



Position Paper of Karapatan on the Proposed House Bills 3023 and 3789 in the 17th Congress of the House of Representatives

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The State must give the highest regard to the right to 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. To pass a law that will infringe on this fundamental right in a civilized society is a mockery of the so-called democracy in our country.

Rep. Harry L. Roque authored House Bill 3023, entitled "*An act ensuring the free exercise by the people of their right peaceably to assemble and petition the government for redress of grievances.*" Another bill, House Bill 3789, entitled "*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*" was authored by Representatives Carlos Isagani Zarate, Makmod D. Mending Jr. and Maria Vida Espinosa Bravo.

Karapatan fully supports House Bill 3789, in the spirit of our longstanding position expressed in the petition we submitted to the Supreme Court in 2005, arguing that Batas Pambansa Blg. 880 or BP 880 is clearly a violation of the 1987 Philippine Constitution, the United Nations International Covenant on Civil and Political Rights, UN resolutions on freedom of assembly and of expression, and other human rights treaties of which the Philippines is a signatory. We also argued that a law or edict that bears the imprint of Marcos' martial law does not bode well for the people's exercise of their civil and political rights, including the right to free assembly and expression. Unfortunately, the Supreme Court ruled that BP 880 valid and constitutionally sound.

Since martial law to present, State security forces continue to use BP 880 as a tool or means to legitimize the violation of the people's rights to free assembly and expression because it restricts the time, place and manner of protests, according to the arbitrary judgement of State forces and functionaries. It restricts public assemblies despite the absence of clear and present danger. Prior permit is required to be secured to hold a rally or protest. It also deprives the people of their freedom to choose the venue of protests, which forms part of the message for which the expression is sought.

In fact, many peaceful demonstrations and mass actions have been violently dispersed by State forces, using BP 880 as justification.

On April 1, 2016, thousands of farmers from North Cotabato had a peaceful protest in Kidapawan City calling on local government officials to provide much-needed rice and other forms of assistance, in the light of the tremendous impact of El Niño on their families and livelihood. Police headed by Senior Supt. Alexander Tagum, currently the Davao City Police Director, military personnel, local and national government officials ordered the bloody dispersal of around 4,000 protesters. The police opened fire at the protesters which resulted to the killing of farmer Darwin Sulang and Kidapawan resident Enrico Fabligar. Scores were also wounded, many by gunshots, and illegally arrested.

On October 19, 2016, the Manila Police District headed by Senior Supt. Marcelino Pedrozo ordered the violent dispersal of more than a thousand indigenous peoples and Moro protesters near the US embassy in Manila. PO3 Franklin Kho deliberately rammed a police vehicle at the protesters. Many were injured and arbitrarily arrested.

In all of these cases, no one was held accountable for the brazen violation of fundamental rights, yet when State forces use the full force of the law and BP 880 against the protesters, they invoke immediate obedience.

Meanwhile, HB 3023 seeks “to ban picketers or rallyists who do not seek to disseminate a message to the general public, but to intrude upon the targeted resident, and to do so in an especially offensive way.” In the said bill, other forms of assemblies not mentioned in BP 880 such as public events, amusements, contests, performances and other public assemblies will also be regulated purportedly to ensure public order.

Section 3 of the proposed bill added the term “public event” defined as amusements, contests and other performances and other comparable events that are open to the public, but not considered to be public assemblies. This definition practically broadened the scope of BP 880, extending to legitimate and peaceful forms of protests. In colleges and state universities, it is common that students exercise their freedom of expression by unfurling banners with legitimate calls during graduation rites. Commenters or those derisively called hecklers in fora and other similar events can also be punished by this law.

HB 3023 also provides that if participation in an event requires an invitation or membership in a given organization, the provisions of this act on public events shall apply thereto, unless the event, owing to the number of participants, the type of the event and other specific circumstances, is considered to be of a private nature. This provision is tantamount to plain and simple legitimized surveillance, which infringes on the right to privacy and the right to organize of organizations, clubs, progressive groups, unions and the like.

In Section 13 of HB 3023, there is a provision that “no permit shall be granted for public assemblies which shall be held before or about the residence or dwelling of a particular individual.” This is a form of restriction on the constitutionally guaranteed right of the people to petition the government for redress of grievances. This seeks to immune or exempt public officials, whose salaries come from taxpayers’ money, from criticisms of taxpayers that stemmed out of legitimate issues relating to their public functions in the their homes or places where they stay.

Karapatan submits that the existing BP 880 is already violative of the people’s rights to freedom of expression and right to peaceably assemble. Attempts to amend the said law will worsen the curtailment of people’s rights, as more conditions and restrictions on the exercise of these rights are imposed. This is the reason why we do not subscribe to HB 3023, along with its provisions that will further worsen the state of human rights in the country, amid the continuing extrajudicial killings in line with the counter-insurgency program and the war against drugs, illegal arrests and detention, bombings and forcible evacuation of communities, violent dispersals of rallies and other peaceful assemblies, that is all made worse by the martial law declaration in Mindanao.

Legitimate calls and issues of the people must not be further restricted with laws that are meant to suppress rights that limit the already constricted space of the people to free speech and expression. ###