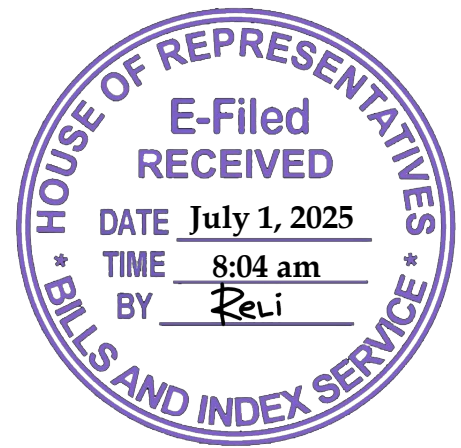


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 714



Introduced by **REP. JAVIER MIGUEL “JAVI” L. BENITEZ**

EXPLANATORY NOTE

The Philippines is a country of great diversity. With over 109 million population¹ spread in more than 7,600 islands² and at least 180 ethnolinguistic groups³, the Philippines is a kaleidoscope of colors, cultures, creeds and convictions.

The framers of the 1987 Constitution recognized this, and promoted unity in diversity in forging a national identity.⁴ Fundamentally, social harmony and cohesion must be grounded in the principle of equality – and equality is premised on the recognition of human dignity, the intrinsic value of every person.

Accordingly, Sec. 11, Art. II of the Constitution provides that “The State values the dignity of every human person and guarantees full respect for human rights.” Supplementarily, Sec. 1, Art. XIII of the Constitution mandates Congress to “give highest priority to the enactment of measures to protect and enhance the right of all the people to human dignity.”

Congress, in passing numerous laws that articulate this view and protect the rights of minority and marginalized sectors of Philippine society, has been performing this constitutional duty faithfully.

¹ 2020 Census of Population and Housing, Philippine Statistics Authority

² National Mapping and Resource Information Authority

³ Philippine Statistics Authority

⁴ Sec. 14., Art. XIV mandates the State to “foster the *preservation, enrichment, and dynamic evolution of a Filipino national culture* based on the principle of *unity in diversity* in a climate of free artistic and intellectual expression.” [Emphasis added]

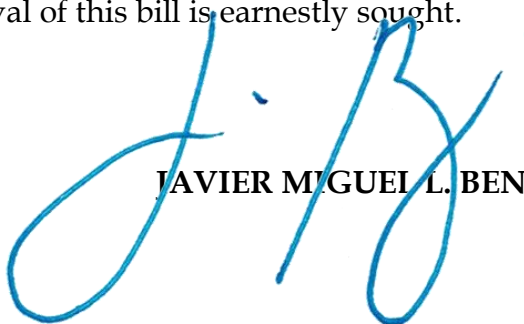
However, despite the legal guarantees, discrimination and violence against the different “Other” remains prevalent. Congress also has yet to pass a comprehensive anti-discrimination legislation. As a matter of fact, in 2016, the United Nations Committee on Economic, Social and Cultural Rights, in its Concluding Observations on the Philippines’ compliance to the International Covenant on Economic, Social and Cultural Rights, laments the delay in adopting a comprehensive anti-discrimination law and urges that the Philippines “to expedite the adoption of a comprehensive anti-discrimination law prohibiting all direct, indirect and multiple forms of discrimination on any grounds and providing for effective remedies for victims of discrimination, including within judicial and administrative proceedings.”

In our bid to keep our seat at the United Nations Human Rights Council in 2015, we took pride in our country’s “influential role in the elaboration of the Universal Declaration of Human Rights” and our being a State party to eight core international human rights instruments and six optional protocols.⁵ “The Philippines made a lasting contribution to the drafting of the Universal Declaration of Human Rights, particularly on articles on the equal dignity and freedom of all human beings and on non-discrimination,”⁶ our Permanent Mission to the United Nations said.

Art. 2 of the Universal Declaration of Human rights holds that “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

May we be true to our word – fulfill our obligation under the Constitution and our commitments to international human rights law, and pass a law that will promote and protect the rights of all persons without distinction or discrimination.

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



JAVIER MIGUEL L. BENITEZ

⁵ Note verbale dated 9 October 2015 from the Permanent Mission of the Philippines to the United Nations addressed to the President of the General Assembly

⁶ Ibid.

Republic of the Philippines
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HOUSE BILL NO. 714

Introduced by **REP. JAVIER MIGUEL “JAVI” L. BENITEZ**

AN ACT PROHIBITING DISCRIMINATION ON THE BASIS OF ETHNICITY, RACE, COLOR, SEX, GENDER, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, SEX CHARACTERISTICS, LANGUAGE, RELIGIOUS BELIEF OR EXPRESSION, POLITICAL OR OTHER OPINION, NATIONAL OR SOCIAL ORIGIN, PROPERTY, BIRTH AND OTHER STATUS, AND OTHER PROTECTED ATTRIBUTES, AND PROVIDING PENALTIES THEREFOR

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. "

SEC. 2. *Declaration of Policy.* – The State recognizes the fundamental right of every person, regardless of ethnicity, race, color, sex, gender, sexual orientation, gender identity, gender expression, sex characteristics, language, religious belief or expression, political or other opinion, national or social origin, property, birth and other status, and other protected attributes, including disability, age, nationality, marital and family status, health status, place of residence, economic and social situation, maternity and pregnancy, to be free from any form of discrimination. It shall therefore intensify its efforts to fulfill its duties under international and domestic laws to respect, protect and fulfill the rights and dignity of every individual.

It is the policy of the State to work actively for the elimination of all forms of discrimination that offend the equal protection clause of the bill of

rights and the state obligations under human rights instruments acceded to by the Republic of the Philippines.

Towards this end, the State shall exert efforts to address all forms of discrimination and violence and to promote human dignity as enshrined in the United Nations Universal Declaration on Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, including the General Recommendation No. 28 on Non-Discrimination Based on Sexual Orientation and Gender Identity, Convention on the Rights of the Child, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Rights of Persons with Disabilities, International Convention on the Protection of All Migrant Workers and Members of their Families, and the relevant General Comments or Recommendations by the concerned UN Treaty Bodies, and all other relevant and universally accepted human rights principles, instruments and other international conventions to which the Philippines is a signatory of. In adherence thereto, discriminatory practices as defined under this Act shall be proscribed and penalized.

SEC. 3. *Definition of Terms.* – For purposes of this Act:

- a. *Accommodation* refers to any house, apartment, condominium, townhouse, flat, hotel, villa, motel, boarding house, hostel, dormitory, elderly home, detention center, rehabilitation facility, orphanage, health facility, including mental health facility, birthing home and hospital clinic, detention center, camping ground and other analogous places, whether public or private;
- b. *Disability* refers to long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder a person's full and effective participation in society on an equal basis with others;
- c. *Discrimination* refers to any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on the protected attributes, such as ethnicity, race, color, sex, gender, sexual orientation, gender identity, gender expression, language, religious belief or expression, political or other opinion, national or social origin, property, birth and other status, and other protected attributes, including disability, age, nationality, marital and family status, health status, place of residence, economic and social situation, maternity and pregnancy, which have the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of political, civil, economic, social, or cultural rights. It also includes association with a person who has, or is believed to have

any of these attributes. Discrimination, which also includes incitement to discriminate and harassment, is a result of stigma. The actual status of the person subjected to discrimination shall not be relevant for the purpose of determining whether an act of discrimination has been committed;

d. *Direct discrimination* refers to a situation when an individual is treated less favorably than another person in a similar situation for a reason related to a prohibited ground. Direct discrimination also includes detrimental acts or omissions on the basis of prohibited grounds where there is no comparable similar situation;

e. *Indirect discrimination* refers to laws, policies or practices which appear neutral at face value, but have a disproportionate impact on the exercise of civil, political, economic, social, and cultural rights as distinguished by prohibited grounds of discrimination;

f. *Education and Training* refer to all types and levels of education, and includes accessibility, standard and quality 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;

g. *Employment* refers 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;

h. *Ethnic Origin* refers to the classification of people based on common color, descent, racial, national, tribal, religious, ethno-linguistic or cultural origin or background;

i. *Gender* refers to a set of socially ascribed characteristics, norms, roles, attributes, values and expectations identifying the social behavior of men and women and the relations between them;

j. *Gender Expression* refers to the way a person communicates gender identity to others through behavior, clothing, hairstyle, communication or speech pattern, or body characteristics;

k. *Gender Identity* refers to a person's innermost concept of self as man, woman, or another nonbinary identity, which may or may not correspond with their sex or gender assigned at birth, and may be characterized, among others, by manner 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;

l. *Goods and Services* 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, among others;

m. *Health Status* refers to a person's physical or mental health;

n. *HIV Status* refers to the presence or absence of the human immunodeficiency virus (HIV) in the body of an individual;

o. *Indigenous Cultural Communities/Indigenous Peoples* 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, non-indigenous 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 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;

p. *Intersex* refers to people who are born with physical or biological sex characteristics, such as sexual anatomy, reproductive organs, hormonal patterns and/or chromosomal patterns, that do not fit the typical definitions for male or female bodies. For some intersex people, these traits are apparent at birth, while for others they emerge later in life, often at puberty;

q. *Language* refers to spoken and signed languages and other forms of non-spoken languages;

r. *Marginalization* refers to a condition where a whole category of people is excluded from useful and meaningful participation in political, economic, social, and cultural life;

s. *Marital or Relationship Status* refers to the personal status of each individual in relation to the marriage laws or customs of the country. The categories of marital status include any of the following: single, married,

separated, widowed, or de facto spouse of another person. A de facto spouse of another person is defined to mean a person who cohabits or lives with another person in a relationship similar to marriage but is not legally married to that person;

t. *Older persons* refer to persons who are at least sixty (60) years of age and also referred to as senior citizens;

u. *Other Status* refers to other forms of differential treatment on grounds of discrimination which either undermines human dignity, causes or perpetuates systemic disadvantage, or adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to the protected attributes enumerated in Section 4 of this Act. These grounds include but are not limited to the following: pregnancy or maternity/paternity status, family responsibilities, health status or medical condition, and criminal record;

v. *Persons with Disabilities* refer to those persons who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others;

w. *Physical Features* refer to a person's height, size, weight or other bodily characteristics and any feature that a person chooses to acquire, such as tattoos and piercings;

x. *Political Inclination* refers to a person's preference as regards membership or belief in a particular political party, organization or ideology. It covers both the holding and not holding of opinions, as well as expression of views or membership within opinion-based associations, trade unions or political parties;

y. *Profiling* refers to reliance on prohibited grounds of discrimination in subjecting a person or group of persons, including any type of societal relations to investigatory activities, which include but is not limited to (1) unnecessary, unjustified, illegal and degrading searches, inquiries, custodial investigations and arrests to determine whether an individual is engaged in an activity presumed to be unlawful, immoral or socially unacceptable; or (2) recording and analyzing a person's psychological and behavioral characteristics to make generalizations about a person's protected attributes or to assist in identifying a particular sub-group of people's protected attributes;

z. *Public Ridicule* refers to an act of contemptuous imitation or mockery of a person which leads to marginalization whether in writing, words or action;

aa. *Reasonable Accommodation* refers to necessary and appropriate modifications and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms to persons with disabilities;

bb. *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;

cc. *Religious Belief or Expression* refers to any form of expression which is manifested, publicly or privately, through overt acts or omissions, like worship, observance, practice, teaching, writing, and other similar conduct which is consciously or unconsciously done because of a person's religion or belief based on one's choice; it also refers to teachings and preaching of religious leaders on the basis of their faith, whether it conforms to or opposes one's view or belief, which are made in the confines of their religious service, ceremony or gathering and are in accordance with the most deeply held fundamental religious convictions of the religion to which they belong, and that they ascribe to such belief with demonstrable sincerity;

dd. *Sex* refers to the biological differences between men and women that are universal and usually determined at birth;

ee. *Sex characteristics* refer to a person's physical traits that indicate their biological sex, such as chromosomes, external genitalia, gonads, hormones, and internal reproductive organs. Traits present at birth are called primary sex characteristics; and those that develop during puberty are called secondary sex characteristics;

ff. *Sexual Orientation* refers to the direction of emotional sexual attraction or conduct towards people of the same sex (homosexual orientation), towards people of both sexes (bisexual orientation), towards people of the opposite sex (heterosexual orientation) or to the absence of sexual orientation (asexual orientation);

gg. *Social Origin* refers to a person's inherited social status;

hh. *Stigma* refers to the dynamic process of devaluation that significantly discredits an individual in the eyes of others. When stigma is acted upon, the result is discrimination;

ii. *Universal design* refers to the design of products, environments, programs and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. It shall not

exclude assistive devices for particular groups of persons with disabilities where these are needed; and

jj. *Vulnerable communities* refer to communities or sectors that encounter stigma and discrimination based on the grounds enumerated under Section 4 of this Act.

SEC. 4. *Prohibited Grounds for Discrimination.* - For the purposes of this Act, discrimination that is directly or indirectly based on the actual or perceived ethnicity, race, color, sex, gender, sexual orientation, gender identity, gender expression, sex characteristics, language, religious expression or belief, political or other opinion, national or social origin, property, birth and other status, and other protected attributes, including disability, age, nationality, marital and family status, health status, place of residence, economic and social situation, maternity and pregnancy, is prohibited. For purposes of this Act, these personal characteristics shall be collectively termed as Protected Attributes.

The protected attributes that may be subjected to differentiation or any form of discrimination shall be interpreted in their most common or universal definitions and with due regard to the promotion of meaningful implementation of non-discrimination policy.

In determining whether a person is distinguished by one or more of the protected attributes, identification shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned. Membership also includes association with a group characterized by one of the prohibited grounds or perception by others that an individual is part of such a group.

SEC. 5. *Act of Discrimination.* – Discrimination is committed when a person treats another less favorably on the basis of actual or perceived ethnicity, race, color, sex, gender, sexual orientation, gender identity, gender expression, sex characteristics, language, religious belief or expression, political or other opinion, national or social origin, property, birth and other status, and other protected attributes, including disability, age, nationality, marital and family status, health status, place of residence, economic and social situation, maternity and pregnancy, 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 other field of public life, directly or indirectly, to include, but not limited to:

- a. ***Denial of Right to Political Participation.*** – Any person acting as principal or agent shall be liable for 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 terms and conditions before these political rights are granted, preserved or protected; or
 3. Subjecting another person who wishes to exercise a political right to any act of discrimination.
- b. ***Denial of Right to Organization.*** - 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 of this Act.

Discrimination is also committed when additional requirements beyond the customary are imposed directly or indirectly due to the grounds stipulated in Section 4 of this Act.

- c. ***Denial of Right to Employment.*** –
1. Any employer or head of a firm, company or organization shall be liable for the commission of any of the following acts:
 - (a) 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 terms and conditions that violate the protected attributes under this Act;
 - (b) Failing to make reasonable efforts to make facilities accessible to persons with disabilities;
 - (c) 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 discriminatory terms and conditions;

(d) Dismissing, demoting or suspending an employee or subjecting an applicant for employment or an employee to any act of discrimination based on the protected attributes; or

(e) Retaliating against a person who reports the discrimination, who provides information during an investigation, or who is a witness to, or has reliable information about discrimination.

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 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 or from allowing another person to continue his or her employment;

4. Deny employment in government institutions, based directly or indirectly on the grounds referred to in Section 4; Provided, *That*, in police, military or uniformed personnel in government service, all applicants shall submit and comply with the requirements mandated by law;

5. Refuse to enter into contract or agreement with persons or group of persons based solely or partly on the grounds provided in Section 4; and

6. Deny an application for or revoke a professional license used for employment issued by the government directly or indirectly due to the grounds included in Section 4 of this Act.

d. ***Denial of Right to Education and Training.*** - It is unlawful for any person to:

1. Refuse admission or expel a person from any educational or training institution on the basis of the grounds defined in Section 4, without prejudice to the right of educational or training institutions to determine the academic qualifications and non-academic training requirements of their students or trainees, subject to fair, reasonable and equitable admission and academic requirements;

2. Grant or refuse to grant honors, scholarship/s or other forms of assistance on the basis of the grounds defined in Section 4;
 3. Impose disciplinary sanction, penalties harsher than customary, or similar punishment, requirements, restrictions, or prohibitions that infringe on the rights of the students or trainees on the basis of the grounds identified in Section 4; *Provided*, That sectarian educational and training institutions, or institutions of higher learning, may reserve their right to determine and implement policies, rules and regulations consistent with the vision, mission and objectives of such institutions; *Provided further*, That such policies, rules and regulations are consistent with the provisions of this Act. Non-sectarian private educational institutions, as such, shall not impose policies considered discriminatory against any protected attributes under Sec. 4 of this Act. Public educational institutions are likewise prohibited from imposing policies considered discriminatory against any of the protected attributes provided in Sec. 4 of this Act;
 4. This prohibition extends to acts committed against a student or trainee to discriminate his or her parents or legal guardians based on grounds referred to in Section 4 hereof;
 5. Failing to make reasonable efforts to make facilities accessible to persons with disabilities;
 6. Subjecting the student to any act of discrimination and intolerance related to education and training; and
 7. Retaliating against a person who reports the discrimination, who provides information during an investigation, or who is a witness to, or has reliable information about discrimination.
- e. ***Denial on the Right to Access 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 the commission of any of the following acts:
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 on less favorable terms or conditions than those upon whom they would otherwise supply those goods or services;

Provided, That the act of giving inferior goods or services shall be deemed a denial of access or use of such goods or services; or

3. Subjecting another person to any other detriment in connection with the provision of goods or services.

f. ***Denial of the Right to Reasonable Accommodation. –***

1. Any person acting as principal or agent providing accommodation shall be liable for the commission of any of the following acts:

(a) Failing to make reasonable efforts to make facilities accessible to persons with disabilities;

(b) Refusing or failing to accept or process the application for any land or interest thereof, housing and other accommodations;

(c) Disposing of such land or interest, housing and other accommodation to another person on less favorable terms and conditions than those which would otherwise be offered;

(d) Treating another person who is seeking to acquire or has acquired an estate, land or interest thereof, housing and other accommodation less favorably than to others in the same circumstances;

(e) Refusing to permit another person to occupy any estate, land, housing and other accommodation; *Provided*, That operators of boarding houses, hostel, dormitories or any other accommodations, public or private, intended for students and trainees, shall not be held liable for discrimination for imposing rules and regulations which aim to maintain order and discipline, and which may include policies on segregation among the occupants of such facilities;

(f) Terminating any estate, land or interest thereof of another person or the right of another person to occupy any estate, land or housing and other accommodation; or

(g) Subjecting an applicant to any other act of discrimination in the acquisition, possession, utilization, lease or disposal of estate, land or interest thereof, housing and other accommodation; and

(h) Denying accommodations against refugees, evacuees and internally displaced persons by reason of natural calamities or armed conflict.

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 person or class of persons who may be the clients, visitors or guests of any estate, land, housing and other accommodation.

3. The abovementioned acts or omissions under this provision shall also be discriminatory when they are committed against juridical persons on the basis of the actual or perceived protected attributes of their members, officers, board of directors or trustees, or their target constituencies.

g. ***Denial of the Right to Access Places, Facilities and Modes of Transportation for Public Use and to Attend Meetings Open to the Public.*** - Any person acting as principal or agent shall be liable for the commission of any of the following acts:

1. Refusing to allow another person access to or use of any such place, facilities, or any mode of transportation 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, facilities or any mode of transportation by providing terms and conditions not similar to others whom they would otherwise allow access to or use of the place, transportation or facilities;

3. Refusing to allow another person access to a meeting or assembly open to the public or to a section thereof, or refusing to allow another person access to a meeting or assembly by providing 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, facility or any mode of transportation;

5. Failing to make reasonable efforts to make facilities accessible to persons with disabilities; and

6. Subjecting a person to a denial of access to public places, public facilities, public transport or public meetings.

h. ***Denial of Right to Publication of Advertisements or Access to Mass Media.*** - Any person acting as principal or agent, including employees, officers, board of directors or trustees, shall be liable for discrimination through publishing, displaying, or causing or permitting to be published or displayed an advertisement or notice, including or excluding persons from access to social media, that indicates or could reasonably be understood as indicating an intention to do an act that is unlawful by reason of any provision of this Act.

i. ***Denial of Right Against Wrongful Portrayal.*** - Any person acting as principal or agent shall be liable for discrimination by portraying, intimating, depicting or describing certain individuals and/or group/s as inferior, in learning institutions, instructional materials, teaching devices, books and reference materials, especially in Civics and History, and in mass media including social media, or encouraging the commission of any of the acts of discrimination against any person and or group as provided in this Act; *Provided*, That in the determination of wrongful portrayal, the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

j. ***Denial of the Freedom of Speech, Utterances, Acts of Hatred and Similar Acts.*** -Any person shall be liable for discrimination exercised through delivering speeches or making utterances, doing acts of hatred or violence against another person, or mocking or ridiculing another person.

k. ***Denial of the Right to Health and Well-being.*** - Any person shall be liable for discrimination exercised through subjecting any person, without full, free, informed and prior consent, to any unnecessary medical or physical examinations, psychological treatments, faith-based practices, and other similar procedures that aim to change identity or physical attributes or impose behavior or expressions. This shall include denying a person access to public or private medical and other health services open to the general public, as well as access to public and private health insurance, including Health Maintenance Organization (HMO)-provided medical plans, on the basis of the grounds referred to in this Act;

l. ***Denial of Right Against Profiling.*** - It shall be illegal for any person, including members of the police, military and uniformed personnel in government service, to engage in profiling based solely or partly on the grounds included in Section 4 of this Act; *Provided*, That law enforcement officers are allowed to conduct criminal profiling based on the actual commission of illegal acts, and not on stereotypical assumptions attached to any protected attribute; *Provided further*, That

the purposes of profiling include investigation, insurance, and other forms of profiling which have the intention or effect of nullifying or impairing the recognition, enjoyment or exercise on an equal footing of political, civil, economic, social or cultural rights.

m. ***Denial of Protection Against Inflicting Stigma.*** - It shall be unlawful for any person to commit any act that promote, encourage, inflict or perpetuate stigma based on the grounds referred to in Section 4 hereof. Content in all forms of media, including social media, in educational textbooks, or in any other medium that aims to promote, encourage, inflict or perpetuate stigma through advertising, producing, or publishing, among others, is likewise prohibited.

n. ***Denial of Right Against Illegal Detention and Confinement.*** - It shall be unlawful to detain and confine a person or group of persons based directly or indirectly on the grounds under Section 4 hereof.

o. ***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, pursuant to existing laws, are prohibited.

SEC. 6. *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.

SEC. 7. *Protection Against Abuses by State and Non-State Actors.* - It shall be unlawful for any government agency, 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 hereof. This prohibition applies to similar abuses committed by non-state actors.

SEC. 8. *Exceptions.* - Any act or conduct, otherwise prohibited under Section 5 of this Act, shall not be unlawful and shall not be considered as discrimination:

- (a) Where any of the protected attributes are bona fide occupational qualifications reasonably necessary to the normal operation of the particular business or where the differentiation

is based on reasonable factors (Genuine Occupational Qualifications);

(b) Where distinction, exclusion, or preference in respect of a particular job is based on inherent requirement and requirement is a proportionate means of achieving a legitimate aim (Inherent Requirement);

(c) Where the deeply held fundamental religious doctrines, dogma or beliefs of a person or of a body established exclusively for religious purposes require or compel such person or body to perform acts or practices necessary to avoid injury to the religious sensitivities of adherents of that religion; *Provided*, That such acts or practices do not result to disruption of public service or promote discrimination against protected sectors under this Act;

(d) Where the act or omission is done in good faith for the purpose of assisting or advancing a person or group of persons who need or may reasonably be supposed to need assistance or advancement in order to achieve an equal place in society with other members of the community (Measures of Equality or Affirmative Action Program); and

(e) Where sectarian educational and training institutions, or institutions of higher learning invoke their right to academic freedom to determine and implement school policies, rules and regulations, these should not be contrary to law, public order, public policy and the Constitution.

There is valid classification when the acts enumerated under this Section do not contravene the right to due process and the equal protection of the laws guaranteed under the Constitution.

SEC. 9. *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 Sections 5, 6 and 7 hereof 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, refuses or causes undue delay shall be deemed *prima facie* to have sanctioned the discriminatory act, and shall consequently be held equally liable for discrimination.

SEC. 10. *Creation of 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, 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, hereinafter referred to as 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 actual or perceived ethnicity, race, color, sex, gender, ethnicity, sexual orientation, gender identity, gender expression, sex characteristics, language, religious belief or expression, political or other opinion, national or social origin, property, birth and other status, and other protected attributes, including disability, age, nationality, marital and family status, health status, place of residence, economic and social situation, maternity and pregnancy. The result and findings of such investigation shall be referred to the appropriate disciplinary body of the agency, corporation, company and educational institution, whether public or private, for resolution, settlement or prosecution, and imposition of appropriate sanctions.

However, cases or complaints of acts of discrimination as defined in this Act may be filed directly with the Commission on Human Rights (CHR) or with the appropriate government agency for investigation and resolution, in the exercise of its quasi-judicial powers. For cases or complaints of acts of discrimination committed against ICCs/IPs, the CHR or the NCIP, as the case may be, may investigate *motu proprio* or on complaint by any person, acts or omissions in violation of this Act.

In instances where any complaint of discrimination against ICCs/IPs are first filed with another entity, the same complaint may be referred to the NCIP for conduct of appropriate investigation. Based on its findings, the NCIP shall initiate the filing of appropriate legal or administrative action to the appropriate officer or tribunal and may prosecute the case for and in behalf of the ICCs/IPs subject to existing rules and guidelines in the prosecution of criminal cases.

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 in violation of the protected attributes or to any civil claim for damages suffered by the victim of discrimination.

Failure of any juridical entity, whether public or private, to ensure effective implementation of this provision by failure to establish a Non-

Discrimination Committee or failure to act on a complaint within ten (10) days from receipt thereof and to resolve the same with promptness and sensitivity shall be deemed refusal to address discrimination and shall be considered as an act of discrimination subject to the penalty provided for in Section 15 hereof.

SEC. 11. *Duty of the Commission on Human Rights (CHR).* – It shall be the duty of the Commission on Human Rights (CHR) to prevent or deter the commission of 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 create a Non-Discrimination and Equal Opportunity Office (NDO) and its appropriate divisions at the CHR Central Office and NDO units in every CHR Regional Office. The NDO and its Regional units shall assist the Commission to:

- a. call or convene any or all of the Non-Discrimination Committees, from both public and private institutions, to ensure policies and programs are established pursuant to the provisions of this Act;
- b. 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;
- c. coordinate with the Department of Education (DepEd) and the Commission on Higher Education (CHED) for the promotion of understanding and appreciation of cultural diversity, racial harmony and non-discrimination in schools and other learning modalities, and ensuring that books, reference materials and other learning resources used in education programs, including those that portray indigenous peoples or discuss religious practices, are free from discriminatory content;
- d. conduct consultations with indigenous peoples, religious organizations and other organizations representing vulnerable, disadvantaged and marginalized groups; and
- e. assist in the filing of cases against individuals, agencies, institutions or establishments, whether private or public, that violate the provisions of this Act. For this purpose, the CHR shall:
 1. provide legal assistance to victims of 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; and
3. create an efficient system of case referrals to appropriate government departments or agencies.

SEC. 12. *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 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 4-5 of this Act.

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 nondiscrimination and promote equality and shall encourage other sectors of the society to engage and participate in these efforts. Consistent with existing laws, the State 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 and Inclusion 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 prevented. They shall also create an internal redress mechanism to address cases of discrimination and grant administrative remedies or sanctions for such cases.

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

SEC.13. *Information and Education Campaign. (IEC)* – All government agencies and instrumentalities, government-owned and controlled corporations, private and public educational institutions, private companies, and other sectors, are mandated to develop and implement information dissemination on any of the prohibited forms of discrimination.

They shall ensure that IECs on the rights of the ICCs/IPs under R.A. 8371 and other related laws, and culture-sensitivity trainings are included in their programs. They shall endeavor to produce and publish information and education campaign materials which must be available in accessible formats or applications to promote non-discrimination and diversity.

Information regarding the dignity and diversity of the cultures, traditions, histories, and aspirations of the ICCs/IPs should be appropriately reflected in all forms of education, public information, cultural-educational exchange, and information education campaigns, including the use of social media platforms.

SEC. 14. *Affirmative Action.* – The State shall develop a system of affirmative actions towards protecting the rights of Indigenous peoples, other cultural minority groups and groups that are most vulnerable to discrimination.

The CHR as Gender Ombudsman shall take appropriate measures to ensure compliance with this Section.

SEC.15. *Penalties.* - Any person found liable for violating any provision of this Act shall be penalized by *arresto mayor* or imprisonment for a period of not less than one (1) month and one (1) day nor 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, step-parent 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 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

e. A fine to be determined by the court shall be imposed.

The court may impose upon a person found to have violated for the first time any of the prohibited acts, the non-custodial sanctions, such as the rendition of community service, gender sensitivity, equal opportunity and diversity seminars and other non-imprisonment measures, in terms of attendance in human rights education's familiarization with and exposure to the plight of the victims.

If the violator is an alien or foreigner, he shall be deported immediately after service of sentence without further deportation proceedings, subject to existing laws, rules and regulations on immigration and deportation.

Persons found guilty of any of the discriminatory practices prohibited under this Act shall also be civilly liable.

If any crime penalized under the Revised Penal Code is committed and an act of discrimination has also been committed, the penalty provided under the Code shall be applied and the discrimination committed shall be considered as an aggravating circumstance.

SEC. 16. *Administrative Proceedings and Sanctions.* — In the exercise of their monitoring functions, and upon finding by the CHR, or the NCIP, in cases of discrimination or complaints filed against ICCs/IPs, 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) or the appropriate appointing authority, or to the Department of Labor, in the case of officers and employees of private corporations or entities, subject to existing laws. 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.

The administrative remedies provided under this Act do not bar prosecution or civil claims in proper courts for an act of discrimination committed under this act.

SEC. 17. *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, rehabilitation, guarantees of non-repetition, and public apologies. 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 shall make an order directly against a convicted person, specifying appropriate reparation to, or in respect of, victims, including restitution, compensation, rehabilitation, guarantees of non-repetition, and public apologies;
- c. Before making an order under this section, the court, administrative agency, or quasi-judicial body shall invite and shall consider representations from, or on behalf of, the convicted person, victims or other interested persons; and
- d. The Department of Social Welfare and Development (DSWD) shall provide rehabilitative counselling and treatment to offenders toward a better understanding of human rights. If necessary, the court shall direct the offender to submit to psychiatric treatment or confinement.

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

SEC. 18. *Burden of Proof.* – Where there is prima facie finding by any court or other competent authority that discrimination has been committed against any person, the burden of proof that there has been no breach on the right of equality committed against the complainant rests on the respondent. This rule shall apply to all civil and administrative proceedings.

SEC. 19. *Creation of an Oversight Inter-Agency Committee.* – An Oversight Inter-Agency Committee is hereby created to periodically oversee the implementation of this Act. The Committee shall be headed by the CHR, through its Chairperson or the designated Non-Discrimination and Equal Opportunity Focal Commissioner, with the following as Members: representatives with the rank of an Undersecretary or Assistant Secretary, from the Department of Education (DepEd), Commission on Higher Education (CHED), Civil Service Commission (CSC), Department of Labor

and Employment (DOLE), Department of Justice (DOJ) and other agencies who may be called upon by the CHR.

The Oversight Inter-Agency Committee shall meet twice a year, or as the need arises, and shall submit an annual report to Congress on the implementation of this Act. The annual report shall be made accessible to the public, and shall contain the following information, among others:

- a) Identification of strengths and weaknesses of the implementation of this Act;
- b) Audit performance of the government agencies in relation to their duties and responsibilities under this Act; and
- c) Recommendations on the improvement of implementation of this Act.

SEC. 20. *Appropriations.* - The CHR shall include in its program the implementation of this Act, the initial funding 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 annual General Appropriations Act (GAA).

SEC. 21. *Implementing Rules and Regulations.* - The CHR as the lead agency, Civil Service Commission, Department of Labor and Employment, Department of Interior and Local Government, the Armed Forces of the Philippines, the Philippine National Police, 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, Philippine Commission on Women, National Council on Disability Affairs, Council for the Welfare of Children, National Commission on Muslim Filipinos, and the National Economic and Development Authority shall promulgate the necessary implementing rules and regulations within sixty (60) days from the effectivity of this Act.

SEC. 22. *Separability Clause.* - If any part or provision of this Act is held invalid or declared unconstitutional, the remainder of this Act or any provision not affected thereby shall remain in full force effect.

SEC. 23. *Repealing Clause.* - All laws, decrees, executive orders, memorandum orders, memorandum circulars, administrative orders, ordinances, or parts thereof, which are inconsistent with the right to adequate food and the provisions of this Act, are hereby deemed repealed or modified accordingly.

SEC. 24. *Effectivity.* - This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in a newspaper of general circulation.

Approved,