

Republic of the Philippines
HOUSE OF REPRESENTATIVES
SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **3789**



Introduced by BAYAN MUNA Rep. Carlos Isagani Zarate

AN ACT
STRENGTHENING THE RIGHT OF THE PEOPLE TO FREE
EXPRESSION, PEACEABLY ASSEMBLE AND PETITION THE
GOVERNMENT FOR REDRESS OF GRIEVANCES, REPEALING BATAS
PAMBANSA BILANG 880 AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Many protest rallies would have been otherwise peaceful were it not for their violent dispersal by state security forces, particularly the police. Every year, the persisting trend has been the police disruption of rallies that should have radically ebbed following the ouster of the Marcos dictatorship.

Why the very act of persons bearing placards, flags and streamers assembling in one place should elicit police reprisal is an issue that should be addressed. The presence of the religious sector in rallies has been no guarantee for the peaceful practice of the freedom of expression.

More often than not, authorities invoke the "No Permit, No Rally" rule to justify the dispersal of rallies. The Marcos-period Batasang Pambansa Bilang 880 has been the convenient excuse for state forces to suppress otherwise peaceful demonstrations, effectively curtailing the basic constitutional rights to assembly, free speech and petition of government for redress of grievances.

This bill repeals the Marcosian relic Batasang Pambansa 880. It is an enhanced version of House Bill No. 3668 that Bayan Muna filed in the 16th Congress. This Bill seeks to ensure the untrammelled exercise of civil rights without unnecessary and unreasonable impediments. Its underlying premise is basic: the constitutional rights of

the people peaceably to assemble and petition the government for redress of grievances are essential and vital to the individual and the collective strength and stability of the nation.

Immediate approval of this measure is earnestly sought.

Approved,


REP. CARLOS ISAGANI T. ZARATE
Bayan Muna Partylist

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AN ACT
STRENGTHENING THE RIGHT OF THE PEOPLE TO FREE
EXPRESSION, TO PEACEABLY ASSEMBLE AND TO PETITION THE
GOVERNMENT FOR REDRESS OF GRIEVANCES, REPEALING FOR
THE PURPOSE BATAS PAMBANSA BLG. 880 OR THE “PUBLIC
ASSEMBLY ACT OF 1985”

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

SECTION 1. *Short Title.*—This Act shall be known as the “*New Public Assembly Act of 2016.*”

SEC. 2. *Declaration of Policy.*—It is the policy of the Senate to ensure that the people can freely exercise their right to free speech, of expression, to peaceably assemble, and petition the Government for redress of grievances, without prejudice to the rights of others to life, liberty, property, and to equal protection of laws.

These fundamental rights of the people are essential and vital to the collective strength and stability of the nation. Towards this end, the State shall ensure the free exercise of such rights without the unnecessary and unreasonable impediments whatsoever.

SEC. 3. *Definition of Terms*—As used in this Act:

- 1) “*Expression*” refers to any statement of opinion for the purpose of presenting any cause, articulation of political, economic or social advocacies, or manifestation

of support in any partisan political activity through the use of any means or media.

- 2) ***Freedom Park*** refers to any place or location such as parks, roads, public buildings and premises where public assemblies are usually held in which no permit shall be required for the holding of the same;
- 3) ***Maximum Protection*** refers to the highest degree of protection that the military, police, peacekeeping and law enforcement authorities are required to observe during a public assembly including the dispersal of the same;
- 4) ***Public Assembly*** refers to any rally, demonstration, march, parade, procession, or any other form of mass or concerted action held in a public place for the purpose of: (1) presenting a lawful cause, (2) expressing an opinion to the general public on any issue, (3) protesting against or influencing any issue or program of the government whether political, economic, or social, or (4) petitioning the government for redress of grievances.
- 5) ***Public Place*** refers to 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.

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

SEC. 5. *Notice of Public Assembly.*—Any person or group who intends to organize and hold a public assembly in a public place shall give notice to the city or municipal mayor who has jurisdiction over the place where the assembly is to be held.

However, no such notice shall be required if the public assembly is to be held in any of the following places:

- (a) A freedom park duly established by law or ordinance;

(b) A private property with the consent of the owner or the person entitled to its legal possession; or

(c) In the campus of a government-owned and operated educational institution, subject to its rules and regulations.

SEC. 6. *Notice Requirements.* – Notice shall be given in accordance with the following guidelines:

(a) The notice must be in writing with the following information

(1) Name of leader or organizer;

(2) Purpose of the public assembly;

(3) Date, time and duration of the public assembly;

(4) Estimated number of participants; and

(5) Transport and public address system to be used during the public assembly.

(b) The notice incorporates an undertaking by the leaders or organizers of the public assembly of their duties and responsibilities in accordance with Section 8 of this Act.

(c) The notice shall be given at least (3) working days before the scheduled public assembly to the city or the municipal mayor who has jurisdiction of the place;

(d) Upon receipt of the notice, duly acknowledged or received in writing, the city or municipal mayor shall immediately post the notice at several conspicuous places in the city or the municipal building; and

(e) In case the mayor or any official acting on behalf of the city or the municipal mayor refuses to accept the notice, the leader or organizer of the public assembly shall post the notice on the office of the mayor and the mayor shall be deemed duly served.

SEC. 7. *Action to Enjoin the Public Assembly.* – (a) If there is 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, the city or municipal mayor may file an action before the appropriate regional trial court to enjoin the holding of the public assembly.

(b) The action with the regional trial court shall be filed within two (2) working days from the date the notice was given otherwise the action is barred.

(c) Before the filing of the action with the regional trial court, the city or the municipal mayor shall first inform the leaders or organizers in writing of the intent to

file the action, citing the evidence gathered or the clear and present danger posed by the holding of such assembly, and to discuss or negotiate the possible causes of action that may be taken to address the issue, protest or petition that is the subject of the assembly. The leaders or organizers shall appeal before the regional trial court to argue and present their own evidence.

(d) The decision of the regional trial court may be appealed to the appropriate appellate court within forty-eight (48) hours after the receipt of the decision. No appeal bond or record on appeal shall be required. A decision denying the prayer to enjoin the public assembly shall be immediately executory.

(e) All action filed in court pursuant to this Section shall be decided by the regional trial court within twenty-four (24) hours from date of filing. For this purpose, the case shall be immediately endorsed to the executive judge or, in the absence of the executive judge, to the judge in rank, for disposition.

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

(g) Telegraphic appeals as mentioned in paragraph (i) Section 6 of the "*Public Assembly Act of 1985*", to be followed by formal appeals are allowed.

(h) The failure of the regional trial court to render a decision within the prescribed period shall not be a basis against the holding of such assembly.

The filing of an action in court shall not be limited to one party alone. The mayor or the organizer who is aggrieved in negotiation on any matter, and has a cause of action, shall not be barred from filing an action in court.

SEC. 8. *Use of Public Thoroughfare.*—If the proposed public assembly involves the use of any public highway, boulevard, avenue, road, or street, the city or municipal mayor or any official acting on behalf of the mayor, may reroute vehicular traffic to prevent serious or undue interference with the flow of traffic, commerce, or trade, or designate a route for the conduct of the public assembly to prevent grave public inconvenience. In case of the second option, prior notice shall be given to the leaders and organizers.

SEC. 9. *Responsibility of Leaders and Organizers.*—The leaders and organizers of a public assembly. They shall execute an undertaking to be incorporated in the notice mentioned under Section 5 and 6 of this Act. The undertaking states the following:

- (a) To inform the participants of their responsibility under applicable laws and ordinances;
- (b) To police the ranks of the participants in order to prevent non-participants from disrupting the lawful activities of the public assembly;
- (c) To confer with local officials and law enforcers for a public assembly;
- (d) To ensure that the public assembly does not go beyond the time stated in the notice, and
- (e) To ensure that participants of the public assembly respect the rights of non-participants.

SEC. 10. *Non-interference by Law Enforcement Authorities and Private Individuals.*—The military, police, peacekeeping and law enforcement authorities, and person or groups who do not agree with the purpose of the public assembly, shall not interfere with the conduct of the public assembly.

Upon the request by leaders or organizers of the public assembly, a law enforcement contingent under the command of a responsible police officer may be detailed and positioned at least one hundred (100) meters away from the main area of assembly; The request shall be made for protection of the participants of the public in general.

SEC. 11. *Police Assistance When Requested.*—It shall be the primordial duty of the members of law enforcement contingent mentioned in Section 10 of this Act to protect participants of public assembly and oth public in general. The members of the law enforcement contingent shall observr the following guidelines and rules of conduct:

- (a) Members of the law enforcement contingent shall wear their complete and official uniform with nameplates and unit numbers displayed prominently on the front and dorsal parts of the uniform. Crash helmets with visor, gas masks, boots or ankle high shoes with shin guards may be used;
- (b) Maximum protection shall be observed at all times;
- (c) Members of the law enformcement contingent shall not carry any kind of firearms except batons or riot sticks and shields; and

(d) Members of the law enforcement contingent shall not use tear gas, smoke grenade, water cannons, or any similar anti-riot device unless the public assembly is attended with actual violence, serious threats of violence, or deliberate destruction of property,

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

SEC. 12. *Public Assembly Without Notice.*—The absence of notice in violation of Section 5 of this Act is not a ground for the dispersal of the public assembly. When the public assembly turns 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.

SEC. 13. *Prohibited Acts.*—The following acts are prohibited:

(a) On the part of the leaders and organizers of the public assembly, the holding of a public assembly without notice when such notice is required. No person may 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 on the mayor's behalf, the arbitrary and unjustified filing of an action to enjoin a public assembly or the arbitrary and unjustified refusal to accept or acknowledge receipt of the notice for a public assembly.

(c) The carrying of any kind of firearm by any member of the police or other law enforcement agency, or by any military personnel within 100 meters of the public assembly or on the occasion thereof. On the part of the military, police, peacekeeping and law enforcement authorities, the firing of firearms to disperse the public assembly or the commission of acts in the violation of Section 11 of this Act.

(d) On the part of any person, obstructing, impeding, disrupting or otherwise denying the exercise of the right to peaceful assembly, such as the use of motor vehicles, their horns, and loud sound systems within one hundred (100) meters from the area of the public assembly, with the intention to interfere or disturb their free exercise of the right to peacefully assemble or other action penalized under the Revised Penal Code and other special laws on the illegal possession of firearms and deadly devices.

SEC. 14. *Penalties.*—The following penalties shall be imposed to any person found guilty of violating Section 13 of this Act:

(a) Public censure for violation paragraph (a);

(b) *Prision correccional* for violation of paragraph (b), paragraph (c), and paragraph (d). If the violation of paragraph (d) constitutes the carrying of firearm, the penalty for violation thereof is without prejudice to presecution under Presidential Decree No. 1866, entitled “An Act Codifying the Laws on Illegal/Unlawful Possession Manufacture, Dealing in Acquisition of Firearms, Ammunition or Explosives or Instruments used in the Manufacture of Firearms, Ammunition, or Explosives and Imposing Stiffer Penalties for Certain Violations Thereof and for Relevant Purposes.”

SEC. 16. *Freedom Parks.*—Every city and municipal mayor shall, within six (6) minths after the effectivity of this Act, and in consultation with civil society groups, establish or designate at least one (1) suitable freedom park or hall in their respective jurisdiction which must be, as far as practicable, centrally located within the city or municipality, and where public assemblies, demonstrations and meetings may be held at any time without the need of a notice as required in Section 5 of this Act.

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

SEC. 17. *Rules of Construction.*—Any doubt in the interpretation of any provision of this Act is resolved in favor of strengtheing and promoting the free exercise of the people’s right of expression and to peaceably assemble.

SEC. 18. *Implementing Rules and Regulations.*—The Secretary of the Department of the Interior and Local Government shall, in consultation with the Commission on Human Rights and with the concerned people’s organizations (POs), promulgate the implementing rules and regulations within sixty (60) days from the effectivity of this Act.

SEC. 19. *Separability Clause.*—In case any provision of this Act is declared invalid or unconstitutional, the validity or constitutionality of the other provisions are not affected thereby.

SEC. 20. *Repealing Clause.*—Batas Pambansa Bilang 880 is hereby repealed. All other laws, decrees, letters of instructions, resolutions, orders, ordinances, or parts thereof which are inconsistent with the provisions of this Act, particularly the Revised

Penal Code and Presidential Decree No. 1866, are hereby repealed, amended, or modified accordingly.

SEC. 21. *Effectivity.*—This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,