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June 23, 2021

Re: Ohio House Criminal Justice Committee hearing on HB 22 and HB 109

Dear Chairman LaRe and distinguished Committee Members:

Greenpeace USA is part of a network of global, independent campaigning organizations that use peaceful demonstration and creative communication to expose global environmental problems and promote solutions that are essential to a green and peaceful future. Demonstrations and rallies have been critical to Greenpeace's ability to carry out its mission, including in Ohio. We respectfully ask the Committee to vote no on HB 22 and HB 109.

The importance of protest in the United States isn't new, indeed protests have been essential to social movements as diverse as the Civil Rights Movement and the Tea Party. And the legacy of protests as an essential element to the fabric of our social democracy stretches all the back to the American Revolution. Open and free access to public spaces are necessary to the rights to freedom of assembly, and related to people's ability to exercise their full right to free speech. Unreasonable restrictions on speech harm our democracy itself.

HB 22 and HB 109 are part of a bigger legislative trend that is seeking to erode our First Amendment rights and make it more difficult for community members to make their voices heard. Speech restrictions disproportionately impact underserved and marginalized communities who are, more often than not, at the forefront of movements for democracy, peace, and justice. Everyone deserves an equal voice in a democracy and these bills place constitutionally-granted freedom of speech at risk.

Upon judicial review, courts are likely to find these bills unconstitutional. By enacting this legislation, you may be opening up the state of Ohio to unnecessary and costly lawsuits, such as we have seen in Florida,¹ Louisiana,² South Dakota,³

¹<https://www.orlandoweekly.com/Blogs/archives/2021/05/12/floridas-anti-protest-law-faces-lawsuits-from-naacp-others>

²<https://www.reuters.com/article/us-louisiana-pipeline-lawsuit/pipeline-opponents-challenge-louisiana-law-targeting-protesters-idUSKCN1SS2I0>

³<https://www.aclu.org/press-releases/federal-court-blocks-south-dakota-laws-suppressing-pipeline-protests>



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and elsewhere. Like many states, Ohio is facing a budget shortfall, and enacting controversial and unconstitutional laws is fiscally irresponsible.

HB 22 specifically seeks to criminalize speech, using the word “taunting” in the bill. This is not an attempt to criminalize symbolic speech as bills we’ve seen elsewhere seek to do. This is an effort to literally prevent people from speaking. Further, the word “taunt” is not defined anywhere in the bill. If passed this will not survive a court challenge.

HB 109 goes even further, and in effect works as a catch-all anti-protest package that seeks to criminalize a whole range of conduct. It would enhance the current misdemeanor penalty for blocking traffic — one of the most common of protest tactics, one that is not new to modern movements — by making this conduct a felony, should it have occurred during an unpermitted protest. But the vast majority of protesters have no way of knowing whether the march they are attending is permitted or not. If enacted, this bill will also likely fail constitutional scrutiny.

Greenpeace has members all over the country, and over 69,000 in Ohio. Our supporters value their right to protest and regularly join movements in the streets to speak truth to power. Ohioans are watching this legislative fight closely, and we are working alongside dozens of other organizations, representing thousands who want to stand up for justice. We know when the history books are written which side we will be on, Committee Members, we hope you will meet us there.

Sincerely,

/s/ Dr. Folabi Olagbaju

Dr. Folabi Olagbaju
Democracy Campaign Director
Greenpeace USA