

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



Sixteenth Congress
First Regular Session

House Bill No. **3058**

Introduced by AKBAYAN Representatives
Ibarra "Barry" M. Gutierrez III and Walden F. Bello

EXPLANATORY NOTE

The citizens' rights to freedom of speech, to freedom of expression, to peacefully assemble and to bring their grievances before the Government are fundamental Constitutional rights that should be respected and protected by the State. Whenever the Government is under extreme political pressure, these rights come to the fore. Unfortunately, it is during these times that these rights are suppressed. In fact, many protest rallies would have been otherwise peaceful were it not for the violent dispersal methods by police and military forces.

More 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 otherwise known as the *Public Assembly Act of 1985*. 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* (G.R. No. L-65366), 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". By holding that the State cannot prohibit the exercise of the right but can only regulate the use of public place as to time and place, it was clear that the Court recognized the fundamental character of the right.

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 will be no procedural or administrative requirement imposed upon individual and groups 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 based on the personal knowledge of the city or municipal mayor that the public assembly will create a clear and present danger that a substantive evil to public order, public safety, public morals or public health has to be prevented.

The bill seeks to clarify 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. It strengthens citizens' rights to free expression and assembly by putting the burden of responsibility for disallowing an assembly on the police and the local government unit. It advances State policy of defining the 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.

This bill is an updated version of House Bill No. 2636 introduced by Representatives Kaka J. Bag-ao and Walden F. Bello in the Fifteenth Congress. Immediate approval of this measure is, therefore, earnestly sought.



WALDEN F. BELLO



IBARRA "BARRY" M. GUTIERREZ III

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

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 Revised Public Assembly Act*”.

2
3 **SECTION 2. *Declaration of Policy.***—Pursuant to Section 4, Article III of the 1987 Philippine
4 Constitution, it is hereby declared a policy of the State to ensure the exercise of the People of
5 their rights to free speech, of expression, to peaceably assemble, and to petition the Government
6 for redress of grievances, without prejudice to the rights of others to life, liberty and to equal
7 protection of laws.

8
9 **SECTION 3. *Definition of terms.***—As used in this Act, the following terms shall be
10 understood to mean:

11
12 (a) “*Public assembly*” means any rally, demonstration, march, parade, procession or any other
13 form of mass or concerted action held in a public place for the purpose of (1) presenting a
14 lawful cause, (2) expressing an opinion to the general public on any particular issue, (3)

1 protesting or influencing any state of affairs whether political, economic or social, or (4)
2 petitioning the government for redress of grievances.

3
4 The processions, rallies, parades, demonstrations, public meetings and assemblages for religious
5 purposes shall be governed by local ordinances: *Provided, however,* That Section 2 of this Act shall
6 be faithfully observed: *Provided, further,* That “*public assembly*” shall not include picketing and other
7 concerted action in strike areas by workers and employees resulting from a labor dispute as
8 defined by Presidential Decree No. 442 otherwise known as “*Labor Code of the Philippines*,” and its
9 amendments in Batas Pambansa Bilang 227, implementing rules and regulations: *Provided, finally,*
10 That political meetings or rallies allowed and held during election campaign periods, as provided
11 for by law, are not covered by this Act.

12
13 (b) “*Public place*” refers to any highway, boulevard, avenue, road, street, bridge or other
14 thoroughfare, park, plaza, square, and/or any open space of public ownership where the
15 people are allowed access.

16
17 (c) “*Maximum protection*” means the highest degree of protection that the military, police,
18 peacekeeping and law enforcement authorities are required to observe during a public
19 assembly including in the dispersal of the same.

20
21 **SECTION 4. *Notice of Public Assembly.***—Any person or group intending to organize and
22 hold a public assembly in a public place must give a Notice to the city or municipal mayor having
23 jurisdiction over the place where the assembly is to be held.

24
25 However, no such Notice shall be required if the public assembly shall be done or made in the
26 following places:

27
28 (a) A freedom park duly established by law or ordinance,

29
30 (b) Private property: *Provided,* That the consent of the owner or the one entitled to its legal
31 possession is acquired, or
32

(c) In the campus of a government-owned and operated educational institution: *Provided*, That the public assembly shall be subject to the rules and regulations of the said educational institution.

SECTION 5. Notice Requirements.—The following guidelines shall be followed in giving the Notice mentioned in Section 4 of this Act:

(a) The Notice shall be in writing and shall include the following information:

- (1) Names of leaders or organizers,
- (2) Purpose or purposes of such public assembly,
- (3) Date, time and duration thereof,
- (4) Place or streets to be used for the intended activity,
- (5) Estimated number of persons participating, and
- (6) The transport and public address systems to be used during the activity.

(b) The Notice shall incorporate and undertaking of the duties and responsibilities under Section 8 of this Act.

(c) The Notice shall be given to the mayor of the city or municipality having jurisdiction of the place where the intended activity is to be held, at least three (3) working days before the scheduled public assembly.

(d) Should for any reason the mayor or any official acting in his/her behalf refuses to accept the Notice, said Notice shall be posted by the leaders and/or organizers on the premises of the office of the mayor and shall be deemed to have been duly given.

(e) Upon receipt of the Notice, duly acknowledged or received in writing, the city or municipal mayor shall cause the same to immediately be posted at a conspicuous place in the city or municipal building.

SECTION 6. Effect of Notice.—No other procedural or administrative requirement shall be imposed for the holding of the public assembly apart from the giving of Notice.

- 1
- 2 (a) If the city or municipal mayor has clear and convincing evidence based on personal
- 3 knowledge that the public assembly will create a clear and present danger to public order,
- 4 public safety, public morals or public health, he/she may file an action before the
- 5 appropriate regional trial court to enjoin the holding of the public assembly.
- 6
- 7 (b) The action with the regional trial court shall be filed within two (2) working days from the
- 8 date the Notice was given otherwise the action shall be barred.
- 9
- 10 (c) Before the filing of the action with the regional trial court, the mayor shall immediately
- 11 inform the leaders and/or organizers in writing of the filing of the said action. The leaders
- 12 and/or organizers shall be entitled to appear in the said action to argue and present evidence.
- 13
- 14 (d) The decision of the regional trial court may be appealed to the appropriate appellate court
- 15 within forty-eight (48) hours after the receipt of the said decision. No appeal bond or record
- 16 on appeal shall be required: *Provided*, That a decision denying the prayer to enjoin the public
- 17 assembly shall be immediately executory.
- 18
- 19 (e) All cases filed in court under this Section shall be decided within twenty-four (24) hours
- 20 from date of filing. For this purpose, such cases shall be immediately endorsed to the
- 21 executive judge or, in his absence, to the judge next in rank, for disposition.
- 22
- 23 (f) In all cases, any decision may be appealed to the Supreme Court.
- 24
- 25 (g) Telegraphic appeals to be followed by formal appeals are hereby allowed.
- 26

27 **SECTION 7. Use of public thoroughfare.**—Should the proposed public assembly lasts for an

28 appreciable length of time and involves the use of any public highway, boulevard, avenue, road

29 or street, the mayor or any official acting in his behalf may (a) reroute vehicular traffic to prevent

30 serious or undue interference with the flow of traffic, commerce and trade or (b) designate a

31 route for the conduct of the public assembly to prevent grave public inconvenience: *Provided*,

32 That, in case of the latter, prior notice be given the leaders and/or organizers.

33

1 **SECTION 8. *Responsibility of leaders and organizers.***—It shall be the duty and
2 responsibility of the leaders and/or organizers of a public assembly to take all reasonable
3 measures and steps to the end that the intended public assembly shall be conducted peacefully.
4 An undertaking shall be made by the leaders and/or organizers and shall be incorporated in the
5 Notice to be given pursuant to Sections 4 and 5. The undertaking shall include, but shall not be
6 limited to, the following:

- 7
- 8 (a) To inform the participants of their responsibility under applicable laws and ordinances,
 - 9
 - 10 (b) To police the ranks of the participants in order to prevent non-participants from disrupting
11 the lawful activities of the public assembly,
 - 12
 - 13 (c) To confer with local government officials concerned and law enforcers to the end that the
14 public assembly may be held peacefully,
 - 15
 - 16 (d) To see to it that the public assembly undertaken shall not go beyond the time stated in the
17 Notice, and
 - 18
 - 19 (e) To take positive steps to ensure that participants of the public assembly respect the rights of
20 non-participants.
- 21

22 **SECTION 9. *Non-interference by law enforcement authorities and private individuals.***—
23 Military, police, peacekeeping and law enforcement authorities, and persons or groups who do
24 not agree with the purpose of the public assembly, shall not attend or interfere with the public
25 assembly.

26

27 Upon request by leaders and/or organizers of the public assembly, a law enforcement contingent
28 under the command of a responsible police officer may be detailed and stationed at least one
29 hundred (100) meters away from the area of assembly: *Provided*, That the request shall be made
30 for protection of the participants and the public in general.

31

32 **SECTION 10. *Police assistance when requested.***—It shall be the primordial concern of the
33 members of law enforcement contingent mentioned in the second paragraph of Section 9 of this

1 Act to protect participants of public assemblies and of the public in general. The members of the
2 law enforcement contingent shall observe the following guidelines and rules of conduct:

3
4 (a) Members of the law enforcement contingent shall be in their complete and official uniform.
5 Nameplates and unit numbers shall be displayed prominently on the front and dorsal parts
6 of the uniform. Crash helmets with visor, gas masks, boots or ankle high shoes with shin
7 guards may be used.

8
9 (b) Maximum protection, as defined in this Act, shall be the standing policy and shall be
10 observed at all times.

11
12 (c) Members of the law enforcement contingent shall not carry any kind of firearms. Batons, riot
13 sticks, and shields may be allowed.

14
15 (d) Tear gas, smoke grenades, water cannons, or any similar anti-riot device shall not be used
16 unless the public assembly is attended by actual violence, serious threats of violence, or
17 deliberate destruction of property.

18
19 **SECTION 11. *Dispersal of public assembly.***—No peaceful public assembly shall be dispersed.

20
21 The following guidelines shall be followed when it becomes necessary to disperse the public
22 assembly:

23
24 (a) At the first sign of impending violence, the commanding officer of the law enforcement
25 contingent shall call the attention of the leaders of the public assembly and ask the latter to
26 prevent any possible disturbance.

27
28 (b) In the event that rocks or other harmful objects are thrown by participants of the public
29 assembly at members of the law enforcement contingent, non-participants, or property, the
30 commanding officer of the law enforcement contingent shall audibly warn the participants
31 that if the disturbance persists, the public assembly will be dispersed.

(c) If incidents of violence or disturbances persist or are not abated, the commanding officer of the law enforcement contingent shall audibly issue another warning to the participants and, after a reasonable period of time, order the dispersal of the violent assembly.

(d) No arrest of any leader, organizer or participant shall be made during the dispersal unless, in the presence of the arresting officer, the leader, organizer or participant has committed, is actually committing, or is attempting to commit a violation of a law, statute, ordinance or any provision of this Act. Strict application of Article 125 of Act No. 3815, otherwise known as the "*Revised Penal Code*," as amended, shall be observed during such an arrest.

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

SECTION 12. *Public assembly without notice.*—When Notice is required and none was given in violation of Section 4 of this Act, such should not be a ground for the dispersal of the public assembly: *Provided*, That when the public assembly becomes violent, creates actual danger to public order, public safety, public morals or public health, or actually causes grave public inconvenience, it may be peacefully dispersed.

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

(a) On the part of the leaders and/or organizers of the public assembly – the holding of a public assembly without Notice when such Notice is required to be given: *Provided*, That that no person can be punished or held criminally liable for participating in or attending an otherwise peaceful assembly.

(b) On the part of the mayor or any other official acting in his behalf –

(1) Arbitrary and unjustified filing of an action to enjoin a public assembly.

(2) Arbitrary and unjustified refusal to accept or acknowledge receipt of the Notice of public assembly.

(c) On the part of the military, police, peacekeeping and law enforcement authorities –

- 1
2 (1) Unnecessary firing of firearms to disperse the public assembly.
3 (2) Acts in violation of Section 10 of this Act.
4

5 (d) On the part of any person –
6

- 7 (1) Obstructing, impeding, disrupting or otherwise denying the exercise of the right to
8 peaceful assembly.
9 (2) Any of the following acts when made within one hundred (100) meters from the area of
10 public assembly:
11 (i) Carrying of deadly or offensive weapons or devices such as firearms, pillboxes,
12 bombs, and the like.
13 (ii) Carrying of a bladed weapon and the like.
14 (iii) Malicious burning of any object in the streets or thoroughfares.
15 (iv) Interfering with or intentionally disturbing the holding of a public assembly by
16 the use of a motor vehicle, its horns and loud sound systems.
17

18 **SECTION 14. *Penalties.***—Any person found guilty and convicted of any of the acts in Section
19 13 of this Act shall be punished by:
20

- 21 (a) Public censure, if the act constitutes a violation of subparagraph (a).
22
23 (b) *Prision correccional* if the act constitutes a violation of subparagraph (b), subparagraph (c),
24 subparagraph (d)(1), and subparagraph (d)(2)(i). If the violation of subparagraph (d)(2)(i)
25 constitutes the carrying of a firearm, the penalty in this paragraph shall be without prejudice
26 to prosecution under Presidential Decree No. 1866.
27
28 (c) *Arresto menor* if the act constitute a violation of subparagraphs (d)(2)(ii), (d)(2)(iii) or (d)(2)(iv).
29

30 **SECTION 15. *Freedom parks.***—Every city and municipality shall, within six (6) months after
31 the effectivity of this Act, and in consultation with civil society groups, establish or designate at
32 least one (1) suitable “freedom park” or mall in their respective jurisdiction which shall, as far as
33 practicable, be centrally located within the *poblacion*, and where public assemblies, demonstrations

1 and meetings may be held at any time without the need of a Notice as required in Section 5 of
2 this Act.

3
4 Free access to the designated freedom parks shall be provided to persons or groups availing of
5 their right to peaceful assembly under the provisions of this Act.

6
7 **SECTION 16. *Separability Clause.*** – Should any provision of this Act be declared invalid or
8 unconstitutional, the validity or constitutionality of the other provisions shall not be affected
9 thereby.

10
11 **SECTION 17. *Repealing Clause.*** – Batas Pambansa Bilang 880 is hereby repealed.

12
13 All laws, decrees, letters of instructions, resolutions, orders, ordinances, or parts thereof which
14 are inconsistent with the provisions of this Act, particularly of Act No. 3815 (Revised Penal
15 Code) and Presidential Decree No. 1866, are hereby repealed, amended, or modified accordingly.

16
17 **SECTION 18. *Effectivity.*** – This Act shall take effect upon its approval.

18
19 Approved,