

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

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SENATE

S. B. No. 1845

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Introduced by **SENATOR JINGGOY EJERCITO ESTRADA**

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**EXPLANATORY NOTE**

It has been eighteen (18) years since the restoration of the long and hard fought democratic form of governance has been installed in our bureaucracy and yet, the nation seems to be manifesting palpable and ostentatious symptoms of deterioration in our Freedom of Speech, Press and Assembly, which are the harbingers and hallmarks of all our democratic rights and privileges.

As compared to the lifespan of every emerging democratic system, this is the period when all paramount values of democratic existence are at its formative years where the government, should be cultivating the very foundation beneficial to its development and stability.

But frustratingly, the opposite is shown in recent events as follows: disturbing documented reports of harassment and violence committed against protesters exercising liberty of speech; excessively antagonistic practice of crowd dispersal in the guise of maximum tolerance; gradually increasing volume of procurement of hi-tech weapons in the government's crowd dispersal arsenal; aggressive police intervention even in peaceful prayer vigils and rallies; and most especially, the diminishing democratic space where our people can peaceably assemble for redress of grievance, which in effect, has quite besmirched our glorious legacy of People Power.

It is for this reason that the constitutional provision guaranteeing free speech, free press and right to public assembly has to be fortified by enacting a

measure enshrining such liberties vital to the our nation's democratic survival. The Public Assembly Act is hereby revitalized to include: efficient means in institutionalizing the creation of freedom parks in the entire archipelago; more rigid penalties for violations of the provisions of this Act not only against erring peacekeeping contingent in the conduct of dispersal, but against public officials, as well; and providing for clear-cut rules in the issuance of rally permits.

The Philippines is now witnessing the impending shadow of martial law dominance, and unless actions are undertaken by the current regime, the nation will never enjoy the benefits and fruits of a fully-ripened democracy, flourishing at its peak.

The curtailment of the freedom of assembly has an impact that transcends far beyond those whose rights were restricted, but it goes and strikes at the very heart and core of our democratic system. Let us all learn from our history, let us learn from our obstinacy.

For this compelling reason, immediate passage of this proposed bill is therefore sought by this Representation.

  
JINGGOY EJERCITO ESTRADA  
Senator

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**THE PUBLIC ASSEMBLY ACT OF 2004**

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

SEC. 1. *Short Title.* - This Act shall be known as the "Public Assembly Act of 2004."

SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the state to extend the highest deference to the right of the people peaceably to assemble and petition the government for redress of grievances as enshrined in the Constitution. It is further declared the policy of the state that the free exercise of such right without prejudice to the rights of others to life, liberty and equal protection of the law is essential and is considered one of the hallmarks of a democratic society.

SEC. 3. *Definition of Terms.* - For purposes of this Act:

(a) "*Freedom Park*" shall mean 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;

(b) "*Maximum tolerance*" means the highest degree of restraint that the military, police and other peace keeping authorities shall observe during a public assembly or in the dispersal thereof;

(c) "*Modification of permit*" shall include the change of the place and time of the public assembly, rerouting of the parade or street march, the volume of loudspeakers or sound system and other similar changes;

(d) "*Lawful cause*" shall mean the legitimate justification for the refusal of any chief executive officer of a particular local government unit, or any officer acting in his behalf, to issue a permit due to the fact that the mass action presents a clear and present danger of substantial evil that endangers the public welfare.

(e) "*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 such ordinances shall only regulate the time, place and location of the proposed mass action and shall not in any way deny the lawful exercise of such right.

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

(f) "*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;

(g) "*Repression*" shall be any act that restrains, subdues or prevents the holding of any public assembly committed by any member of the military, police, peace officer, barangay tanod or any public officer performing police duties upon orders of their superior officers or any local official of the locality, which would include the refusal of the local chief executive or his official representative to issue any permit without any lawful and justifiable cause; and

(h) "*Suppression*" shall mean the stoppage, termination, abatement or dispersal of any existing or ongoing peaceful public assembly by any member of the military, police, peace officer, barangay tanod or any public officer performing police duties upon orders of their superior officers or any local official of the locality.

SEC. 4. *Permit when required and when not required.* - A written permit shall be required for any person or persons to organize and hold a public assembly in a public place. However, no permit shall be required if the public assembly shall be done or made in a freedom park duly established by law, ordinance, implementing rules and regulation 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: *Provided, however,* That mass actions or activities that are election-related shall not be covered by the provisions of this Act but by the Omnibus Election Code of the Philippines and pertinent election laws, rules and regulations.

SEC. 5. *Application requirements.* - All applications for a permit shall comply with the following guidelines:

- (a) The applications shall be in writing stating the names of the leaders or organizers; their duties and responsibilities in relation to the conduct of the mass action; the purpose; date, time and duration; places or streets to be utilized; estimated number of participants; vehicles; public address systems; and other paraphernalia and equipment that will be used in connection to the conduct of the public assembly;
- (c) The application shall be filed with the office of the chief executive of the local government unit having jurisdiction over the location where the mass action or

activity will take place at least three (3) working days prior to the said activity; and

- (d) Said application shall immediately be posted in at least three (3) conspicuous places.

*SEC. 6. Action to be taken on the application. -*

- (a) It shall be the duty of the chief executive of the local government unit or his official representative to issue or grant a permit unless there is clear and convincing evidence that the public assembly will create a clear and present danger to public welfare;
- (b) The chief executive or his official representative shall act on the application within two (2) working days from the date the application was filed, failing which, the permit shall be deemed granted. Should for any reason, the chief executive or any of his official representative refuse to accept the application for a permit, said application shall be posted by the applicant on the premises of the office of the chief executive and shall be deemed to have been filed;
- (c) If there is imminent and grave danger of a substantive evil warranting the denial or modification of the permit, the local chief executive shall immediately inform the applicant who must be heard on the matter.
- (d) The action on the permit shall be in writing and served on the application within twenty-four hours;
- (e) If the local chief executive or his official representative denies the application or modifies the terms thereof in

his permit, the applicant may contest the decision through a summary proceeding before the Regional Trial Court having cognizance over the same;

(f) All cases 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 one next in rank; and

(h) The resolution of the case by the Regional Trial Court shall immediately be executory even pending appeal.

SEC. 7. *Modification of proposed locations or routes* - Should the proposed public assembly involve the use, for an appreciable length of time, of any public highway, boulevard, avenue, road or street, the local chief executive or his official representative may, to prevent grave public inconvenience, designate the route thereof which is convenient to the participants 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: *Provided, however,* That the proposed rerouting or modification in the itinerary stated in the application shall not diminish or render ineffective the purpose for which the mass action was originally intended.

SEC. 8. *Responsibility of organizer.* - It shall be the duty and responsibility of the leaders and organizers of a public assembly or mass action to take all reasonable measures so that the intended public assembly or mass action shall be conducted peacefully in accordance with the terms of the permit and the rule of law.

These shall include but not be limited to the following:

(a) To inform the participants of their responsibility under the permit;

- (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 maintain a constant dialogue with local government officials and law enforcement entities to ensure the safe and peaceful conduct of said mass action;
- (d) To comply with the terms and conditions stated in the permit; and
- (e) To institute safeguards that the mass action shall not unduly interfere with other people's rights and the exercise thereof.

SEC. 9. *Presence of law enforcement contingent.* - Law enforcement entities shall not interfere with the holding of a public assembly. However, to adequately ensure public safety, a law enforcement contingent under the command of a responsible police officer shall be detailed and stationed in a place at least one hundred (100) meters away from the area of activity ready to maintain peace and order at all times.

SEC. 10. *Police action-* 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 defined under this Act;

- (b) The members of the law enforcement contingent shall not carry any kind of firearms within a one hundred (100) meter distance from the area of activity; Within this range, members of said law enforcement contingent shall be armed only with the prescribed and authorized uniform armor, paraphernalia and equipment;
- (c) Authorized and prescribed anti-riot or mass dispersal devices and mechanisms shall only be used as a last resort when said mass action presents a clear and present danger of a substantial evil that threatens public welfare.

SEC. 11. *Dispersal of public assembly with permit.* - No public assembly or mass action with a valid permit shall be dispersed. However, when an assembly becomes violent, law enforcement entities 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 non-participants, or causes any damage to 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 excessive force shall be used by law enforcement units in the dispersal;
- (e) 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; and
- (f) Isolated acts or incidents of disorder or breach of the peace during the public assembly shall not constitute a ground for dispersal.

SEC. 12. *Dispersal of public assembly without permit.* - When the public assembly is held without a permit where a permit is required, the said public assembly may be peacefully dispersed.

SEC. 13. *Additional prohibitions.* - The following are additional prohibited acts:

- (a) The holding of any public assembly by any leader or organizer without having first secured that written permit where a permit is required from the appropriate office concerned, or the use of such permit for such purposes in any place other than those set out in said permit: *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 denial or modification of a permit in violation of the provisions of this Act by the local chief executive or his official representative;
- (c) The unjustified and arbitrary refusal to accept or acknowledge receipt of the application for a permit by the local chief executive or his official representative;
- (d) Repressing, suppressing, obstructing, impeding, disrupting or otherwise denying the exercise of the right to peaceful assembly;
- (e) The unjustified discharge of firearms by a member of any law enforcement agency or any person in an attempt to disperse the public assembly;
- (f) The carrying of a deadly or offensive weapon or device such as firearm, bladed weapon, pillbox, bomb, and the like;
- (g) The malicious destruction of public and private property in connection with the conduct of the public assembly; and
- (h) 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 violating any provision of this Act shall be punished with imprisonment ranging from six (6) years and one (1) day to twelve years (12) or a fine not less than fifty thousand

pesos (Php 50,000.00) but not more than one hundred thousand pesos (Php 100,000.00) or both at the discretion of the court. This penalty shall equally apply to public officials and employees found guilty for violating the provisions of this Act without prejudice to the filing of any administrative or civil suits against them.

SEC. 15. *Freedom Parks.* - There is hereby created at least one (1) freedom park in every municipality, city and province throughout the nation to be designated under the Implementing Rules and Regulations of this Act.

The designation of said freedom parks shall take into consideration places or locations that have traditionally hosted mass actions or public assemblies, its historical significance to the political life of the locality, and other considerations such as safety, convenience and accessibility to the public. Local *sanggunians* of local government units may designate additional freedom parks.

SEC. 16. *Implementing rules and regulations.* - The Department of Interior and Local Government, in consultation with local government units shall promulgate the implementing rules and regulations within six (6) months from the effectivity of this Act.

SEC. 17. *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 18. *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 are likewise hereby repealed, amended, or modified accordingly.

SEC. 19. *Effectivity.* - This Act shall take effect after fifteen (15) days following the completion of its publication either in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,