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### **Philippines: new public assembly act inconsistent with human rights**

A proposed new law regulating public assembly adopted by the Philippine House of Representatives would allow for unlawful restrictions on the right to peaceful assembly, the ICJ said today.

On 5 February 2018, the House of Representatives passed on third reading House Bill 6834, which proposes to repeal the Public Assembly Act of 1985.

The law would prohibit persons below the age of 15 from organizing a public assembly and would subject participants or organizers to potential criminal liability for holding a peaceful assembly without the approval of local executives.

"This legislation deceives us into thinking that there is no more need to obtain prior permission to holding a public assembly," said Emerlynne Gil, ICJ's Senior International Legal Adviser for Southeast Asia.

"But in effect, organizers will still need to secure the approval of the local executive before holding a public assembly," she added.

The proposed law states that any person or group intending to organize a public assembly will only need to serve notice to the city or municipal mayor at least three days prior to the assembly without having to secure a permit.

However, at the same time it prohibits the "holding of a public assembly at a time and place other than that approved by the city or municipal mayor."

"The proposed law does not improve on the old one. It now increases the penalty for holding a public assembly without approval of local authorities to six (6) years," Emerlynne Gil said.

"The law is also silent as to who may be penalized. Hence, the ICJ fears that organizers and participants alike could be held liable," she added.

Under international standards, freedom of people to assemble should generally not require prior permission.

The law would also contravene the rights of children that are protected under the Philippines' legal obligations.

"The provision incorporates into law the arcane and discredited attitude that 'children should be seen but not be heard'," said Emerlynne Gil.

"If children are prohibited from organizing a peaceful assembly, this prevents them from exercising their right to impart information freely," she added.

Under the Convention on the Rights of the Child, children must be guaranteed the right to freedom of assembly.

The bill now goes to the Philippine Senate for its consideration.

The ICJ calls on lawmakers in the Philippines not to adopt the proposed law in its current form.

Any new legislation should conform to international standards, including on the right to freedom of assembly without prior permission and the rights of children to assemble freely, the ICJ adds.

## **Contact**

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## **Background**

The right to freedom of assembly is protected under international law, including the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. The Philippines is party to both of these treaties.

According to the UN Special Rapporteur on the right to peaceful assembly and association, the exercise of this fundamental right "should not be subject to previous authorization by the authorities."

At most, what may be established is a "prior notification procedure", which would be aimed at allowing State authorities to facilitate the exercise of the right and to take measures to protect public safety and order and the rights and freedoms of others.

The Special Rapporteur further said that should the organizers fail to notify the authorities, they should not be subject to criminal or administrative sanctions resulting in fines or imprisonment.

The Convention on the Rights of the Child (CRC), guarantees under Article 15 the right of children to freedom of association and assembly.

The right to peaceful assembly is closely interlinked with the right to freedom of expression, also guaranteed under Article 13 of the CRC, which provides that children have the right to 'seek, receive and impart information and ideas of all kinds'.

In 2015, the ICJ published its report [\*Righting Wrongs: Criminal Law Provisions in the Philippines related to National Security and their Impact on Human Rights Defenders\*](#) recommending the Government of the Philippines to revise Article 146 (on illegal assemblies) of the Revised Penal Code and Batas Pambansa 880 (The Public Assembly Act of 1985) as neither is compatible with international human rights law.

In the report, the ICJ emphasized that there should be no requirement of prior authorization to assemble, but at most a notification procedure, and then only for large meetings that may interfere with pedestrian or vehicular traffic.

The law must also not subject participants or organizers of public protests to criminal or administrative liability, solely for failing to notify authorities of the meeting.

House Bill 6834, having been passed by the House of Representatives (Lower House) on third reading, is expected to be transmitted to the Senate (Upper House), where it will go through a similar procedure of three readings.

If the bill is approved upon the third reading at the Senate without amendments, it will be presented to the President.

The bill would become law if and when signed by the President.

If, however, there are amendments on the bill at the Senate and the House of Representatives does not agree with the same, the differences would be settled by a Conference Committee of both Houses.

The recommendations of the Conference Committee would have to be approved by both Houses.