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**GUIDELINES ON  
THE CONDUCT OF THE  
DOLE, DILG, DND, DOJ,  
PNP AND AFP  
RELATIVE TO THE EXERCISE OF  
WORKERS' RIGHTS AND ACTIVITIES**



**Guidelines on the Conduct of the  
DOLE, DILG, DND, DOJ, AFP and PNP Relative to the  
Exercise of Workers' Rights and Activities**

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**Republic of the Philippines**  
**DEPARTMENT OF LABOR AND EMPLOYMENT**  
**Intramuros, Manila**



## **MESSAGE**

The key to sustained growth and industrial peace based on social justice is effective coordination between and among labor, management and government. Consistently, our policy on tripartism and social dialogue serves as a firm foundation for our continuing efforts in fostering stable but dynamic labor relations in the country.

It is in this principle that the tripartite partners collaborated to improve workers' exercise of their fundamental rights to freedom of association and collective bargaining which, according to the International Labour Organization (ILO) High Level Mission (HLM) in 2009, the Philippines has issues and gaps, in law and in practice, in the application of International Labor Standards, particularly on ILO Convention 87 (Convention on Freedom of Association and Protection of the Right to Organize).

With our unified efforts to resolve issues of violence and impunity ensuing from the intervention of security and peace-keeping forces, particularly of the military, police, local chief executives and company security personnel during the exercise of workers' rights and to address Philippine commitments under the HLM, the stakeholders developed and issued on 07 May 2012 another landmark document in the form of the *"Guidelines on the Conduct of the DOLE, DILG, DND, DOJ, PNP and AFP Relative to the Exercise of Workers' Rights and Activities"*.

This Guidelines was formulated to ensure the effective exercise of trade union rights and the prevention of violations of workers' rights, in a climate free from violence, pressure, fear and duress of any kind from any organization.

With yet another milestone resulting from the stakeholders' collaboration, we are positive that we are making significant progress in rendering utmost service to those who we have sworn to serve and protect. We believe that the commitments stated herein, shall always be upheld - in principle and in practice - by the tripartite partners, in our quest for harmonious industrial relations and inclusive growth.

  
**ROSALINDA DIMAPILIS-BALDOZ**  
*Secretary*

**MANIFESTO OF COMMITMENT  
BY THE DEPARTMENT OF LABOR AND EMPLOYMENT,  
LABOR SECTOR, AND THE ARMED FORCES OF THE PHILIPPINES  
TOWARDS A JOINT AND COLLECTIVE EFFORT  
TO PROMOTE AND PROTECT WORKERS' RIGHTS**

**WHEREAS**, the Department of Labor and Employment (DOLE), Labor Sector, and the Armed Forces of the Philippines (AFP), in line with the ILO High Level Mission observations and recommendations addressing obstacles to the effective exercise of trade union rights and violence against trade unionists, including allegation of militarization of workplaces and impunity, recognize the need to hold social dialogue and build and develop coordinative works to improve observance with the provisions of the Philippine Constitution; the Labor Code of the Philippines; the United Nations Universal Declaration of Human Rights; the International Labour Standards particularly, ILO Convention Nos. 87, Freedom of Association and Right to Organize, 1948 and 98, Right to Organize and Collective Bargaining, 1949; the International Humanitarian Law (IHL); and other international treaties, accords and instruments where the Philippines is a signatory;

**WHEREAS**, it is a common aspiration of all government and non-government organizations to enhance and strengthen respect for the inherent rights and dignity of all persons and sectors of society and to guarantee their right to life, liberty and security without discrimination of any kind;

**WHEREAS**, the AFP has implemented on January 1, 2011 the Internal Peace and Security Plan "BAYANIHAN" that prescribes two (2) Strategic Approaches: the Whole of Nation Approach that entails the participation of all stakeholders in peace and development efforts, and the People-Centered Approach that gives primacy to the respect for and protection of human rights, adherence to the International Humanitarian Law, and abidance to the Rule of Law.

**WHEREAS**, workers, as primary social and economic force, possess the right to freedom of association and collective bargaining as the means of improving the conditions of labor and of establishing lasting peace based on social justice which is essential to sustained progress;

**NOW THEREFORE, we, the participants and attendees to the DOLE-Labor Sector-AFP SUMMIT ON THE PROTECTION AND PROMOTION OF WORKERS RIGHTS with the theme “*Karapatan ng Manggagawang Pilipino...Kapit-bisig Isulong Patungo sa Kaunlaran at Kapayapaan*”, hereby RESOLVE and MANIFEST:**

1. That, we commit ourselves and the organizations we respectively represent, to promote and protect human rights and workers’ rights at all times in pursuit of lasting peace based on social justice.
2. That, we shall undertake to conduct social dialogue to:
  - a) Immediately craft guidelines on the conduct of the AFP relative to the exercise of the workers’ right to freedom of association, collective bargaining, right to concerted action and other trade union activities;
  - b) Establish a mechanism to allow joint implementation and monitoring of said guidelines including its periodic review and adjustments, as needed; and
  - c) Support initiatives to reform the justice system to facilitate the resolution of alleged extra-judicial killings, specifically to strengthen forensic investigations.
  - d) Conduct other joint activities, as required, to further achieve the goals of this Manifesto.
3. That, we shall conduct joint orientation in the national, regional and provincial level, together with other relevant partners as required, to raise the awareness of all government and non-government sectors towards

consciously adhering and abiding with the provisions of the Philippine Constitution; the Labor Code of the Philippines; the United Nations Universal Declaration of Human Rights; the International Labour Standards particularly, ILO Convention Nos. 87 and 98; the International Humanitarian Law (IHL); and other international treaties, accords and instruments where the Philippines is a signatory.

**Done this 21<sup>st</sup> day of July 2011 at the AFP Commissioned Officers Clubhouse, General Headquarters, Armed Forces of the Philippines, Camp General Emilio Aguinaldo, Quezon City.**

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Secretary

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Vice President

**For the Manggagawa Para sa  
Kalayaan ng Bayan  
(MAKABAYAN):**

**(SGD) PEDRO N. PINLAC**  
Chairperson

**Signed in the Presence of**

**(SGD) KAREN CURTIS**  
Deputy Director, International Labor Standards  
International Labor Organization

**(SGD) LORETTA ANN ROSALES**  
Chairperson  
Commission on Human Rights of the Philippines



## **GUIDELINES ON THE CONDUCT OF THE DOLE, DILG, DND, DOJ, AFP AND PNP RELATIVE TO THE EXERCISE OF WORKERS' RIGHTS AND ACTIVITIES**

To promote the effective exercise of workers' and trade union rights and to address violence and threats against workers and trade unionists, including the reports and/or allegations of militarization of workplaces and impunity, this Guidelines is hereby prescribed to govern the official conduct of all members/personnel/officers of the following government agencies/units:

- 1) Department of Labor and Employment (DOLE);
- 2) Department of the Interior and Local Government (DILG);
- 3) Department of National Defense (DND);
- 4) Department of Justice (DOJ);
- 5) Armed Forces of the Philippines (AFP) including the CAFGU Active Auxiliaries (CAAs) and the Special CAFGU Active Auxiliaries (SCAAs);
- 6) Philippine National Police (PNP) including its Supervisory Office for Security and Investigation Agency (SOSIA); and
- 7) Barangay Tanod/Barangay Public Safety Officer (BPSO).

All its members/personnel/officers are required to conduct themselves in accordance with the provisions of the 1987 Philippine

Constitution; Labor Code of the Philippines, as amended; Republic Act No. 7160, Local Government Code of the Philippines; United Nations Universal Declaration of Human Rights; International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); ILO Protocols and Recommendations and International Labour Standards, in particular ILO Convention on Freedom of Association and Protection of the Right to Organize (No. 87) and ILO Convention on the Right to Organize and Collective Bargaining (No. 98); International Humanitarian Law (IHL); Presidential Memorandum No. 393; Joint Circular 2-91 (Directing the AFP and the PNP to Reaffirm their Adherence to the Principles of Humanitarian Law and Human Rights in the Conduct of Security/Police Operations); and the Social Contract with the Filipino People of President Benigno S. Aquino III.

## **I. GENERAL POLICY**

Workers and employers have the right to life, liberty and property and enjoy the right to political dissent within the bounds of law. The absence of these civil liberties removes all meaning from the concept of workers' and employers' rights, which are better exercised in a climate that is free from violence, pressure or threats of any kind. It is incumbent upon the government to ensure that this principle is respected and for workers' and employers' organizations to guarantee that these rights are not abused.

Workers' rights are human rights. The right to form and to join unions for the protection of his/her interests are constitutionally guaranteed pursuant to Article 23 of the UDHR and provided in the ICCPR. Thus, a system of democracy and respect of fundamental human rights are essential to full and genuine observance of the rights of all workers particularly, freedom of association and civil liberties.

In order to ensure observance of workers' rights, it is hereby emphasized that labor disputes are within the sole jurisdiction of the DOLE and/or through its appropriate agencies pursuant to the Labor Code of the Philippines, as amended, while matters involving peace and order and law enforcement are under the jurisdiction of the DILG through the PNP pursuant

to Republic Act No. 6975, "*Department of the Interior and Local Government Act of 1990*", as amended by Republic Act No. 8551, "*Philippine National Police Reform and Reorganization Act of 1998*" and the protection of the people and the State and securing the sovereignty of the State and integrity of the national territory are under the jurisdiction of the AFP pursuant to Article II, Section 3 of the 1987 Philippine Constitution.

## **II. WORKERS' RIGHTS RELATIVE TO THE EXERCISE OF FREEDOM OF ASSOCIATION**

Workers' rights relative to the exercise of freedom of association shall be respected and protected at all times. These include:

- 1) The right to establish and join organizations without discrimination to include the right of trade unions/workers' organizations or their leaders or members not to be prejudiced by reason of their actual or potential membership in a political party that is in opposition to a political party in power;
- 2) The right to life and personal safety shall include the right of trade unions and workers' associations to carry out their activities in full freedom in accordance with labor and other related laws and to be protected from threats of or actual violence committed by persons or organizations opposed to their trade union activities;
- 3) The right to freedom and security from arbitrary arrest and detention shall include the right of persons and properties of trade unions and workers' associations to be secured from unreasonable and unlawful searches and seizures and to due process of law;
- 4) The right to freedom of opinion and expression shall include the right of every worker/trade unionist to freely and publicly express his/her personal opinions, orally or in writing, on matters affecting his/her rights; and

- 5) The right to freedom of assembly shall include the right of workers and trade unions to engage in peaceful concerted actions in accordance with law and the International Labour Standards.

### **III. SCOPE AND COVERAGE**

This Guidelines shall be applicable to all cases of exercise of workers' rights particularly, freedom of association, collective bargaining, concerted actions and other trade union activities in relation to the involvement/mobilization of the members of the AFP, including CAAs and SCAAs, the PNP, the Local Chief Executives, company security personnel/ security guards and the Barangay Tanod/BPSO thereat.

### **IV. DEFINITION OF TERMS**

- 1) Actual Violence – refers to an ongoing and intentional use of physical force or power, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death or destruction of or damage to property.
- 2) Area of Operations – refers to geographical areas assigned to unit commanders of the PNP and AFP for which they have responsibility and in which they have authority to conduct police and military operations respectively.
- 3) Certification Election – means the process of determining, through secret ballot, the sole and exclusive bargaining agent of the employees in an appropriate bargaining unit, for purposes of collective bargaining.
- 4) Community – refers to a body of people having common rights, privileges or interests, or living in the same place under the same laws and regulations.

- 5) Concerted Actions – refer to activities undertaken by two or more persons arising from a labor dispute or in the exercise of constitutionally guaranteed rights and freedoms.
- 6) Conflict Group – refers to any armed group or force formed not for the purpose of advancing interests or causes of workers that is in clash with or in a state of opposition to the armed forces/state.
- 7) Counter-insurgency – refers to comprehensive civilian and military efforts, strategies, plans and programs undertaken to address insurgency and its root causes and to halt or extinguish an organized movement aimed at the overthrow of a duly constituted government through the use of subversion and armed conflict.
- 8) Freedom of association – refers to the right of workers and employers to form or join an organization of their own choosing, without prior authorization, to collectively protect and promote their economic and social interests.
- 9) Harassment – refers to the manifestly physical or verbal or systematic and/or continued unwarranted action of one party or group, including threats and demands.
- 10) Labelling and/or Tagging and/or Red Baiting – refers to the act of accusing, denouncing, attacking or persecuting an individual or organization as a communist or communist sympathizer without legal basis and due process of law.
- 11) Labor Dispute – refers to any controversy or matter concerning terms and conditions of employment or the association or representation of persons in negotiating, fixing, maintaining, changing or arranging the terms and conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

- 12) Labor Federation – means any labor organization registered with the DOLE as labor federation.
- 13) Labor Organization – means any union or association of employees which exist in whole or in part for the purpose of collective bargaining or of dealing with employers concerning terms and conditions of employment.
- 14) Lockout - means the temporary refusal of an employer to provide work as a result of an industrial or labor dispute.
- 15) Militarization – for purposes of this Guidelines, refers to military intrusion, involvement or presence in a workplace or in trade union campaigns.
- 16) Military Operation – refers to planned activities undertaken independently or in coordination with civilian entities in support to the accomplishment of AFP mission to gain popular support and weaken the will of the enemy to fight. It is characterized by activities that influence the beliefs, emotion, behaviors, attitudes and opinions of selected target audience; it establishes and maintains good relations between military forces, civil authorities and the civilian populace to facilitate military operations in support to the accomplishment of the AFP mission.
- 17) National Security Threat – refers to a situation and/or environment where the nation’s fundamental values defined in the Philippine Constitution and the way of life of Filipinos, its institutions, and its socio-economic-political interests are actually or potentially threatened.
- 18) Picketing – means the right of workers to freedom of expression, peaceful assembly, and concerted actions consisting of the marching to and fro before the premises of an establishment involved in a labor dispute, generally accompanied by the carrying and display of signs, placards or banners with statements relating to the dispute.



- 19) Security situation – refers to a condition or position with respect to the degree of protection against any danger, damage, loss and crime.
- 20) Strike – means any temporary stoppage of work by the concerted action of the employees as a result of an industrial or labor dispute, or to express positions on socio-economic matters affecting workers’ interests.
- 21) Strike-bound Area – refers to the 50-meter radius from the establishment, warehouse, depots, plants or offices, including the sites or premises used as runaway shops of the employer struck against, as well as the immediate vicinity actually used by picketing strikers in moving to and fro before all points of entrance to and exit from said establishment.
- 22) Workplace – refers to the office, premise or worksite where a worker is temporarily or habitually assigned. Where there is no fixed or definite workplace, the term shall include the place where the worker actually performs regular work, or where he/she regularly reports to render service or to take an assignment.

**V. CONDUCT OF THE AFP/PNP RELATIVE TO THE EXERCISE OF WORKERS’ RIGHT TO FREEDOM OF ASSOCIATION, COLLECTIVE BARGAINING, CONCERTED ACTIONS AND OTHER TRADE UNION ACTIVITIES**

- 1) Labor disputes shall be under the primary and sole jurisdiction of DOLE and/or its appropriate agencies. Members of the AFP, PNP and other law enforcement agencies, including Barangay Tanod/BPSO and company security personnel/security guards shall not intervene in labor disputes. The AFP and PNP may intervene only in the following cases:
  - a) Expressly requested in writing either through mail, email, fax or any similar means by the DOLE, through its Regional Offices, or

- b) A criminal act has been committed, is being committed, or is about to be committed through overt acts in accordance with Rule 113 of the Revised Rules of Criminal Procedures whether or not it arises out of the labor dispute, or
  - c) In cases of actual violence arising out of a labor dispute.
- 2) Request for presence of AFP personnel/units in a workplace where strike, picketing or lockout has been declared and in progress should be based on a security situation, and only for the purpose of extending support to the PNP, or in the extreme situation when no other law enforcement agency in the area is available to perform the following:
- a) Maintain peace and order within the community/general vicinity of the labor-dispute area;
  - b) Provide security for both workers and management;
  - c) Prevent violence or prevent escalation of ongoing violence;
  - d) Prevent the commission of other crimes, the nature of which is not related to the labor dispute on hand; and
  - e) Provide emergency assistance during post-incident situations.

The AFP personnel/units shall stay away from the 50-meter radius picket/strike/lockout area except in situations stated in 1 (b) and (c) above. In case the 50-meter radius includes a public thoroughfare, traffic police shall ensure the free flow of traffic.

- 3) The DOLE, however, shall remain in the vicinity of the strike/picket/lockout area to ensure the observance of this Guidelines, until such time that peaceful situation is ensured with the parties' agreement.

- 4) The Inter-Agency Coordinating and Monitoring Committee, as provided in VII.12 of the *Joint DOLE-PNP-PEZA Guidelines in the Conduct of PNP Personnel, Economic Zone Police and Security Guards, Company Security Guards and Similar Personnel during Labor Disputes* issued on 23 May 2011, shall be expanded to include the AFP when their presence is requested.

#### **A. PEACE-KEEPING ASSISTANCE BY THE PNP PERSONNEL**

- 1) Pursuant to the provisions of the *Joint DOLE-PNP-PEZA Guidelines in the Conduct of PNP Personnel, Economic Zone Police and Security Guards, Company Security Guards and Similar Personnel during Labor Disputes* issued on 23 May 2011, the involvement of PNP personnel during, picketing, strikes, lockouts and labor disputes in general shall be limited to the maintenance of peace and order, enforcement of laws, and implementation of legal orders of the duly constituted authorities.
- 2) A PNP peace-keeping team or Civil Disturbance Unit shall be assigned in a picket/strike/lockout area when requested in writing by the DOLE or PEZA, and subject to the following conditions:
  - a) The peace-keeping team shall stay at least 50-meter radius away from the picket/strike/lockout area. In case the 50-meter radius includes a public thoroughfare, traffic police shall ensure the free flow of traffic.
  - b) In the exercise of their peace-keeping functions, members of the team shall at all times be in proper uniform (battle dress uniform or patrol uniform) and with properly displayed nameplate. They shall:
    - i. Ensure that the strike-bound area is a gun-free and other deadly weapon and explosive-free zone;

- ii. Exercise maximum tolerance and when called for by the situation or when all other peaceful and non-violent means have been exhausted, may employ as a last resort only such means as may be necessary and reasonable to prevent or repel an aggression;
  - iii. Observe courtesy and strict neutrality, bearing in mind that the parties to the labor dispute are not their adversaries but their partners in the quest for industrial peace and human dignity;
  - iv. Not deliberately inflict any physical harm upon strikers and/or picketers or any person involved in the strike/lockout;
  - v. Not fraternize with any of the parties involved in the controversy, and shall not accept any invitation from management personnel or union officials/personnel involved in the controversy; and
  - vi. Respect the Constitutional guarantee on the right of the people to be secured from unreasonable searches and seizures and illegal arrests and detentions.
- 3) All other applicable provisions of the *Joint DOLE-PNP-PEZA Guidelines in the Conduct of PNP Personnel, Economic Zone Police and Security Guards, Company Security Guards and Similar Personnel during Labor Disputes* issued on 23 May 2011, on the involvement of PNP personnel during strikes, lockouts and labor disputes shall be observed.

## **B. CONDUCT OF AFP PERSONNEL/UNITS DURING LABOR DISPUTES**

- 1) The provisions of **Paragraph 4.6, particularly Section 4.6.1.1 and Section 4.6.2.3, of the AFP Rules of Engagement (ROE) for the Implementation of IPSP “Bayanihan”** dated 08 March 2011, shall be strictly observed/followed at all times, to wit:

- a) **Section 4.6.1.1** – The AFP support to law enforcement agencies, such as the PNP and other law enforcement agencies, shall be limited only in providing assistance in the maintenance of peace and order and enforcement of laws, and in the administration of justice only when duly deputized by appropriate authorities.
  - b) **Section 4.6.2.3** – Deployment of military personnel, including CAAs and SCAAs, to address labor-related mass actions and disputes is strictly prohibited.
- 2) In case there is a written request from the DOLE, through its Regional Offices, duly addressed to a specific AFP unit on the ground and/or its main operational headquarters in the area, for the presence of AFP personnel/units in a labor-dispute area due to a security-situation, the AFP shall take the Support Role with the PNP taking the Lead Role, pursuant to section 4.6.1.1 of the AFP Rules of Engagement dated 08 March 2011.
  - 3) In the absence and/or lack of appropriate law enforcement agencies, AFP personnel shall be on a stand-by mode within the vicinity until the arrival of the law enforcement agencies, unless otherwise dictated by the prevailing security situation. The Unit Commander of the AFP unit requested by DOLE shall coordinate at all times with appropriate DOLE Officials.
  - 4) Coordinating conferences must be undertaken, as the security situation so permits, with the DOLE and PNP, and, when needed, with the parties-at-be to the labor dispute. These shall determine and clarify the exact role the AFP has to undertake, and to inform all concerned of such.
  - 5) In all the above-stated situations, AFP personnel must ensure that their presence in the area is strictly for security purposes and must not to take the side of any party-at-be to the labor dispute. The exercise of neutrality and non-partisanship, in these

situations, must be observed at all times the AFP is deployed in the area.

- 6) The deployment of AFP personnel/units must always be time-bounded, area-bounded, and mission-bounded. Unit Commanders must ensure the determination of such in coordination with the DOLE and PNP.
- 7) The exercise of maximum tolerance must always be observed/ followed by AFP personnel/units.
- 8) When the AFP is in the possession of reports of possible threats of violence within the labor dispute area, the AFP Unit in possession of the said report must immediately cause the timely relay of the said information to the DOLE, PNP, and when possible, the parties-at-be to the labor dispute. Such relay of information is for coordination purposes to prevent such threat from occurring.
- 9) When actual violence is ongoing or there is a general breakdown of peace and order, and/or the security of the local populace, community/ies, and parties (workers and management) are already being threatened, the AFP may immediately intervene for the sole purpose of preventing the escalation of said on-going violence. The handling of the situation must immediately be turned-over to the PNP, as appropriate.
- 10) AFP units/personnel must not engage in labelling/tagging/red-baiting personalities/organizations unless these are based on accurate, verified, validated and confirmed reports, and/or documentary evidence.
- 11) All actions by AFP personnel/units, as an individual and as a formed unit, must always be compliant with the respect and protection of human rights, adherence to the International Human Rights Law (IHRL)/IHL, and abidance to the Rule of Law. Where there are reports of connivance by personalities/ organization with threat groups to violate the law or in the

furtherance of armed struggle, these are to be undertaken in accordance with due process of law.

- 12) Unit Commanders shall always exercise supervision, and command and control at all times and discharge their actions within the Doctrine of Command Responsibility.
- 13) Violations of the above Guidelines by any AFP unit or personnel may be reported to the unit's Human Rights Officers (HROs) and/or to the HROs of its higher headquarters and/or to the Chief, AFP Human Rights Office.

## **VI. COORDINATION BETWEEN LOCAL GOVERNMENT UNITS (LGUs) AND THE DOLE DURING LABOR DISPUTES**

- 1) Labor disputes shall be under the primary and sole jurisdiction of DOLE and/or its appropriate agencies. However, Local Chief Executives or their authorized representatives may assist in settling any labor dispute in their respective local government units but shall always coordinate with DOLE and/or its Regional Offices.
- 2) Any request for PNP or AFP assistance made by the LGU shall be coursed through the DOLE Regional Offices and it shall be in writing specifying the acts to be performed.
- 3) The Inter-Agency Coordinating and Monitoring Committee referred to in VII.12 of the *Joint DOLE-PNP-PEZA Guidelines in the Conduct of PNP Personnel, Economic Zone Police and Security Guards, Company Security Guards and Similar Personnel during Labor Disputes* issued on 23 May 2011, shall apply, to include the AFP where applicable.

## **VII. PNP/AFP DETACHMENTS/PATROL BASES IN RELATION TO LABOR DISPUTES OR EXERCISE OF TRADE UNION RIGHTS**

- 1) Upon coordination between and among the Regional Inter-Agency Coordinating and Monitoring Committee (RICMC)/Regional Tripartite Industrial Peace Council (RTIPC) and the appropriate Regional or Provincial or Municipal or City Peace and Order Council (POC), the setting up of PNP/AFP detachments/patrol bases is dictated by “security situation”, and the moment the risk ceases to exist, the same should be dismantled/removed from the said area.
- 2) In a situation where the existing detachment is near or proximate to the workplace where there is a potential or actual labor dispute, or there is an ongoing trade union organizing or campaign for certification of the workers’ sole and exclusive bargaining agent, the union, its members, union organizers or the employer may request the RICMC/RTIPC to initiate a dialogue with the PNP or the AFP detachment commander to ensure that the exercise of trade union rights and workers’ civil liberties are protected and respected.
- 3) If a detachment is yet to be established near or proximate to the workplace regardless of whether there is a potential or actual labor dispute, or trade union campaigns, the union, its members, union organizers or the employer may request the RICMC/RTIPC to initiate a dialogue with the PNP or the AFP detachment commander, with a view to have an accord to ensure respect of trade union rights, non-interference in trade union campaigns, and non-engagement in labelling/tagging/red-baiting, including the appropriate location of the detachment, where necessary.



## **VIII. RESPECT FOR WORKERS' RIGHTS DURING AFP INTERNAL PEACE AND SECURITY OPERATIONS / PNP OPERATIONS**

In the conduct and exercise of AFP internal peace and security operations/PNP operations, the workers' rights and civil liberties must be respected, protected and advanced at all times, and thus, AFP and PNP:

- 1) Shall not stigmatize/label workers' organizations/associations, labor leaders, members or organizers as front or members of certain conflict armed group/s;
- 2) Shall not hold or assist in any manner whatsoever in the conduct of information drive or seminars, inside and outside the company premises especially during the 60-day freedom period until the actual conduct of certification election, to dissuade workers from organizing a union or participating in the certification election campaign, or from voting/ supporting a specific trade union organization;
- 3) Shall not issue invitations to workers, organizers, or union officials on their alleged links or support to certain armed group/s; however, the PNP, in furtherance of criminal investigations, may invite them to shed light; and
- 4) Shall not force them to renounce membership in their trade union organization.

## **IX. REMEDY IN CASE OF VIOLATION**

- 1) Any violations/s of this Guidelines shall be dealt with as follows:
  - a) For PNP Personnel:
    - i. Acts or omissions arising out of or in connection with their participation in the implementation of this Guidelines shall be processed and resolved in accordance

with the provisions of Republic Act No. 6975, “Department of the Interior and Local Government Act of 1990”, as amended by RA No. 8551, “Philippine National Police Reform and Reorganization Act of 1998”. Accordingly, all complaints/ reports of violation/s against any personnel of the PNP may be filed before the PNP-Internal Affairs Service for investigation and conduct of summary hearings.

- ii. The filing of the complaint or report is without prejudice to criminal liabilities to the power or authority of the PNP-IAS to, *motu proprio*, conduct investigation on the following cases:
  - (1) incidents where a police personnel discharges a firearm;
  - (2) incidents where death, serious physical injury, or any violation of human rights occurred in the conduct of a police operation;
  - (3) incidents where evidence was compromised, tampered with, obliterated, or lost while in the custody of police personnel;
  - (4) incidents where a suspect in the custody of the police was seriously injured; and
  - (5) incidents where the established rules of engagement have been violated.
- iii. Any complaint by a natural or juridical person against any member of the PNP may be brought before the following offices: Office of the Ombudsman, National Police Commission (NAPOLCOM), Chief of Police, PNP Regional Directors, PNP Provincial Directors, Mayors, Human Rights Desks in all police stations, and the People’s Law Enforcement Boards (PLEBs).

- iv. Any government official or supervisor, or officer of the Philippine National Police or that of any other law enforcement agency shall be held accountable for “neglect of duty” under the doctrine of “command responsibility” if he/she has knowledge that a crime or offense is to or will be committed, is being committed, or has been committed by his/her subordinates, or by others within his/her area of responsibility and, despite such knowledge, he/she did not take preventive or corrective action either before, during or immediately after its commission.

b) For AFP Personnel:

- i. Acts or omission arising out of or in connection with their participation in the implementation of this Guidelines shall be processed and resolved in accordance with the provisions of Republic Act No. 7055, *“An Act Strengthening Civilian Supremacy Over the Military by Returning to the Civil Courts the Jurisdiction Over Certain Offenses Involving Members of the Armed Forces of the Philippines, Other Persons Subject to Military Law, and the Members of the Philippine National Police.”*
- ii. Members of the AFP and other persons subject to military law, including members of the CAFGUs, who commit crimes or offenses penalized under the Revised Penal Code, other special penal laws, or local government ordinances, regardless, of whether or not civilians are co-accused, victims, or offended parties which may be natural or juridical persons, shall be tried by the proper civil court, except when the offense, as determined before arraignment by the civil court, is service connected, in which case the offense shall be tried by court-martial: Provided, That the President of the Philippines may, in the interest of justice, order or

direct at any time before arraignment that any such crimes or offenses be tried by the proper civil courts.

- c) For elected or appointed officials or employees in the LGU – Complaints shall be conducted in accordance with the *Local Government Code of the Philippines*.
- d) For DOLE Personnel – Complaints shall be processed in accordance with the *DOLE Manual on the Disposition of Administrative Cases* and the *Uniform Rules on Administrative Cases in the Civil Service*.

#### **X. INDEPENDENT INVESTIGATION IN CASE OF COMPLAINTS OF VIOLATION OF THE GUIDELINES**

- 1) Notwithstanding the provisions on the remedies available in case of violation of this Guidelines, the National Tripartite Industrial Peace Council (TIPC), upon a recommendation from the sectors or from the Regional Tripartite Industrial Peace Council-Monitoring Body (RTIPC-MB), may constitute an independent body to verify or validate claims of trade union rights violations or violations of this Guidelines without prejudice to existing mechanisms under the Commission on Human Rights (CHR) or concerned government agencies.
- 2) The RTIPC-MB shall validate and document cases of violation of trade union rights and violations of this Guidelines, and shall submit a quarterly monitoring report to the NTIPC. In the validation and documentation such cases, the RTIPC-MB shall coordinate with other government agencies.
- 3) The PNP-IAS, Office of the Ombudsman, RTIPC-MB or PNP-Human Rights Desks may also constitute an investigating body without filing a complaint only for monitoring purposes.

## **XI. IMPLEMENTATION AND MONITORING OF THE GUIDELINES**

- 1) The existing regional structure of the National TIPC-Monitoring Body, the RTIPC-Monitoring Body, shall ensure observance of this Guidelines at the local level by engaging in the regional implementation and monitoring the respective regional Human Rights Offices/Officers of the AFP and PNP, and the regional officer of the CHR.
- 2) The DOLE together with the labor sector shall coordinate with the AFP/PNP units to ensure workers' rights are respected at all times.
- 3) The AFP/PNP shall ensure an open and continuing dialogue with the workers/unions/federations. However, in case the union is affiliated with a labor federation, the AFP/PNP will initiate the dialogue at the federation level for purposes of exchange of information and consultation.

## **XII. DOLE CLEARANCE PRIOR TO TAKING COGNIZANCE OF COMPLAINTS FOR PRELIMINARY INVESTIGATION**

Recognizing the primary jurisdiction of DOLE over labor disputes and pursuant to the DOJ Circular No. 15, Series of 1982, and Circular No. 9, Series of 1986, fiscals and other government prosecutors shall first secure clearance from the DOLE and/or Office of the President "before taking cognizance of complaints for preliminary investigation and the filing in court of the corresponding information of cases arising out of or related to a labor dispute," including cases with "allegations of violence, coercion, physical injuries, assault upon a person in authority and other similar acts of intimidation obstructing the free ingress to and egress from a factory or place of operation of the machines of such factory, or the employer's premises."

### **XIII. SERVICE OF LAWFUL ORDERS/WRITS ISSUED BY DOLE, COURTS OR DULY CONSTITUTED AUTHORITIES**

- 1) The service of lawful Order/Writ issued by the DOLE is the primary concern of the DOLE's duly authorized representatives and/or sheriff. Before service of the Order/Writ, the DOLE representative and/or sheriff shall:
  - a) Coordinate and dialogue with the leaders of the workers and the representatives of management and explain the nature and content of the Order/Writ to be enforced including possible consequences of any defiance thereto; and
  - b) Coordinate with PNP when violence is imminent.
- 2) Where PNP/AFP assistance is sought in the service of the Order/Writ issued by courts or other duly constituted authorities in relation to or arising out of labor disputes, it shall be the duty of the AFP/PNP to observe this Guidelines and to coordinate with the DOLE and/or its appropriate agencies on the service of the Order/Writ.

### **XIV. PERIODIC REVIEW AND ADJUSTMENTS**

- 1) The National TIPC, created under Executive Order No. 403, Series of 1990, as amended by Executive Order No. 49, Series of 1998, shall serve as the Oversight Committee in the implementation of this Guidelines. It shall initiate review and adjustments of this Guidelines with the DND, DILG, DOJ, AFP, and PNP.
- 2) The National TIPC shall continue to engage the DND, AFP, PNP, NAPOLCOM and DILG in social dialogue to address concerns relating to the exercise of trade union rights and civil liberties.

## **XV. FUNDING**

Funding for the activities of DOLE, National TIPC and RTIPCs relative to the implementation and observance of this Guidelines shall be sourced from the regular budget of DOLE.

## **XVI. SUPERSESION**

All rules and regulations inconsistent with the provisions of this Guidelines are hereby superseded.

## **XVII. SEPARABILITY CLAUSE**

If any provision or portion of this Guidelines are declared void or unconstitutional, the remaining portions or provisions hereof shall continue to be valid and effective.

## **XVIII. EFFECTIVITY**

This Guidelines shall take effect immediately upon publication in a newspaper of general circulation.

7 May 2012, Manila, Philippines.

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