

Reforming the Military and Police Agencies in the Philippines

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When martial Law was declared in 1972, the principle of civilian supremacy over the military was set aside. The dismantling of the Congress and the concentration and centralization of power in the hands of the president who was also the military's Commander-In-Chief had a significant impact on the polity. With the present transition from dictatorship to democracy, there is a need to reform, not only the military, but also the police agencies. Reforming means re-orienting the police and military men to recognize the delineation between civilian and military functions, and the supremacy of the civilians whom they have sworn to protect.

Introduction

In a polity that is in the process of transition from a dictatorship to democracy, it is imperative to re-examine the structures of power and control which served to maintain the previous dictatorship because they must, of necessity, have a different role to play in the new political order. In the case of the Philippines, the partnership between the armed components of the government and the civilian political leadership in managing society under the euphemism of "constitutional authoritarianism" is well-known.¹ Albeit technically operating under the broad principle of civilian supremacy over the military at all times, such partnership indicated an erosion of that principle, especially within the context of the destruction of democratic political institutions which safeguarded civilian control over the military from the inception of the dictatorship in 1972 until the People Power Revolution of February 1986.

The dismantling of Congress, soon after the declaration of martial law, removed whatever constraining influence it enjoyed over the military that centered in its appointive, budgetary and investigative powers. The muzzling of the press similarly removed an active watchdog against military ascendance in the political system, while the centralization and concentration of power in the hands of the President, de-institutionalized and personalized civilian control over the military. Consequently, when the person was removed, it has become extremely difficult to enforce civilian supremacy, considering that the institutional constraints against military ascendance are still in the process of being rebuilt. The Republic has been fortunate in that there remains a significant sector in the military that still holds civilian supremacy inviolate. The danger lies in the eventual retirement of many of these military men and the ascendance in the military hierarchy of officers bred and schooled under an environment where civilian supremacy was held more in theory than in fact.

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A reassertion of the principle of civilian supremacy, which governed civilian-military relations during most of our political history as an independent nation, has been made through the constitutional mandate in Section 3 Article II of the Declaration of Principles and State Policies under the 1987 Constitution of the Philippines.

Civilian authority is, at all times, supreme over the military. The Armed Forces of the Philippines is the protector of the people and the State. Its goal is to secure the sovereignty of the national territory.

Unfortunately, this is easier said than done. The reconstruction of democratic institutions which facilitated the observance of this principle before 1972 needs to be fully accomplished, as military socialization and re-training supportive of this principle are undertaken in earnest. The people's vigilance is a necessary component of this process of redemocratization because of the relative fragility of the newly-established institutions. These institutions need to assert their authority over time so that certain traditions with respect to the exercise of such authority can take root and flourish. Popular vigilance should also be harnessed to assure the observance of constitutional strictures by the relevant authorities. The above provision also broadly defines the functions of the military: 1) to protect the people and the State; and 2) to secure the national territory. Such a provision envisages a pro-people military, one that protects the State rather than any specific government, regime or persons in authority. It also implies the external focus of the military mission.

Reforming the Military

The defense agency is the institution which exercises administrative control over the military. As such, it must be responsible to reform the military. Since the role of the military under the dictatorship had been a visible one, in fact one of partnership and guarantor of the regime, such role must be recast in accordance with the requirements of a democratic polity.

The 1987 Constitution is the logical starting point in this reformation.² The Philippines need not have a large standing army since it "renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of national laws, and adheres to a peaceful and friendly policy with all nations."³ This interpretation is consistent with the provision in Article XVI, Section 4:

The Armed Forces of the Philippines shall be composed of a citizen armed force which shall undergo military training and serve, as may be provided by law. It shall keep a regular force necessary for the security of the state.

This provision is also consistent with the letter and spirit of the National Defense Act of 1935⁴ which mandates the creation of a citizen army. Under such a concept, all citizens are required to undergo military training, and when necessary, render military service. The standing army need not be large, but since all citizens are in fact soldiers, they would be called upon to serve in the regular army when the security of the State so requires and in accordance with law.

The confinement of the military's goal of securing the sovereignty of the national territory cited above, coupled with the relatively low perception of an imminent external threat to the country, would suggest the possibility of reducing the size of the standing army. In effect, most of the military personnel would be in the reserve force.

However, such a development may not be possible at present because of two over-riding considerations. One is the persistence of the insurgency which currently provides a more imminent threat to state security than any threat coming from the outside. The other is the inability of our economy to absorb large numbers of employable manpower which would inevitably join the labor market if the standing army is to be drastically reduced in size. Further economic dislocations which are sure to follow may prove to be more destabilizing than keeping the army at its present force level.

Having said that, the reduction in the size of the standing army is consistent with constitutional intent; it is a goal which we may aspire to attain in the future; and it would certainly help in reducing the military's ability to block the process of redemocratization.

The emergency provision in Article VII, Section 18 of the Constitution ensures that the aberration of martial law would not be repeated. No longer able to declare martial law, suspend the privilege of the writ of habeas corpus indefinitely, and to extend unilaterally the emergency beyond 60 days, the Commander-in-Chief would find it difficult to develop a partnership with the military as he was able to do in 1972. Legislative and judicial participation in determining the emergency would be a major safeguard against abuse of the emergency powers by the Commander-in-Chief.

Democratization would be immensely facilitated by this procedure, since no single institution could suspend civil and political rights unilaterally.

Allegiance to and defense of the Constitution are required of all military personnel.⁵ Such allegiance is not to any official, person or group. It is rather to the Constitution, and the soldier's duty is to defend the Constitution against any person or group that may challenge the constitutional order. It is in this light

that a hard line position against *coup* makers must be adopted because, while there may exist legitimate military grievances against the civilian government, such grievances should be redressed in peaceful, lawful and constitutional means. The use of force as a means of redress must never be tolerated in a democracy or else, it becomes a tempting invitation to anarchy.

There is also a clear constitutional prohibition against military participation in politics, except voting.⁶ Soldiers are constrained from seeking public office, from campaigning for a particular candidate, from permitting themselves to be used by politicians to obtain votes for them, or from undertaking any activity for any other political purposes. They are prohibited from gaining political power because to do so would be to subvert the civilian authority, to breach the Constitution and to renege on their oath of allegiance as well as their duty to defend the country's fundamental law.

The Constitution aspires to a clearer definition of the military's function in society. Short of explicitly stating this function, it sets the parameters beyond which the military should not be allowed to move. In addition to the above constraints, active duty officers are also prohibited from being appointed or designated to a civilian position in government. This safeguards civilian supremacy by ensuring that the military does not get involved in non-defense matters which properly belong to civilian leaders.

Another provision detaches the police, a civilian agency, from the military's administrative supervision and control. It in effect decentralizes control over the armed sectors of the government, and provides a balance of forces between the military and the civilian sectors of government.

The reform of the military is clearly intended by other institutional provisions. These may be viewed as responses to perceived flaws involving the military which endanger democratization. The alleged operation of private armies and other illegal armed groups by some military commands operating in Visayas and Mindanao during the period of the dictatorship has been linked with human rights violations.⁷ Some of the more well-known of these groups were the Ilagas, Tadtads and various Lost Commands. They were allegedly employed by the military in its counterinsurgency operations.

In this regard, attention must be called to the need to rethink the whole concept of vigilantism, never mind the right of the individual to defend himself. The defense of the State and the citizens is the duty of the military. Until we are able to organize a citizen army, and this cannot be accomplished merely by a few orders and laws, the military and the police have defense and peace and order responsibilities for our people.

This paper objects to vigilantism, since in the first place, all the unfortunate collective experiences in similar enterprises like the Civilian Guards of the Huk period, the religious — fanatical groups of the Moro insurgency, even the Civilian Home Defense Forces (CHDF), are not encouraging to put our security in their hands. In the second place, most of the people who join these groups are fanatics of one kind or another, and as fanatics go, they tend to be often irrational. In the third place, this approach to insurgency is short-sighted as it focuses on the need to stop communist expansion without regard to the other problems which the approach engenders. Are vigilantes able to discern between fact and bias in their judgment about other people's political colors? Do they have the appropriate training in dealing with insurgency? Would they allow themselves to be disbanded once the emergency has passed? Or would they persist like the religious - fanatical groups in Mindanao and fraternal organizations in the Armed Forces of the Philippines (AFP)?

Fourthly, there is the problem of how the government defines "armed" vigilantes. Apparently, the term applies to those with guns, grenades and bombs, but not to those "equipped" with bolos, knives, darts and clubs. Besides, such hairsplitting might be a mere ruse to evade the constitutional stricture against illegal armed groups. Finally, vigilantism will not solve insurgency because its roots are largely socio-economic.

As the Honasan *coup* attempt shows, challenges to civilian rule are sometimes undertaken due to perceived neglect and of the disadvantaged position of the military, including veterans and retirees, and their families, relative to other sectors in society. Thus, Sections 7 and 8 of Article XVI of the 1987 Constitution provides for the extension of immediate and adequate care, benefits, and other forms of assistance, as well as pensions to these people.

With these constitutional provisions as the starting point, military reform as an aid to redemocratization might take the following into account:

- 1) The reform of the military curricula at the PMA, service schools and other military educational institutions geared towards the promotion of professionalism among its men;
- 2) The strict screening of trained instructors who will implement these curricula;
- 3) The reenforcement of strict military discipline;
- 4) The reformation of officers and men in terms of the moral values of integrity and loyalty;

- 5) The recognition of a sphere of military institutional autonomy which includes strategy, tactics, logistics, assignment and promotion of its men;
- 6) The strict enforcement of merit as a guide to promotion;
- 7) The strict observance of retirement rules; and
- 8) The reorganization of the AFP into a citizen's army, considerably reduced in size at some future time, including the separation of the paramilitary (constabulary and police) from the military forces.

Consistent with the constitutional principle of promoting national independence and sovereignty, it is also strongly recommended that self-reliance in defense be seriously undertaken in order to develop our capacity to defend ourselves, and to formulate an indigenous solution to problems of security which may prove to be more appropriate than imported models.

Reforming the Police Agencies

Experts in police matters argue that putting the police under civilian leadership and control is more conducive to and compatible with democracy than leaving it under military supervision and control.

Military values, in many respects, conflict with democratic values.... equality, participation in power and individual self-determination are suppressed in a military setting.

..... the more the police are brought under civilian control and suffused with civilian influences, the more these problems will diminish. Civilian administration (is) the warp and woof of the democratic police force.⁸

In a country where the police as an institution originated, public safety has always been a civilian function. The rationale behind this is the fear that the use of military force would only worsen the problem. It is the "stigma of force on the character of the army, that gave birth to the police as *a body of civil officers* charged with the maintenance of order and public safety in England."⁹

The civilian character of the police in England became the pattern of police agencies in the West. In general they are responsible for law and order, public safety and peace, and are under civilian agencies. In the case of the Philippines and much of the Third World, however, this is not the norm. Their police agencies were created in aid of colonization and as such, they were fashioned to be combat-oriented.

As a national police force, the Philippine Constabulary (PC) started out as the Insular Police Force on July 18, 1901.¹⁰ It was patterned along military lines, manned by Filipinos, but officered by Americans. It enforced military discipline and adopted military training for its officers and men. The PC was however under the control of the Department of the Interior, an arrangement that was to last until 1941 when the Department was abolished and the supervision of the PC fell under the Defense Ministry.

Alongside the PC were created local police forces under the supervision of local executives. This was part of the mayors' responsibility for the execution of the law in his jurisdiction, and for public safety and order. Before the integration of the police forces throughout the country in 1975, mayors also appointed the chief of police and other members of the police force with the consent of the municipal council. This has contributed to the abuse by local executives of their supervisory powers over the police which often led to the conversion of the police force into the mayor's private army.

However, the integration of the police forces, while removing this opportunity, has also enabled the military to intrude into a civilian area of responsibility by putting the Integrated National Police (INP) under the control of a Director General who is a military officer and who is Chief of the Constabulary. As such the INP has been put in part under the AFP, while it remains under the administrative control and supervision of the National Police Commission (NAPOLCOM), a civilian agency under the Office of the President.

Such an arrangement was described by the NAPOLCOM Chairman as "a split-level infrastructure" having military and civilian elements.¹¹ This set-up has created problems which affect police effectiveness, efficiency, and morale. One is the division of powers of the police between the PC, the nucleus of the INP, which remained a major service of the AFP, and retained its military structure and character, and the city and municipal police forces under the INP, which retained their civilian character, and controlled and supervised by the NAPOLCOM. Efficient management is hampered and accountability becomes diffused.

Another problem lies in the inequity of privileges enjoyed by the PC and the police. The former enjoys superior privileges in terms of salary, retirement, longevity, foggy pay and command opportunities at all levels. This inequity has not been good for the morale of the police forces.

Power-sharing between the NAPOLCOM, the PC-INP and the local executives is also a problem. While in theory, NAPOLCOM exercises administrative control and supervision over the INP, the PC-INP exercises command and

operational control, and the local executives enjoy the power to employ and deploy (operational supervision and direction). In practice, such division of power is not always easy to implement.¹²

Any reform of the police will have to take these observations into account. At the same time, the provision of the 1987 Constitution mandating the establishment of a new police system for the country must be made the starting point for such reform. Section 6, Article XVI on General Provisions states:

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.

The establishment of a single police force for the entire country would facilitate the standardization of training, qualifications, and professionalization of the police. This would avoid the diversity in the quality of police forces characteristic of earlier times when the local executives had the power over administration and appointment of police personnel.

The mandate for the civilian character of the police force and its administration and control by a civilian agency would remove the military aspects of the present INP. This is especially important in the process of redemocratization because "civilian administration constitutes the guarantee for a police force to function along democratic lines."¹³

The civilianization of the police force is also assured by the recognition of power sharing over the police units operating in their jurisdiction by local executives in accordance with law.

Given these various considerations, reform of the police agencies should unify the entire national police forces under a single command where supervision and control are shared by civilian officials and agencies. Such reform might include the following:

- 1) The disbandment of the PC where its members may opt, within a given period of time, to remain in the regular armed forces or join the national police force;

- 2) The unification of all police forces with the PC personnel who opt to join the national police force;

- 3) The submission of the national police force under the:

- a) general supervision and control, together with the NAPOLCOM, by the President of the Philippines;
 - b) administrative supervision and control by the NAPOLCOM;
 - c) operational supervision and control by the national police force's Director General and appropriate commanders at the national, regional, provincial and district levels; and
 - d) operational supervision and control over city and municipal police stations, through local station commanders, the local executives.
- 4) NAPOLCOM will be responsible for standardization of qualification, training and professionalization of all police units throughout the country.
- 5) NAPOLCOM should undertake a program of value reformation and reorientation to remove the military effect of the present bifurcated structure of the PC-INP.
- 6) Public safety, and law and order should be the exclusive function of the police, unless otherwise specified by law, in order to insulate this civilian responsibility from military intrusion.¹⁴

The above suggestions would have the following advantages:¹⁵

- 1) Civilianization and democratization of the police;
- 2) Improvement of the effectiveness of law enforcement and public safety through obliteration of territorial boundaries, better coordination and direction of police forces by a unified command;
- 3) Insulation of the police from political manipulation by local executives;
- 4) Reduction of rivalries, jealousies and conflicts among police forces;
- 5) Standardization of administrative system, compensation and equipage of police forces; and
- 6) Allowance for diversity of local public safety and law enforcement needs.

Today, the nation faces great peril of being thrown in the throes of civil war. The nation is in disarray and there is a state of undeclared emergency. Terror lurks in the hearts of concerned citizens; those who fought hard to restore democracy in our land and who continue to do so face an uncertain future as the

enemies of democracy pursue a deliberate policy of destabilizing the government and eroding its right to rule. It is at times like this when government must find the political will to undertake unconventional measures, undercutting the capacity of those who block redemocratization, pre-empting them of their capacity to disrupt the task of rebuilding the ruins of our destroyed polity. Reforming the military and police agencies seems fundamental in this effort if only because they are responsible for the defense of the state and citizens and laws.

Endnotes

¹See Carolina G. Hernandez, "The Extent of Civilian Control of the Military in the Philippines: 1946-1976," an unpublished Ph.D. Dissertation, SUNY (Buffalo), 1979 for a comprehensive treatment of the military's role as partner of government during the Marcos era.

²This section draws heavily from Carolina G. Hernandez, "The Philippine Military in the 21st Century," in Solidarity Conference, *A Filipino Agenda for the 21st Century* (Manila: Solidaridad Publishing House, 1987), pp. 235-248.

³Article II, Section 2, 1987 Constitution.

⁴*Commonwealth Act No. 1*, December 32, 1935.

⁵Article XVI, Section 5, Subsection 1, 1987 Constitution.

⁶*Ibid.*, Subsection 3.

⁷This is suggested in several reports of organizations like Amnesty International, Task Force Detainees and others.

⁸As cited from George Berkley, *The Democratic Policemen*, by Cicero C. Campos, "The Philippine Police System Within the Third World Context," *Criminal Justice Journal*, Vol. VI, No. 3, September - December 1986, p. 30.

⁹V.A. Leonard, *The Police in the 20th Century*, as cited in *ibid.*

¹⁰See Hernandez, "The Extent of Civilian Control of the Military," pp. 111-120 for a brief historical overview of the P.C.

¹¹Campos, "The Philippine Police System," p. 26.

¹²*Ibid.*, p. 28-29.

¹³Article XVI, Section 6, 1987 Constitution.

¹⁴Cicero C. Campos, "The Constitution Within the Context of the United States: Guiding Principles on Crime Prevention and Criminal Justice," *Criminal Justice Journal*, Vol. VII, No. 1, January-April 1987, p. 12.

¹⁵This section of the paper has been significantly enriched by insights from Reynaldo J.D. Cuaderno, "The New Constitutional Mandate for a Revitalized National Police Organization," *Criminal Justice Journal*, Vol. VII, No. 1, January-April 1987, pp. 45-57.