

SENATE
S. B. **2358**

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Introduced by Senator Poe

**AN ACT
PROHIBITING DISCRIMINATION ON THE BASIS OF ETHNICITY, RACE,
RELIGION OR BELIEF, SEX OR GENDER OR SEXUAL ORIENTATION,
LANGUAGE, DISABILITY, EDUCATIONAL ATTAINMENT AND OTHER FORMS
OF DISCRIMINATION AND PROVIDING PENALTIES FOR THE PURPOSE**

Explanatory Note

The 1987 Philippine Constitution guarantees equal protection for everyone. Article II, Section 10 declares the policy of the State to “promote social justice in all phases of national development.” Section 11 provides that the State “values the dignity of every human person and guarantees full respect for human rights,” while Section 14 imposes on the State the duty to value the “role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.”

Article III, Section 1 of the fundamental law states that, “[n]o person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws.”

The United Nations Universal Declaration of Human Rights (UDHR), which the Philippines is a signatory, provides that the “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” The UDHR also provides that everyone is entitled to all the rights and freedoms without distinction of any kind such as race, color, sex or gender or sexual orientation language, religion political or other opinion, educational attainment, national or social origin, property, birth or other status¹.

This proposal seeks to enhance the basic rights enshrined in the Constitution and several international declarations, prevent and criminalize various forms of discrimination and penalize such. Any form of discrimination may be categorized as a crime against humanity and human dignity in that several international declarations promote the equal treatment of all people and prevent discrimination on the basis of race, ethnicity and other status.

Under this measure, discriminatory acts such as inflicting stigma, denial of education, political, civil and cultural rights, right to work, access to goods and services, and the right to organize, inflicting harm on health and well-being, engaging in profiling, abuses by state and non-state agencies, and detention and confinement are strictly prohibited and will be met with corresponding penalties.

¹ Retrieved from: <http://www.un.org/en/documents/udhr/>

In contemporary situation, discrimination happens in Philippine society:

- In 2003, a Manobo family were forced out of their ancestral land. Accordingly, they were unduly discriminated because of their indigenous ancestry. (www.humanrights.asia/news/forwarded-news/FA-19-2003)
- There are countless reported cases of LGBT members suffering from discrimination in their employment. (as an illustration, www.philstar.com/headlines/2014/03/28)

Many say that there is no place for oppression in a democratic country like the Philippines. Everyone deserves equal economic, political and social rights and access to opportunities. The social stigma of discrimination is dangerous and depressing, and may sometimes become lethal on the part of the victim.

As such, approval of this bill is fervently sought.


GRACE POE

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

1 **SECTION 1. Short Title** – this bill shall be known as “the Anti-Discrimination Act of
2 2014.”
3

4 **SECTION 2. Declaration of Policies.** – It is the policy of the State to work actively for
5 the elimination of all forms of discrimination that offend the equal protection clause of the Bill of
6 Rights and the State obligations under human rights instruments acceded to by orientation.
7 Towards this end, discriminatory practices based on sex or sexual orientation. Towards this end,
8 discriminatory practices as defined herein shall be prescribed and penalized.
9

10 **SECTION 3. Definition of Terms** – For the purposes of this Act, the following shall be
11 defined as follows:
12

13 a. *Discrimination* – constitutes any distinction, exclusion, restriction or preference or
14 other differential treatment that is directly or indirectly based on ethnicity, race,
15 religion or belief, sex and gender, disability, or other status, which has the intention
16 or equal footing, of political, civil, economic, social, and cultural rights.
17 Discrimination, which also includes incitement to discriminate and harassment, is a
18 result or a product of stigma.
19

20 b. *Education and Training* – refers to all types and levels of education, training, and
21 other avenues for learning and includes access thereto, the standard and quality
22 thereof, and the conditions under which the same is given.
23

24 c. *Employment* – refers to all terms, conditions, and privileges relating to work in public
25 and private institution, including policies, application procedures, training, incentives,
26 compensation, determination of benefits or allowances, promotion, advancement
27 opportunities, transfer and dismissal
28

29 This definition shall apply to regular, probationary, casual, contractual, fixed-term,
30 and seasonal workers. In legitimate contracting arrangements, the
31 contractor/subcontractor shall be deemed the employer of the contractual employee.
32

1 d. *Indigenous Peoples* – include Peoples who are regarded as indigenous on account of
2 their descent from the populations which inhabited the country, at the time of
3 conquest or colonization, or at the time of inroads of non-indigenous religions and
4 cultures, or the establishment of present state boundaries, who retain some or all of
5 their own social, economic, cultural and political Institutions, but who may have been
6 displaced from their traditional domains or who may have resettled outside their
7 ancestral domains;

8
9 Indigenous Peoples also refers to a group of people or homogenous societies
10 identified by self-ascription and ascription by others, who have continuously lived as
11 organized community on communally bounded and defined territory, and who have,
12 under claims of ownership since time immemorial, occupied, possessed and utilized
13 such territories, sharing common bonds of language, customs, tradition and other
14 distinctive cultural traits or who have, through resistance to political, social and
15 cultural inroads of colonization, non-indigenous religions and cultures, became
16 historically differentiated from the majority of Filipinos;

17
18 e. *Profiling* – means relying on the prohibited grounds of discrimination in subjecting a
19 person or group of persons to investigatory activities, which include unnecessary,
20 unjustified, illegal and degrading searches, questioning or other investigatory
21 activities, in determining whether an individual is engaged in an activity presumed to
22 be unlawful, immoral, or socially unacceptable.

23
24 f. *Stigma* – refers to the dynamic process of devaluation that significantly discredits a
25 individual in the eyes of others. When stigma is acted upon, the result is
26 discrimination.

27
28 g. *Vulnerable communities* – refers to communities or sectors that encounter stigma and
29 discrimination based on the ground's enumerated in Section 4.

30
31
32 **SECTION 4. Prohibited Grounds for Discrimination.** – For the purposes of this Act,
33 discrimination that is indirectly based on the actual or perceived ethnicity, race, religion or
34 belief, sex or gender or sexual orientation, gender identity, gender expression, civil status,
35 disability, HIV status, or other status is prohibited.

36
37 Ethnicity, race, religion or belief, sex or gender or sexual orientation, civil status,
38 disability, educational attainment or other status that differentiates or any form of discrimination
39 shall be interpreted in their most common or universal definitions and with due regard to the
40 promotion of meaningful implementation of non-discrimination policy.

41
42 **SECTION 5. Discriminatory Acts.** – The following Acts shall be prohibited:

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

48 b. Denial of political, civil, and cultural rights – it shall be unlawful to deny a person
49 enjoyment of political, civil and cultural rights based on the grounds referred to
50 Section 4.

51 c. Denial of right to education – it is unlawful for any person to:

52
53 1. Refuse admission or expel a person from any educational or training institution on
54 the basis of the grounds defined in Section 4, without prejudice to the right of
55 educational or training institutions to determine the academic qualifications of
56 their students or trainees;

1 2. Impose disciplinary sanction, penalties harsher than customary, or similar
2 punishment, requirements, restrictions, or prohibitions that infringe on the rights
3 of the students on the basis of the grounds identified in Section 4; and
4

5 This prohibition extends to acts committed against a student or trainee to discriminate
6 his or her parents or legal guardians based on grounds referred to in Section 4.
7

8 d. Denial of right to work – it is unlawful for any person to:
9

- 10 1. Use the grounds in Section 4 or require the disclosure thereof in the selection,
11 promotion, and termination of workers, and in the determination of compensation,
12 training, incentives, privileges, benefits or allowances, as well as other terms and
13 conditions of employment;
- 14 2. Deny employment in government institutions, including police and military
15 service, based directly or indirectly on the grounds referred to in Section 4;
- 16 3. Refuse to enter into contract or agreement with persons or group of persons based
17 solely or partly on the grounds provided in Section 4; and
- 18 4. Deny an application for or revoke a professional license issued by the government
19 directly or indirectly due to the grounds included in Section 4.
20

21 e. Denial of access to goods and services – it is unlawful for any person to:
22

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

33 There is discrimination if the acts above are committed against organizations or
34 groups of persons based on the grounds identified in Section 4.
35

36 f. Denial of rights to organize -0 it shall be unlawful to prohibit, prevent, or revoke the
37 accreditation, formal recognition, and/or registration of any organization, group,
38 political party, institution or establishment, in educational institutions, workplaces,
39 communities, and other settings, based partly or solely on the grounds provided for in
40 Section 4.
41

42 Discrimination is also committed when additional requirements beyond the
43 customary are imposed directly or indirectly due to the grounds stipulated in Section
44 4.
45

46 g. Inflicting harm on health and well-being – it shall be unlawful to subject any person,
47 without consent, to any unnecessary medical or physical examination, psychological
48 treatment, faith based practices, and other similar procedures based solely or partly on
49 any of the grounds referred to in Section 4 that aim to change identity or physical
50 attributes or impose behavior or expressions.

51 h. Engaging in profiling – it shall be illegal for any person, including members of the
52 military and law enforcement agencies, to engage in profiling based solely or partly
53 on the grounds included in Section 4.

54 i. Abuses by State and Non-State actors – it shall be unlawful for any government
55 agencies, including local government units, police, military, and immigration, to
56 harass verbally or physically, to curtail freedom of movement, or to extort from a
57 person or a group pf persons on the basis of the grounds stipulated in section 4. This
58 prohibition applies to similar abuses committed by non-state actors.

- 1 j. Detention and confinement – it shall be unlawful to detain and confine a person or
2 group of persons based directly or indirectly on the grounds under Section 4.
3 k. Other analogous circumstances – Any analogous acts which have the effect or
4 purpose of impairing or nullifying the recognition, enjoyment, or exercise of the
5 person’s human rights and fundamental freedoms are also prohibited.
6

7 **SECTION 6. Personal Liabie** – Any person, natural or juridical, or their representatives,
8 including government, government-owned and controlled corporations, Institution or company,
9 who commits any of the acts under Section 5, shall be liable under this Act.
10

11 Any person, natural or juridical, or their representatives, who requests, instructs, induces,
12 encourages, authorizes, tolerates, or assists another to commit any of the acts under Section 5
13 shall be principally liable under this Act.
14

15 **SECTION 7. Programs to Promote Non-Discrimination and Diversity** - the State
16 shall endeavor to eliminate all forms of discrimination and shall therefore pursue initiatives and
17 programs that seeks to enable an environment free of stigma and discrimination. It shall direct
18 the machinery and resources of the State to ensure non-discrimination and promote equality and
19 shall encourage sectors of the society to engage and participate in these efforts. It shall ensure the
20 establishment of the following programs:
21

- 22 a. **Social Protection Program** – The National government shall implement social
23 protection measures for communities affected by the vulnerable to stigma and
24 discrimination.
25 b. **Diversity Programs and policies** – All government agencies, non-government
26 agencies, government-owned and controlled corporation, private companies, public
27 and private educational institutions, and other entities shall establish diversity
28 programs to ensure that discrimination and abuse are prevented. They shall also
29 create an internal redress mechanism to address cases of discrimination and grant
30 administrative remedies or sanction for such cases.
31

32 The Civil Service Commission, Department of Labor and Employment, department of
33 Interior and Local Government, the Armed Forces of the Philippines, Department of
34 Education, Commission on Higher Education, Technical Education and Skills
35 Development Authority, department of Justice, Department of Foreign Affairs and
36 Department of Health shall ensure the implementation of this section.
37

38 Failure of the above agencies to ensure the implementation of this provision shall be
39 deemed refusal to address discrimination and shall be penalized as analogous act of
40 discrimination.
41

42 **SECTION 8. Duties of the Commission on Human Rights.** – The Commission shall
43 investigate and prosecute on its own or on complaint by any person acts or omissions violating
44 this Act. If the Commission has reasonable cause to believe that any person or group is engaged
45 in discrimination under this Act, the Commission shall commence a legal action in the regular
46 court.
47

48 The Commission shall also direct the officer concerned to take appropriate action against
49 a public officer or employee at fault or who neglect to perform an act or discharge a duty
50 required under this Act, and order revocation of license, removal from office or employment,
51 suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith. Refusal
52 by any officer without just cause to comply with an order of the Commission to revoke the
53 license, remove, suspend, demote, fine, censure, or prosecute an officer or employee who is at
54 fault, or who neglects to perform an act or discharge duty required under this act, shall be a
55 ground for disciplinary action against said officer.
56

57 **SECTION 9. Penalties.** – Persons found guilty of any of the discriminatory practices
58 under Section 5 (A), 5(B), 5(E), 5(F), and 4 (K) of this act shall be penalized with a fine of not

1 less than One Hundred Thousand pesos (P100,000) but not to exceed Two Hundred and Fifty
2 Thousand Pesos (P250,000) or imprisonment of two (2) years but not more than six (6) years, or
3 both at the discretion of the court.
4

5 Persons found guilty of any of the discriminatory practices under Section 5 (C), 5 (D), 5
6 (G), 5 (H), 5 (I), 5 (J) and 5 (K) of this Act shall be penalized with a fine of not less than two
7 Hundred Fifty Thousand Pesos (250,000) but not to exceed Five Hundred Thousand pesos
8 (P500,000) or imprisonment of six (6) years but not more than twelve (12) years, or both at the
9 discretion of the court.
10

11 If the violator is a corporation, organization or any similar entity, the officials thereof
12 directly involved shall be liable therefor.
13

14 If the violator is an alien or foreigner, he shall be deported immediately after service of
15 sentence without further deportation proceedings.
16

17 Persons found guilty of any of the discriminatory practices prohibited under this Act shall
18 also be civilly liable.
19

20 The Administrative remedies provided under this act do not bar prosecution or civil
21 claims in proper courts for ant act of discrimination committed under this Act.
22

23 If any crime penalized under the Revised Penal Code is Committed in pursuit of
24 discrimination, the penalty provided under the Revised Penal Code shall be applied and the
25 discrimination committed shall be considered as an aggravating circumstance.
26

27 **SECTION 10. Appropriations.** - The initial amount necessary to implement the
28 provisions of this Act shall be charged against the current year's appropriation of the agencies
29 tasked to implement the provisions of this Act. Thereafter, such sums as maybe necessary for the
30 continued implementation of this Act shall be included in the Annual General Appropriations
31 Act.
32

33 **SECTION 11. Implementing Rules and Regulations.** - The Commission on Human
34 rights, Civil Service Commission, Department of labor and Employment, Department of Interior
35 and Local Government, The armed Forces of the Philippines, Department of Education,
36 Commission on Higher Education, Technical Education, and Skills Development Authority,
37 Department of Justice, Department of Foreign Affairs, Department of Health, Commission on
38 indigenous Peoples, and National Commission on Muslim Filipinos shall promulgate the
39 necessary implementing rules and regulations within sixty (60) days from the effectivity of this
40 Act.
41

42 **SECTION 12. Separability Clause.** - Any portion or Provision of this Act that may be
43 declared unconstitutional or invalid shall not have the effect of nullifying the other portions and
44 provisions hereof as long as such remaining portion or provision can still subsist and be given
45 effect in their entirety.
46

47 **SECTION 13. Repealing Clause.** - All laws, decrees, orders, rules and regulation or
48 parts thereof inconsistent with this Act are hereby repealed, amended, or modified accordingly.
49

50 **SECTION 14. Effectivity.** - This Act shall take effect fifteen (15) days after its
51 publication in the Official gazette or in at least two (2) newspaper of general circulation.

Approved