rights and fundamental freedoms are also
8 prohibited.

9
10 **SECTION 6. *Persons liable.***—Any person, natural or juridical, or their representatives,
11 including government instrumentalities and agencies, or government-owned and controlled
12 corporations, or any private corporation, institution or company who commits discrimination
13 through any of the acts described in Section 5 shall be liable under this Act.

14
15 Any person, natural or juridical, or their representatives, who requests, instructs, induces,
16 encourages, authorizes or assists another to commit acts of discrimination under Section 5 shall
17 also be liable under this Act.

18
19 Any person who is duty-bound to act on complaints of discrimination under this Act but fails or
20 refuses to do so shall be deemed *prima facie* to have sanctioned the discriminatory act, and shall
21 be held equally liable for discrimination.

22
23 All government officers and workers are obliged to promote nondiscrimination in the discharge
24 of their duties and responsibilities.

25
26 **SECTION 7. *Penalties.***—The penalty of not less than one (1) year but not more than six (6)
27 years imprisonment or a fine of not more than five hundred thousand Philippine pesos
28 (Php500,000.00), in the discretion of the court taking into consideration the circumstances and
29 gravity of the offense.

30
31 The penalty provided under this Section shall be imposed in its maximum period:

32
33 (a) If the offender has been previously convicted under this Act;

(b) When the offender is an ascendant, parent, guardian, stepparent or collateral relative within the second degree of consanguinity or affinity of the victim;

(c) When the offender is the manager or owner of an establishment which has no license to operate or whenever such license has expired or has been previously revoked.

(d) When the offender is a public official, officer or employee: *Provided*, That the penalty of suspension shall also be imposed: *Provided, further*, That the public official, officer or employee may be ordered to undergo gender and discrimination training and community service during the duration of suspension.

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.

An offender who is a foreigner shall be deported immediately after service of sentence and shall be forever barred entry into the country.

Whenever the courts determine that a fine shall be imposed pursuant to the criminal case filed under this Act, the fine thus collected shall be remitted by the court to the Commission on Human Rights which shall administer the fund for the assistance of victims of discrimination.

SECTION 8. *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 other 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 and vulnerable to stigma and discrimination.

(b) *Diversity Programs and Policies.*—All government agencies, government-owned and controlled corporations, private companies, public and private educational institutions, and other entities shall establish diversity programs to ensure that discrimination and abuse are

1 prevented. They shall also create an internal redress mechanism to address cases of
2 discrimination and grant administrative remedies or sanctions for such cases.

3
4 The Civil Service Commission, Department of Labor and Employment, Department of Interior
5 and Local Government, Department of Trade and Industry, the Armed Forces of the
6 Philippines, Department of Education, Commission on Higher Education, Technical Education
7 and Skills Development Authority, Department of Justice, Department of Foreign Affairs, and
8 Department of Health shall ensure the implementation of this Section.

9
10 Failure of the above agencies, without justifiable cause, to ensure the implementation of this
11 provision shall be deemed refusal to address discrimination and shall be penalized as an
12 analogous act of discrimination.

13
14 **SECTION 9. *Enforcement.***—Criminal complaints brought under this Act shall be filed with
15 the proper court. In addition to the criminal complaint, a person who has been subjected to any
16 acts of discrimination as defined in this Act may file a complaint with the Commission on
17 Human Rights. For this purpose, the Commission on Human Rights may investigate, *motu proprio*
18 or on complaint by any person, acts or omissions in violation of this Act.

19
20 In all cases under investigation, the Commission may issue legal and preventive measures as well
21 as provisional remedies. These measures or remedies shall include, but are not limited to, general
22 writs of injunction, restraining orders, status quo ante orders, cease and desist orders, protection
23 orders or such other orders to protect the life and security of persons, preserve evidence, protect
24 properties and other considerations to ensure the efficient investigation of the alleged violation
25 of this Act.

26
27 The Commission shall also direct the officer concerned to take appropriate action against a
28 public officer or employee at fault or who neglected to perform an act or discharge a duty
29 required under this Act, and order revocation of license, removal from office or employment,
30 suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith. Refusal
31 by any officer without just cause to comply with an order of the Commission to revoke the
32 license, remove, suspend, demote, fine, censure, or prosecute an officer or employee who is at
33 fault, or who neglects to perform an act or discharge a duty required under this Act, shall be a
34 ground for disciplinary action against said officer.

1
2 **SECTION 10. *Administrative proceedings and sanctions against public officials and***
3 ***employees.***—Pursuant to Section 8 of this Act, which makes it a duty of the Commission on
4 Human Rights to investigate alleged cases of discrimination, a finding by the Commission on
5 Human Rights that a department, agency or instrumentality of the government, a government-
6 owned and –controlled corporation, or a local government unit has violated any provision of this
7 Act and its implementing rules and regulations, shall carry with it a recommendation to the Civil
8 Service Commission and/or the Department of Interior and Local Government for the
9 imposition of sanctions under administrative law, civil service, or other appropriate laws. Such
10 recommendation shall include the names of the person directly responsible for the violation, and
11 a statement that the sanctions be imposed upon the person directly responsible and the head of
12 the agency or the local chief executive.
13

14 **SECTION 11. *Fines against private persons, provisional remedy.***—Upon a *prima facie*
15 finding that any provision of this Act was violated and upon its issuance of a cease and desist
16 order, the Commission on Human Rights may impose a fine of twenty thousand Philippine
17 pesos (PhP20,000.00) for every day that the act of discrimination complained of has not ceased.
18

19 For purposes of this Section and the imposition of the provisional remedy of fine, the
20 Commission on Human Rights may ask the assistance of the Department of Trade and Industry,
21 the Commission on Higher Education, Department of Labor and Employment, Department of
22 Education, and the Technical Education and Skills Development Authority.
23

24 The fine thus collected shall be for the assistance of victims of discrimination.
25

26 **SECTION 12. *Implementing rules and regulations.***—The Commission on Human Rights,
27 Civil Service Commission, Department of Labor and Employment, Department of Interior and
28 Local Government, the Armed Forces of the Philippines, Department of Education,
29 Commission on Higher Education, Technical Education and Skills Development Authority,
30 Department of Justice, Department of Foreign Affairs, Department of Health, National
31 Commission on Indigenous Peoples, and National Commission on Muslim Filipinos shall
32 promulgate the necessary implementing rules and regulations within sixty (60) days from the
33 effectivity of this Act.
34

1 **SECTION 13. *Separability clause.***—If, for any reason, any part, section or provision of this
2 Act is held invalid or unconstitutional, the remaining provisions not affected thereby shall
3 continue to be in force and effect.

4
5 **SECTION 14. *Repealing Clause.***—All laws, decrees, executive orders, proclamations, rules
6 and regulations, and other issuances, or part or parts thereof, which are inconsistent with the
7 provisions of this Act are hereby repealed, amended or modified accordingly.

8
9 **SECTION 15. *Effectivity clause.***—This Act shall take effect fifteen (15) days after its
10 publication in the *Official Gazette* or at least two (2) newspapers of general circulation, whichever
11 comes earlier.

Approved,