

**A STUDY ON THE ADEQUACY OF PEACEFUL ASSEMBLY ACT 2012 IN
MALAYSIA**

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ABSTRACT

The right to assemble is one of the fundamental liberties guaranteed by the Federal Constitution under Article 10. This right ensures that all citizens are allowed to organize and participate in an assembly. Ever since this right has been conferred to the people, some limitations have been provided by the law to control the exercise of this right. However, the current situation in our country where lots of illegal assembly were carried out by various groups of individuals demanded the right to assembly to be reviewed by the government through the parliament. This is due to the fact that more and more people are resorting to illegal assemblies whenever they want to voice out their grievances and opinions. Consequently, some of the assemblies conducted caused public discomfort and disorder. As a result of this, government finds it necessary to pass a law to regulate and govern the right to assembly to meet the current situation in the country. Thus, in November 2011, the parliament passed the Peaceful Assembly Act which came into force in April 2012. This Act is actually a replacement for section 27 of Police Act 1967 which has been repealed on 31st August 2011. The passing of this new Act draws the attention of the public as well as local and international organizations. Lots of critics have been received from various individuals, groups and organization which among others, alleged that the Act is draconian and oppressive. Despite of the critics, the Act, at the same time, also received lots of credits as it has been passed at the time when the country needed it the most. This research paper aims to draw the attention on the flaws being purported against this Act and provides some recommendations to overcome the alleged flaws as claimed by some people. Among the issues that will be discussed in this research paper include, the purpose of this Act, the compliance of this Act with the right to assembly under the Federal Constitution, prohibition on assembly to certain groups of individuals, the wide power of the police as well as the comparison with other similar Act in the United Kingdom. We hope that this research paper will be a reading that will provide a better understanding on this Act and at the same time be able to correct people's perception on this Act.

TABLE OF CONTENTS

i.	Acknowledgement	i
ii.	Abstract	ii
iii.	Table of Contents	iii
iv.	List of Cases	vi

CHAPTER ONE: INTRODUCTION

1.1	Introduction	1
1.2	Background of the study	1
1.3	Research question	3
1.4	Research objectives	3
1.5	Research methodology	3
1.6	Scope of the study	4
1.7	Limitations to the study	4
1.8	Significance of the study	4
1.9	Conclusion	5

CHAPTER 2: LITERATURE REVIEW

2.1	Introduction	6
2.2	Definition	6
2.3	History	8
2.4	Theoretical framework	9
2.5	Current situation in Malaysia	11
2.6	Criticism on the Peaceful Assembly Act 2012	14
2.7	The need to protect the right to assembly	17
2.8	Conclusion	19

CHAPTER 3: THE LAWS ON THE RIGHT TO PEACEFUL ASSEMBLY

3.1	Introduction	20
3.2	Legal framework	20
3.3	United Nation Declaration of Human Rights (UNHDR)	24
3.4	Federal Constitution	25
3.5	Police Act 1967	30
3.6	United Kingdom’s Public Order Act 1986	34
3.6.1	Definition of public assembly	34
3.6.2	Notification of assembly	35
3.6.3	Restrictions and conditions on assembly	35
3.6.4	Power of the police to arrest and disperse assembly	37
3.7	Conclusion	39

CHAPTER 4: FINDINGS AND ANALYSIS

4.1	Introduction	40
4.2	Findings from the interviews and survey on the adequacy of Peaceful Assembly Act 2012 in protecting the right to peaceful assembly	40
4.2.1	The purpose of PAA2012	40
4.2.2	The compliance of PAA 2012 with the right to assembly under the Federal Constitution	43
4.2.3	The prohibition on the participation of children below 15 years old in an assembly and persons under 21 years old from organizing an assembly.	43
4.2.4	The wide discretion of the police to disperse an assembly and to arrest without warrant.	43
4.2.5	The responsibility to maintain the security of the participants of	

CHAPTER 1

INTRODUCTION

1.1 INTRODUCTION

Malaysia passed its controversial Peaceful Assembly Act 2012 (hereinafter known as PAA 2012) in the face of the biggest public demonstration so far against it, with more than 500 lawyers taking to the streets to voice their disapproval. Due to the critics received, we have decided to do a research on this new law that is the PAA 2012 to see whether the allegations about this law being oppressive and unconstitutional are right or not. Thus, this research attempts to study on the adequacy of the PAA 2012 in safeguarding and protecting the freedom of assembly which is provided in Article 10 of the Federal Constitution. We will be looking at some of the provisions provided in this Act which are concerned on the issue of freedom to peacefully assemble in Malaysia. Among the issues that will be touched are; the ban of street protest, the terms used in the Act which were not clearly defined by the Act itself, the wide power conferred to the police, the differences between PAA 2012 and UK's Public Order Act 1986 (hereinafter known as UKPOA 1986) and the conformity of the newly passed PAA 2012 with the standard international requirement on the freedom to peaceful assembly. We hope that this research paper will be a mind opening view and opinion that will correct peoples' perception on this Act and later provides a better understanding on this Act.

1.2 BACKGROUND OF THE STUDY

The PAA 2012 was passed in the Parliament by a majority vote, after opposition Members of Parliaments' staged a dramatic walkout. When it was first tabled, it was touted as one of the Prime Minister, Dato' Seri Najib Razak's reforms to improve civil liberties ahead of an impending general election. But it has instead stirred some of the strongest public sentiments towards the government in months. The Act was introduced just as unpopular colonial-era emergency laws were removed. While it does away with the need for police permits for rallies, civil societies activists have criticised the legislation for imposing a host of restrictions. Some individuals and groups regarded the new law which allow gatherings in designated places like stadiums and public halls as more repressive than the old ones.