

NO PERMIT, NO RALLY
September 27, 2005
Sen. Alfredo S. Lim

Mr. President, ladies and gentlemen.

This afternoon, I stand again on a question of privilege. The recent Malacañang pronouncement, “no permit no rally” bannered in almost all newspapers and aired in different radio stations impelled me once again to avail of this privilege. I also stand imbued with an unwavering faith that in this August Body, freedom of speech and expression enjoys a higher firmament in the sets of values and liberties.

But admittedly... being once a man in uniform... a veteran of street fights.. although I was never an OPPRESSOR of the basic freedom of man... I am afraid, scared and terrified of the forthcoming scenes, now strangers in my dreams- because these seem real, factual... tragic and outrageous. Blood is all over- oozing from bodies of young and old alike. No one is spared, males, females and children.

Ironically, The police are not exempted... and they are not only wounded but also dead- they lay side by side with bodies of their foes... the street parliamentarians whose only fault was to exercise their freedom. But no one can deny- these bodies... these combatants have distinct and common identity... their brown skin because they... like and me... are FILIPINOS.

Yes, the weapons are mere truncheons... against bottles and stones and at times pill boxes and unseen guns... inflicting injuries, silencing protest but HERALDING THE TRUTH... freedom of assembly, freedom of speech and the inevitably related freedom of the PRESS. This freedom is not only manacled nor hoodwinked- this freedom is massacred- before the public- before our eyes and lamentably, the rulers of this ‘NO PERMIT NO RALLY’- mandate are watching- in glee- and in complacent self-satisfaction, but until when? And we must yield all this freedom which are basic as the breath that was gifted to us by GOD. I WILL NOT CONSCIENCE YIELD... YOU MUST NOT... WE MUST NOT!

Before I speak my heart out, the beautiful words of Mr. Martin Niemoeller dawned upon me and truly inspires me to utilize a fraction of this privilege hour. His words are lucent and animating. He said and I quote:

“In Germany they came first for the Communist, and I didn’t speak up, because I wasn’t a Communist. They then came for the Jews, and I didn’t speak up, because I wasn’t a Jew. Then they came for the trade unionists, and I didn’t speak up because I wasn’t a trade unionist. Then they came for the Catholics, and I didn’t speak up, because I was a Protestant. Then they came for me, and by that time no one was left to speak out.”

This afternoon I am standing not as a Senator but as a Filipino, with the blood flowing into my fragile veins. The same blood I shared with every student, every laborer, every teacher and professionals to mention a few who are now marching along our streets and avenues not only to unleash their pent up feelings against abuses, intrusions into their human rights but to lawfully express their grievances against our government.

Likewise, the more recent TV footages and news reports on the unwarranted and violent dispersals of demonstrators and rallyists on different occasions provoked my interest.

Mr. President, consistent with this premise I quote Section 4, Article III of the Bill of Rights. Said section reads:

“No law shall be passed abridging the freedom of speech, of expression, or of the press, or the rights of the people peaceably to assemble and petition the government for redress of grievances.”

Speech, it is said, is the body and soul of man, without its existence becomes hollow and dull. Perhaps, this was inspired by the radical words of Voltaire, “ the tyrants of our thoughts have caused the greater part of the world’s misfortune.”

Conversely, freedom of assembly as commonly understood by us refers to the rights of citizens to meet peacefully for consultation and respect to public affairs devoid of prior restraint and fear of subsequent penalty. But this, however, can only be conclusively productive if done effectively, otherwise, it will be meaningless. The dissenting pronouncement of former Justice Hugo Gutierrez in *MPSTA vs. Laguio, Jr.*, 200 SCRA 323 (1991) is more harmony with reality. Thus, he wrote, “When government consistently fails to act on the grievances, the teachers have the right to speak in an effective manner. For speech to be effective, it must be forceful enough to make the intended recipients listen.”

While these two demarcated rights are not identical, they are, inseparable. This premise is graphically defined in the case of *Reyes vs. Bagatsing*, 125 SCRA 553 (1983).

Briefly the facts of this case are:

A petition for mandatory injunction was raised by the eminent jurist JBL Reyes on behalf of the Anti- Bases Coalition. The group sought for a permit from the respondent City Mayor of Manila to hold a peaceful rally from Luneta to the US Embassy. The requested permit was, however, denied. The denial stemmed from the alleged intelligence report that subversive elements would infiltrate and disrupt the rally. Respondent Mayor offered as an alternate venue, the Rizal Memorial Coliseum or any other enclosed area where safety of the rallyists and the public would be safely secured.

Petitioner, in his said petition, invoked the freedom of speech and assembly. The Supreme Court granted the petition. According to the Court:

“x x x Free speech, like free press may be identified with the liberty to discuss publicly and truthfully any matter of public concern without censorship or punishment. There is to be no previous restraint on the communication of views or subsequent liability, whether in libel suits, prosecution of sedition or action for damages, or contempt proceedings unless there is a clear and present danger of a substantive evil that the State has the right to prevent... Freedom of assembly is entitled to be accorded the utmost deference and respect. It is not to be limited, much less, denied, except on a showing as in this case with freedom of expression, of a clear and present danger of substantive evil that the State has the right to prevent.”

Parenthetically, I do not wish to be misunderstood. I do not advocate that these cognate rights are illimitable. Absolute. These rights are well enjoined by the well-defined limitations. The Court in the same case declared *inner alia*:

“There are of course, well-defined limits. What is guaranteed is peaceable assembly. One may not advocate disorder in the name of protest, much less, preach rebellion under the cloak of dissent. The Constitution frowns on disorder or tumult attending a rally or assembly. Resort to force is ruled out and outbreaks of violence to be avoided. The utmost calm though is not required... it bears repeating that for the constitutional rights to be invoked, riotous conduct, injury to property and acts of vandalism must be avoided.”

The relevance of **Reyes vs. Bagatsing** to Batas Pambansa Blg. 880, otherwise known as the public Assembly Act of 1985 cannot be idly ignored.

This act acknowledges and validates the right of the people to peacefully assemble and petition the government for grievances, Aside fro the fact that it defines public assembly, it also proscribes certain acts which the police and the public official concerned must not act and cannot do.

To cite a few:

“(a) The holding of any public assembly by any leader or organizer without having first secured a written permit where a permit is required from the office concerned or the use of such permit for such purposes in any place other than those set out in the said permit: **Provided, however, that no person shall be punished or held criminally liable or participating in or attending an otherwise peaceful assembly;**

(b) Arbitrary and unjustified denial or modification of a permit in violation of the provisions of this act by the mayor or any other official acting on his behalf;

(c) The unjustified and arbitrary refusal to accept or acknowledge receipt of the application for a permit by the mayor or any official acting on his behalf;

(d) Obstructing, impeding, disrupting or otherwise denying the exercise of the right to peaceful assembly;

)e) The unnecessary firing of arms by a member of any law enforcement agency or any other persons to disperse the public assembly”.

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Corresponding penalties are expressly provided for by the act for any violation thereof.

Accordingly, the parameters under the said act are underscored and delineated. In luculent and unmistakable language, the police, the public officials concerned, the leaders and organizers of the rally or demonstrations are strictly enjoined to observe them.

Inferentially, in observing these parameters, they must be filled with good faith and good will, animated by common persistent dedication and thoughtful adherence on the respective mandates under the act. Likewise, of equal significance, local officials, most specially the mayors and officials acting on their behalf must, instead of flip-flopping, act with dispatch on the applications permit to rally. Whether favorable or adverse, their decision should be transmitted to the applicants at the earliest possible time so that access to courts could be properly made. Leaders and organizers of demonstrations and rallies should file their applications ahead of time.

In the possibility of collision or interplay of interests, which right is entitled to a greater protection, the court under the balancing of these interests has to decide.

In fine, a permit can only be denied if there is a showing of the existence of a clear and present danger to public peace and security. Short of this, application for permit, must not be denied. Any action to the contrary would be inordinate and arbitrary. I take it that this is the reason which impelled Daniel Webster to inspiringly write:

“ It is important to safeguard to the utmost the right to free speech and free press. It is the ancient and constitutional right of our people to judge public matters and public men. It is such a self-evident right as the right to breathe air and the right to walk on the surface of the earth. I will defend this high constitutional prerogative in time of war and in time of peace, and all the time dead or alive, I shall maintain it.”

Mr. President, the no permit, no rally policy of the government, is an assault on the innate and God given rights of every peace-loving individual. What is left for this governance is to respect them. It likewise, violates our Constitution, the God of all crafted laws. It does violence to the spirit and intendment of Public Assembly Act 880. The occurrence of rallies without permit is not the fault of the rallyists and demonstrators

but of the local chief executives who were unable to designate freedom parks deliberately without any action.

It appears, that this policy was molded to engender fear, I say it now and I will say it again and again, that by engendering fear, they will only engender determination and courage, instead.

Although I am now in my twilight years nevertheless, I am gladdened by the thought that with me is kept aglow the dream and ideals of the young and the visions of the old. I shall always live with them and if necessary to give my life for a lofty cause- a cause for justice, freedom, and the rule of law.

Thank you.