

**NO-PERMIT, NO-RALLY POLICY:  
THE POLICY'S IMPLICATION ON THE BASIC CONSTITUTIONAL RIGHT  
TO PEACEBLY ASSEMBLE IN ITS IMPLEMENTATION  
IN THE CITY OF MANILA**

**An Undergraduate Thesis  
Presented To The  
Department of Social Sciences  
College of Arts and Sciences**

**In Partial Fulfillment of the Requirements for the Degree  
Bachelors of Arts in Political Science**

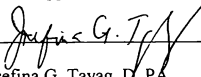
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**April 2005**


## Approval Sheet

This thesis attached hereto, entitled, “No-Permit, No-Rally Policy: The Policy’s Implication on the Basic Constitutional Right to Peaceably Assemble in its Implementation in the City of Manila”, prepared by Philip John F. Ermino in partial fulfillment of the requirements for the Degree of Bachelor of Arts Major in Political Science is hereby accepted.

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## Acknowledgments

This thesis would not be possible without the aid of several people. I would also want to recognize those people who influenced and helped me evolve into what I am now.

First of all, I want to dedicate this paper to all the people who have given up their lives fighting and struggling for a cause they believe is right. To them, I give my highest respect and reverence.

I extend my gratitude to my **beloved family**. I thank them for acknowledging my existence and letting me live the life I have now.

To my best friend **Rom**, my confidant and adviser, without his support and cool attitude, I would not have survived every worst experiences of my life. Thanks, bro.

To my baby sister, **Pat**, though recently we could not find time to chit-chat, her strong will, determination and wit has inspired me. Her realistic views on life always gave me another way of looking at things.

**Political Science Block (Black) 4, Batch 2005...**I thank you all for sharing with me part of your lives. You really do not know how each and every one of you contributed to the kind of person I am today. Thanks for all those happy and sad moments we shared. Kita-kits pa rin tayo mga dude. Good luck to each and every one!

To all of my **UPM friends**, thank you for all the small and big nice things that we shared. I really look up to the times that we could see each other again.

I would also like to extend my gratitude to my organizations. To the **League of Filipino Students**, I admire their dedication and strong determination...Thanks for all the support and understanding kung hindi me parating nakakadalo ng meetings. But I know

that you know what I believe in and I thank you for the respect and acceptance you have given me. To the **Freshmen Block Coordinators, Batch 2002**, I really admired your enthusiasm especially in the name of service. Though I know that we had several difficult times and there are always pressure on the things we do, I appreciate the willingness and encouragements that each of you showed in the name of duty and protection of the freshies.

I would also like to extend my appreciation to my beloved adviser, **Prof. Tayag**, whose patience exceeds infinity. Thank you ma'am for the understanding and patience you have given to me especially when I did not submit my drafts on time. This thesis would not be complete without you.

To **Prof. Abaya**, for the advices and support you have given me especially with my extra-curricular activities in the university. Take good care of yourself, sir.

I express my gratitude to my interviewees for finding time and effort to entertain me, **BAYAN Muna Rep. Satur Ocampo, KARAPATAN Sec. Gen. Jigs Clamor and WPD PCI Remigio Sedanto**.

Lastly, I would also like to thank my enemies that I generated throughout my college life, though I do not know specifically who they are, I thank them for making me this kind of person.

To everyone who acknowledged my existence, thank you very much!

## Abstract

The “no-permit, no-rally” policy in the Philippines strictly implemented under the Arroyo administration resulted to public clamor that it violates the peoples’ constitutional right to peaceably assemble and express legitimate redress of grievances to its government. The Public Assembly Act of 1985, which is legislation from the Marcos era, supports this policy. The conception of this research, “No-Permit, No-Rally” Policy: The Policy’s Implication on the Basic Constitutional Right to Peaceably Assemble in its Implementation in the City of Manila”, is brought about by the violent dispersals of protesters causing a number of injuries and the violation of the right to assemble and freedom of expression in the form of rallies and demonstrations.

The theoretical framework employed in this study is the Liberty Theory Framework that centralized the purpose of the right for peaceful public assemblies and freedom of expression to the self-realization of an individual and the individual’s involvement or participation in social change. The theory censures the use of mandatory permits arguing that it waives the inherent and duly protected constitutional rights of individuals to peaceably assemble and to freely express themselves. It continues to argue that the permit system does not respect the individual’s own decision-making capabilities when one joins a protest. It denounces the imposition of routinized activities by the status quo, disrespecting the spontaneous characteristic of public protests and expression. The theory also asserts that the permit system inhibits the individual or a group from affecting a peaceful means of social change since in most cases; the permit system is being used to prohibit the protesters in conducting their demonstrations, which is clearly beyond its regulatory function.

The study was conducted using qualitative methodologies. An interview with key informants such as representatives or officials of non-government offices and/or mass-based groups as well as law enforcers was carried out. Although the local city hall of Manila refused a formal interview, the researcher managed to get informal statements from one of the LGU employee. These interviews helped the researcher formulate initial generalizations and conclusions. Research instruments used were library materials, World Wide Web research and interviews.

The information gathered from the interviews and researches showed that the implementation of the permit system in the city of Manila is a justification to prohibit the rallyists and protesters from conducting any demonstrations and mobilizations in public. There were experiences shared by organizations such as KARAPATAN and BAYAN Muna that applications of permits were revoked without proper explanation, not even applying the “clear and present danger”. Moreover, politics played a big role since the curtailment of the mass protests implies the fear of the government protests which could escalate to a call for the ouster of the President herself, a meta-legal process as exemplified in EDSA I and II.

The implementation of the permit system became a prohibitive means that goes beyond its regulatory function. Thus, resulting to the curtailment of the legitimate expression of the people and a violation of their duly constituted right to peaceably assemble.

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# CHAPTER I

## Introduction

Rallies, demonstrations, public assemblies, mass mobilizations and other forms of public expression of dissent and protests have been part of the society's practice either to express the public's grievance to their government or to initiate substantive and peaceable process of change in system. These practices are manifestation of the public's political participation in their society, and most importantly, these are main indicators that the society where these activities are taking place is a democratic institution acknowledging the people's rights.

In the Philippines, the rallies, demonstrations and mass protests have been a way of expressing people's grievances to the government especially during the 1960's, and most particularly, after the Martial Law era, during which time democracy had been suppressed. The Post-Martial Law era has been characterized by popular mass movements that even ousted another Philippine president from position and further created the so-called EDSA II. It paved the way for people of all sectors to exercise their right to peaceably assemble.

However, two years after the establishment of the Arroyo administration, President Arroyo ordered the strict implementation of the "No-Permit, No-Rally" policy that took effect in Manila on April 28, 2003. This policy was adopted from the Public Assembly Act of 1985 or the *Batas Pambansa Bilang 880*, which was created during the last years of the Marcos regime. This policy contained the rule to secure a permit before staging a rally, and the mayor, or any official acting on his behalf could only refuse a permit when there is a clear and present danger to public order, public safety, public

convenience, public morals or public health. It contains other rules and procedures for public assembly.

The strict implementation of the said law by the current administration is being dealt with constant questions on the issues regarding violation of constitutional human rights. Such issues include human rights violations to protesters, more specifically to the “justified” inhumane treatment and violent dispersals of law enforcers to protesters, resulting to a number of injured people, which are more prevalent on the side of the protesters. The most important issue that is raised to the implementation of this law is the concern that the said policy directly abridges the constitutional right of the people to peaceably assemble and to petition to the government for their grievances that is contained in Section 4, Article III – Bill of Rights, which states that, “No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances”.

Therefore, the purpose of this paper is to look into the policy, critically evaluate it by carefully laying down the basic arguments both supporting and refuting the principles accompanying the principles of the law, and also, to investigate, at the same time, evaluate the real score on its implementation, if it really does help in maintaining public order by the authorities or is it being used vaguely to abridge public expression, especially those against the administration.

## **Research Question**

Does the Public Assembly Act of 1985 or its application as the “No-Permit, No-Rally” policy abridge the constitutional right of freedom of expression and to peaceably assemble?

## **Thesis Statement**

The implementation of the “No-Permit, No-Rally” policy as application of the Public Assembly Act of 1985 is being used to justify the curtailment of the basic constitutional right of assembly leading to several violent dispersals of protesters.

## **General Objective**

To study and evaluate whether the permit system is used either for proper information purposes in promoting general welfare of the public as what it claims to be (i.e. public order, traffic management) or to apply state power, especially against those opposing the government, which is then a curtailment of basic constitutional right.

## **Specific Objectives**

1. To establish the historical background and context of the creation of the Public Assembly Act of 1985, this is a period prior to the end of the Marcos regime.
2. To examine the contents of the permit system as application of the Public Assembly Act of 1985 and lay down the principles behind the policy.

3. To investigate and examine the implementation of the permit system in the city of Manila, probing on the statistics of those who obtained and rejected to have a permit, and to be able to set the views of contending parties affected by the policy.
4. To analyze and conclude whether the claim of the permit system for public order would stand or there is direct abridgement of constitutional right to peaceably assemble under the permit system
5. To give recommendations for the strengthening of the basic constitutional right to peaceably assemble and petition the government for redress of grievances.

### **Review of Related Literature**

For further understanding of the topic, concepts related to topics of constitutional human rights, freedom of expression, public administration, political theories relating to topics of state and liberty, as well as democracy were the key points studied for in the literature.

Classic philosophers such as John Locke, Jean Jacques Rousseau, Voltaire, John Stuart Mill and many others as well as modern philosophers have constituted and established much of the foundations of constitutionalism, civil liberties, human rights and democracy. They also advocated the basic principles and values that mold and still govern much of the modern nation-states and various modern civilizations. From various books such as *The Human Rights Reader* as edited by Walter Lacqueur and Bary Rubin (1979), *The Great Political Thinkers* by William and Allan Ebenstein (2000) and *The Readings in Social Science II*, University of the Philippines (1993) are some of the

reading materials that tackles the literature of these great political philosophers. Such as Locke would argue in his work The Second Treatise of Civil Government:

The natural liberty of man is to be free from any superior power on earth, and not to be under the will or legislative authority of man, but to have only the law of nature for his rule. The Liberty of man in society is to be under no other legislative power but that the established by consent in the commonwealth...The only way whereby any one divests himself of his natural liberty, and puts on the bonds of civil society, is by agreeing with other men to join and unite in to a community for their comfortable, safe and peaceable living one amongst another, in a secure enjoyment of their properties and a greater security against that are not of it...

The establishment of a certain commonwealth or in other words, a form of government, as according to Locke, is when people commit themselves to a certain social contract whereby, in decreasing their so-called natural liberty, their freedom 'widens since each within the contract will be submitted in the laws of the commonwealth's protection and security made by the established legislative body, hence each member's liberty will be guaranteed. Moreover, as Locke would continue to assert:

Though the legislative be the supreme power in every commonwealth, yet, first, it is not, nor can possibly be, absolutely arbitrary over the lives and fortunes of the people...the legislative power...the utmost bounds of it, is limited to the public good of society...Secondly, the legislative or supreme authority cannot assume to itself a power to rule by extemporary, arbitrary decrees, but it is bound to dispense justice and to decide the rights of the subject by promulgated, standing laws, and known authorized judges...yet, the legislative being only a fiduciary power to act for certain ends, there remains still in the people a supreme power to remove or alter the legislative when they find the legislative act contrary to the trust reposed in them...

The formation of a legislative or even an executive should not be held absolute in the society formed by consent. Though mere powers vested upon these bodies constitute the framework of the state, the end power still remains in the people who gave these bodies their consent to form the societies' laws. Therefore it is also in the people's power to dissolve the legislative once it diverts from its purpose. The dissent and resistance, according to Locke, though it would abridge the relative freedom from the

commonwealth through the formation of anarchy and chaos would still be held justifiable. From Locke's words:

There, is therefore, secondly, another way whereby governments are dissolved, and that is when the legislative or the prince, either of them, act contrary to their trust...By this breach of trust they forfeit the power the people had put into their hands for quite contrary ends, and it devolves to the people who have a right to resume their original liberty, and by the establishment of a new legislative, such as they shall think fit, provide for their own safety and security, which is the end for which they are in society...Such revolutions happen not every little management in public affairs. Great mistakes in the ruling part, many wrong and inconvenient laws, and all the slips of human frailty will be borne by the people without mutiny or murmur. But if long train of abuses, prevarications, and artifices, all tending the same way, make the design visible to the people, and they cannot but feel what they lie under and see whatever they are going, it is not to be wondered that they should then rouse themselves and endeavor to put the rule into such hands which may secure to them the ends for which the government was at first erected, and without which ancient names and specious forms are so far from being better that they are much worse than the state of nature or pure anarchy....

Modern accounts also prove the continuous efforts and the never-ending transformation of the whole society to attain the so-called democracy. After World Wars I and II, and specifically during the 1960s, there was a strong clamor and so much debates regarding the definition of democracy and civil societies' political participation. American philosophers, academicians and much more, university students became the leading figures in this momentous events in the democratic society of America. The book *Democracy Is in the Streets* by James Miller have accounted the historic movement of "The Port Huron Statement" that illustrates the strong feeling for the development of participatory democracy during the 1960s which were spearheaded by radicals and the New Left. It illustrates one of the biggest mobilizations against the Vietnam War and the uproar for participatory democracy. It also stresses major accounts of leading activists during those times including the rise of modern political philosophers such as C. W. Mills.

C. W. Mills in his book *The Power Elite* further elucidates a modern societal phenomena wherein the countervailing power in the modern society is not only concentrated within the boundaries of politics or economics or in the military, but there are interlocking interdependency between these three key institutions that further the cause of the few elites making up the whole population. Moreover, the fusion of these three institutions became the prevailing instrument that uses up the public for the private gains of the few elites in these institutions.

C. Edwin Baker on his book *Human Liberty and Freedom of Speech* (1989) postulated the prevailing or was the prevailing (since it is still unverifiable if the consciousness of people has changed over the past years) notion regarding the fundamental values associated with the constitutional human right to peaceable assembly and freedom of speech. The book was formed in order to defend and also to challenge the existing outlook to why freedom of expression, speech and assembly should be permitted, that is, the free marketplace of ideas theory. The free marketplace of ideas theory postulated the free exercise of expression based on the assumptions founded upon the finding of an objective truth and the reliance on rationality on finding the truth that exists.

The Liberty theory, on the other hand, as postulated and discussed by Baker (1989) in his book, debunks the assumptions of the classic marketplace of theory and pointed out, although, many are valid arguments, still lacks in defending the right and free exercise of speech and expression. To summarize the leading arguments and not going any further to all the details, Baker says that, "The point here is that freedom of speech may be defensible, not because of the marketplace of ideas' supposed capacity to

discover truth, but because freedom of speech embodies respect for the liberty or autonomy and responsibility of the participants.”

The theory is centralized on individual self-fulfillment and, participation in change as the fundamental purposes of the freedom of expression. As Baker would said, “The emphasis on “self” in self-fulfillment requires the theory to delineate a realm of individual liberty that allows for self-realization. The participation-in-change value requires the theory to specify and protect the activities essential to a broadly democratic, participatory process of change”. Derivative of these two core principles, other essential values would necessarily follow. The guarantee of freedom and the right of expression would also have to lead to the “advancement of knowledge and discovery of truth” and as well as the “achievement of a ‘more adaptable and hence stable community’, as was the argument of Emerson (1970).

If the concept of democracy and rights are to be applied in the Philippine context, there would be numerous accounts to ponder upon. The colonial history of the country became a huge factor that contributed to the kind of society that the country has now. Although it was said that the country has gained its independence in its declaration in 1945, the general condition that exists has been commented by many of our local political and societal theorists and intellectuals as still enslaved under the imperial control primarily under the US.

The constitution of the country was established in accordance with several conventions including the Jones Law of 1916 and it was patterned with the constitution of many countries such as the US and other countries that resembles the condition of the

Philippines at that time. The formation of the constitution and other historical events were discussed further in *The History of the Filipino People* by Agoncillo (1969).

Such that, as can be seen in the 1987 Philippine Constitution, there are a lot of provisions and sections that are similar particularly with foreign constitutions and international doctrines of human rights and freedom. One in particular is the First Amendment of the US Constitution, stating that, "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances". Whereas, its Philippine counterpart, under Section 4, Article III entitled Bill of Rights states that, "No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances."

The First Amendment in the US has been a debate over the years, and it has been the major issue over court rulings in the country. It can be seen in the books of Thomas I. Emerson (1970) *The System of Freedom of Expression* and C. Edwin Baker's *Human Liberty and Freedom of Speech* (1989), where the First Amendment theorists and controversies have been the major debates in the US society. In those books are included the historical derivations of the rulings of the court that ruled decisions regarding the use of the First Amendment, and theories that seem to apply with regards to the use of First Amendment as the basis for freedom and right of expression and assembly. These books tried to summarize the major arguments that support the basis for the freedom of expression and peaceful assembly. It should be noted that the First Amendment has its Philippine counterpart which is stated in Sec. IV, Art. III - Bill of Rights. The major

issues and arguments regarding the use of the First Amendment could also be used in connection with the use of the freedom of expression and right of peaceful assembly in the Philippine Constitution, since the claim for constitutional human rights and freedom can be considered today as universal in its implementation and international in its scope.

Moreover, the freedom of expression and the right to peaceful assembly should also be considered as an internationally acclaimed right as these were included in major international doctrines such as in the United Nations Universal Declaration of Human Rights (1948), where it is stated under Art. XIX that “Everyone has the right to freedom of opinion, and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers. While under Art. XX it is stated that, “Everyone has the right to freedom of peaceful assembly and association”.

Aside from this, the freedom of expression and the right to peaceful assembly is also included in Articles XIX and XX of the United Nations International Covenant on Civil and Political Rights (1966). In addition, these rights and freedom are also included in one of the major agreements of the Philippine government under the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CAHRHRIHL) between the government of the Republic of the Philippines and National Democratic Front of the Philippines (1998).

This means that if the Philippines is signatory to the international organization of the UN, and on a major agreement, it is obliged to follow and implement what are followed within the organization and most importantly, it should uphold the significance and commitment of the principles contained in such organizations and agreements.

The concepts and definitions, especially on the topics regarding public relations were discussed by Marshall and Gladys Dimock (1969) in their book *Public Administration*. Here, they set forth that whatever may have been the structure of the current public administration in the society, the rights and interests of the people should always be above any hierarchy. The people and the electorate are the ones who should have the control of the democratic process and the government should live up to its ideals as the machinery for the people in securing their needs and interests. They gave focused ideas on ways of how public accountability of the government should take place such as the use of third parties such as the Ombudsman, the media and the civic organizations.

They also gave a stand to the importance of ethics and morality in public administration.

Nonetheless, the book *Principles of Political Science* by Jose Aruego (1981), gives a more substantive allocation of definitions regarding public opinion. It gave supporting ideas to how public opinion affects the society especially the government and how it is a tool in rendering societal reforms. The book is quite useful especially in comparing the differences of the Constitution in the Martial Law era and the 1985 Constitution which is very useful in the analysis of this research. Moreover, aside from recognizing the public opinion, he also gave important points to consider in improving public opinion for people.

In the continuing analysis of the literature to the Philippine setting, the articles wrote by Raul P. de Guzman entitled, *Is There A Philippine Public Administration* (1981), gave an insight to the condition of public administration in the Philippines. It

posed a question of problems on the nature of the public administration in the country. He also gave certain solutions on certain issues of public administration.

The application of the Public Assembly Act of 1985 raised certain questions on the applicability of the act in the present time. Nevertheless, the macro governance indicators entitled *Indicators for Civil Society Participation in Governance*, by Romualdo Gaffud and Rowena Temulo created the consensus-building and civil society participation as indicators as an alternative indicator from conventional ones in measuring the governance in the Philippines.

Moreover, the discussions regarding the conditions of the human rights in the Philippines became the prevalent issue being tackled by authors especially after the Martial Law era, and there are as well analyses of the Post-Martial Law era that could be seen in the works of Richard Pierre Claude in *Educating Human Rights: The Philippines and Beyond* (1996), Alberto T. Muyot's *Human Rights in the Philippines: 1986-1991* (1992), and *Democratization: Philippine Perspectives* (1997) by Felipe Miranda. These are books that generally delve in the conditions of the Post-Martial Law era and answering the questions of democratization and the condition of human rights after the dictatorship.

In addition, it is also notable to include the work of Renato Constantino *The Aquino Watch* (1987) that delves in the performance of the Aquino administration as well as critically analyzing the various forces that affect Philippine society. Also, Alejandro Lichauco's *The Philippine Crisis* (2003) projects a more nationalist approach in analyzing the EDSA phenomena as he criticizes the external forces, specifically the imperialist factor that, like Constantino, attributes as the cause of the worsening condition

of the country. One of the books also included is the work of Amado Doronilla, *Between Fires* (2001), a compilation of essays and works of various intellectuals and leading, both local and foreign, theorists that analyzed the renowned EDSA II.

Moreover, certain newspaper articles and their websites are also been included such as the Philippine Daily Inquirer, The Manila Times, CyberDyaryo, Independent Media Center, Newsflash, Task Force Detainees of the Philippines, PRWC, and on line searches. Many of these cyber articles and from the websites of leading newspapers provide within their archives various articles reporting several violent dispersals as well as condemnation from the various organizations of the actions of the administration in its strict implementation of the “no-permit, no-rally policy”.

### **Theoretical Framework**

In this part of the research, the researcher would like to elaborate on the theory used as framework to find answers sought in solving the questions posed by this paper. The researcher has chosen the liberty theory as a framework to be used in this study.

The Liberty theory, as enunciated by Baker (1989), is an integration of various concepts that supports and explains the nature of the right and freedom of expression. It recognizes that the right and freedom of expression is due to respect for individual autonomy and liberty under a democratic setting. It upholds that self-fulfillment and the individual's participation in change are the very purpose of freedom and right of expression.

Mass protests, protests, and demonstrations are forms of legitimate expression aimed at addressing the protesters' grievances to the government. These are forms of

collective action based on individual choices and decisions coalesced for a common purpose. The very actions portrayed in mass actions reflect the unity of individuals' dignity and liberty. Thus, even for discomfort of the majority, is not an excuse to curtail a minorities' legitimate expression of grievances because a minority consists of individuals entitled also for an equal respect as individuals in a society with a rightful claim to their own liberty and rights duly protected by the constitution. The Philippines is a democratic country and has high reverence to its constitution. The Constitution is an embodiment of the right and freedom of expression along with many other rights and freedom duly respected within the society. Hence, if constitutionalism is respect for democracy, then, deference for democracy is respect for individual liberties and dignities.

The liberty theory also acknowledges that the peaceful expression of protesters is essential for a process of change within the society. It advocates peaceful expression than violent form of expression because violence has the tendency to violate other people's rights and trample others' liberty as an individual.

The liberty theory provides the fundamental framework for the basis of the constitutional right for peaceful assembly and freedom of expression. Hence, it would help the researcher in coming up with conclusions, generalization and recommendations for this specific research study.

### **Conceptual Framework**

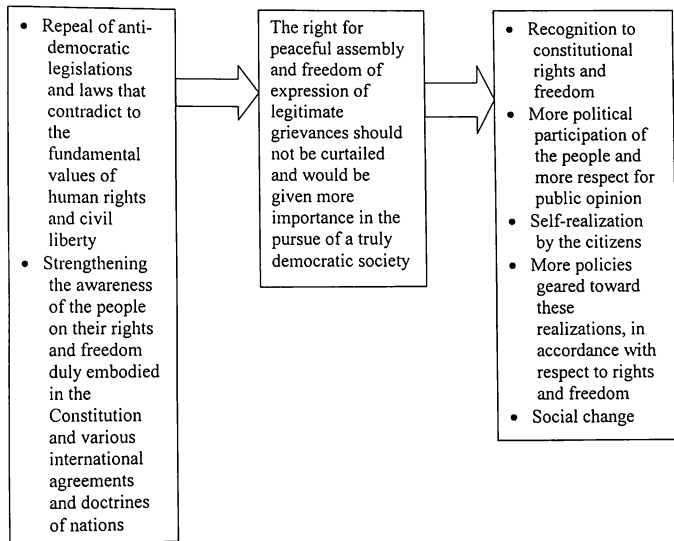
The diagrammed conceptual framework illustrates how the researcher aims to achieve in proving that the guarantees of the constitutional rights and freedom should not

be impeded and abridged by any law, especially a law that contradict with these rights and freedom.

## (A) Independent Variables

## (B) Dependent Variables

## Outcome



This given conceptual diagram illustrates that the freedom and rights are institutionalized through the Constitution and International agreements. These freedom and rights were formed along the long course of history and societal evolution, emanating from the core values of social justice and liberty.

The dependent variables, which are desirable in a democratic society, are the freedom and rights such as the freedom of expression and right of peaceful assembly since these are the variables vastly affected by social pressures and institutions. In order to achieve the unimpeded exercise of these variables, independent variables such as laws and legislations that contradict to the fundamental values of human rights and civil liberty should be abolished and repealed. Anti-democratic laws are the major independent variables causing the abridgement of constitutional rights and freedom.

It should be noted that aside from removing the anti-democratic laws and legislations, awareness on the respect for human rights should also be instituted because it would inculcate that rights and freedom are accompanied with a corresponding responsibility, a responsibility of respecting other people's rights and freedom, all of which are hypothesized to lead to the exercise of basic constitutional rights and freedom such as the right to peaceful assembly.

The exercise of the rights and freedom would result to a more political participation of the people, hence giving more atmosphere of democracy. Recognition of the constitutional rights to peaceful assembly and freedom of expression would inculcate self-realization and motivation for the citizens to cooperate with their government, hence, entailing a more peaceful course for social change.

### **Definition of Terms:**

- a.) "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 of the same (B.P. 880, 1985).

- b.) “Public Assembly” – means any rally, demonstration, march, parade, procession or any other form of mass or concerted action held in 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 (House Bill No. 1555, 2004).
- c.) “Public Opinion” – is commonly referred to as the aggregate of all the views held by the people of a community relative to certain matters. It has also been considered as that sentiment crystallizing the views of the majority, at least of the plurality of the people, on a certain question at a certain time (Dimock, 1969).
- d.) “Public Place” – shall include any highway, boulevard, avenue, road, street, bridge or other thorough-fare, park, plaza, square, and/or any open space of public ownership where the people are allowed access (H.B. No. 1555, 2004).

## Methodology

In making this thesis, the researcher utilized both primary data and secondary data. The kind of methodologies applied and used in the research were in the form of Key Informant Interview (KII) as well as investigative research. The primary sources needed were supplemented and given by the perceptions and the confirmations of the leaders of mass movements, of the Local Government officials, law enforcers, and even a higher institution such as the Commission on Human Rights. Informed consents were given to the key informants. They were made aware that their information would be used for this study alone and they have conceded that their statements would be used by the researcher for the completion of this research. Interview questions were also submitted. The formulations of the questions, as well as possible answers to it, were taken into consideration in order for the respondents to maintain an objective outlook in answering the questions.

The investigative researches corresponded to the secondary sources and were comprised of news reports, public documents, web and internet sources, books from libraries, and, newspaper articles. The researcher have also searched through libraries and visited different institutions to gather the necessary data needed. The researcher has also fully utilized the research time to find the necessary theory and studies needed to explain and pose the essential answers needed for the research questions.

The researcher has made used of critical evaluation and analysis of the gathered data to be able to answer the postulated research questions. It was important to make use of the accounts of public officials and law enforcers to be able to see their point of view regarding the dispersals of activities and rallies that have no permits. The integration of the facts and figures was vital to show the consistency and reality of the implementation of the law, in promoting social justice and human rights.

### **Scope & Limitation**

The scope of the study focused directly on protests and mass movements in general aiming for social grievances and also directing at some social legitimate concerns especially those of the activities of the government. It also focused solely on the main issues of airing of grievances under normal circumstances of doing rallies, avoiding other issues of other forms of expression, such as commercial and advertising expression, public nudity, etc., which could trigger other several and irrelevant inquiries to this research, but still, naturally requires a different research. It included also some research, if possible, about the previous administrations; however, since the issue of the permit

The investigative researches corresponded to the secondary sources and were comprised of news reports, public documents, web and internet sources, books from libraries, and, newspaper articles. The researcher have also searched through libraries and visited different institutions to gather the necessary data needed. The researcher has also fully utilized the research time to find the necessary theory and studies needed to explain and pose the essential answers needed for the research questions.

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system became popular in the Arroyo regime, there should be expected lack of information about the previous ones.

This study is composed of six chapters. Chapter one lays out a general introduction along with the thesis statement, general and specific objectives, review of related literatures, the research design, scopes and limitation, and the relevance of the study. Chapter two focuses on the historical context and background of the Public Assembly Act of 1985, describing the environment of the last years of the Marcos regime and looking on how and why the Public Assembly Act of 1985 was proposed. Chapter three deals with the principles looking at both the supportive claims and the counter-arguments behind the general permit system. Chapter four describes the implementation of the permit system in the Philippine context focusing mainly in the city of Manila because this is the city where significant and major rallies are being held. Chapter five lays down the general summary and analysis of the researcher. Chapter six relates the conclusion and recommendation of the study.

This study was limited only to the rallies and demonstrations of civil societies, mass movements and other political rallies of progressive organizations concerning different social issues and societal grievances. Moreover, this study would likely separate the rallies and protests of the workers with relation to their grievances and protests against unequal and oppressive working conditions and systems. The researcher would like to point out that, although workers are also part of the civil society and nonetheless, they have also been part of many protests and rallies of the civil society regarding on other social issues other than the proletarian cause, and albeit, some of the social issues are also interconnected with the workers' cause, the workers struggle should comprise a

different research. The workers' struggle is very broad and should be dealt with a more rigorous approach and intensive research. The worker's issue is different in nature and would tackle a much wider analysis in its laws, history and social reality. Hence, there is a need for a separate research for it. Even so, the researcher acknowledges the importance of the different researches about the workers' movement because it is legitimate and of major importance. In addition, although workers' movements are part of major rallies and mass movements crying out about social issues, it should be noted that it did not affect the research since this research aimed at the protests of social issues and political in nature and most importantly, it is viewed by the researcher that the involvement of the working class in such rallies only shows their support and expresses their association as part of the civil society and the masses themselves.

The research was also limited to the application of the permit system in the City of Manila, even though the permit system is implemented nationwide, it is for the convenience of the researcher and his lack of necessary means to conduct a large and massive research.

### **Relevance of the Study**

The implementation of the Public Assembly Act of 1985 or the Batas Pambansa Bilang 880 establishes the permit system in holding mass protests, demonstrations and rallies. The observance of the permit system is said to be abridging the constitutional right for peaceful assembly and freedom of expression. The violent dispersals of mass movements leading to grave physical injuries of protesters because of being illegal, in the sense of not acquiring necessary permits in holding up rallies, should be of high concern

for mass society. The violent dispersals and, at most times, inhumane aggression towards dissenters is an implication that the Philippine democratic society is in another delusion, a delusion that the people are free only after the State permits them to be free and acquire from it the necessary permits needed to air their grievances. The relevance of human rights and freedom is of everlasting importance and significance; hence it should not be abandoned. Such contrivance of implementing the permit system by the State should be critically analyzed and acted upon. If the people would allow the persistence of the current situation of State manipulation of human rights and freedom, then there is a high possibility that the State would continue to pursue legislations and policies that could likewise contradict with constitutional rights and freedom. If it comes to the worst case, the State could abuse the authority, leading to further violation of human rights and freedom.

Many legislations and policies of the government nowadays are greatly affecting peoples' lives, economically, politically, and socially. These laws, such as the Anti-Terrorism Bill, contain provisions that are vaguely worded and can be used in pursuance of State power. Much in the same way, if reality shows that physical violence to protesters is prevalent even if it is a legitimate expression, what more could be the conditions in parts and areas of the country where protests and dissent are inaccessible to the eyes of the public such as behind the dark vicinities of rural places? If out in the open the State is using all its force to suppress legitimate expression of the people, what more could be happening in secluded areas where same legitimate protests are happening? The researcher believes much worse are happening.

## CHAPTER II

### **The Birth of the Public Assembly Act of 1985: A Historical Peek into the Last Years of the Marcos Regime**

The last years of the Marcos regime, primarily during the 1984 and 1985, were marked by social unrests, economic fluctuations and political confusion.

According to the National Economic and Development Authority (NEDA) in its book *1984 Economic and Social Indicators*, the country's Gross National Product (GNP) declined by 5.3%, the Gross Domestic Product (GDP) decreased by 4.6%. Only the agriculture sector exhibited a positive growth but only, 0.8%, while the industrial and services sectors declined at 10.6% and 2.5%. In foreign trade, the trade deficit was placed at US\$679.0 million, the lowest since 1975. Labor productivity, mineral production and fishery production suffered significant declines during that year. Unemployment rate was 6.4% higher than in 1983 while employment rate declined from 94.6% to 93.8%. Legislated minimum wages declined. The purchasing power of the peso slid from P0.52 in 1983 to P0.35 in 1984. Aside from these, there were also other economic and social indicators mentioned that shows considerable implication that there is little economic growth (NEDA, 1984).

The economic crises during the 80s arouse the militancy of the people, especially those of the working class and the peasants. The strong vigilance felt by these sectors became the starting points of the establishments of many mass organizations and unions as well as federations that opposed not only oppressive working conditions, very low minimum wages, and other labor issues but also called for the re-establishment of human rights and the end of the Martial Law in the country. One of the militant organizations

formed during the 1980s was the *Kilusang Mayo Uno* (KMU) that is still one of the leading labor organizations up to date. The establishment of various mass, peasant and labor organizations led to the large number of strikes and pickets in 1981, 1982 and 1983. 1981 was the year of the most number of strikes listed since 1972. Sympathy strikes and mass protests became nationwide and prevalent especially in the provinces and export processing zones. In May 1, 1983, Labor Day, more than 30,000 laborers attended the indoor rally in the Araneta Coliseum condemning the worsening of working conditions and oppression of the peasants and working class (Ecumenical Institute for Labor Education and Research [EILER], 1995).

After the assassination of ex-Senator Benigno Aquino in September 1983, “Marcos implemented the constitutional provision of establishing the *Batasnan Pambansa* in 1984 but which he still used his power to issue presidential decrees with the force of law” (Miranda, 1997).

Consecutive and successive multi-sectored mass protests and strikes followed the events after the assassination that depicted the 1984 events. Strike rates rose to 37% in 1985. Nationwide transport strike; 9 days of picketing, which was done by the *Kilusang Magbubukid ng Pilipinas* (KMP); strikes of women workers headed by the *Kilusang Manggagawang Kababaihan* (KMK); in May 2, 1985, hundreds of thousands of workers marched nationwide; there were weekly rallies, symposium, and mass protests of various progressive organizations and by the people. However, many of the dissidents and protesters were salvaged, abducted and injured when there were clashes between the military and militants (EILER, 1995).

During those conditions, the Marcos regime threatened for a total strike ban and along side with the order was the formation of the Batas Pambansa Bilang 880 or the Public Assembly Act of 1985. Nevertheless, the political scenery became more chaotic as great “domestic and international pressures” forced the former dictator to decree a presidential election in February 1986. However, the election failed and the EDSA revolution came after in February 22-25, 1986 (Miranda, 1997).

As can be seen, the formation of the Batas Pambansa Bilang 880 or the Public Assembly Act of 1985 was the solution drafted by the then Batasang Pambansa to suppress the people’s outcry for social change. Many other laws with the same nature were passed during the Marcos regime, like the Batas Pambansa Bilang 130 that obliges strikes in conditions like cooling off period, strike votes and the submission of a notice to strike before doing a strike, and the B.P. 227 that only allows moving picket and allows for the continuous production of factories.

The very purpose of these laws, including the B.P. Blg. 880, was to monitor the actions of people and to suppress the dissidents’ actions. Although the other two are related to labor issues, the similarities of airing grievances to the authority are still the very essence of constitutional rights. Labor issues have their own proper forums to address to while the public and civilian protests are guaranteed by fundamental freedom and rights.

The B.P. 880 was formed under the Marcos era and still holds the very purpose of controlling civilian movement and curtailing mass protests that legitimately express grievances.

## CHAPTER III

### Public Assembly Act of 1985: The Principles of the Permit System (Arguments and Counter-arguments)

#### The B.P. 880

Batas Pambansa Bilang 880 (B.P. 880) or the Public Assembly Act of 1985 is described as “an act ensuring the free exercise by the people of their right peaceably to assemble and petition the government for other purposes”. Under Sec. 2 – Declaration of policy, it states that, “The constitutional right of the people peaceably to assemble and petition the government for redress of grievances is essential and vital to the strength and stability of the State. To this end, the State shall ensure the free exercise of such right without prejudice to the rights of others to life, liberty and equal protection of the law”.

Sections 4, 5 and 6 deals with the provisions of applying for a permit:

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 or ordinance 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. Political meetings or rallies held during any election campaign period as provided for by law are not covered by this Act

Sec. 5. Application requirements. — All applications for a permit shall comply with the following guidelines:

- (a) The applications shall be in writing and shall include the names of the leaders or organizers; the purpose of such public assembly; the date, time and duration thereof, and place or streets to be used for the intended activity; and the probable number of persons participating, the transport and the public address systems to be used.
- (b) The application shall incorporate the duty and responsibility of applicant under Section 8 hereof.
- (c) The application shall be filed with the office of the mayor of the city or municipality in whose jurisdiction the intended activity is to be held, at least five (5) working days before the scheduled public assembly.
- (d) Upon receipt of the application, which must be duly acknowledged in writing, the office of the city or municipal mayor shall cause the same to immediately be posted at a conspicuous place in the city or municipal building.

Sec. 6. Action to be taken on the application. —

- (a) It shall be the duty of the mayor or any official acting in his behalf 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 order, public safety, public convenience, public morals or public health.
- (b) The mayor or any official acting in his behalf 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 mayor or any official acting in his behalf refuse to accept the application for a permit, said application shall be posted by the applicant on the premises of the office of the mayor and shall be deemed to have been filed.
- (c) If the mayor is of the view that there is imminent and grave danger of a substantive evil warranting the denial or modification of the permit, he 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 mayor or any official acting in his behalf denies the application or modifies the terms thereof in his permit, the applicant may contest the decision in an appropriate court of law.
- (f) In case suit is brought before the Metropolitan Trial Court, the Municipal Trial Court, the Municipal Circuit Trial Court, the Regional Trial Court, or the Intermediate Appellate Court, its decisions may be appealed to the appropriate court within forty-eight (48) hours after receipt of the same. No appeal bond and record on appeal shall be required. A decision granting such permit or modifying it in terms satisfactory to the applicant shall, be immediately executory.
- (g) All cases filed in court under this section 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 next in rank.
- (h) In all cases, any decision may be appealed to the Supreme Court.
- (i) Telegraphic appeals to be followed by formal appeals are hereby allowed.

Under Sec. 7 – Use of public thoroughfare, it states that:

Should the proposed public assembly involve the use, for an appreciable length of time, of any public highway, boulevard, avenue, road or street, the mayor or any official acting in his behalf 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

Whereas, under paragraph c, Sec. 9 – Police assistance when requested, it declares that, “Tear gas, smoke grenades, water cannons, or any similar anti-riot device shall not be used unless the public assembly is attended by actual violence or serious threats of violence or deliberate destruction of property”.

Sections 11 and 12 are the provisions that narrate the procedures of dispersing a rally;

Sec. 11. Dispersal of public assembly with permit. — No public assembly with a permit shall be dispersed. However, when an assembly becomes violent, the police 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 the non-participants, or at any property causing damage to such 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 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:

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

The B.P. 880 is clearly a mandatory permit system compelling the organizers of rallies and the protesters to acquire a permit prior their activities. (To view the whole Act, please refer to the Appendix).

The next section will focus on the arguments and counter-arguments on the principles concerning the permit system. The arguments and counter-arguments will not only help solidify the nature of B.P. 880 as a permit system, but also strengthen the applicability of such a system.

### **The Permit System: Supporting Claims**

According to Dannug & Campanilla (2003), the freedom of expression is not absolute. They said that the government could regulate such activities of the people

without violating the Constitution. Moreover, laws pertaining for a permit system (like the B.P. Blg. 880), is according to them a “reasonable regulation of the right to assemble”.

Baker (1989) acknowledged that there are arguably three common benefits of a mandatory permit system:

1. The notice allows for better traffic planning and rational assignment of police, both of which in turn contribute to maintaining public order and reducing traffic disruption
2. The system helps to eliminate scheduling conflicts.
3. It creates a bargaining process (in which the city officials clearly have the upper hand).

It is quite clear that the mandatory permit system assumes that it will help organize the public safety and order, by providing the local government and law enforcement units to manage the scheduling of organized parades and rallies. This would provide the authorities to make the place and time available for the concerning parties to conduct the activity and nonetheless, provide a good method to avoid unnecessary conflict of the use of space. A somewhat “reservations” of space would happen. In addition, the government could provide other spaces such as parking lots, or even other facilities toilets, water, first aid, etc. Mandatory permit system places an advanced notice of the activities that could help the authorities avoid future disruptions. The government could provide police assistance to maintain order in the assemblies. Most likely, the whole system also permits a desirable bargaining process; “the bargaining may usefully

accommodate the interests of both sides, achieving more satisfactory social results” (Baker, 1989).

### **The Permit System: the Confutation**

The general assumption in the permit system is that the government or the authorities involved would be neutral in the implementation of the permit system. There are also a lot of assumptions involved, such as the avoidance of future disruption because of advanced notice; that the rallies or demonstrations are organized and planned and not “spontaneous”, as well as, it has structural form (leaders and members) (Baker, 1989); and more importantly, that every provision in the law will be followed accordingly.

Under the Liberty theory, however, the mandatory permit system violates the constitutional right to assemble and the freedom of expression.

“The state cannot treat use of the streets for parades and assemblies as incompatible with their dedicated use”. Baker further cites the dictum of Justice Robert in the case of *Hague v. CIO* stating that:

The streets and parks...have immemorially been held in trust for the use of the public and, time out of mind, have been used for the purposes of assembly, communicating thoughts between citizens, and discussing public questions. Such use of the streets and public places has, from ancient times, been a part of the privileges, immunities, rights, and liberties of citizens.

The use of the streets has been part of the cultural and political history of every society. It has been an integral part of the activities of people alongside the other uses of the streets. Whence, the deeply rooted right of using the streets for peaceful assembly should prohibit the government in favoring other activities or the use of the street over the culturally rooted and constitutionally protected freedom of expression and peaceful assembly. The traffic regulations should remain to be a “zoning” purpose – regulating the traffic and

people, and not as rules that will suppress the more important right of substantive conduct of public expression (Baker, 1989).

Baker further discusses that, “the role of traffic regulations changes in an impermissible direction, however, when local officials apply them to prevent particular valued forms of parade and assemblies or to prohibit a person’s participation in these events”. He then emphasizes that:

“focus of attention on traffic concerns does not show a conscious governmental decision to subordinate or sacrifice use of the streets for expressive purposes...The intended and appropriate function of the traffic rules lies solely in their instrumental contribution to facilitating the various accepted us of the street. Their “zoning” rationale no longer applies when the application of these traffic rules in the particular circumstances would undermine symbolic, advocacy, group-unifying, or other peaceable, substantively valued aspects of the parade or assembly.”

Baker continuously defended the position that although the streets are primarily used for transportation purposes, it does not necessarily mean it should be its “priority use”. Traffic rules should be limited to the contexts of transportation alone. It supports further the argument that “although government can properly undertake to accommodate or promote the various uses of the street, it must do so in a manner that does not restrict their use for expressive and assembly purposes”. In the case of the bargaining procedures accompanied with the application of permits, Baker declares that the government gains the upper hand in the bargaining process – “The permit requirement effectively takes the legally recognized decision-making authority away from these people if they want to engage in (certain expression and conduct) and transfer it to local officials. The rule transfers “wealth” or power from the paraders, particularly from dissidents to government officials”.

Not every assembly is organized or planned prior a given time, and hence it does not suit the “advance notice” predicament of the permit system. Such assemblies could be referred to as “spontaneous” assemblies. Even so, the bargaining of the dissidents to officials “may give a low or negative value on these spontaneous, political parades”. Baker (1989) asserts that:

“Even if the police normally allow ‘spontaneous’ parades to proceed, the permit requirement, by making the parade itself illegal, gives the police more options in choosing a response and the upper hand in any negotiations with the paraders. This gain in police flexibility, however, is illegitimate. It must be unacceptable to achieve government flexibility by making constitutionally protected conduct illegal. This method of gaining flexibility depends on giving the police arbitrary, censorial power over expression.

In other words, the advantage achieved by the government or the law enforcement in the negotiations by labeling and considering spontaneous rallies and assemblies illegal is wrong, since; the exercise of assemblies is constitutionally protected and can not be illegal. So, the protesters and dissidents should have more voice in the negotiations, and they should be entitled to be favored in their demands.

Moreover, if the permit system’s purpose is to avoid future disruption and disorder, it is most likely that this purpose has little effect in reality. Although the function explicit in the permit system should carry out preventive measures of any disturbances and disruption or conflict of schedules of rallies and assemblies, it has only caused and even increased social disruption. There are incidents of violent dispersals resulting from the police attempting to impose the permit requirements, “against those who refused to, were unable to, were unaware of the need to, or had failed in their attempt to acquire a permit”. The advance notice only gives the benefit to the police of consolidating its forces so that during the time of the assemblies, the law enforcers could gain the upper hand in the dispersals.

If there are benefits from the permit system, Baker contends that there are also costs:

1. Even the ideal mandatory system prohibits certain valuable types of expressive conduct.
2. It also has the effect of coercing behavioral expressions of ideological conformity or deference to the government.
3. The abuses of the system are predictable and unavoidable and inevitably are directed primarily at unpopular groups.

The permit system begins the abridgement of the freedom of expression and right to peaceful assembly when it considered substantively valued types of assemblies as illegal. Behind this is the wrong assumption that peoples' expressive conducts are always routinized. It should be considered that there are a lot of significant events in history that resulted from spontaneous reaction of the people (Baker, 1989). One of the examples given by Baker is the arrests of civil rights activists in the 1960s that resulted to immediate responses in the streets. In the Philippine contexts, EDSA II is one of primary example when the people have taken the matters into their own hands out of the resentment to the failed impeachment case of the former Pres. Estrada.

A society committed to popular expression and involvement in public life, according to Baker (1989), must highly value the opportunity to engage in this type of immediate expression. The second assumption implicit in the permit system is the "ideological distortion of reality" wherein, it is always presumed that every assembly has a hierarchy or structure of leaders and members, since, the application of permits require the assertion of leaders and marshals that govern the assemblies (Baker, 1989).

However, the hierarchical assumption of assemblies does not always apply. This implicit supposition infringes on the participant's freedom of own decision-making. It also reflects the orderly world of legal or bureaucratic thinking where organizations should always be represented by officials or lawyers. In addition, this kind of system imposes overtly mainstream values, specifically the values of the ruling class and of the prevailing status quo (Baker, 1989).

Dissidents believe, though, that there is class or cultural prejudice that could block or distort dialogue, that their mass presence within the scene of the offensive government would apply pressure and may relay or communicate information, publicize grievances and at times necessary to attract the attention of authorities, and which could lead to some response. They believe that the key aspect of assembly is the capacity of it to generate power through the union of people. The perspective of the liberty theory, another reason for the protection of the freedom of expression and assemble peacefully is that it is a "nonviolent method of creating valued experiences, developing new perspectives, and generating the power necessary to do things" (Baker, 1989).

The second cost of applying for a mandatory permit is very close to a compelled symbolic affirmation of allegiance. The government generally requires the people to do what the people already have the inherent right to do (Baker, 1989). The constitutionally protected rights are not benefits or privilege or goods to be received from the government. Baker continued by arguing that, "The procedure forces the dissident implicitly to deny his/her (correct) belief concerning his/her right to dissent. To force the person to seek permission symbolically states that the right to parade exists at the pleasure of the government." He also asserted that, "The mandatory permit requirement

systematically and routinely forces dissidents to acknowledge, by requiring them to act out, the authority and dominance of the very government against which they protest. To require the dissidents to obtain permission symbolically co-opts their protected dissent.”

The last cost of the mandatory permit system is that local authorities have often used the permit requirement to continuously harass those they wish to harass. Local authorities may refuse to grant permit, or they would apply an extensive bureaucratic red tape, or delaying actions in applications, or they would require unnecessary conditions for granting permits. In other cases, the violent dispersals and confrontations of the law enforcers and the protesters are often rooted to the problem of the latter to acquire a permit (Baker, 1989).

The illegal classification of the assemblies and protests always leads to damages on both parties and further aggravates the freedom of expression. Moreover, local authorities have the impression that the dissidents who wish to express legitimate grievances are often the problems. Authorizing the assemblies would always create additional work loads for the local authorities, hence, different excuses or tactics would be employed by the authorities such as difficulties in route and time, strictly enforcing the requirements and making the process as difficult as possible to discourage protesters (Baker, 1989).

Under the liberty theory, where self-realization, individual autonomy and process of change is the basis for the protection of the freedom of expression and right to assemble and association, the imposition of a mandatory permit system explicitly entails the values of the prevailing status quo in which local elites constitute the local authorities. It also implies the importance of substantive conduct of expressing grievances and dissent

instrumental use of the streets over the. Moreover, it further restricts not only the rights and freedom of people to assemble or express their opposition but also the chance for them to individually determine their role in the society as well as to directly participate in the social affairs. The freedom of expressing grievances to the government has the purpose of addressing the very problems of the society and requiring the government to react and reflect on the plight of its citizens. It should promote a rather different form and opportunity for societal changes.

According to Baker (1989), "The notion of democracy, in which democracy is valued because and to the extent that it is an embodiment of respect for liberty, equality, and human dignity, assumes that people's existing preferences are *usually* the best available basis for policy choices. Promoting these preferences normally respects people's equality and furthers their liberty."

The next chapter will focus on the applications and trends of the permit system under Philippine context, particularly in its implementation in the city of Manila.

## CHAPTER IV

### The Condition of the Permit System In the Philippine Context

The implementation of the permit system that is being recognized in the City of Manila is inconsistent and irregular. It has been said by PCI. Sedanto (2005) that the “No-permit, No-rally” policy is being implemented way back during the Martial Law era. Moreover, the trend on the application of the permit system in Manila over the past years is unverifiable because of two major reasons.

First, there is a faulty filing system in the local government. The statistics of the number of the organizations, of the rallies held, of the permits approved and rejected would have been found in the local city hall. However, because of the changing administrations and personnel, several of the files of the previous management have been discarded or sent to the garage (City Hall employee, personal communication, February 11, 2005). Hence, it is quite impracticable to retrieve them. Over the years of implementation, the city hall produced only three (3) retrievable data of those granted with permit, all of which were just recent ones (see table 1).

**Table 1.** Number of Recorded Demonstrations granted with a Permit

Name of the Applicant	Organization	Date, Time & Place of Demonstration	Date of the Permit
Mr. Pedro Baguisa, Gen. Secretary	Partido Komunista ng Pilipinas	Nov. 7, 2004 , 12nn to 5pm, Plaza Morines, Tondo Manila	October 28, 2004
Ms. Teresita Ang See, Chair, MRPO; Spokesperson, CAAC	Mov't. for Restoration of Peace and Order (MRPO); Citizen Action Against Crime (CAAC)	Sept. 24, 2004, 2:15pm to 4:15 pm, corners of Ongpin and Gandara Sts. Binondo, Manila	September 20, 2004
Ms. Teresita Ang See, Chair, MRPO; Spokesperson, CAAC	Mov't. for Restoration of Peace and Order (MRPO); Citizen Action Against Crime (CAAC)	Sept. 8, 2004, 12:30 pm, outside of Lorenzo Ruiz Academy, Binondo, Manila	Sept. 08, 2004

Source: Bureau of Permits, City Hall of Manila

The Western Police District (WPD) had documented four (4) reports concerning protest rallies. These protest rallies have no permits. Nonetheless, they were considered by the WPD-PNP as peaceful ones (see table 2). The reports from the police station were also limited due to the same reasons as that of the city hall officials; there is a lack of continuous and effective filing scheme and consequently, there is lost of information during change of administration or management. Moreover, the Station Officer asserted that the statistics for the grant or rejection of permits should come from the Manila City Hall since they are the ones approving and granting the permits to organizations (Sedanto, 2005).

**Table 2. Reports of Demonstrations without permits**

Name of the Leader/s	Organization and estimated number of participants	Date, Time and Place of the demonstration	Manner and Time of Dispersal
Luz Baculo	Workers of Southern Tagalog, (150 est.)	Dec. 06, 2004, 10:35 am, Muralla St. at the Dept. of Labor and Employment (DOLE) at Intramuros, Manila	12:10 pm the rallyist terminated the program and dispersed peacefully
Diosdado "Ding" Fortuno and Luz Baculo	Pagkakaisa ng Manggagawa sa Timog Katagalugan (PAMANTIK), (150)	Dec. 07, 2004, 8:45 am, Muralla St. at the Dept. of Labor and Employment (DOLE) at Intramuros, Manila; 3:10 pm marched to the Supreme Court at P. Faura	5:20 pm the group terminated the program and dispersed peacefully
Reden Bauyon	Dismissed workers of Sun Ever Light, (40)	Jan. 17, 2005, 3:30 pm, Muralla St. at the Dept. of Labor and Employment (DOLE) at Intramuros, Manila	5:15 pm the rallyists dispersed peacefully
Rusty Baliso "Dimaisip"	Kilusan Para sa Pambansang Demokrasya (KPD), (15) AKBAYAN and League of Filipino Students (LFS), (30)	Jan. 20, 2005, 10 am, TM Kalaw/Del Pilar St. Ermita, Manila Jan. 20, 2005, 11 am, in front of Department of Tourism (DOT) at TM Kalaw, Ermita, Manila	11 am the rallyists dispersed peacefully 11:35 am the rallyists dispersed peacefully

Source: Western Police District Ermita Police Station PS# 5

The last reason why the trend of the implementation of the permit system is unverifiable is because different organizations of the protesters never recognize the permit system from the very start. This could be the major reason why albeit many protest rallies were done; only a few were filed in the city hall. In the reports from the WPD, five (5) protest rallies and demonstrations were held during the months of December to January of 2005, yet the records from the city hall did not include the demonstrations that happened during those months. Meaning, the protesters did not apply for a permit and did not have one when they conducted their demonstrations.

Protesters and mass-based organizations such as KARAPATAN and BAYAN Muna firmly believed and asserted that the permit system is just another mechanism that prohibits them to freely express their grievances and remonstrations. They believe that the permit system is unnecessary because their right to assemble is a duly protected constitutional right (Clamor, 2005). Many protest actions and mass movements that took place were tagged as illegal because of not having necessary permit; however, most of the rallies pushed through only because of the negotiations between the rallyists and the law enforcers (Ocampo, 2005).

These could be the reasons to the small number of the statistics, if ever there is, regarding to the organizations that applied for a permit. Moreover, if mass organizations were rejected for a permit, their names and their rejected applications were not filed in the city hall; only those who were granted with a permit are filed.

Somehow, both the local authorities, such as the law enforcers or the police, and the protest groups certainly agree that there are case-to-case basis in the implementation of the permit system. It is very certain that in reality, there were diversions from those

stated in the law basing from the past experiences of the law enforcers, such as WPD, and from protest groups such as KARAPATAN and party list BAYAN Muna.

### **On the Application and Granting of Permit**

The researcher wanted to be objective by interviewing two representatives from two differing camps, mainly, from the Manila city hall and the Western Police District as the government's side while on the protesters' side, KARAPATAN and BAYAN Muna. However, the Bureau of Permit of the City Hall of Manila refused the researcher's request for the interview. Hence, this chapter would not be able to cite its point of view. But even though the bureau's official refused, the researcher found a piece of information, through an informal unrecorded personal communication with one of the city hall employees (dated February 11, 2005). This employee verified the information by saying that *"Actually, hindi talaga kami (city hall) nag-i-issue ng permit sa mga nag-rally. Politics din kasi ang dahilan. Kapag ni-refer namin sa WPD at ayaw nila, hindi na namin bibigyan o i-issue-han ng permit"*.

Meanwhile, from the interview of Police Chief Inspector (PCI) Remigio Sedanto (please see the informed consent in the appendix), the application of permits is "really quite easy" and should be done at least three (3) days because it usually takes days to process the permit. According to him, the organization should apply to the city hall, then, the city hall would refer the application to the Western Police District (WPD) and then it would return its assessment to the city hall for the issuance of permit. He also acknowledged that there is a separate traffic bureau that handles the re-routing of the traffic. Hence, if they (protesters) request for closure of the roads, then the traffic bureau

will re-route the traffic. The protesters, Sedanto said, should make requests for both offices to the city hall. PCI Sedanto also asserted that they (WPD) were very much in favor of the permit system. They, as he said, would be able to know the “group involved, their leaders, the lay-out of their general program, area where the rally will be held, and if they will be violent”.

However, according to the representatives of two mass-based organizations, KARAPATAN and BAYAN Muna, Sec. Gen. Roneo Clamor and Rep. Satur Ocampo (please see their informed consents in the appendix), their past experiences of rallies and applying for a permit showed quite a different story.

According to Sec. Gen. Clamor of KARAPATAN, they really do not apply for a permit. He declared that even though the organization applied for a permit, the authorities will not issue one. Moreover, he cited the example of the case of other organizations that applied for a permit that when these groups approached the city hall, they were immediately referred to the police station (WPD), or in other instances, they were constantly being referred to different offices, or being passed around. What is more, he emphasizes that their group believed that applying for a permit is like waiving your right. Hence, their stand is to repeal or junk Batas Pambansa Bilang 880.

The experience of BAYAN Muna resembles that of the KARAPATAN. According to Rep. Satur Ocampo, “when our group asked for a permit, the mayor declined granting a permit by saying ‘order from above’, so, it is quite unclear whether the order came from the President or what executive authority”. He further cited the instances, when they continued the march since their request for permit was rejected; the police stopped them and searched them for a permit. Rep. Ocampo said that they would

have to resort to negotiations with the police, and they even called much higher authorities. He also cited rallies where they resorted with negotiations with the police when the latter tried to stop them. He also cited cases during the protests against the massacres of Hacienda Luisita and recently during the Human rights Day last Dec. 10, 2004, when the protesters were stopped from marching to Mendiola because they had no permit leading to a violent dispersal by water cannons and truncheons.

Rep. Ocampo asserted that BP 880 is unjust and illogical because “even its provisions can be used to negate its purpose”. In addition, he said that politics also plays a big role in the implementation of the permit system. He reiterated that if the mayor of the city is friendly, the grant of permit is easy, whereas if oppositions will apply, the city hall will not grant the application. Although he recognized the role of the law enforcers to keep peaceful assemblies, he “emphasized that it should not be used to hinder the legitimate expression of grievances, and the only time that police could take action is when the demonstration became hysterical”. Also, according to him, law enforcers also used local ordinances such as, obstruction of traffic and other municipal ordinances to disperse the rallyists.

Although the Manila City Hall officials refused to be interviewed, an informal, unrecorded communication with one of the employees (February 18, 2005) confirmed that the City Hall “never really grant permits, especially to the rallies and demonstrations”. The employee added that it is “because of politics”, and “when the police department, the WPD, did not consent to the application for permit, the city hall then, will not grant the permit (to the group/s).

## On Motives

Both Sec. Gen. Clamor and Rep. Ocampo agreed that the implementation of the permit system is based on who benefits from the law and from the fear of what protest rallies could lead to. From the point of view of Rep. Ocampo, the permit system is just another tool, a containment, to impede the protest rallies. Mayors were ordered to stop issuing permits hence, the local government officials, mainly the mayors, will use the excuse that the order emanated from ‘higher authorities’. This, Rep. Ocampo said, is “beyond the law’s exercise of authority or abuse of authority by the national government to suppress legitimate expression”.

Coming from Sec. Gen. Clamor, he cited the case that during the Estrada Administration, the Batas Pambansa Bilang 880 was “not popularized”, during which time, massive mobilizations and demonstrations were held. He further noted that the opposition benefited from this. Now, the Arroyo administration is using BP 880 to serve their interests. He said with a sigh, that “it is quite ironic for a President that obtained her position through a ‘meta-legal’ process, is using a law to suppress the expression of the people”. He further averred that the “government or whoever is in the current administration is becoming precautionous or preventive” to the point of using this kind of law, contrary if it is not in its current position, “it will not use that”.

Rep. Ocampo also cited a supplementing reason why it strictly implemented the permit system. He recounted that the “government became paranoid after the results of the 2004 election had been questioned”. He related that the Arroyo administration used the BP 880 to suppress any protest action that could escalate into a massive protest action

and could eventually threaten the stability of the government, and could escalate into a call for her ouster or resignation.

### **On Violent Dispersal and “Maximum Tolerance”**

The cause of the violent dispersal mainly revolves on a major point that there are two opposing forces; for one, the assertion of the protesters to express their grievances, and for the other, the law enforcers trying to invoke the “no-permit, no-rally policy”.

From the law enforcers’ side, according to PCI Sedanto, they made use of pretexts and procedures to disperse the protesters. For the former, they disperse the protesters when there are obvious violations of the permit or laws, even local ordinances. When the traffic were obstructed due to the demonstration, the police authority would made sure of relieving the congested streets or more so, dispersing the demonstration because of obstructing the traffic flow, and even the pedestrians. Police authority invoked the rights of civilians or pedestrians and commuters as being violated due to the obstruction of the streets done by the protesters; hence there was a need for the police to take action.

The police authority also follows certain standard procedures when dispersing the rallyists. It follows a “layer system” of dispersing where the first layer involves the fire trucks and water canons to disperse rallyists and avoid direct physical contacts. When it fails, the Crowd Dispersal Unit with their shields and truncheons composed the second layer that will disperse the demonstration. There is also the arresting team that wears civilian “countersigned” clothes to arrest the rallyists during dispersals. The third layer composed of the SWAT team, which according to PCI Sedanto, is the last and the

extreme resort when the protesters have an armed component. So for the worst case scenario, the SWAT team will make use of tear gas, and lastly their guns when the rallyists would make use of their armed component.

In spite of this, dispersals of demonstrations were also a case-to-case basis. For example, if the protest movement does not necessarily obstruct traffic, or when the rally itself is peaceful in nature, police action was unnecessary. Usually the police authority considers maximum tolerance if the demonstration is still tolerable. According to PCI Sedanto, "Although there is a violation, but still tolerable, there is no need for police action", so, the police usually let the rallies finish.

As for the experiences of KARAPATAN, rallyists usually were surprised that they are being dispersed even though there were negotiations between the police and the rallyists. Sec. Gen. Clamor noted that especially when the time was up for the program, the police will violently disperse the demonstrators.

Rep. Ocampo affirmed that armed component should not be present during rallies. He criticized the presence of the SWAT team during rallies. Moreover, he affirmed that the venue for the demonstration was being designated far from what their organization intends to. Hence, their group usually resorts to maneuvering or marching from the venue to a closer location of their intended target. Along the way, the police will stop them and a clash is inevitable because for the rallyists, this is a fight for their right, while the police authority invokes the permit law. He also reaffirmed the statement of Clamor that the police authority will set certain limits and once the protesters go beyond that limit (either time element or area), they will be violently dispersed. Here, the maximum

tolerance seems to be irrelevant since the local authority and law enforcers had set the limits for the protesters to follow.

Aside from the personal experiences and point of view of the interviewees, there were other people and groups that condemned the permit system and the violent dispersal of demonstrators. Their views were published in the leading newspapers and posted within their respective websites.

Parong (2004), executive director of the Task Force Detainees of the Philippines, condemned the “no-permit no rally” policy of the Arroyo administration. She further asserted that the EDSA People Power I and II became successful and did not require a permit when the people ousted a dictator and a corrupt President. In addition, she reiterated that the issuance of a permit is purely “ministerial” and can only be suspended if there is a “clear and present danger”.

Antonio Tinio, chairperson of the Alliance of Concerned Teachers (ACT) said that “the ‘no-permit no-rally’ policy of the Arroyo administration means using excessive force to preempt or disrupt the mass mobilizations of the people in any issue...It is like Martial Law...The incident was a blatant violation...to express our demand to save the life of Angelo dela Cruz...” (Vital, 2004). While Laurence Castillo, national chairperson of the League of the Filipino Student, related that “they were holding a program at the Plaza Miranda when the police attacked them...they were still chased by the police (after they went to Isetann Mall, which is five-kilometers from Plaza Miranda)” (Vital, 2004).

From Bayan (2003), according to Renato Reyes, Jr., spokesperson of Bayan, said that “September (2003) alone there have been at least nine (9) violent dispersals, 28 arrests and scores of injuries in rallies in Metro Manila”. He further noted:

"As we commemorate the declaration of Martial Law, it is extremely ironic that the administration chooses to implement a Marcos relic, the Batas Pambansa 880, which is the basis for the no-permit, no-rally policy of the regime. It was a law enforced during the Marcos dictatorship and should be repealed immediately, lest the administration wants this Marcos relic to linger on. Batas Pambansa 880 was enacted in 1985, at the height of the protest actions against the Marcos dictatorship. The law was intended to suppress mass actions that there were then snowballing against the dictatorship. Bayan argued that freedom of expression and the right to peaceably assemble are guaranteed by the constitution... The bridge-- which is named after anti-Marcos activist Don Chino Roces, who himself led many marches to Mendiola-- is supposed to be a symbol of freedom of speech and the right to assembly (Bayan, 2003)

Militant group such as the Kilusang Mayo Uno, headed by Mr. Elmer Labog, stated that "(we) strongly condemned the violent dispersal of the police and military forces...Through the 'no-permit, no-rally' policy, the Arroyo administration tries to conceal its outright ban on people's protest against the massive fraud committed in the last elections, worsening unemployment, high prices in basic goods and services and the plummeting economic livelihood of the workers and the urban poor...Instead of respecting the democratic rights of the people, Gloria chose to repress and trample on the people's freedom of speech" (Kilusang Mayo Uno, 2004).

Furthermore, Luis Jalandoni, chairperson of the Negotiating Panel of the National Democratic Front of the Philippines declared that:

"The National Democratic Front of the Philippines (NDFP) strongly condemns the violent dispersal of the people's rally yesterday at Plaza Miranda which was held to save the life of Angelo de la Cruz and to press for the immediate pull out of Filipino troops in Iraq...The rallyists were exercising their democratic right to free speech, association and assembly, which is guaranteed by the GRP-NDFP Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL, Part III Respect for Human Rights, Art. 2, No. 12)... It grossly violates The Hague Joint Declaration, the foundation document of the GRP-NDFP peace negotiations, which establishes the principle of national sovereignty as a guiding principle...By brutally attacking peaceful rallies held to save the life of Angelo de la Cruz and to call for the immediate pull out of Filipino troops in Iraq, the regime shows its utter contempt for the democratic rights of the rallyists. It inflicts serious injuries and causes the illegal arrest and detention of those who exercise their democratic right to free speech, association and assembly. The regime shows no respect for the CARHRIHL which it has solemnly bound itself to implement" (Jalandoni, 2004).

The Philippine Alliance of Human Right Advocates (PAHRA), a national alliance of human rights organizations and advocates in the Philippines, included in its report to the 58<sup>th</sup> Session of the United Nations Commission on Human Rights that “leaders and members of people’s organizations protesting the inhuman policies and programs of the Government are oftentimes charged and jailed for the petty crime of disruption of peace and order, unmindful of the validity of the protest actions, and the right to free expression of these individuals” (Philippines Alliance of Human Rights Advocates [PAHRA], 2002).

Even the Senate minority leader Aquilino Pimentel “has urged the President to scrap the ‘no-permit, no-rally policy’ when the Commission on Human Rights (CHR) repudiated it as ‘unconstitutional and illegal’” (Manila Times, 2004). He also stated that:

“The Palace-initiated policy being followed by the mayors and law-enforcement authorities are nothing but a tyrannical instrument to suppress the inherent right of the people to express their legitimate grievances, especially against abuses and misrule of public officials in the guise of preventing a breakdown of law and order on the streets... Since the Commission on Human Rights is the constitutional body entrusted with the task of protecting and upholding human rights, its repudiation of the “no permit, no rally” policy should carry a lot of weight. I believe that this ruling of the CHR should guide the mayors and law-enforcement officials in dealing with rallies, marches and other forms of mass protest conducted by the people in their efforts to seek relief for valid grievances...The “no permit, no rally” policy is characterized by deceit because of the habit of the mayors to reject the rally applications even without valid and credible reasons. “The virtual ban on political rallies, which remains in force, betrays a feeling of paranoia and insecurity on the part of President Arroyo, perhaps because she knows that her hold on power is shaky owing to her doubtful electoral mandate” (Manila Times, 2004).

Lastly, the Commission Human Rights (CHR) condemned the violations of the permit system for the right of the people to peaceful assembly and freedom of expression. It issued two (2) resolutions; one (1) after the violent dispersal of demonstrators during the State of the Nation Address of former President Estrada (July 24, 2000), and the other, (2), on September 20, 2004 with regards to its stand on the “no-permit, no-rally policy” implemented by the Arroyo administration.

For the first resolution, the CHR maintained that:

"This incident is a national tragedy. It defines the sad state of our law enforcement agency and the revenant character of our culture of violence that we thought was stifled 14 years ago at the bloodless revolution in EDSA.

We pride ourselves as a bastion of freedom and democracy. We even exceeded the Americans in our avowals for these ideals. Our Constitution contains more guarantees for the promotion and protection of human rights than the Jeffersonian Constitution of the United States. In the United States, rallyists are allowed to converge and conduct their public protest at the gates of the White House, the Official Residence of the President of America who is the leader of the most powerful nation on Earth. In our country, it all seemed to be that some public commons are too sacred to be trodden upon or some public servants are too divine to be an object of protest.

Our Constitution is a human rights instrument ensuring to every citizen their right to exercise their freedom of speech and expression and to peaceably assemble. Decisional laws have decreed that its exercise could not be subjected to prior restraint. When an assembly is peaceful and orderly, and national security, public safety and public health, and the rights and freedom of others including motorists are not prejudiced thereby, it is our considered opinion that the police should not hinder rallyists from going to any public ground to express themselves" (CHR, 2000).

For its resolution regarding the "no-permit, no-rally policy", the CHR pointed out several essential points that led it to firmly decide that the policy is "a blatant violation of the Constitutional right of every citizen to peaceably assemble and to seek or air grievances which may be expressed through rallies".

The CHR derived its rationale on the Philippine Constitution, major international agreements concerning human rights and judicial cases that support the constitutional right to peaceably assemble.

Article III, Section 4 of the 1987 Constitution provides:

*"No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances."*

According to CHR (2004), "this constitutes the fundamental and basic right of every citizen to air their insights to authorities and political leaders on matters involving public concern and interest for the protection of their civil, political and economic rights. The right to assemble is guaranteed by the Bill of Rights and is not subject to prior

restraint. Hence, it may not be conditioned upon the prior issuance of a permit or authorization from government authorities”.

**Article 19 of the Universal Declaration of Human Rights states:**

*“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”*

And

**Article 20 of the Universal Declaration of Human Rights states:**

*“Everyone has the right to freedom of peaceful assembly and association”*

International Covenant on Civil and Political Rights states that:

**(Article 19 of the ICCPR)**

1. *Everyone shall have the right to hold opinions without interference.*
2. *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*
3. *The exercise of the rights provided for in paragraph 2 of this Article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*
  - i. *For respect of the rights or reputations of others;*
  - ii. *For the protection of national security or of public order, or of public health or morals.”*

And

**(Article 21 of the ICCPR)**

*“The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. ”*

In these two international agreements and covenant, the Government of the Philippines is a state party hence “following articles are enshrined is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant” (CHR, 2004).

Furthermore, the CHR cited two judicial decisions namely; First, “**Primicias vs. Fugoso, 80 Phil 71** and subsequently in the case of **Reyes vs. Bagatsing, 125 SCRA 553** which states that: *“If the assembly is to be held in a public place, a permit for the use of such place, and not for the assembly itself, may be validly required. But the power of local officials in this regard is merely one of regulation, not prohibition.”*

The CHR reiterated one of its sections stating that, "Denial of the permit may be justified only upon clear and convincing evidence that the public assembly will create a *clear and present danger* to public order, safety, convenience, morals or health. Action on the application shall be communicated within 24 hours to the applicant, who may appeal the same to the appropriate court. Decision may be reached within 24 hours". Hence, CHR (2004) highlighted that:

"Therefore, the burden of showing the existence of a *clear and present danger* that would justify an adverse action on the application of the permit lies on the mayor as the licensing authority. To justify such a limitation, there must be proof of such weight and sufficiency to satisfy the clear and present danger test.

Further, the Commission supports the Constitutional right of every citizen to peaceably assemble to seek redress of their grievances through rallies provided it will not prejudice the public welfare. Any unjustified and unreasonable form of curtailment of this freedom shall amount to a violation of the guaranteed human rights. It may be said therefore that the citizens are merely *"utilizing the weapons afforded them by the Constitution, that is, the untrammelled enjoyment of their basic human rights."*

In addition, the CHR holds the law enforcers accountable if there are injuries that resulted from violently dispersing the rallies even if the said rallies have or do not have permits. In its ruling it stated that:

The Commission **stands on the affirmative** for the reason that although dispersal units of the PNP are allowed to use truncheons and tear gas on the protesters provided that maximum tolerance is exercised before these methods or means of dispersal shall be effected. The reasonableness of the means employed shall depend on the circumstances present during the protest because the allowed means of dispersal must be in consonance and relative with the danger which they seek to prevent.

In the absence of imminent danger to public order, safety, convenience, morals or health, then the use of these means of dispersal is clear violation of human rights.

Henceforth, whether or not the assembly or rally was affected with permit, then the PNP may be held liable for the commission of any human rights violation on account of the unreasonableness of the manner employed to effect the dispersal.

The case of *Republic vs. Sandoval*, 220 SCRA 124, shall find application where it was ruled that:

*"An officer cannot shelter himself by the plea that he is a public agent acting under the color of his office when his acts are wholly without authority.*

*While the Republic in this case is sued by name, the ultimate liability does not pertain to the government. Although the military officers and personnel, then party defendants, were discharging their official functions*

*when the incident occurred, their functions ceased to be official the moment they exceeded their authority.*

*Immunity from suit cannot institutionalize irresponsibility and non-accountability nor grant a privileged status not claimed by any other official of the Republic.*

*The military and police forces were deployed to ensure that the rally would be peaceful and orderly as well as to guarantee the safety of the very people that they are duty-bound to protect. However, the facts as found by the trial court showed that they fired at the unruly crowd to disperse the latter.*

*This court has made it quite clear that even a high position in the government does not confer a license to persecute or recklessly injure another.*

*In line with the ruling of this court in *Shauf vs. Court of Appeals*, 191 SCRA 713, herein public officials, having been found to have acted beyond the scope of their authority, may be held liable for damages."*

Thus, based from the foregoing decision of the Supreme Court, it may be inferred that "any abuse of authority committed by the dispersal units in the exercise of their functions shall amount to human rights violation resulting to liability, may it be criminal, civil or administrative."

## CHAPTER V

### Summary and Analysis

The Philippine experience has shown that the implementation of the permit system or the “no-permit, no-rally policy” does abridge and curtail the legitimate expression of the people for redress of grievances to the government.

In theory, the Batas Pambansa Bilang 880 or the Public Assembly Act of 1985 should be a guide for the proper application of permit as well as for the peaceful dispersal of the rallies and demonstrations. However, even the provisions of the said law were not being followed properly. The realities of the massive and violent dispersals of what could have been rather peaceful assemblies implied that the law was being used only to suppress the people for expressing their grievances.

Sec. 9, par. B of the B.P. 880 states that, “The members of the law enforcement contingent shall not carry any kind of firearms but may be equipped with baton or riot sticks, shields, crash helmets with visor, gas masks, boot or ankle high shoes with shin guards”.

However, as what was described in Crowd Dispersal Management of the WPD, there is an armed component in its third layer, the SWAT team, always present during any assemblies.

Sec. 9, par. C states that, “Tear gas, smoke grenades, water canons, or any similar anti-riot device shall not be used unless the public assembly is attended by actual violence or serious threats of violence, or deliberate destruction of property”.

However, even if there is no clear and actual violence or threats of violence or destruction of property, these methods were always employed primarily to disperse any

marches, demonstrations and rallies. Even though the primary cause of dispersing a rally should be the presence of actual violence, most protests and assemblies were even violently dispersed using water canons, fire trucks and tear gases as the first step in dispersing the protesters.

There is lack of clear decisions to revoke an application; usually the burden is on the local government authority to establish a clear and present danger as the only reason to revoke a permit and to disperse protesters. As related by the experiences of organizations applying for a permit, the mayor has declined their application with vague excuses such as, "order from above".

As stated in Sec. 6 par. a of the B.P. 880, "It shall be the duty of the mayor or any official acting in his behalf to issue or grant a permit unless there is a clear and convincing evidence that the public assembly will create a clear and present danger to public order, public safety, public convenience, public morals or public health".

However, the city hall has turned down the applications of different groups for some unknown and unclear reasons. Unable to state the nature and reason for revoking the application is also a violation of the law. Moreover, there were instances, from the experiences of protest groups, that they were referred to the police authority when they applied for a permit. It is clearly stated that the application should be filed in the office of the city mayor of the city (Sec. 5 par. C) and not in the police station.

In addition, there seems to be that politics plays a big role in the application of the permit system. Application for a permit is being referred to the police station whence it should be the Mayor who should have direct power in its approval. Moreover, coming from the informal confession of a city hall employee that the bureau does not really issue

permits to rallyists, thus this indicates a clear manifestation of authority beyond what the law requires. It also manifests a sort of abuse of authority emanating from the office of the Mayor because the burden of “clear and present danger” is not really evident to revoke an application for a permit.

Furthermore, the permit law contains a self-defeating purpose. As contained in Sec. 6 par. B of the act states that, “The mayor of any official acting in his behalf shall act on the application within two (2) working days from the date of the application was filed, failing which the permit shall be deemed granted...” Hence, even if a group applied for a permit and the mayor failed to take action on it, the application would be deemed granted. However such as in the case of BAYAN Muna, when they proceeded with their march, because the mayor failed to take action on their permit, which should be deemed granted, they were still dispersed for not having a permit. Hence, there is a clear justification that even if the group does not obtained a permit; it could still be a valid move on their part. Moreover, this section defeats the very purpose for applying for a permit. Why apply for a permit, when if the mayor did not act on it, it would still be deemed granted? Thus, it clearly shows that there is really no need to apply for one.

The use of the permit system clearly showed that it is only used to justify the dispersal of rallies without looking at the validity of the issues raised in relation to the expression. The permit system clearly failed on its purpose to avoid future disruption and disorder when it is the very cause of it. Disorder caused by violent dispersals was the result of the invoking of the police authority of the permit law over the demonstrators. When the assembly should have been peaceful, the police authority would disperse the rallyists on the grounds that it violated the act for not having a permit. Hence, the clash

between the two parties is inevitable. The implementation of the permit system only proved that it is the caused of disorder and social unrest whereas in the end, the victims remain to be the protesters as well as the law enforcers because of the faulty decision of the higher authority to invoke the “no-permit, no-rally” policy.

The legitimate expression of the people to air their grievances in public using public roads and places should claim superiority over the traffic rules. The instrumental use of the roads should not be a justification to prohibit the people in using it as a venue for their legitimate expression.

Suppression of the expression of the people will not solve or further avoid future disorder. It will only increase the apprehension and will further agitate the people to express their problems. The permit system clearly curtails the basic constitutional rights of the people for peaceful assembly and freedom of expression. It removes from the people their inherent right and, by applying for a permit, waives their rights to the very authority to which they express their dissent. It entails the imposition of the consciousness and dictates of the prevailing status quo in maintaining the social order. Moreover, it routinely manipulates the movement of social reaction, discarding the possibility of spontaneous movement of the people. It discards the right of the individual to decide on one's decision and to express one's personal belief in accordance with others sharing the same sentiment. It removes the right of the people to peacefully address its problems to the authority whereby, discarding the possibility of changing the society through a rather peaceful means.

If the curtailment of the freedom of the people continues, if peaceful expression of grievances gives no substantial change to the decisions of its government, if the

government does not allow its people to resort through peaceful and constitutional means, then, it will not be long enough that the people themselves could only resort through more radical means to change the societal conditions.

## CHAPTER VI

### Conclusion and Recommendation

It is quite clear that the implementation of the permit system in the City of Manila is a curtailment of the legitimate expression of the people for the redress of their grievances. The “no-permit, no-rally” policy curtails the constitutional right of the people for a peaceable assembly.

Moreover, it is being used not only to justify violent dispersals of a supposedly peaceful rally, but it is also used to prevent any rallies and demonstrations to be conducted by rejecting any application for a permit. This shows that the permit policy is being used as a prohibitive measure for rallies and mass actions more than as being a regulatory law with the only purpose of maintaining public order and traffic regulation.

Although the State has the right to defend itself from destabilizations and internal chaos, it also has the responsibility of maintaining the liberty, rights and freedom of its citizen. It has the obligation of maintaining public order but it also has the burden of providing and satisfying the “clear and present danger” doctrine before it revokes the application of permit.

But in the case of the city of Manila, the “no-permit, no-rally” policy does not follow such procedure. The reason for the use of a *passé* law clearly entails a justification to render curtailment on the minority voicing out their cause and dissent in a peaceful and legitimate manner.

This research recommends that there should be a call and support to repeal the law. As of now, BAYAN Muna party list has passed a bill to Congress, House Bill No. 1555, or “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 Other Purposes". For now, it is still in referral according to BAYAN Muna Rep. Satur Ocampo.

Further, there should be a compromise or consent between the local government and the organizations or militant groups in order to establish an effective communication line between them. This would be more effective than a mandatory permit system where the protesters were forced to apply for a permit, with all the bureaucratic red tape that accompanies with it. This will also give enlightenment to the local government about the peaceful intention of holding rallies and demonstrations by protesters, because there is always a prejudice whenever rallies and demonstrations were held. Most of the times, the rallies and demonstrations were advocating awareness of the government to societal issues and the protesters assume that the authorities will be affected in some way to solve the issues or change its decisions. Public dissent is not equivalent to destabilization or terrorism. Hence, the mass movement should be viewed by the government not as another kind of problem but a manifestation of an even greater societal problem that greatly affects the people and sectors of society where the protesters are also a part of.

If the permit system is truly for the regulation of traffic and maintenance of public order, it is not the only solution. If the local government and law enforcers as well as traffic bureau really want to augment the prevailing problem of traffic, added the inconvenience of public protests, there are other alternatives that they could formulate if they are sincere enough. One example would be the establishment of a fixed alternative re-routing scheme especially for areas and public places where rallies and demonstrations are customarily held. A good effective communication line coupled with a ready re-

routing scheme will efficiently lessen the inconvenience of traffic obstruction nonetheless, the advance notice that protesters could give to the authorities that they will hold a public rally, would give the authorities to re-route the traffic to the alternative route.

Moreover, there should be more awareness of the concept of human rights in the Philippines. With the deteriorating educational system of the country, human rights awareness is also deteriorating. The Commission on Human Rights should examine the curriculum of every educational institution and should provide assistance in the formulation of curriculums that includes awareness to human rights. Nonetheless, curriculums of institutions that produce law enforcers such as police and military should be reviewed so as to instill the primacy of human rights above all else in pursue of justice and truth. Moreover, the pronouncements of the Commission on Human Rights as the highest body that monitors human rights condition of the country should hold weight to other institutions and government departments and it should be recognized especially its edicts with relation to the laws and issues of the country.

Lastly, the people, especially the youth and academicians, and civil society should be more vigilant in the approach to the issues concerning human rights. The flame of vigilance should not fickle since it is to the continuous evaluation on the issues of the society as well as on the actions of those in authorities that democracy, liberty, and freedom of the society could be maintained.

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APPENDIX A

COLLEGE OF ARTS AND SCIENCES

University of the Philippines Manila

Padre Faura St. Ermita, Manila

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Dear Sir/Madam:

I am a fourth year Political Science student from the University of the Philippines Manila conducting a research on the implication of the "No-Permit, No-Rally" policy or the permit system on the basic constitutional right of freedom of expression. This research primarily aims to determine whether the permit system generally abridges the constitutional right of people to peaceably assemble and petition the government for the redress of their grievances or its current implementation is justifiable in maintaining public safety and order.

In this regard, I am requesting you to be my Key Informant in the study. I believe that as the Head of an organization that embodies the protection and concern of the people's interests and welfare, you can provide me with pertinent information about my study. Attached herein are the questions for the interview. I would also like to ask from your pertinent office papers, documents, reports and even statistics of protests and violent dispersals, the number of times that filed for a permit and number of times rejected, and other materials that will be helpful for my study.

The tentative date for the interview is on February 10 or 11, in the morning, or in any day at your convenience. For documentation purposes, I would also like to ask your permission to record the interview through an audiotape.

Please feel free to contact me through my mobile number (0918) 5008389, my land line number 529-4072, or my e-mail add: temujin\_XXX@yahoo.com for further questions.

I am hoping for a favorable response from your office.

Thank you very much.

Sincerely:

Philip John F. Ermino  
BA Political Science  
CAS-UP Manila

Approved by:

Prof. Josefina Tayag  
Department of Social Sciences  
CAS-UP Manila

## Informed Consent

## APPENDIX B

This research is about the implication of the permit system being currently implemented in the city of Manila on the basic constitutional right to peaceably assemble and petition the government for grievances. It seeks to answer the question: Does the implementation of the permit system abridges the constitutional right to peaceably assemble or is it needed to maintain public order and safety.

In line with this, the researcher would use the Key Informant Interview (KII) method to gather qualitative data. This method is a good tool to gather important information from experts on matters relevant to the study.

The purpose of an Informed Consent form is to confirm that you willingly participate in the researcher as a Key Informant. This would also guarantee the confidentiality of the data gathered. With your consent, the researcher would like to record through an audiotape or video camera the conducted interview. This would further aid the researcher to accurately gather information from you aside from note-taking. Upon your request, the researcher could also guarantee the anonymity of your identity. The researcher could also return the data to your good office upon the accomplishment of the study.

## TO WHOM IT MAY CONCERN:

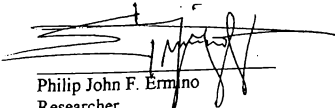
I, PCI REMIGIO SEBASTO willingly participate in the study as a Key informant. This consent was given after the researcher has fully explained to me my involvement in the said researcher. I further consent the following:

- a.) recording of interviews ✓
- b.) confidentiality of data ✓
- c.) anonymity of participant
- d.) return of data

IN WITNESS, I hereunto affix my signature this 11 day of Feb year 2003.

PCIMP REMIGIO SEBASTO

PI-T, WRD

  
Philip John F. Ermino  
Researcher

## Informed Consent

This research is about the implication of the permit system being currently implemented in the city of Manila on the basic constitutional right to peaceably assemble and petition the government for grievances. It seeks to answer the question: Does the implementation of the permit system abridge the constitutional right to peaceably assemble or is it needed to maintain public order and safety.

In line with this, the researcher would use the Key Informant Interview (KII) method to gather qualitative data. This method is a good tool to gather important information from experts on matters relevant to the study.

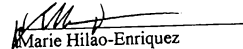
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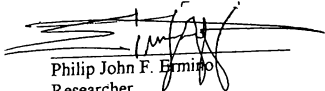
## TO WHOM IT MAY CONCERN:

I, RANEA S. CLAMPOR, willingly participate in the study as a Key informant. This consent was given after the researcher has fully explained to me my involvement in the said researcher. I further consent the following:

- a.) recording of interviews ✓
- b.) confidentiality of data ✓
- c.) anonymity of participant
- d.) return of data

IN WITNESS, I hereunto affix my signature this 10<sup>th</sup> day of February year 2005.

  
Marie Hilao-Enriquez  
Secretary General

  
Philip John F. Ermino  
Researcher

### Informed Consent

This research is about the implication of the permit system being currently implemented in the city of Manila on the basic constitutional right to peaceably assemble and petition the government for grievances. It seeks to answer the question: Does the implementation of the permit system abridges the constitutional right to peaceably assemble or is it needed to maintain public order and safety.

In line with this, the researcher would use the Key Informant Interview (KII) method to gather qualitative data. This method is a good tool to gather important information from experts on matters relevant to the study.

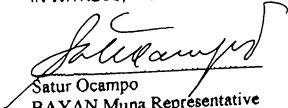
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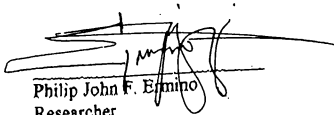
### TO WHOM IT MAY CONCERN:

I, \_\_\_\_\_, willingly participate in the study as a Key Informant. This consent was given after the researcher has fully explained to me my involvement in the said researcher. I further consent the following:

- a.) recording of interviews \_\_\_\_\_
- b.) confidentiality of data \_\_\_\_\_
- c.) anonymity of participant \_\_\_\_\_
- d.) return of data \_\_\_\_\_

IN WITNESS, I hereunto affix my signature this \_\_\_\_\_ day of \_\_\_\_\_ year \_\_\_\_\_.

  
Satur Ocampo  
BAYAN Muna Representative

  
Philip John F. Ermino  
Researcher

## APPENDIX C

### INTERVIEW QUESTIONS

1. What law supports the “No-Permit, No-Rally” policy or the permit system duly implemented under the Arroyo administration?
2. Is it easy to apply for a permit to rally? How long does it take? How much, if there are fees to pay? Are there conditions to be met?
3. Do you or this office favor the implementation of the permit system? Why?
4. Is the permit system being implemented prior the Arroyo administration? If not, what is the reason?
5. What do you think was supposedly the reason why President Arroyo suddenly adheres to the implementation of the permit system?
6. Why do assemblies often end violently? Does the law for the permit system indicate procedures on how to deal with dispersals?
7. How does “maximum tolerance” should be interpreted?