



**Strengthen Institutions, Empower the People!
Pass the Bicam Version of the FOI Bill Without Delay**

**Right to Know. Right Now! Coalition
04 July 2010**

*It was the best of times, it was the worst of times,
it was the age of wisdom, it was the age of foolishness,
it was the epoch of belief, it was the epoch of incredulity,
it was the season of Light, it was the season of Darkness,
it was the spring of hope, it was the winter of despair..."*

This brilliant prose of Charles Dickens, in the beginning of his epic ***A Tale of Two Cities***, could have been written also about the recent death, nay murder, of the proposed Freedom of Information Act in the 14th Congress. What could have been a legislation of wisdom, light and hope for good governance and people empowerment was overcome by the foolishness, dark motives and desperate designs of those who seek to thwart good governance and to keep people at the margins of power.

Indeed, the Freedom of Information Bill was nearly almost enacted, after over 14 years of unflinching advocacy work by all social sectors for its passage. The bill failed to advance significantly in the 11th, 12th and 13th Congress but finally moved in the 14th. The penultimate step, before transmission to the President for signing, would have been the ratification by the House of Representatives and by the Senate of the bicameral conference committee report.

The Senate promptly fulfilled its legislative duty on February 1; the House did not. With session days fast running out, the leadership of the House professed support for the measure when in truth it did all it could to prevent the ratification of the bill. On four session days – February 2 and 3, and May 24 and 31 – the House leadership either refused to put the bill on agenda, or worse, stomped all motions by the bill's authors to ratify the bicameral conference committee report.

But the lowest point was reserved for June 4, the last day of the third and last regular session of the 14th Congress. On roll call after a quorum question, the House Secretary General reported that 128 members were present, short of the 135 members needed for a quorum. A motion was made for the present members to compel the attendance of absent members, as provided by Section 74 of the House Rules. This measure is supported by no less than the Constitution (Article VI, Section 16, par. 2),

precisely to prevent absent members from holding hostage the conduct of legislative work. Speaker Prospero Nograles ignored the rule and even scoffed at the motion.

The story did not end there. After Nograles released the list of House members who were supposedly absent on June 4, at least nine congressmen came forward and were established on video footage to have been actually present at the session hall during the roll call. They include Representatives Neptali Gonzales II, Roilo Golez, Michael John “Jack” Duavit, Mujiv Hataman, Arthur Pingoy, Magtanggol Gunigundo, Jovito Palparan, Pablo P. Garcia, and Oscar Malapitan.

By all accounts, the number of House members present at the June 4 session was more than the required number to constitute quorum and the Freedom of Information Act could have been ratified that same day.

Even as we continue to discern which House leaders and Secretariat personnel must be held accountable for the events of June 4, we must also chart the immediate next steps to move the Freedom of Information Act forward. In this effort, we call on the members of the 15th Congress, both from the Senate and the House, and the Executive, to commit themselves to support it.

First, the bicameral conference committee report on the Freedom of Information Act reached in the 14th Congress that has already been re-filed in the Lower House must be passed with dispatch by the 15th Congress. This version of the draft law had been discussed in public consultation meetings and had hurdled the legislative wringer in the 14th Congress. It has taken into consideration the concerns of government agencies without compromising the integrity of the people’s right to information. The new senators and congressmen may do well not to repeat the processes so they can save valuable time and even more valuable taxpayers’ money.

After all, this bicameral conference committee report is as progressive and as reasonable as a Freedom of Information Act could get. It provides a standard and definite procedure for dealing with requests for information. It clearly defines a narrow list of exceptions, carefully balancing the public interest in broad disclosure with the public interest in keeping certain information secret. It secures for citizens concurrent remedies in cases of denial of access to information. It provides implementing mechanics for the public disclosure of a list of important government transactions, without need of request from anyone. It provides criminal and administrative sanctions for violation of the right to information. Finally, it introduces numerous mechanisms for the active promotion of openness in government. All these directly address the operational gaps that have made the Constitutional right to information and the state policy of full disclosure of government transactions involving public interest, extremely difficult to enforce in practice.

Second, the administration of President Benigno C. Aquino III would do well to translate its commitment to transparency into clear policies and concrete action. We hope that President Noynoy Aquino will convey to Congress his unequivocal support for the immediate passage of the bill, in his first State of the Nation Address as well as through an appropriate message to Congress certifying the necessity of its immediate enactment.

Even as we await the final passage of the Freedom of Information Act, we hope that President Noynoy Aquino and his appointees will promulgate and observe active disclosure policies in their decisions and transactions, notably appointments, contracts, executive agreements, borrowing, and spending.

Third, we call on the new House of Representatives of the 15th Congress to introduce amendments to its Rules and changes in its practice, to prevent a repeat of capricious acts by the leaders of the 14th Congress that undermine not only the due performance of its legislative duty but also the integrity of the institution.

It must stop the practice of dispensing with the roll call at the start of session to railroad measures without quorum. Attendance in sessions, an important obligation to state and people by every member of Congress, can only be enforced if quorum is strictly observed before session can proceed. Where quorum is not present amid urgent business matters on the agenda, Congress must exercise its right to compel the attendance of absent members. In terms of the determination of quorum, the Rules must be amended to provide an effective check on the Secretary General's determination of the result of a roll call. Finally, the Rules on the consideration of conference reports must be strengthened to give effect to its high privilege in the order of business, and avoid the arbitrary and unjust blocking of an important measure by the House leadership as happened in the FOI bill conference report.

We, the 160 organizations and civil society leaders who comprise the Right to Know. Right Now! Coalition, affirm our commitment to continue the fight for our freedom of information. We dream of an empowered and vigilant citizenry that will make full and responsible use of its right to information to secure what is rightfully ours in terms of government services, to exact accountability from government officials in the use of public funds and the exercise of governmental powers, and to facilitate the effective exercise of other rights of citizenship such as participation in policy-making and in elections.

We call on everyone to join us in working to make this dream a reality.

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