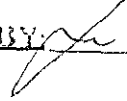


FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



11 MAY 11 P1:53

SENATE

RECEIVED BY: 

COMMITTEE REPORT NO. 35

Submitted jointly by the Committees on Cultural Communities and Social Justice,
Welfare and Rural Development on MAY 11 2011.

Re : Senate Bill No. 2814

Recommending its approval in substitution of Senate Bill Nos. 19, 1213, and 1342.

Sponsors : Senators Legarda, Pangilinan, Trillanes IV and Villar

Mr. President:

The Committees on Cultural Communities and Social Justice, Welfare, and Rural Development to which were referred Senate Bill No. 19, introduced by Senator Trillanes IV, entitled:

**"AN ACT
PROHIBITING DISCRIMINATION AGAINST PERSONS ON
ACCOUNT OF ETHNIC ORIGIN AND/OR RELIGIOUS BELIEF";**

Senate Bill No. 1213, introduced by Senator Villar, entitled:

**"AN ACT
PROHIBITING DISCRIMINATION AGAINST PERSONS ON
ACCOUNT OF ETHNIC ORIGIN AND/OR RELIGIOUS BELIEF";**

and Senate Bill No. 1342, introduced by Senator Legarda, entitled:

"AN ACT PROHIBITING RELIGIOUS OR RACIAL PROFILING"

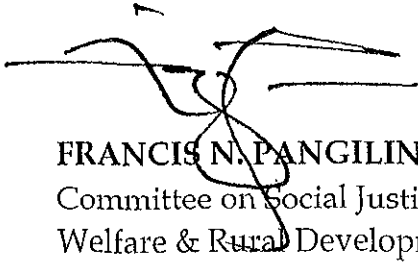
have considered the same and have the honor to report it back to the Senate with the recommendation that the attached bill, Senate Bill No. 2814, prepared by the Committees, entitled:

**"AN ACT
PROHIBITING PROFILING AS WELL AS DISCRIMINATION AGAINST
PERSONS ON ACCOUNT OF ETHNIC OR RACIAL ORIGIN AND/OR
RELIGIOUS AFFILIATION OR BELIEF"**

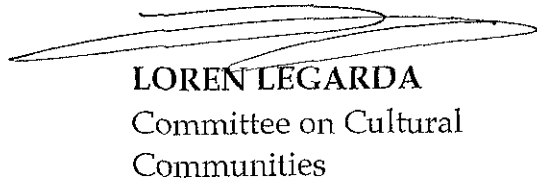
be approved in substitution of Senate Bill Nos. 19, 1213 and 1342 with Senators Trillanes IV, Villar, Legarda and Pangilinan as authors thereof.

Respectfully submitted:

Chairs:



FRANCIS N. PANGILINAN
Committee on Social Justice,
Welfare & Rural Development



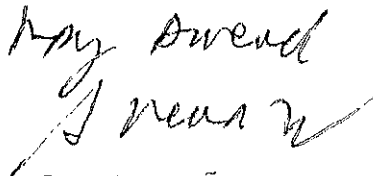
LOREN LEGARDA
Committee on Cultural
Communities

Vice-Chair:




JUAN MIGUEL F. ZUBIRI
Committee on Cultural Communities

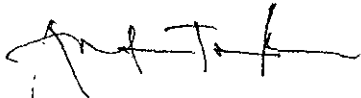
Members:



SERGIO R. OSMEÑA III
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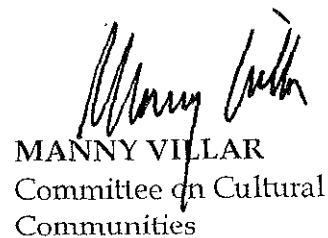


TEOFISTO A. GUINGONA III
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FERDINAND R. MARCOS, JR.
Committee on Cultural
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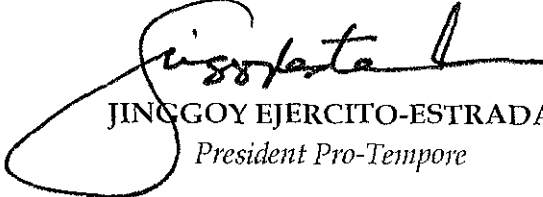
RALPH G. RECTO
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MANNY VILLAR
Committee on Cultural
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Ex-Officio Members



JINGGOY EJERCITO-ESTRADA
President Pro-Tempore

VICENTE C. SOTTO III
Majority Leader

ALAN PETER "COMPAÑERO" S. CAYETANO
Minority Leader

Hon. JUAN PONCE ENRILE
Senate President
Senate of the Philippines
Pasay City



11 MAY 11 P1:53

SENATE
S. No. 2814

RECEIVED BY:

Prepared by the Committees on Cultural Communities and Social Justice, Welfare, and Rural Development with Senators Trillanes IV, Villar, Legarda and Pangilinan as authors

**AN ACT
PROHIBITING ETHNIC, RACIAL OR RELIGIOUS PROFILING AS WELL AS
DISCRIMINATION AGAINST PERSONS ON ACCOUNT OF ETHNIC OR
RACIAL ORIGIN AND/OR RELIGIOUS AFFILIATION OR BELIEF**

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

- 1 **SECTION 1. *Short Title.*** - This act shall be known as the "Anti-Ethnic or
2 Racial Profiling and Discrimination Act of 2011".
- 3 **SEC. 2. *Declaration of Policy.*** - It is hereby declared as the policy of the State
4 to:
- 5 a) Maintain peace and order, protect life, liberty and property, and promote the
6 general welfare for the enjoyment by all people the blessings of democracy;
- 7 b) Promote a just and dynamic social order that will ensure the prosperity and
8 independence of the nation and free the people from poverty through policies
9 that provide adequate social services, promote full employment, a rising
10 standard of living and an improved quality of life for all regardless of race,
11 ethnicity, religion or color;
- 12 c) Recognize and promote the rights of indigenous cultural communities within
13 the framework of national unity and development;

- 1 d) Give the highest priority to the enactment of measures that protect and
2 enhance the right of all people to human dignity; reduce social, economic, and
3 political inequalities; and remove cultural inequities by equitably diffusing
4 wealth and political power for the common good; and
- 5 e) Value the dignity of every human person and to guarantee full respect for
6 human rights.

7 **SEC. 3. *Definition of Terms.*** - (1) "Accommodation" as mentioned herein,
8 includes a house, apartment, condominium, townhouse, flat, motel, boarding house,
9 hotel and dormitory.

10 (2) "Discrimination" shall mean any distinction, exclusion, restriction or preference
11 made on the basis of ethnic or racial origin or religious affiliation or beliefs, which
12 has an effect or purpose of impairing or nullifying the recognition, enjoyment, or
13 exercise by a person, group of persons or institutions of their human rights and
14 fundamental freedoms in the political, economic, social, cultural, civil, or any other
15 field, especially including, but not limited to, employment, livelihood, housing,
16 education and basic services.

17 (3) "Education" refers to all types and levels of education, and includes access to
18 education, the standard and quality of education, and the conditions under which it
19 is given.

20 (4) "Employment" pertains to the existence of an employer-employee relationship,
21 which is determined by the four-fold test: 1) selection of the employee; 2) payment of
22 wages; 3) power of dismissal; and 4) power of control. This definition shall apply to
23 regular, probational, contractual, seasonal, and project-based workers. In legitimate

1 contracting or sub-contracting arrangements, the contractor/subcontractor shall be
2 deemed the employer of the contractual employee.

3 (5) "Ethnic Origin" includes race, national origin, and ethno-linguistics origin.

4 (6) "Indigenous Peoples" shall, as provided under Section 3 (h) of Chapter II of RA
5 No. 8371 or the "Indigenous People's Rights Act (IPRA) of 1997", refers to a group of
6 people or homogenous societies identified by self-ascription by others, who have
7 continuously lived as an organized community on communally-bounded and
8 defined territory, and who have, under claims of ownership since time immemorial,
9 occupied, possessed and utilized such territories, sharing common bonds of
10 language, customs, traditions, and other distinctive cultural traits, or who have,
11 through resistance to political, social, and cultural inroads of colonization, non-
12 indigenous religions and cultures, became historically differentiated from the
13 majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as
14 indigenous on account of their descent from the populations which inhabited the
15 country, at the time of conquest or colonization, or at the time of inroads of non-
16 indigenous religions and cultures, or the establishment of present state boundaries,
17 who retain some or all of their own social, economic, cultural and political
18 institutions, but who may have been displaced from their traditional domains or
19 who may have resettled outside their ancestral domains;

20 (7) "Racial Profiling" means the practice of relying to any degree, on race, ethnicity,
21 and religious affiliations, in selecting individuals to subject to routine or
22 spontaneous investigatory activities.

23 (8) "Religious Belief" includes the freedom of thought, conscience, and religion;
24 including the freedom to change one's religion or belief, and freedom, either alone or

1 in community with others and in public or private, to manifest his religion or belief
2 in teaching, practice, worship and observance.

3 (9) "Goods and Services" as applied herein includes but shall not be limited to
4 establishments supplying physical goods and services such as restaurants, resorts,
5 hotels, clubs, and shopping malls as well as those providing cleaning, repair,
6 maintenance, construction, financial, health, transportation and public utility
7 services.

8 **SEC. 4. Acts of Discrimination.** - Discrimination is committed when a person
9 treats another less favourably on the basis of ethnic or racial origin and/or religious
10 affiliation or belief than the person treats or would treat another without that
11 attribute, or with a different attribute, on the same or similar circumstances in
12 employment, education, accommodation and delivery of services, to wit:

13 (a) Discrimination in Employment - It shall be unlawful for an employer to
14 discriminate against a person on the ground of ethnicity, race or religious
15 affiliation or belief:

- 16 1. In the arrangements made by the employer in determining who should be
17 offered employment;
- 18 2. In determining who should be hired for employment; or
- 19 3. In the terms and conditions in which the employer offers employment.

20 Likewise, it shall be unlawful for an employer to discriminate against an
21 employee on the ground of ethnicity, race or religious affiliation or belief:

- 22 1. In the terms or conditions of employment which the employer affords the
23 employee;

1 2. By denying the employee access or limiting the employee's access, to
2 opportunities for promotion, transfer or training, or to any other benefits
3 associated with employment; or

4 3. By dismissing the employee or subjecting the employee to any other
5 detriment.

6 (b) Discrimination in Education - It shall be unlawful for an educational institution,
7 both public and private, along with their officers and employees, to discriminate
8 against a person on the ground of ethnicity, race or religious affiliation or belief:

9 1. By unduly delaying, refusing or failing to accept a person's application for
10 admission as a student; or

11 2. By providing onerous or unjust terms and conditions for admission of a
12 person as a student.

13 3. By subjecting the person to any other detriment on the basis of ethnic
14 background and/or religious affiliation or belief.

15 It is likewise unlawful for an educational institution, both public and private,
16 along with their officers and employees, to discriminate against a student on the
17 ground of ethnicity, race or religious affiliation or belief:

18 1. By denying the student access, or limiting the student's access, to any benefit
19 provided by the educational authority;

20 2. By expelling the student or subjecting the student to any other detriment.

21 (c) Discrimination in the Delivery of Goods and Services - It shall be unlawful for a
22 person, whether as principal or agent, to discriminate against another person on
23 the ground of ethnicity, race, religious affiliation or belief:

24 1. By refusing to provide goods and services to another;

- 1 2. By imposing onerous terms on which goods or services are provided; or
- 2 3. By subjecting another to any detriment in connection with the provision of
- 3 goods or services.

4 (d) Discrimination in Accommodation – It is unlawful for a person, whether as
5 principal or agent, to discriminate against another person on the ground of
6 ethnicity, race or *religious affiliation or belief*:

- 7 1. By refusing the person’s application for accommodation;
- 8 2. In the terms and conditions imposed on the other person’s accommodation;
- 9 3. By deferring the person’s application for accommodation or according the
- 10 person a lower order of preference in any list of applicants for
- 11 accommodation;
- 12 4. By denying access or limiting access to any benefit associated with the
- 13 accommodation occupied by the person;
- 14 5. By evicting the person or subjecting the person to any other detriment.

15 (e) To subject a person to unnecessary, unjustified, illegal, and degrading search
16 because of his ethnicity, race or *religious affiliation or belief*;

17 (f) To disallow a person or group of persons from entering any establishment such
18 as restaurants, hotels, shopping malls, and other places of similar nature or to
19 subject one to discrimination or harassment in buses, taxis, ships, airplanes,
20 because he happens to don an attire based on his ethnicity, race, *religious*
21 *affiliation or belief*;

22 (g) To employ religious characterization such as words of religious import in print
23 and broadcast media when geographic, political, socio-economic or other
24 distinction might be more accurate; and

1 (h) Any analogous act which has the effect or purpose of impairing or nullifying the
2 recognition, enjoyment, or exercise of the person's human rights and
3 fundamental freedoms in the political, economic, social, cultural, and civil
4 spheres on the basis of ethnic or racial background and/or religious affiliation or
5 beliefs.

6 SEC. 5. *Persons liable.* - Any person, natural or juridical, including the
7 government, government-owned and controlled corporations or any private
8 corporation, institution or company, who commits discrimination or profiling
9 against any person on account of ethnic or racial origin and/or religious affiliation
10 or belief, as provided for above, shall be liable under this Act.

11 Any person, who requests, instructs, induces, encourages, authorizes, or assists
12 another to commit acts of discrimination or profiling against any person on account
13 of ethnic or racial origin and/or religious affiliation or belief shall also be principally
14 liable under this act.

15 SEC. 7. *Equal Opportunity.* - It shall be the duty of every person, natural or
16 juridical, public or private, to ensure that there is equal opportunity for all persons in
17 relation to actual or prospective employees, students, tenants, customers, clients, and
18 that no discriminatory acts, as defined herein, is committed by them or their agents
19 in the areas of employment, housing, education and delivery of basic goods and
20 services.

21 For this purpose, every agency, corporation, company and education institution, as
22 well as any other person providing employment, housing, education and delivery of
23 basic goods and services, shall issue an equal opportunity policy, including the
24 creation of an Equal Opportunity Committee, as provided in the following section.

1 Failure to do so shall be deemed refusal to address discrimination, and shall be
2 penalized as an analogous act of discrimination.

3 **SEC. 8. *Equal Opportunity Committees.*** – In order to ensure the compliance
4 of this Act, agencies, corporations, companies and educational institutions, whether
5 private or public, shall create an Equal Opportunity Committee which shall have
6 administrative jurisdiction over cases involving discrimination under this Act.

7 Administrative sanctions shall not be a bar to any prosecution in the proper courts
8 for any act of discrimination committed under this Act or to any civil claims for
9 damages by said act.

10 **SEC. 9. *Penal Clause.*** – Any person liable under this Act shall be penalized
11 with imprisonment for a period of not less than thirty (30) days to not more than one
12 (1) year and/or a fine of not less than ten thousand pesos (P10,000) nor more than
13 one hundred thousand pesos (P100,000), taking into consideration the circumstances
14 and gravity of the offense. This liability is without prejudice to any applicable
15 criminal action that may be instituted under the Indigenous Peoples Rights Act (RA
16 8371) or the Revised Penal Code (Act No. 3815); any administrative action or
17 disciplinary measures under Civil Service rules or any civil action for damages
18 under the Civil Code.

19 **SEC. 10. *Duty of the Commission on Human Rights (CHR).*** – It shall be the
20 duty of the Commission on Human Rights (CHR), in coordination with the National
21 Commission on Indigenous Peoples and the National Commission on Muslim
22 Filipinos to prevent or deter the commission of acts of discrimination and to provide
23 the procedures for the resolution, settlement or prosecution of acts of discrimination.

24 Towards this end, the CHR shall:

1 (a) Promulgate appropriate rules and regulations prescribing the composition
2 and details of the Equal Opportunity Committee as well as the procedure for
3 the investigation of discrimination cases against citizens falling under their
4 jurisdiction and the administrative sanctions therefore;

5 (b) Ensure the creation of committees on equal opportunity in different agencies,
6 corporations, companies, and educational institutions, whether private or
7 public; and

8 (c) Require and supervise the agencies, corporations, companies and educational
9 institutions, whether private or public, in the implementation of this Act.

10 SEC. 11. *Separability Clause.* - If any portion of this Act is declared void or
11 unconstitutional, the remaining portions or provisions hereof shall not be affected by
12 such declaration.

13 SEC. 12. *Repealing Clause.* - Any provision of law or regulation inconsistent
14 herewith is hereby repealed, revoked or modified accordingly.

15 SEC. 13. *Effectivity.* - This Act shall take effect fifteen (15) days after its
16 publication in two (2) newspapers of general circulation.

17 Approved,