

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2636

Introduced by **AKBAYAN** Representatives Walden F. Bello and Kaka J. Bag-ao

EXPLANATORY NOTE

The violent dispersal of rallyists and demonstrators by police and military authorities and their agents that usually attends the legitimate and peaceful exercise by citizens of their right to peaceful assembly is a condemnable act and a violation of the right of the people to bring their grievances before the government. Many protest rallies would have been otherwise peaceful were it not for their violent dispersal by police and military forces.

Most often than not, law enforcement authorities invoke the "No Permit, No Rally" rule to justify the dispersal of rallies invoking the provisions of Batas Pambansa Bilang 880. This Marcosian edict has been the convenient excuse for state forces to suppress otherwise peaceful demonstrations, effectively curtailing the basic constitutional rights of citizens to peaceful assembly, to free speech and to petition the government for redress of grievances.

In the case of *Reyes v. Bagatsing*, the Supreme Court said that "freedom of speech cannot be suppressed, but if ever the streets are to be used for the exercise of this right, the State can only regulate as to time and place". It is clear that the court recognizes the fundamental character of this right and that the state cannot prohibit its exercise, but can only regulate its use of the streets "as to time and place".

The alarming violence that attends anti-government demonstrations year in and year out led to the filing of this proposed law. Under this bill, there shall be no other procedural or administrative requirement imposed upon a person or persons intending to organize and hold a public assembly in a public place except to give notice to the local chief executive having jurisdiction of the place. The public assembly can only be enjoined by a court order based on a clear and convincing evidence within the personal knowledge of the city or municipal mayor that the public assembly will create a clear and present danger to public order, public safety, public morals or public health.

The bill seeks to clearly state that the role of the police during rallies is to coordinate the flow of traffic and to make sure pedestrians are not inconvenienced. The police officers are herein disallowed to interfere in the conduct of rallies, unless the organizers themselves are unable to police their own ranks.

This bill will strengthen the people's right to free expression and assembly by putting the burden of responsibility for disallowing an assembly on the police and the local government unit. This bill repeals Batas Pambansa 880 which has, time and again, been

misused and abused by the police to mean that the lack of a permit justifies a violent dispersal of a rally.

Hopefully, this policy initiative will help define the proper responsibilities among different groups – police, rallyists and the local government, to help ensure the unhampered exercise of a fundamental constitutional right. A government doing its job has nothing to fear from protestors in the street. Maximum protection of all citizens should therefore always take the highest priority among the members of law enforcement agencies instead of stifling public grievances.

Immediate approval of this measure is, therefore, earnestly sought.



WALDEN F. BELLO



KAKA J. BAG-AO

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AN ACT
STRENGTHENING THE CONSTITUTIONAL RIGHT OF THE PEOPLE TO FREE
EXPRESSION, PEACEABLY ASSEMBLE AND PETITION THE GOVERNMENT FOR
REDRESS OF GRIEVANCES

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

SECTION 1. Title. — This Act shall be known as the *“The Public Assembly Act of 2010”*.

SEC. 2. Declaration of policy. — The constitutional right of the people peaceably to assemble and petition the government for redress of grievances is essential and vital to the strength and stability of the State. To this end, the State shall ensure the free exercise of such right without prejudice to the rights of others to life, liberty and equal protection of the law.

SEC. 3. Definition of terms. — For purposes of this Act.

(a) **Public assembly** means any rally, demonstration, march, parade, procession or any other form of mass or concerted action held in a public place for the purpose of presenting a lawful cause; or expressing an opinion to the general public on any particular issue; or protesting or influencing any state of affairs whether political, economic or social; or petitioning the government for redress of grievances.

The processions, rallies, parades, demonstrations, public meetings and assemblages for religious purposes shall be governed by local ordinances: *Provided, however,* That the declaration of policy as provided in Section 2 of this Act shall be faithfully observed.

The definition herein contained shall not include picketing and other concerted action in strike areas by workers and employees resulting from a labor dispute as defined by the Labor Code, its implementing rules and regulations, and by the Batas Pambansa Bilang 227.

(b) **Public place** shall include any highway, boulevard, avenue, road, street, bridge or other thoroughfare, park, plaza, square, and/or any open space of public ownership where the people are allowed access.

(c) **Maximum protection** means the highest degree of protection that the military, police and other peace keeping authorities shall observe during a public assembly or in the dispersal of the same.

SEC. 4. Notice of Public Assembly. — Any person or persons intending to organize and hold a public assembly in a public place must give notice to the city or municipal mayor having jurisdiction over the place where the assembly is to be held. However, no notice shall be required if the public assembly shall be done or made in a freedom park duly established by law

or ordinance or in private property, in which case only the consent of the owner or the one entitled to its legal possession is required, or in the campus of a government-owned and operated educational institution which shall be subject to the rules and regulations of said educational institution. Political meetings or rallies held during any election campaign period as provided for by law are not covered by this Act.

SEC. 5. Notice requirements. — The notice shall be given in the following manner:

(a) The notice shall be in writing and shall include the names of the leaders or organizers; the purpose of such public assembly; the date, time and duration thereof, and place or streets to be used for the intended activity; and the probable number of persons participating, the transport and the public address systems to be used.

(b) The notice shall incorporate the duty and responsibility of applicant under Section 8 hereof.

(c) The notice shall be given to the office of the mayor of the city or municipality in whose jurisdiction the intended activity is to be held, at least three (3) working days before the scheduled public assembly. Should for any reason the mayor or any official acting in his/her behalf refuse to accept the notice, said notice shall be posted by the leaders/organizers on the premises of the office of the mayor and shall be deemed to have been duly given.

(d) Upon receipt of the notice, which must be duly acknowledged in writing, the office of the city or municipal mayor shall cause the same to immediately be posted at a conspicuous place in the city or municipal building.

SEC. 6. Effect of notice. —

(a) Apart from the giving of notice in accordance with the preceding section, no other procedural or administrative requirement shall be imposed for the holding of a public assembly. However, if the city or municipal mayor has clear and convincing evidence based on personal knowledge that the public assembly will create a clear and present danger to public order, public safety, public morals or public health, he/she may file an action before the appropriate regional trial court to enjoin the holding of the public assembly.

(b) The mayor shall file the said action within two (2) working days from the date the notice was filed, failing which, the action shall be barred.

(c) If the mayor has clear and convincing evidence based on personal knowledge that the public assembly will create a clear and present danger to public order, public safety, public morals or public health warranting the filing of an action to enjoin the same, he/she shall immediately inform the leaders/organizers in writing and before the filing of the action, who will be entitled to appear in the said action to argue and present evidence in support of holding of the public assembly.

(d) If the mayor files the said action before the Regional Trial Court, its decisions may be appealed to the appropriate court within forty-eight (48) hours after receipt of the same. No appeal bond and record on appeal shall be required. However, a decision denying the prayer to enjoin the public assembly shall be immediately executory.

(e) All cases filed in court under this section shall be decided within twenty-four (24) hours from date of filing. Cases filed hereunder shall be immediately endorsed to the executive judge for disposition or, in his absence, to the next in rank.

(f) In all cases, any decision may be appealed to the Supreme Court.

(g) Telegraphic appeals to be followed by formal appeals are hereby allowed.

SEC. 7. Use of public thoroughfare. — Should the proposed public assembly involve the use, for an appreciable length of time, of any public highway, boulevard, avenue, road or street, the mayor or any official acting in his behalf may, to prevent grave public inconvenience, designate the route thereof which is convenient to the participants; *Provided*, that prior written

consent is obtained from the leaders/organizers, or reroute the vehicular traffic to another direction so that there will be no serious or undue interference with the free flow of commerce and trade.

SEC. 8. Responsibility of leaders and organizers. — It shall be the duty and responsibility of the leaders and organizers of a public assembly to take all reasonable measures and steps to the end that the intended public assembly shall be conducted peacefully in accordance with the terms of the permit. These shall include but not be limited to the following:

- (a) To inform the participants of their responsibility under applicable laws;
- (b) To police the ranks of the demonstrators in order to prevent non-demonstrators from disrupting the lawful activities of the public assembly;
- (c) To confer with local government officials concerned and law enforcers to the end that the public assembly may be held peacefully;
- (d) To see to it that the public assembly undertaken shall not go beyond the time stated in the permit; and
- (e) To take positive steps that demonstrators respect the rights of other persons not participating in the public assembly.

SEC. 9. Non-interference by law enforcement authorities and private individuals. — Law enforcement agencies, agents of the military and private individuals and/or groups opposed to the rallyists shall not be present during nor interfere with the holding of a public assembly. However, upon request by the organizers of the assembly who may sense a need for adequate measures for protection of the participants and the public in general, a law enforcement contingent under the command of a responsible police officer may be detailed and stationed in a place at least one hundred (100) meters away from the area of activity.

SEC. 10. Police assistance when requested. — It shall be imperative for law enforcement agencies, when their assistance is requested by the leaders or organizers, to perform their duties always mindful that their responsibility to provide proper protection to those exercising their right peaceably to assemble and the freedom of expression is primordial. Towards this end, law enforcement agencies shall observe the following guidelines:

- (a) Members of the law enforcement contingent who deal with the demonstrators shall be in complete uniform with their nameplates and units to which they belong displayed prominently on the front and dorsal parts of their uniform and must observe the policy of "maximum tolerance" as herein defined;
- (b) The members of the law enforcement contingent shall not carry any kind of firearms but may be equipped with baton or riot sticks, shields, crash helmets with visor, gas masks, boots or ankle high shoes with shin guards;
- (c) Tear gas, smoke grenades, water cannons, or any similar anti-riot device shall not be used unless the public assembly is attended by actual violence or serious threats of violence, or deliberate destruction of property.

SEC. 11. Dispersal of public assembly. — No public assembly which is peaceful shall be dispersed. However, when an assembly becomes violent, the police may disperse such public assembly as follows:

- (a) At the first sign of impending violence, the ranking officer of the law enforcement contingent shall call the attention of the leaders of the public assembly and ask the latter to prevent any possible disturbance;
- (b) If actual violence starts to a point where rocks or other harmful objects from the participants are thrown at the police or at the non-participants, or at any property causing

damage to such property, the ranking officer of the law enforcement contingent shall audibly warn the participants that if the disturbance persists, the public assembly will be dispersed;

(c) If the violence or disturbances prevailing as stated in the preceding subparagraph should not stop or abate, the ranking officer of the law enforcement contingent shall audibly issue a warning to the participants of the public assembly, and after allowing a reasonable period of time to lapse, shall immediately order it to forthwith disperse;

(d) No arrest of any leader, organizer or participant shall also be made during the public assembly unless he violates during the assembly a law, statute, ordinance or any provision of this Act. Such arrest shall be governed by Article 125 of the Revised Penal Code, as amended;

(e) Isolated acts or incidents of disorder or breach of the peace during the public assembly shall not constitute a group for dispersal.

SEC. 12. Public assembly without notice. — When the public assembly is held without giving notice as provided under Section 4 of this Act, where such notice is required, the said public assembly shall nonetheless not be dispersed unless it becomes violent, creates actual danger to public order, public safety, public morals or public health, or actually causes grave public inconvenience, in which case it may be peacefully dispersed.

SEC. 13. Prohibited acts. — The following shall constitute violations of this Act:

(a) The holding of any public assembly as defined in this Act by any leader or organizer without having first given notice where such notice is required: *Provided*, however, That no person can be punished or held criminally liable for participating in or attending an otherwise peaceful assembly;

(b) Arbitrary and unjustified filing of an action to enjoin a public assembly in violation of the provisions of this Act by the mayor or any other official acting in his behalf.

(c) The unjustified and arbitrary refusal to accept or acknowledge receipt of the notice of public assembly by the mayor or any official acting in his behalf;

(d) Obstructing, impeding, disrupting or otherwise denying the exercise of the right to peaceful assembly;

(e) The unnecessary firing of firearms by a member of any law enforcement agency or any person to disperse the public assembly;

(f) Acts in violation of Section 10 hereof;

(g) Acts described hereunder if committed within one hundred (100) meters from the area of activity of the public assembly or on the occasion thereof;

(1) the carrying of a deadly or offensive weapon or device such as firearm, pillbox, bomb, and the like;

(2) the carrying of a bladed weapon and the like;

(3) the malicious burning of any object in the streets or thoroughfares;

(4) the carrying of firearms by members of the law enforcement unit;

(5) the interfering with or intentionally disturbing the holding of a public assembly by the use of a motor vehicle, its horns and loud sound systems.

SEC. 14. Penalties. — Any person found guilty and convicted of any of the prohibited acts defined in the immediately preceding section shall be punished as follows:

(a) violation of subparagraph (a) shall be punished by public censure;

(b) violations of subparagraphs (b), (c), (d), (e), (f), and item 4, subparagraph (g) shall be punished by imprisonment of six (6) months and one (1) day to six (6) years;

(c) violation of item 1, subparagraph (g) shall be punished by imprisonment of six (6) months and one (1) day to six (6) years without prejudice to prosecution under Presidential Decree No. 1866;

(d) violations of item 2, item 3, or item 5 of subparagraph (g) shall be punished by imprisonment of one day to thirty days.

SEC. 15. Freedom parks. — Every city and municipality in the country shall within six (6) months after the effectivity of this Act, in consultation with civil society groups in the city or municipality, establish or designate at least one (1) suitable "freedom park" or mall in their respective jurisdictions which, as far as practicable, shall be centrally located within the poblacion where demonstrations and meetings may be held at any time without the need of any prior permit.

Free access to the designated freedom parks shall be provided to persons or groups availing of their right to peaceful assembly under the provisions of this Act.

SEC. 16. Separability clause. — Should any provision of this Act be declared invalid or unconstitutional, the validity or constitutionality of the other provisions shall not be affected thereby.

SEC. 17. Repealing clause. — Batas Pambansa Bilang 880 is hereby repealed. All laws, decrees, letters of instructions, resolutions, orders, ordinances or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SEC. 18. Effectivity. — This Act shall take effect upon its approval.

APPROVED,