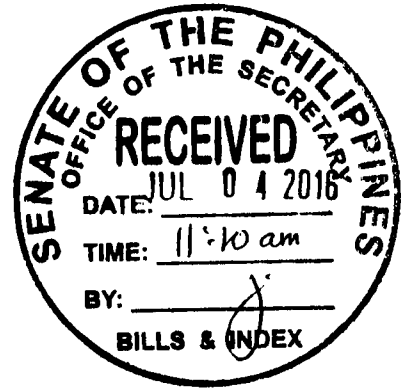


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



SENATE

S. B. No. 292

Introduced by Senator Aquilino "Koko" Pimentel III

AN ACT
ENSURING THE RIGHT OF THE PEOPLE TO PEACEABLY
ASSEMBLE AND PETITION THE GOVERNMENT
FOR REDRESS OF GRIEVANCES

EXPLANATORY NOTE

Article III, Section 4 of the Constitution provides that "[N]o law shall be passed abridging the freedom of speech, of expression, or of the press, or of the right of the people to peaceably assemble and petition the government for redress of grievances."

As a necessary consequence of freedom of speech and expression, freedom of assembly connotes the right of the people to convene peaceably for consultation and discussion on matters of public concern. It is accorded the utmost deference and respect, and is not to be limited, much less denied, except on a showing of a clear and present danger of a substantive evil that the state has a right to prevent.¹ However, this right is not absolute and is subject to reasonable limitations of "time, place, and manner" as may be necessary to ensure public safety, the prevention of disorder or crime, and other legitimate public interests.

Batas Pambansa Blg. 880 (B.P. 880) or the Public Assembly Act of 1985, enacted during the Marcos Administration, has been criticized for being used by authorities to conveniently justify the dispersal of otherwise peaceful assemblies and rallies under the "No Permit, No Rally" rule – effectively restraining the people's constitutional right to peaceful assembly.

¹ *Reyes vs. Bagatsing* (G.R. No. L-65366, November 9, 1983).

In light of the recent violent dispersion of the mass protest action led by farmers in Kidapawan City on April 1, 2016, which led to the death of three (3) protesters, there is a need to recondition the provisions of B.P. 880 to affirm the Constitutional guarantee to the right to peaceably assemble and petition the government for redress of grievances.

Thus, this measure mandates the establishment of Freedom Parks to provide everyone with adequate and safe spaces to exercise their right to peaceably assemble without need of securing any permit from national or local authorities. The measure likewise provides a clear delineation of the duties and responsibilities of law enforcement agents during the conduct of public assemblies, as well as graver sanctions against any person involved in the repression and/or suppression of these rights.

The immediate passage of this bill is thus earnestly sought.


AQUILINO "KOKO" PIMENTEL III

1 shall observe during a public assembly or in the dispersal
2 thereof;

3 c. **Modification of permit** shall include the change of the place
4 and time of the public assembly, rerouting of the parade or
5 street march, the volume of loudspeakers or sound system, and
6 other similar changes;

7 d. **Lawful cause** shall mean the legitimate justification for the
8 refusal of any chief executive officer of a particular local
9 government unit, or any duly authorized officer acting on his
10 behalf, to issue a permit due to the fact that an impending mass
11 action presents a clear and present danger of substantial evil that
12 endangers public safety and/or welfare;

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

20 The procession, rallies, parades, demonstrations, public meetings, and
21 assemblages for religious purposes shall be governed by local
22 ordinances; *Provided, however,* That such ordinances shall only regulate
23 the time, place, and location of the proposed public assembly and shall
24 not in any way deny the lawful exercise of such right.

25 Mass action governed by the Labor Code of the Philippines, as amended,
26 and other labor-related laws, rules and regulations are not included in
27 this Act;

28 f. **Public place** shall include any highway, boulevard, avenue,
29 road, street, bridge, or other thoroughfare, park, plaza, square,
30 and/or any open space of public ownership where the people are
31 allowed access;

32 g. **Repression** shall be any act that restrains, subdues, or prevents
33 the holding of any public assembly committed by any member
34 of the military, police, peace officer, barangay tanod, or any
35 public officer performing police duties upon order of their
36 superior officers or any local official or the local government

1 unit concerned, which includes the refusal of the local chief
2 executive or his official representative to issue any permit
3 without any lawful or justifiable cause; and

- 4 h. **Suppression** shall mean the stoppage, termination, or abatement
5 of any existing or ongoing peaceful assembly by any member of
6 the military, police, peace officer, barangay tanod, or any public
7 officer performing police duties upon orders of their superior
8 police officers or any local official of the locality.

9 **Section 4. *Permit When Required and When Not Required.*** –

10 A written permit shall be required for any person or persons to organize
11 and hold a public assembly in a public place. However, no permit shall
12 be required if the public assembly shall be held in a Freedom Park duly
13 established by law, ordinance, implementing rules and regulations of this
14 Act, or in private property, in which case only the consent of the owner
15 or the one entitled to its legal possession is required, or in the campus of
16 a government-owned and operated educational institution which shall be
17 subject to the rules and regulations of said educational institution;
18 Provided however, That mass action or activities that are election-related
19 shall not be covered by the provision of this Act but by *Batas Pambansa*
20 *Blg. 881* or the *Omnibus Election Code of the Philippines* and pertinent
21 election laws, rules and regulations.

22 **Section 5. *Application Requirement.*** – All applications for permits
23 for any mass action shall comply with the following guidelines:

- 24 a. The application shall be in writing, stating the names of the
25 leaders or organizers; their duties and responsibilities in relation
26 to the conduct of the public assembly; the purpose; date, time,
27 and duration; places or streets to be utilized; estimated number
28 of participants; vehicles to be used; public address systems to be
29 utilized; and other paraphernalia and equipment that will be
30 used in connection with the public assembly.
- 31 b. The application shall be filed with the office of the chief
32 executive unit of the local government unit having jurisdiction
33 over the location where the public assembly or activity will take
34 place at least three (3) working days prior to the same; and
- 35 c. Upon receipt of the application, which must be duly
36 acknowledged in writing, the office of the local chief executive

1 shall cause the same to be immediately posted in three (3)
2 conspicuous places in the city hall or municipal building hall.

3 **Section 6. *Action to be taken on the Application.*** -

- 4 a. It shall be the duty of the local chief executive or any official
5 acting on his behalf, to issue or grant a permit unless there is
6 clear and convincing evidence that the public assembly will
7 create a clear and present danger to public order, public safety,
8 public convenience, or public health.
- 9 b. The local chief executive or any official acting on his behalf
10 shall act on the application within two (2) days from the date the
11 application was filed, failing which, the permit shall be deemed
12 granted. Should, for any reason, the local chief executive or any
13 official acting on his behalf, refuse to accept the application for
14 a permit, the application shall be posted by the applicant on the
15 premises of the office of the mayor and shall be deemed to have
16 been filed.
- 17 c. If the local chief executive is of the view that there is imminent
18 and grave danger of a substantive evil warranting the denial or
19 modification of the permit, he shall immediately inform the
20 applicant who must be heard on the matter.
- 21 d. The action on the permit shall be in writing and served on the
22 applicant within twenty-four (24) hours from its approval or
23 denial;
- 24 e. If the local chief executive or any official acting on his behalf,
25 denies the application or modifies the terms of the permit, the
26 applicant may contest the decision through a summary
27 proceeding before the Regional Trial Court having jurisdiction
28 over the same;
- 29 f. All cases shall be decided within twenty-four (24) hours from
30 the date of filing. Cases filed hereunder shall be immediately
31 endorsed to the executive judge for disposition or, in his
32 absence, to the one next in rank; and
- 33 g. The resolution of the case by the Regional Trial Court shall be
34 immediately executory even when pending appeal. Its decision
35 may be appealed to the appropriate court within forty-eight (48)

1 hours after receipt of the same. No appeal bond and record on
2 appeal shall be required. A decision granting such permit or
3 modifying it in terms satisfactory to the applicant shall be
4 immediately executory.

5 **Section 7. *Modification of the Proposed Location or Routes.*** -

6 Should the proposed public assembly involve the use, for an appreciable
7 length of time, of any public highway, boulevard, avenue, road or street,
8 the local chief executive or any official acting in his behalf may, to
9 prevent unnecessary public inconvenience, designate the route thereof
10 which is convenient to the participants or reroute the vehicular traffic via
11 other alternative traffic routes. *Provided, however,* That the proposed
12 rerouting or modification in the itinerary stated in the application shall
13 not diminish or render ineffective the purpose for which the mass action
14 was originally intended.

15 **Section 8. *Responsibility of the Permit Applicant/Organizers.*** - It

16 shall be the duty and responsibility of the permit applicant, leaders and
17 organizers of a public assembly to take all reasonable measures to ensure
18 that the intended public assembly shall be peacefully conducted in
19 accordance with the terms of the permit. These measures shall include,
20 but not be limited to, the following:

- 21 a. Comply with the terms and conditions of the permit;
- 22 b. Inform the participants of their responsibilities under the permit;
- 23 c. Police the ranks of the participants in order to prevent non-
24 participants from disrupting the lawful activities of the public
25 assembly;
- 26 d. Confer and maintain constant dialogue with local government
27 officials and law enforcers to ensure the safe and peaceful
28 conduct of the public assembly; and
- 29 e. Institute safeguards to ensure that the public assembly shall not
30 unduly interfere with other people's rights and the exercise
31 thereof.

32 **Section 9. *Non-interference by Law Enforcement Authorities.*** -

33 Law enforcement agencies shall not interfere with the holding of a
34 public assembly. However, to adequately ensure public safety, a law
35 enforcement contingent under the command of a responsible officer may

1 be detailed and stationed in a place at least one hundred (100) meters
2 away from the area of activity ready to maintain peace and order at all
3 times.

4 **Section 10. *Police Assistance When Requested.*** – It shall be
5 imperative for law enforcement agencies, when their assistance is
6 requested by the leaders and/or organizers of the public assembly, to
7 perform their duties and responsibilities to provide proper protection to
8 participants as well as non-participants of the public assembly. Towards
9 this end, law enforcement agencies shall observe the following
10 guidelines:

- 11 a. Members of the law enforcement contingent who deal with the
12 participants of the public assembly shall be in complete uniform
13 with their nameplates and units to which they belong displayed
14 prominently on the front and dorsal parts of their uniform, and
15 must observe the policy of “maximum tolerance” as defined
16 under this Act;
- 17 b. The members of the law enforcement contingent shall not carry
18 any kind of firearms within one hundred (100) meters from the
19 area of activity; within this range, members of the said
20 contingent shall be armed only with prescribed and authorized
21 armor, paraphernalia and equipment;
- 22 c. Authorized and prescribed anti-riot or mass dispersal devices,
23 paraphernalia and/or mechanism shall only be used as a last
24 resort when the said public assembly is attended by actual
25 violence or serious threats of violence, or deliberate destruction
26 of property.

27 **Section 11. *Dispersal of Public Assembly with Permit.*** – No public
28 assembly with a valid permit shall be dispersed. However, when an
29 assembly is attended by actual violence or deliberate destruction of
30 property, law enforcement entities may disperse such public assembly in
31 the following manner:

- 32 a. At the first sign of impending violence, the ranking officer of
33 the law enforcement contingent shall call the attention of the
34 leader and/or organizers of the public assembly and ask the
35 latter to prevent threats of serious violence or public
36 disturbance. The latter shall interrupt the public assembly and

1 order it to disperse, if continuing the assembly would cause
2 immediate danger to the safety of the participants, as well as the
3 people and the property in the surrounding area;

4 b. If actual violence starts to a point where rocks or other harmful
5 objects from the participants are thrown at the police or non-
6 participants, or at any property causing damage to such
7 property, the ranking officer of the law enforcement contingent
8 shall audibly warn the participants that if the disturbance and
9 violence persists, the public assembly shall be dispersed;

10 c. If the violence or the disturbance prevailing in the preceding
11 subparagraph does not abate, the ranking officer of the law
12 enforcement contingent shall audibly issue a final warning to
13 the participants of the public assembly, and after allowing a
14 reasonable period of time to lapse, shall immediately order it to
15 disperse;

16 d. No arrest of any permit applicant, organizer, leader or
17 participant of the public assembly shall also be made during the
18 public assembly unless the said person has violated during the
19 assembly a law, statute, ordinance or any provision of this Act.
20 Such arrest shall be governed by Article 125 of the Revised
21 Penal Code, as amended; and

22
23 e. Isolated acts or incidents of disorder or breach of the peace
24 during the public assembly shall not be a ground for dispersal.

25 **Section 12.** *Dispersal of Public Assembly or Event without Permit.*

26 – When the public assembly is held without a permit where a permit is
27 required, the said public assembly may be peacefully dispersed.

28 **Section 13.** *Prohibited Acts.* – The following are additional
29 prohibited acts:

30 a. The holding of any public assembly as defined in this Act by
31 any leader or organizer without having first secured a written
32 permit where a permit is required from the local government
33 unit concerned, or the use of such permit for such purposes in
34 any place other than those set out in the said permit; Provided,
35 that no person can be punished or held criminally liable for
36 participating in or attending in an otherwise peaceful assembly;

- 1 b. Arbitrary or unjustified denial or modification of a permit in
2 violation of the provisions of this Act by the local chief
3 executive or any local government official acting on his behalf;
- 4 c. The unjustified or arbitrary refusal to accept or acknowledge
5 receipt of the application for a permit by the local chief
6 executive or any official acting on his behalf;
- 7 d. Obstructing, impeding, disrupting, or otherwise denying the
8 exercise of the right to peaceful assembly;
- 9 e. The unnecessary use or discharge of firearms by a member of
10 any law enforcement agency or any person to disperse a public
11 assembly;
- 12 f. The carrying of a deadly weapon or device such as a firearm,
13 bladed weapon, pillbox, improvised explosive device, and the
14 like;
- 15 g. The malicious destruction of public and private property in
16 connection with the conduct of the public assembly;
- 17 h. Interfering with, or intentionally disturbing the holding of a
18 public assembly through the use of a motor vehicle, loud sound
19 systems, and the like.

20 **Section 14. Penalties.** – Any person found guilty and convicted of
21 any of the prohibited acts defined herein shall be punished with
22 imprisonment ranging from six (6) years and one (1) day to twelve (12)
23 years or a fine not less than Fifty Thousand Pesos (P50,000.00) but not
24 more than One Hundred Thousand Pesos (P100,000.00), or both at the
25 discretion of the court. This penalty shall equally apply to public
26 officials and employees found guilty of violating the provisions of this
27 Act without prejudice to the filing of any administrative or civil suit
28 against them.

29 **Section 15. Freedom Parks.** – Every city and municipality in the
30 country shall, within six (6) months after the effectivity of this Act,
31 establish or designate at least one (1) suitable Freedom Park within their
32 respective jurisdiction. The designation of Freedom Parks shall take into
33 consideration places or locations that have traditionally hosted public

1 assemblies or mass actions, as well as the safety, convenience, and
2 accessibility of the location to the public in general. Local sanggunians
3 of the local government unit concerned may designate additional
4 Freedom Parks.

5 **Section 16. *Implementing Rules and Regulations.*** – The
6 Department of Interior and Local Government, in consultation with local
7 government units, shall promulgate the implementing rules and
8 regulations of this act within six (6) months from the effectivity of this
9 Act.

10 **Section 17. *Separability Clause.*** – Should any provision of this
11 Act or part hereof be declared unconstitutional, the other provisions or
12 parts not affected thereby shall remain valid and effective.

13 **Section 18. *Repealing Clause.*** – All laws, decrees, orders, and
14 issuances, or portions thereof, which are inconsistent with the provisions
15 of this Act, are hereby repealed, amended or modified accordingly.

16 **Section 19. *Effectivity Clause.*** – This Act shall take effect after
17 fifteen (15) days from its publication in two (2) newspapers of general
18 circulation.

Approved,