



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

EIGHTEENTH CONGRESS
First Regular Session



HOUSE BILL NO. 1579

Introduced by HON. MUJIV S. HATAMAN of the Lone District of Basilan and
HON. AMIHILDA J. SANGCOPAN of Anak Mindanao (AMIN) Party-List

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.

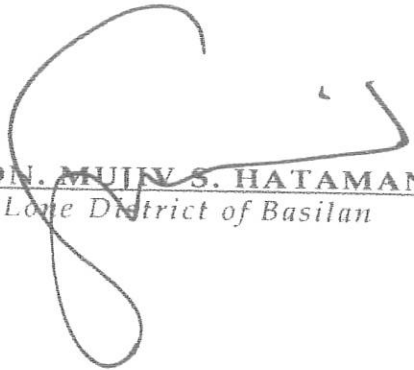
The Constitution likewise provides that the Philippines adopts the generally accepted principles of international law as part of the law of the land (Art. II, Sec. 2). Under the International Covenants on Economic, Social and Cultural Rights, as well as on Civil and Political Rights, States Parties like 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.

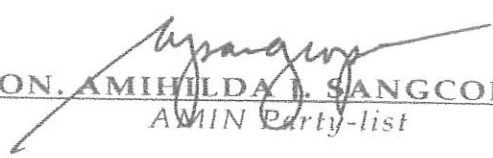
As part of the global community, the Philippines is aware of the United Nations declarations on religious intolerance, which have become more relevant in present times where the backlash of the September 11, 2001 has been greatly felt by Muslims all over the world. The Muslims in Mindanao and elsewhere 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.



HON. MUJIV S. HATAMAN
1st District of Basilan



HON. AMIHILDA T. SANGCOPAN
AMIN Party-list



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Introduced by HON. MUJIV S. HATAMAN of the Lone District of Basilan and
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AN ACT PROHIBITING RACIAL, ETHNIC AND RELIGIOUS DISCRIMINATION

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

SECTION 1. Short Title. – This Act shall be known as “Anti-Racial, Ethnic and Religious Discrimination Act.”

SECTION 2. Declaration of Policy. – It shall be the policy of the State as enshrined in the Constitution to:

- (a.) Maintain peace and order, protect life, liberty and property, and to 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 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;
- (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 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.

It shall also be the policy of the State to uphold human dignity and equality of all persons, regardless of race, age, gender, ethnicity or religion, consistent with its obligations as State Party to various international human rights instruments, particularly the Universal Declaration of Human Rights, the International Covenant

of Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of Racial Discrimination, and the Convention on the Elimination of Discrimination Against Women. As such, the State shall not allow the commission of acts which directly or indirectly derogate these fundamental human rights.

SECTION 3. Definition of Terms. – For purpose of this Act, the following terms shall mean:

- (a.) Discrimination shall refer to any distinction, exclusion, restriction or reference made on the basis of race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs 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. Discrimination also includes incitement to discriminate and harassment.
- (b.) Housing and other Accommodation shall refer to accommodation in a house, apartment, condominium, townhouse, flat, motel, boarding house, hotel, dormitory, shelters, elderly homes, rehabilitation facilities, orphanages, health facilities including mental health facilities, detention centers, camping grounds and other analogous places.
- (c.) Education and Training shall refer to all types and levels of education and training, and shall include access, standard and quality of education and training, and the conditions under which these are given.
- (d.) Employment shall refer to the existence of an employer-employee relationship, as determined by existing law and jurisprudence, as well as 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. This definition shall apply to all types of workers.
- (e.) Ethnic Origin shall refer to the classification of people based on common color, racial, national, tribal, religious, ethno-linguistic or cultural origin or background.
- (f.) Ethno Linguistic Group shall refer to a group of people that shares a distinct language, cultural inheritance and history that give them a unique identity.
- (g.) Goods and Services shall refer to the material and non-material 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 credit or financial establishments, public utilities and services, professionals, maintenance and repair workers, laborers, etc.

- (h.) Indigenous Peoples 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, tradition and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and culture, become historically differentiated from the majority of Filipinos. Indigenous cultural communities and indigenous peoples 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 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.
- (i.) Religious Affiliation or Belief refers to the profession or non-profession of religion or beliefs of one's choice that may be publicly manifested in worship, practice and teaching.
- (j.) Stereotype shall refer to a thought adopted about specific kinds of religions or ethnicities, or persons who practice a specific religion or who belong to a specific ethnic background, specifically with reference to their beliefs and ways of doing things, which are based upon oversimplified opinions or intolerant attitudes, regardless of whether such thoughts or beliefs accurately reflect reality.
- (k.) Stereotyping refers to any act or combination of acts which shall result in the singling out or profiling of a person or class of persons based on a stereotype as defined in the immediately preceding section, which results in a derogatory attitude towards any person or any derogatory treatment against such person or class of persons.
- (l.) Vehicle shall refer to train, ship, bus, taxi, aircraft, and such other forms of transport for public conveyance.

SECTION 4. Acts of Discrimination. – It is unlawful for any person, natural or juridical, to do any act involving a distinction, exclusion, restriction or preference based on race, color, descent or national or ethnic origin, religion, or religious affiliation or beliefs which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise on an equal footing of any human right or

fundamental freedom in the political, economic, social, cultural, civil or any other field of public life.

An act is deemed discriminatory where a person requires another person to comply with a term, condition or requirement which is not reasonable, having regard to the circumstances of the case; or the other person does not or cannot comply with the term, condition or requirement; and the requirement to comply has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise on an equal footing by persons of the same race, color, descent or national or ethnic origin, religion, or religious affiliation or beliefs.

SECTION 5. Prohibited Acts. The following acts of discrimination, when committed on the basis of race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs, of that person or any relative, representative or assignees of that person, are deemed discriminatory, and shall be prohibited:

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 and be voted upon 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.

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 or conditions;
- (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; or
- (iii) Dismissing an employee, or subjecting an applicant for employment or an employee to any other detriment.

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 who is likewise seeking employment.

- 3.) Any person acting as principal or agent of any 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 or from continuing another person in employment.
- c.) Discrimination in Education and Training. – 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, or expelling a student from an educational institution on the basis of his/her religious affiliation or belief, without prejudice to the right of educational institutions to determine the academic qualifications of their students;
 - 2.) Denying or limiting access of a student to any benefit or privilege provided by the institution; or
 - 3.) Subjecting the student to any other detriment.
- 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.
 - 4.) This provision shall include denial of access to medical or health services open to the general public, and denial of application for a license, clearance, certification or any other document issued by government authorities or other entities.
- e.) Discrimination in Land, Business and other 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 estate, land or interest, or such accommodation to another person on less favorable terms or 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.

2.) Any person acting as principal or agent shall also be liable for discrimination by imposing or seeking to impose on another person any terms 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.

f.) Discrimination in Access to 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 place, vehicle or facilities that the general public or 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 or 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 general public or to a section thereof, or refusing to allow another access to a meeting or assembly by providing onerous terms or 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 to a denial of access to public places, facilities or public meetings.

g.) Discrimination in Advertisements/Mass Media. –It is unlawful for a person to publish or display, or cause or permit 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 provision of this Act. 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 stupid, barbaric, savages, dirty, wild, ignorant, stupid and similar degrading portrayals; 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.
- h.) Discrimination by Wrongful Portrayal. – Any person acting as principal or agent shall be liable for discrimination by portraying, imitating, 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 inferior religiously, racially or ethnically.
- i.) Discrimination through Speech, Utterances, Acts of Hatred and Similar Act.- 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.
- j.) 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 effect or purpose of impairing or mollifying the recognition, enjoyment or exercise of the person's human rights and fundamental freedoms in the political, economic, social, cultural, civil spheres or any other field of public life, and where such rights and freedoms are guaranteed and consistent with relevant international human rights instruments to which the Philippines is a State Party thereof, and where such analogous acts are committed on the basis of race, color, descent, national or ethnic origin, religion, or religious affiliation or beliefs.
- k.) Discrimination through Engaging In Profiling.-Any person acting as principal or agent, including any member of the military or law enforcement agencies, who subjects a person or group/s of persons to investigatory activities, such as unnecessary, unjustified, illegal and degrading searches and similar acts, and whose purpose is to determine whether that person or group/s of persons is or are engaged in an activity that is unlawful, immoral or socially unacceptable, shall be liable for discrimination. This provision shall include singling out or profiling a person or class of persons based solely on account of ethnic or religious origin.
- l.) Discrimination through Abuses of State and Non-State Actors. - Any government official or employee of any government agency or corporation, local government unit, police, military or any law enforcement agency, including non-state actors, shall be liable for discrimination if that official or employee commits acts of harassment, verbally or physically, to curtail freedom of movement of any person or group of persons, or to extort from the latter. This shall include acts of involuntarily detaining or confining a person or group of persons.

Section 6. Person/s 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 or 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.

Section 7. Inciting Others to Commit Acts of Discrimination. – Any person acting as principal or agent shall be liable for discrimination by:

- 1.) Inciting the doing of an act that is unlawful by reason of a provision of this Act; or
- 2.) Assisting or promoting, whether by financial assistance or otherwise, the doing or perpetration of such an act.

SECTION 8. Vicarious Liability. If an employee or agent of a person does an act of discrimination in connection with his or her duties as an employee or agent, then for the purposes of this section, the act is taken to be done because of the person's race, color, descent, national or ethnic origin, religion or religious affiliation or beliefs.

Unless established that the person took all reasonable steps to prevent the employee or agent from doing the discriminatory act, then that person shall be liable of unlawful act under this provision.

Section 9. 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 on acts of discrimination and to assist, review and recommend procedures for the resolution, settlement or prosecution of acts of discrimination. Towards this end, the CHR shall:

- a) Ensure the creation of committees on non-discrimination and equal opportunity in all agencies, corporations, companies and educational institutions, whether private or public;
- 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 discriminated persons to legal remedies under the 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 affiliation or beliefs;
- d) Coordinate with the Department of Education (DepEd) and the Commission on Higher Education (CHED) for the promotion of understanding and appreciation of cultural diversity in schools and other learning modalities,

- and ensuring that books, reference materials, and other learning resources used in education programs are free from discriminatory content;
- e) Conduct consultations with indigenous peoples, ethno-linguistic groups and religious organizations or religious communities; and
 - f) Assist in the filing of cases against individuals, agencies, institutions, or establishments, whether public or private, that violate the provisions of this Act. For this purpose, the CHR shall:
 - a.) Provide legal assistance to victims of discrimination such as through the preparation of necessary pleadings, referral letters, and counseling;
 - b.) 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; and
 - c.) Create an efficient system of case referrals to appropriate government department or agencies.

Section 10. Responsibility to Promote a Non-Discrimination and Equal Opportunity Environment. – It shall be the duty of every person, natural or juridical, public or private, to ensure non-discrimination 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 5 of this Act.

All government officers and workers are likewise obliged to observe non-discrimination in the discharge of their duties and responsibilities.

For this purpose , agencies, corporations, companies and educational institutions, whether private or public, as well as any person providing employment, housing, education and the delivery of basic goods and services shall create a Non-Discrimination and Equal Opportunity Committee in their respective organizations, as provided for in Section 11 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 12 hereof.

Section 11. Non-discrimination and Equal Opportunity Committees. – In order to ensure compliance with this Act, all agencies, corporations, companies and educational institutions, whether private or public, shall create a Non-Discrimination and Equal Opportunity Committee (Non-Discrimination Committee), which shall exercise administrative jurisdiction to investigate acts and practices of discrimination under this Act.

The Non-Discrimination Committee shall, among others, conduct the initial investigation of cases constituting discrimination on the basis of race, ethnic background, religion, religious affiliation or beliefs. The result and findings of such investigation shall be referred to the appropriate government agencies for resolution, settlement or prosecution.

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

Section 12. 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 not 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 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, agent 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.) The offender who is a foreigner shall be deported immediately after service of sentence and shall be perpetually 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.

Section 13. Administrative Proceedings and Sanctions. - Upon finding by the Non-Discrimination Committee 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, in the case of government officials or employees, or to the Department of Labor, in the case of officers and employees of private corporations or entities. 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.

Section 14. Reparation to Victims. - In addition to existing laws and procedural rules or 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.

Section 15. Appropriations. - The Chairperson of the CHR shall include in the CHR's program the implementation of this Act, the initial finding of which shall be charged against the current appropriation of the Commission. Thereafter, the amount necessary for the continued implementation of this Act, shall be included in the General Appropriations Act (GAA).

Section 16. Implementing Rules and Regulations (IRR). - Within ninety (90) days from the approval of this Act, the CHR, in consultation with the NCIP, NCMF, and other stakeholders as determined by the CHR, both private and public, shall promulgate the rules and regulations implementing the provisions of this Act.

Section 17. Repealing Clause. - Any provision of law or regulations inconsistent herewith is hereby repealed, revoked or modified accordingly.

Section 18. Separability Clause. - If any portion of this Act is declared as unconstitutional or invalid, the remaining portions not affected thereby shall continue to have force and effect.

Section 19. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved.