

EIGHTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*First Regular Session* )

20 JAN 29 P 3:03

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**SENATE**  
**S. No. 1300**

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Introduced by Senator Francis "Tol" N. Tolentino

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**AN ACT**  
**PROTECTING INDIVIDUALS WITH MIXED FILIPINO HERITAGE FROM**  
**DISCRIMINATORY ACTS**

EXPLANATORY NOTE

The Philippines has a long and storied past as a colony and occupied territory by foreign powers. This has been marked by the intermingling of Filipinos with foreign nationals living in the country which resulted to generations of mestizos and mestizas who have been admired for their Euroasian appearance. This usually meant easier social mobility, better economic and educational standing and other privileges for Filipinos with Spanish and other European blood.

However, recent history has also revealed the darker side of the stories of the individuals with mixed Filipino heritage, especially for those who live in the Philippines, and that is the discrimination they face amongst their countrymen.

Studies have identified them as *Amerasians* or Filipino-Americans, *Japino* or Japanese-Filipino, *Kopino* or South Korean-Filipino or *Chipino*, *Sinopino* or Chinese Filipinos. However, with no available government data as to their official population, records from the non-governmental organizations and other agencies had to suffice, making it more difficult to address their concerns and further highlights their need for protection from discrimination.

There is an estimated 250,000 multiple-generation, mixed-heritage military Amerasians in the Philippines and Pan Amerasians residing in other Southeast Asian societies, according to multiple anecdotal accounts and existing empirical research. For South Korean - Filipinos, according to unofficial estimates, there are 30, 000 infants, children and young adults abandoned, estranged or orphaned in the Philippines. On the other hand, there is an estimated 200,000 Japanese-Filipinos in similar circumstances in the country. Meanwhile, there is possibly as many as 5,000 Chinese-Filipino infants, children and young adults who were likewise abandoned.<sup>1</sup> Then, there are Filipino-African-Americans who face the most extreme form of prejudice.

Research and case studies revealed that individuals of mixed Filipino heritage, especially children and young adults, have all experienced "substantial past and present stigmatization and discrimination." They were targets of "intense cat-calling, verbal harassment and occasional physical violence beginning at an early age." The discrimination against them is rooted on their different skin color, facial features and the stereotypical assumptions that the majority of them were children of sex laborers and transient soldier-fathers who had forsaken them.<sup>2</sup> They were stigmatized for being illegitimate as most of their biological fathers have abandoned them.

The discrimination to which they were exposed to at an early age has transformed for them into a lifetime of socioeconomic marginalization and cultural isolation. Most of them were unable to finish school, either due to financial problems or out of frustration.

However, their plight remains unrecognized under our present state of laws which in effect hides their discrimination from the public eye, made more evident by the lack of official data or statistics on their population, among others.

In light of the present-day realities and the discrimination faced by Filipinos of mixed heritage and/or ethnic origin in the country, it is hereby proposed that they be

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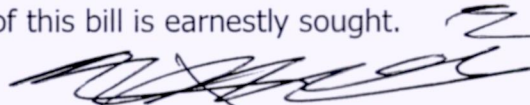
<sup>1</sup> P.C. Kutschera, Ph.D., and Edgar G. Galang, Ph.D., No Way Out: The Tragic Transnational Sexual Exploitation of the Philippines, presented as the Keynote Social Services Paper & Speech on the Asia Pacific Conference on Business and Social Services on Nov. 21, 2004; available at [http://amerasianresearch.org/APCBSS-2014\\_Taiwan\\_Paper.pdf](http://amerasianresearch.org/APCBSS-2014_Taiwan_Paper.pdf)

<sup>2</sup> P.C. Kutschera, Ph.D. and Jose Maria G. Pelayo III, MASD, The Amerasian Paradox. Presented at the Online Conference on Multidisciplinary Social Sciences, Australian International Cultural & Educational Institute (March 29-31, 2012); available at <https://files.eric.ed.gov/fulltext/ED542472.pdf>

protected by law from acts of discrimination committed against them in their communities, schools and workplaces and to penalize the commission of the same. By doing so, the needs of the discriminated Filipinos with mixed heritage and who are steeped in poverty and lack of opportunities shall be addressed and their plight recognized for the first time in our laws.

This will give more life to the policy of the State, as enshrined in Sec. 2, Art. III of the 1987 Constitution, that no person shall be denied of equal protection of laws, and as provided for by the United Nations Declaration of Human Rights, in Sec. 2, that everyone is entitled to all the rights and freedoms set forth in the Declaration 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 status.


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



**FRANCIS "TOL" N. TOLENTINO**

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**DISCRIMINATORY ACTS**

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

1 Section 1. *Short Title.* – This Act shall be known as the "Mixed Filipino Heritage  
2 Act of 2020."

3 Sec. 2. *Declaration of Policy.* – The State upholds the right of all to the equal  
4 protection of laws, as provided for in Sec.2, Art. III of the 1987 Constitution. The State  
5 likewise values the dignity of every human person and guarantees full respect for  
6 human rights, as stated in Sec. 11, Art. II of the Constitution.

7 Pursuant to the United Nations Declaration of Human Rights, the State  
8 recognizes that everyone is entitled to all the rights and freedoms set forth in the  
9 Declaration without distinction of any kind such as race, color, sex or gender or sexual  
10 orientation, language, religion, political or other opinion, educational attainment,  
11 national or social origin, property, birth or other status.

12 Towards this end, the State shall exert every effort to address all forms of  
13 discrimination on the basis of one's mixed Filipino heritage and to promote the human  
14 dignity of all.

15

1           Sec. 3. *Definition of Terms.* – For purposes of the Act, the following terms shall  
2 mean:

3           a. *Discrimination* – It shall refer to any distinction, exclusion, restriction or  
4 preference or other differential treatment that is based on one’s mixed  
5 Filipino heritage and which has the purpose or effect of nullifying or impairing  
6 recognition, access to, enjoyment or exercise by all persons of all rights and  
7 freedoms.

8           b. *Mixed Filipino Heritage* – It shall refer to a multiracial or biracial person  
9 whose parents or ancestors are from different ethnic backgrounds, Filipino  
10 being one of them and who resides or stays in the Philippines. As used in  
11 this Act, these shall include but are not limited to *Amerasians* or Filipino-  
12 Americans, *Japino* or Japanese-Filipino, *Kopino* or South Korean-Filipino or  
13 *Chipino*, *Sinopino* or Chinese-Filipinos.

14           Sec. 4. *Prohibited Discrimination.* The Act shall penalize the commission of  
15 discriminatory acts on the sole basis of an individual’s mixed Filipino heritage, as  
16 enumerated in Sec. 5 and shall declare as unlawful any law, rule requirement or policy  
17 in the community, education or workplace setting, including public places, that likewise  
18 condones or promotes said acts, except those laws, rules, requirements or policies  
19 that are exempted in Sec. 7.

20           Sec. 5. *Discriminatory Acts.* –Subject to Sec. 7 of this Act, the following acts  
21 shall be prohibited:

- 22           a. To commit any act that promotes and encourages stigma based on an  
23 individual’s mixed Filipino heritage, whether in person, publicly or in any  
24 other medium, including social media. This shall include bullying and any  
25 other form of harassment;
- 26           b. To deny an individual of his or her enjoyment of political, civil and  
27 cultural rights based on Sec. 4 of this Act;
- 28           c. To refuse the admission of or to expel students who are of mixed Filipino  
29 heritage based on Sec. 4, without prejudice to the right of educational  
30 or training institutions to determine the academic qualifications of their  
31 students or trainees; or to grant or refuse to grant them honors,  
32 scholarship/s or other forms of school-related assistance, based on Sec.

- 1           4. *Provided that*, the prohibition under this section extends to acts  
2 committed against them to discriminate their parents or legal guardians;
- 3           d. To include an individual's mixed Filipino heritage, as well as the  
4 disclosure of the same, in the criteria for hiring, promotion, transfer,  
5 designation, work assignment, re-assignment, dismissal and other  
6 human resource movements, performance review, and in the  
7 determination of employee compensation, access to career development  
8 and other terms and conditions of employment; *Provided that*, this  
9 provision shall apply to the private sector and public service, including  
10 the military, police and other similar services; *Provided further*, that this  
11 prohibition shall likewise apply to the contracting and engaging of the  
12 services of juridical persons;
- 13           e. To deny an individual with mixed Filipino heritage of access to goods  
14 and services available to the general public, such as but not limited to  
15 private and public insurance, housing and other forms of  
16 accommodation, medical and clinical services;
- 17           f. For any private association, organization, or group, to discriminate  
18 against an individual with mixed Filipino heritage by refusing to accept  
19 his or her application for membership or if already a member, by  
20 subjecting him/her to discrimination;
- 21           g. For any person, including members of the military and law enforcement  
22 agencies, to engage in profiling, based on Sec. 4;
- 23           h. For any government agency, including local government units, police,  
24 military and immigration agencies, to harass individuals of mixed Filipino  
25 heritage verbally or physically, to curtail their freedom of movement or  
26 to extort from them, based on Sec. 4; and
- 27           i. To commit any analogous act which have the effect or purpose of  
28 impairing or nullifying the recognition, enjoyment or exercise of the  
29 person's human rights and fundamental freedoms.

30           Sec. 6. *Persons Liable.* – Any person, natural or juridical, or their  
31 representatives, including government instrumentalities and agencies, or government-  
32 owned and controlled corporations, or any private corporation, institution or company,

1 who commits discrimination through any of the acts described in Sec. 5 shall be liable  
2 under this Act.

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

6 *Sec. 7. Exceptions.* – Any act or conduct, otherwise prohibited under Sections  
7 4 and 5 of this Act, shall not be prohibited and considered as an act of discrimination:

8 a. Where any of the protected attributes are *bona fide* occupational  
9 qualifications reasonably necessary to the normal operation of the particular  
10 business (Genuine Occupational Qualifications);

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

14 c. Where the act or omission is done in good faith for the purpose of  
15 assisting a person or a group of persons who need assistance or  
16 advancement in order to achieve an equal place in society with other  
17 members of the community (Measures of Equality or Affirmative Action  
18 Program).

19 *Provided*, however, that an employer who wanted to justify an otherwise  
20 discriminatory act under this Section must be able to provide substantial  
21 proof that the same act would fall under the exceptions herein provided.

22 *Sec. 8. Enforcement.* Criminal complaints brought under this Act shall be filed  
23 with the proper court. Provided, that this Section is without prejudice to the filing of  
24 an independent civil action against any public officer or employee, or any private  
25 individual who directly or indirectly obstructs, defeats, violates or in any manner  
26 impedes or impairs any of the rights and liberties of another person, as provided in  
27 Sec. 32 of the New Civil Code.

28 *Sec. 9. Penalties.* – The penalty of not less than one (1) year but not more than  
29 six (6) years imprisonment or a fine of not more than Five Hundred Thousand  
30 Philippine Pesos (PhP 500,000.00) or both, in the discretion of the court, and taking  
31 into consideration the circumstances and gravity of the offense, shall be imposed upon

1 those who are found to have committed any of the prohibited acts of discrimination  
2 in this law.

3 When the offender is a public official, officer or employee, the penalty provided  
4 under this Section shall be imposed in its maximum period, provided that the penalty  
5 of suspension shall also be imposed; provided further, that the public official, officer  
6 or employee may be asked to undergo gender and development training and  
7 community service during the duration of suspension.

8 When the offender is a corporation, partnership or association, the officer or  
9 employee thereof who is responsible for the violation of this Act shall suffer the penalty  
10 imposed in its maximum period and the corporation shall be jointly liable for any fine  
11 imposed.

12 *Sec. 10. Implementing Rules and Regulations.* - The Civil Service Commission  
13 (CSC), Department of Labor and Employment (DOLE), Department of the Interior and  
14 Local Government (DILG), Department of Social Welfare and Development (DSWD),  
15 the Armed Forces of the Philippines (AFP), Department of Education (DepEd),  
16 Commission on Higher Education (CHED), Technical Education and Skills Development  
17 Authority (TESDA), Department of Justice (DOJ), Department of Foreign Affairs (DFA),  
18 Department of Health (DOH) and the National Youth Commission (NYC) shall  
19 promulgate the necessary implementing rules and regulations within sixty (60) days  
20 from the effectivity of this Act.

21 *Sec. 11. Separability Clause.* - If any portion or provision of this Act is declared  
22 unconstitutional, the same shall not affect the validity and effectivity of the other  
23 provisions not affected thereby.

24 *Sec. 12. Repealing Clause.* - All laws, presidential decrees, letters of  
25 instructions, executive orders, rules, regulations, and other issuances or parts thereof  
26 which are contrary to or inconsistent with the provisions of this act are hereby revoked,  
27 repealed, amended or modified accordingly.

28 *Sec. 13. Effectivity Clause.* - This Act shall take effect fifteen (15) days  
29 following the completion of its publication in the Official Gazette or in at least one (1)  
30 newspaper of general circulation.

31 Approved,