

Ethics and Accountability for Enhancing Police Performance: Philippine Experience and Perspectives¹

Clarence V. Guinto²



Abstrack :

The police force was the subject of some criticism, and the object of repeated reforms. In any large organization, some bad apples are inevitable. Policemen were accused of involvement in illegal activities and violent acts. The transformation of our police force into a civilian character was underpinned by the belief that “law and order” are two notions, not a single concept. Law is in constant tension with order, and the basic function of law is to restrain the police and the authorities who are responsible for keeping order. As we all know, wars, ideological struggles, and deep-seated social unrest or ethnic, religious or tribal conflicts are fertile areas of human rights violations. Armed conflict leads to the breakdown of infrastructure and civic institutions, which in turn undermines a broad range of rights. In contemporary Philippine history, we have experienced these conflicts, which seriously complicate the police functions and give rise to human rights violations. Only through respect for the dignity and the freedom of the individual can we strengthen our democratic processes and advance the cause of social justice.

Key Words : *Ethics, Accountability, Police Performance, Human Rights, Government.*

1. Paper was presented at *The Conference on Human Rights & Accountability in Policing Asia* Europe Foundation / Hanns Seidel Foundation Indonesia, Jakarta, 28 April 2011.
2. PCSUPT. Clarence V. Guinto; Chief, Human Rights Affairs Office Philippine National Police

I. Introduction

Human rights are a cornerstone of Philippine democracy, and the protection of these rights is a core commitment of the Philippine National Police.

Apart from the U.N. Universal Declaration of Human Rights of 1948, to which the Philippines is a signatory, the rights to which all human beings are inherently entitled are enshrined in our basic law.

These rights are elaborately embodied in the Philippine Constitution. In the Declaration of Principles, Section 4 asserts that the “prime duty of the Government is to serve and protect the people.” And Section 5 holds that “the protection of life, liberty and property, and the promotion of the general welfare are essential for the enjoyment of the people...”

Under the Declaration of State Policies of Article II, the concept is more direct and defined. Section 10 affirms that “The state shall promote social justice in all phases of national development.” However, Section 11 is the most explicit: “The State values the dignity of every human person and guarantees full respect for human rights.”

Nonetheless, in our efforts to protect our citizens, we still face the dilemma: how to make the police strong enough to protect society without allowing the police to be so strong as to oppress society? Or as the sub-theme of this conference inquires – “Who will guard the guardians?”

II. Historical Perspectives

A significant source of the ethical and moral code of the Philippine National Police (PNP) stems from its origins. The PNP traces its roots to the Philippine Constabulary (PC), a para military force established on August 8, 1901 when the Philippines emerged as colony of the United States. The PC was under the general supervision of the American governor-general.

During the Commonwealth era (1935 to 1945), the National Defense Act of 1935 transformed the PC into the backbone of the Philippine Army. After World War II, it incorporated the Military Police Command, absorbing soldiers trained in military police duties. It remained a fourth branch of the Armed Forces of the Philippines, together with the Army, Navy and Air Force. In 1976, then President Ferdinand Marcos, decreed the Integration of the PC and the local police forces of every city and municipality.

Under the pressures of a growing and modernizing society, the police function was re-evaluated and re-defined in the 1980s. When the Marcos dictatorship was toppled down by EDSA People Power in 1986, a new Philippine Constitution was ratified in

1987. It introduced some innovations particularly **Sec 6 of Article 16** which provides that *“The State shall establish and maintain one police force, which shall be national in scope and civilian in character, to be administered and controlled by a national police commission. The authority of local executives over the police units in their jurisdiction shall be provided by law”*. A police force entirely civilian in character was deemed essential. The enabling law of the constitutional provision on police reform is Republic Act 6975, merging the Philippine Constabulary and the Integrated National Police into the present PNP – no longer under the Department of National Defense but under the Department of Interior and Local Government.

The police force was the subject of some criticism, and the object of repeated reforms. In any large organization, some bad apples are inevitable. Policemen were accused of involvement in illegal activities and violent acts. Charges of abuse and corruption were frequent. Now, who will guard the guardians? The answer was a higher body -- a separate civilian authority that would govern and regulate the uniformed ranks.

This led to the creation of the National Police Commission (Napolcom), mandated by our 1987 Constitution. Napolcom is empowered to investigate police anomalies and irregularities, to administer police entrance examinations, to conduct examinations for promotions, and to summarily dismiss erring police officers. Aside from NAPOLCOM, there are other government entities which have disciplinary powers over the PNP. These are the Civil Service Commission, the Ombudsman, the Peoples Law Enforcement Board, the Internal Affairs Service, and the Department of the Interior and Local Government. Moreover, unit commanders are also vested their disciplinary powers.

III. Ethical Framework

The transformation of our police force into a civilian character was underpinned by the belief that “law and order” are two notions, not a single concept. Law is in constant tension with order, and the basic function of law is to restrain the police and the authorities who are responsible for keeping order.

Accordingly, the PNP Code demands that: “In the performance of their duty, law enforcement officials shall respect and protect human dignity and uphold the human rights of all persons.”

This canon of police conduct is strengthened and supported by the ethical framework of our organization. This framework basically consists of the PNP philosophy, core values, and mission:

OUR PHILOSOPHY -- Service, Honor and Justice.

OUR CORE VALUES -- Maka-Diyos (God-fearing); Makabayan (Nationalistic); Makatao (Humane); Makakalikasan (Environment-friendly).

OUR MISSION -- The PNP shall enforce the law, prevent and control crimes, maintain peace and order, and ensure public safety and internal security with the active support of the community.

To translate this basic framework into concrete terms, we developed a code of professional conduct and specific ethical standards. These code and standards are formally embodied in the "PNP Ethical Doctrine," a manual for all police officers and recruits.

Our doctrine conforms to the provisions of Republic Act No. 6713, the law establishing a code of conduct and ethical standards for public officials and employees to uphold the principle that public office is a public trust. This law grants incentives and rewards for exemplary service and provides penalties for violations.

IV. Unique Philippine Conditions

As we all know, wars, ideological struggles, and deep-seated social unrest or ethnic, religious or tribal conflicts are fertile areas of human rights violations. Armed conflict leads to the breakdown of infrastructure and civic institutions, which in turn undermines a broad range of rights.

In contemporary Philippine history, we have experienced these conflicts, which seriously complicate the police functions and give rise to human rights violations. Indonesia, Malaysia, Sri Lanka, and Thailand and many of the countries represented here in this conference have also experienced these unfortunate, unhappy and tragic conflicts at one time or other.

Today, police forces all over the world face another form of threat and adversary – terrorism. The shadowy advocates of terrorism operate on international and domestic fronts.

Even though criminal offenders and the enemies of the state initiate and commit far greater and crueler human rights violations, they are hardly held accountable. The pressure to prevent violations is solely directed against government forces. And this is critically important because it is the obligation of the state to adhere to, and uphold, the laws of war and international humanitarian standards.

In the Philippines, the mandate and functions of our police force are made extremely more difficult and complicated by unique social, political and historical circumstances. We are a developing country and poverty is at the roots of our continuing communist

insurgency – the longest insurgency in Asia. We also have a Filipino-Muslim secessionist problem in southern Philippines.

The main terrorist groups -- the New People's Army (NPA), military wing of the Communist Party of the Philippines, and the Abu Sayyaf Group (ASG) -- deploy child soldiers in combat or auxiliary roles. The same terrorist groups have resorted to bombings of public infrastructure and places, causing high civilian casualties.

In addressing the secessionist rebellion in Mindanao, we have received the understanding and kind support of Malaysia and the Arab nations. The leaders of these nations have been helping mediate this internal problem and a ceasefire has been in place for several years now, and we are deeply grateful for their efforts and the vital role of Malaysia.

It will take more time, economic development, diplomacy and strategic legislation to resolve the communist insurgency and the Mindanao issue. We are pleased to report, however, that our brother Filipino-Muslims in the Moro Islamic Liberation Front (MILF) and the Philippine government have been talking and working toward peace since the administration of President Corazon Aquino. We are hopeful that more progress will be made under the administration of her son, President Benigno Aquino III.

V. Curbing Human Rights Abuses

Human rights in the Philippines have been a subject of concern in the international community. But let me quickly emphasize that the greatest concern has been expressed by our own people and our government. For what is at stake here is no less than the stability, security, happiness and prosperity of our people.

Amnesty International, Human Rights Watch, and the U.S. State Department keep a constant focus on our country. There are also a wide variety of domestic non-governmental organizations (NGOs) engaged in pursuing human rights violations and cases in the Philippines – and we consider them as guardians who help guard against police abuses.

Unfortunately, a number of these NGOs see only one side – the side of the alleged victims. In the case of the international organizations, they at least try to be even-handed. While they have accused our security forces of being responsible for serious human rights abuses, they have also acknowledged the efforts of our authorities, both in the police-military sector and civil government, to control such abuses and to punish the guilty.

The Philippine government has been encouraging and intensifying its support for human rights awareness among our citizens. For this purpose it established the Philippine Commission on Human Rights. This commission is an independent office created by our

1987 Constitution, with the primary function of investigating all forms of human rights violations, particularly those involving civil and political rights.

In support of the CHR, the PNP and the Armed Forces of the Philippines have created human rights offices to investigate and prosecute cases of arbitrary, unlawful, and extrajudicial killings. There is in force an official directive advising PNP and AFP officers that they are held accountable for not taking preventive or corrective action when they have knowledge that crimes have been committed by subordinates.

The two units have incorporated human rights and international humanitarian law in their internal operations. They have adopted "Standing Rules of Engagement (SROE) policies and procedures that govern actions to be taken by commanders during all military and police operations, contingencies, terrorist attacks, or prolonged conflicts.

It is worthwhile mentioning here that President Aquino recently reinforced Philippine human rights policies with fresh initiatives. He ordered the release of 43 suspected communist cadres in Morong, Rizal; he has launched new peace feelers with communist insurgents; and he re-invigorated the on-going peace process with the MILF in Mindanao.

VI. Enhancing Accountability

In our efforts to enhance accountability in our ranks, we have stressed three important facts. The first is that most human rights cases involve and discriminate disproportionately against the underprivileged and very poor people.

Second, human rights abuses impose not only additional cost burdens to Filipino taxpayers but lower the dignity and quality of life in our society. Finally violence against our own people seriously erodes the very foundations of our community when, in fact, we need a stronger sense of national cohesion.

The current measures of accountability have insured that the objectives of PNP reforms are gradually taking place. For instance, the rule that commanders are responsible for their actions and inactions have notably reduced human rights violations – on the government side, not on the side of the rebels and insurgents.

We conduct continuous efforts and a variety of projects to enhance police accountability. Let me mention the more important programs which enhance accountability and, at the same, indicate our commitment to the promotion and protection of human rights.

- Promoting ethics and values formation.
- Conducting human rights seminar-workshops and training

- Establishing human rights desk operations in all district and regional offices.
- Establishing engagement and enforcement rules in anti-illegal drugs operations.
- Strict, one-count penalties for human rights violators.
- Upgrading of human rights in police training at entry level
- **Strengthening police** capacity and effectiveness in the investigation and prosecution of human rights violators.
- **Supporting civil society activities in** monitoring of police abuses.
- Promoting public awareness of international human rights standards.
- Inclusion of human rights record of individual officers as a basis for promotion.

VII. Conclusion

Ours is an imperfect world. We cannot escape human failings and the frailness of our institutions. But we can – and we must – strive to live up to our democratic ideals by developing a greater intolerance for the violence and abuses against human rights.

In many cases the only crime of the victims is to seek a newer world – a world with less poverty and less suffering, a world with greater social equality and justice.

That is a world, I believe, that we should all aspire for. And only the Full, equal, and persistent protection for the basic rights of our citizens can the Philippines and the countries represented here promote the rule of law. Only through respect for the dignity and the freedom of the individual can we strengthen our democratic processes and advance the cause of social justice.

In the current clashes between government and anti-government forces, in the ongoing battle against subversives and terrorism, the task of protecting human rights is not easy. But as police officers we must take every step, enforce every measure to protect both the innocent and those who would be guilty of undermining our laws and our government. That is our duty, our most solemn duty. (*)