Enhancing Ethical Behavior in Business and Government

By the Civil Service Commission of Philippines

The inculcation of ethical behavior in business and government has proven to be an elusive and never ending quest.

In the world of business, the profit motive is singularly the biggest stumbling block to ethical behavior and practices. Business is business and the drive for profit very often undermines ethical behavior, regardless of the political or economic environment. Unethical business behavior in the extreme sense abound in centrally controlled economies, then and now. In fact, in such settings wherein there is supposed to be no profit motive, unethical business behavior is or should be a doubly grievous offense but the issue of right from wrong often gets lost in the ideological debates.

Anyway, in the non-centralized economies of the late ‘80s and early ‘90s, there was a management bestseller, which caused a minor furor in the corporate world. Entitled “The Power of Ethical Management,” it had the catchy slogan “You don’t have to cheat to win.” It was written in reaction to the excesses of the materialistic ‘80s when greed and rapacity were openly flaunted in the world of business and finance.

However in an all too familiar scenario, other management bestsellers soon came along and ethical management as a method and style became just another addition to the ever growing list of management bestsellers that came and went.

Ethical behavior, it would seem, cannot be sustained as a primordial concern of the business world. Therefore, government has to come in and set norms and standards and enforce them through the regulatory powers of its various agencies.

What constitutes unethical behavior in the business world?

Clearly, that which is prohibited by law is unethical. But in the conduct of business and trade, there is often a large gray area wherein the distinctions between right and wrong are not so clear. What may be perceived to be unethical by a firm’s competitors may well be justified as simply aggressive marketing methods. Thus, self-regulation or self-policing comes into play, either through professional or occupational groupings or by industry or trade sectors, such as chambers of commerce.

While ethical behavior in the corporate/business world usually implies striking and maintaining a fine balance between aggressive business policies on the one hand and proper corporate behavior on the other, ethical behavior is supposed to be the all-encompassing norm in government.

In the public sector, ethical behavior proceeds from the dictum that public office is a public trust.

The Philippine Experience

The Philippine experience in enhancing ethical behavior provides an interesting case study in view of the country’s unique background.
Consider these facts: it is a developing country in the Southeast Asian region with a fully functioning democracy which, since year 1900, has been modeled after the American model. This model is notable for its system of checks and balances at all levels. Depending on one’s perspective, the entire country has either been enriched or corrupted by a long and varied colonial past: 400 years under Spain; 50 years under America; 5 years under Japan.

It is the only country in Asia where the Roman Catholic Church is a dominant influence in all aspects of national life. Last but not the least, it is a country still bearing with the trauma and the scars of authoritarian rule, which ended in 1986 through the bloodless People Power Revolution.

As Asia’s first republic, the Philippines’ organization, structures and processes as a sovereign state were developed far earlier than most of its neighbors. Certainly, its laws and institutions of government have a relatively high degree of development. But to state the obvious, the presence of such laws and institutions does not necessarily guarantee a highly ethical environment

**Ethical Behavior: A Constitutional Mandate**

The Philippine Constitution has specific provisions on ethical behavior by those in government.

**Article XI. ACCOUNTABILITY OF PUBLIC OFFICERS**

**SECTION 1.** Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.

**Article II. DECLARATION OF STATE POLICIES**

**SECTION 27.** The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.

**SECTION 28.** Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full disclosure of all transactions involving public interest.

**Article III. BILL OF RIGHTS**

**SECTION 7.** The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

**Traditional Approaches in Enhancing Ethical Behavior**

Traditional approaches usually involve a listing of do’s and don’ts; the setting of norms and standards of behavior; and the establishment of institutions and mechanisms to monitor and compel compliance and impose punitive measures when such norms and standards are transgressed.

- A system of checks and balances
The Philippines is a Constitutional democracy wherein there are three main branches of government, which are independent of each other: the Executive Branch; the Legislative Branch; and the Judiciary.

This autonomy of the three branches makes for a system of checks and balances, and fosters restraint against excesses or dominance by any single branch.

Predictably, there is a profusion of fiscalizing mechanisms directed at the Executive Branch, which is responsible for the day to day operations of the civil governance and public services delivery machinery.

Within the Executive Branch itself, there is the Presidential Commission against Graft and Corruption whose mandate covers senior government executives and managers. This Commission has investigative powers and recommends to the President punitive action against erring senior officials ranging from reprimand, fines to suspension and outright dismissal.

It is worthwhile to mention that apart from the enactment of laws and the power of the purse, i.e., the determination and allocation of the yearly national budget, the legislature has investigative powers exercised through its 45 standing committees whose concerns range from peace and order to women and children to trade and industry. A very common scenario involves the legislative questioning and investigating the actuation of offices in the Executive Branch.

The Judiciary is responsible for the interpretation of the laws enacted by the Legislative and implemented by the Executive.

The matters of the powers of the Judiciary are set forth in the Administrative Code, pertinent portions of which read:

Section 16. Judicial Power.—The judicial power shall be vested in one (1) Supreme Court, and in such lower courts as may be established by law. Such lower courts include the Court of Appeals, Sandiganbayan, Court of Tax Appeals, Regional Trial Courts, Shari’a District Courts, Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts and Shari’a Circuit Courts and they shall continue to exercise their respective jurisdictions until otherwise provided by law.

The Sandiganbayan is a special court, which has exclusive jurisdiction over graft and corruption cases against government officials and employees. The decisions of the Sandiganbayan are appealable only to Supreme Court.

- Oversight Institutions

Within the government itself, ethical behavior is directly enforced by independent constitutional commissions performing specialized oversight functions. In effect, these oversight agencies watch the mainstream agencies of government in defined areas of concern.

In addition there is the Ombudsman, a special prosecutor solely for cases involving unethical behavior by government officials and employees. The Ombudsman was created by the law specifically dedicated to the issue of ethical behavior by those in government. This law will be discussed at length shortly. Apart from its prosecution function, the Ombudsman is mandated to perform developmental functions in the prevention of graft and corruption—mainly through a
continuing education and public information program.

**In Personnel Administration**

The Civil Service Commission (CSC) is the central personnel agency of government. It sets the various personnel administrative standards, which the greater bureaucracy must comply with. Detailed standards are set by the CSC at the entry level, at the job performance level and on matters of personnel discipline. The CSC performs inspection and audit functions to check on compliance with the prescribed procedures and standards. It has quasi-judicial powers and functions relative to personnel administration matters in government. As such it functions as an administrative court.

**In Government Finances**

Like the CSC, the Commission on Audit is an independent Constitutional body. It is the financial watchdog of government and has investigative and inquisitorial powers and it also has the power to punish for contempt.

**In Human Rights**

The Philippines also has a Commission on Human Rights, also an independent entity, which functions as a watchdog of the rights and privileges inherent to individuals in a democracy. However, it only has investigative and recommendatory powers—prosecution must be done through the courts. Since its inception, the CHR has been mainly involved with cases involving alleged human rights violations by the military and the police.

- **Laws and Codes of Conduct**

  Laws and codes of conduct set forth the parameters of ethical behavior for government officials and employees. Simply put, these laws and codes specify what can and cannot be done in the course of official duties.

  The Philippines actually has a profusion of such laws. As government became larger and more complex, more and more problems involving ethical behavior by public officers arose. The reflex action to these problems has been enactment of more laws with more specific and more detailed provisions and with harsher penalties.

  **Republic Act 3019—** *The Anti-Graft and Corrupt Practices Act*

  This is the first and most comprehensive Philippine law intended specifically against officials’ malfeasance.

  The law is wholly deterrent and punitive in its intent:

  “It is the policy of the Philippine Government, in line with the principle that a public office is a public trust, to repress certain acts of public officer and private persons like which constitute graft or corrupt practices which may lead thereto.”

  (Section 1, RA 3019)

  This law specifies eleven (11) instances as corrupt practices in addition to acts or omissions already penalized by existing law.

  **Presidential Decree 1445—**

  *The Government Auditing Code of the Philippines*

  The entire Chapter 5 of the Auditing Code is devoted to the matter of
Accountability and Responsibility for Government Funds and Property covering such areas as who has primary and secondary responsibility for public funds; the records and reports to be maintained and the schedule and mode of rendering such reports.

Executive Order No. 292—

The Revised Administrative Code of 1987

This law (issued when then President Aquino still had lawmaking powers) is currently the basic legislation by which the entire range of administrative and financial concerns of the bureaucracy operates. It sets forth the major structural, functional and procedural principles and rules of the civil governance machinery.

Chapter 9 of Book I is entitled “General Principles Governing Public Officers,” which, among others reiterates the principle of a public office being a public trust.

Chapter 10 (Official Oath) and Chapter 11 (Official Reports) specify the general accountability requirements for public officials and employees.

Republic Act 6713—Code of Conduct and Ethical Standards

The full title of this law is indicative of its intentions and scope: An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees to uphold the time-honored Principle of Public Office Being a Public Trust, Granting Incentives and Rewards for Exemplary Service, Enumerating Prohibited Acts and Transactions and Providing Penalties for Violations Thereof and for other Purposes.

RA 6713 is dedicated specifically to the issue of ethical behavior in all aspects.

The Code was enacted in mid-1988 in response to widespread public outcry over alleged financial improprieties of high government officials. It specifies the norms of behavior of public officials and employees are expected to live by in the course of their official duties as well as their personal lives. Apart from establishing the general standards, the Code puts into law specific guidelines for government officials and employees.

Even more explicit are the Code’s prohibitions particularly those concerning financial matters, conflict of interest and divestment.

The conflict of interest issue is addressed in the Code in the following manner:

SECTION 1 of Rule IX. An official or employee shall avoid conflict of interest at all times.

Conflict of interest occurs when the business interests of a public official or employee affect or are opposed to his faithful performance of his official duties.

Ethics: A Function of Environment

From the foregoing, it would seem that all areas have been covered. But when this law was passed in 1989, there were many skepticisms. It was pointed out that ethical behavior cannot be legislated.

The truth of the matter is that ethics is a function neither of laws nor Codes but of an individual’s environment. For example, almost every country has stiff laws against demanding bribes on the part of government employees. In addition, employees are regularly sent to value orientation and ethics workshops, and posters abound in government offices telling all and sundry to behave properly, not to accept bribes, etc.
But if a lowly releasing clerk in a licensing office knows that the big boss demands and receives a monthly under-the-table quota from all his inspectors in the field, then that lowly clerk will most likely feel that there is nothing wrong with demanding a little something for every license he releases.

Multiply this scenario several hundred times over in the public service and it becomes obvious that not a thousand seminars on moral-ethical behavior nor a thousand Codes of Conduct will make much of difference for ordinary government employees.

On the other hand, take a scrupulously clean boss who, on his own accord, lives by all that is expected of government officials and employees. Furthermore, as a boss he does not countenance any misbehavior by his subordinates and swiftly metes out sanctions without fear or favor.

Given such a scenario, a lowly clerk who may not have had the benefit of a seminar on moral-ethical values will most likely refuse an offered bribe. He will do so not only because of what is right and what is wrong has been clearly defined and he is reminded to do what is right. He will do the right thing because people around him generally do what is right while those who don’t inevitably receive the appropriate sanction.

**Ethical Guideposts**

The value of laws such as the Code of Ethics is that they serve as guideposts to moral-ethical behavior so that government employees will have a clear and distinct idea of which is the correct path. But the critical issue of whether they will choose to take the correct path is a matter of individual’s choice and such a choice will be shaped by the individual’s environment, more than anything else. In this connection, the limitations of moral-ethical training programs are quite evident. Such programs are now required of all entrants to the Philippine public service and even older employees are also required to undergo the same.

Such training program can only hope to explain the guideposts to moral-ethical behavior. By themselves, the training programs cannot be expected to automatically inculcate moral-ethical behavior to participants at the end of the training program.

In this light the answer clearly does not lie in having stricter laws or Codes of Conduct with even stiffer punishments. Nor does the answer lie in the establishment of still another watchdog, or oversight institution nor in the conduct of still another training program in ethical behavior.

Thus, since the restoration of democracy in the Philippines in 1986, institutions and mechanisms outside of government have taken an active interest in enhancing ethical behavior in the public service as well as the corporate world. Regarding the latter, the issues have been mainly on ecological and environmental concerns (pollution, illegal logging); labor exploitation; protection of women and minors; unfair or irregular business practices such as insider trading and price manipulation.

**Non-traditional Approaches in Enhancing Ethical Behavior**
The use of publicity/media

The influence of mass media in Philippine governmental affairs—from high level policy making to individual complaints against personnel—is particularly pronounced.

Newspapers, particularly through opinion writers and television, are very influential in Manila and urban centers throughout the country. There are 12 daily broadsheets (with an average of three to five columnists daily per newspaper) along with 15 tabloids and several weekly magazines. Radio, too, is quite influential in the capital specifically the early morning newscasts and commentaries which today are zealously monitored by high government officials along with factory workers, housewives and students. But radio is most potent in the provinces where it often remains the only form of mass communication.

It is interesting to note that the mass communication boom in the Philippines today can be attributed to the growing popularity of the so called “exposé” type of newspaper columns and radio-TV programs which are dedicated to exposing ills and lapses mostly of government and government personalities. The offenses range from sexual peccadilloes by government officials to large-scale graft and corruption.

The names of the print column and the radio-TV programs are revealing. “Hoy, Gising!” (literally Hey, Wake up!) is a one-hour newscast devoted exclusively to exposing on television, government neglect and apathy on such citizens complaints as pot-holed roads, illegal gambling, corrupt policemen, etc. Teams of investigative TV reporters roam the city and even the provinces interviewing aggrieved citizens on their complaints and filming, graphic proof of official neglect or corruption. The crew gets the side of concerned officials and usually elicits from them a commitment to rectify whatever are the lapses in public service.

All six television stations in the capital have at least one such show a week in their program schedule. In addition there are the talk shows hosted by prominent journalists wherein the guests are often government officials who are grilled on the air about the controversial issues of the day, both by the program hosts and by the public through phoned-in questions.

In the provinces, the same scenario involving local officials is replicated through radio and the local press.

Non-Government Organizations (NGOs) as Watchdogs and Critical Partners

The past five years have seen the sudden proliferation of non-governmental organizations (NGOs) advocating such causes as human rights, environmental protection, gender equality, overseas workers welfare. There are some 6,000 NGOs in the country today. These organizations are proving to be an active and often vociferous lot and together with media, exert considerable influence on government—in shaping policy as well as the actual conduct of operations. Often they assume a watchdog role over the government offices involved in their area of concern. Increasingly, more and more government offices are involving NGOs in policy consultations and in the monitoring aspect. The first large scale effort was made sometime in 1988 with the establishment of the National Coalition for Transparency, a federation of various private organizations monitoring several
government agencies perceived to be chronically graft prone.

*The Catholic Church: A Moral Force*

As mentioned earlier, the Catholic Church exerts great influence on practically all facets of Philippine national life: 85 percent of the population belongs to this faith. Before, involvement of the Catholic Church in Philippine public affairs was limited mainly to anti-obscenity campaigns. Today however, it is a vigilant and to some, even meddlesome institution. The Church has raised its voice (mainly through the Pastoral Letters read in religious services nationwide on weekends) against graft and corruption, immorality, government policy on debt servicing, human rights, among others. In fact, the Church’s was one of the stronger voices in the public clamor that led to the passage of the Code of Conduct and Ethical Standards for those working in government.

*The Transacting Public Themselves*

The transacting public itself functions as an accountability mechanism. Admittedly, an individual taxpayer (or even groups of taxpayers) without an advocate such as media is not all that effective as an accountability factor in public service.

An individual taxpayer seeking redress for bureaucratic inaptitude, for example, would most likely be shuffled from one functionary to another. If finally an explanation is offered, it might take the form of either an outright denial or a defensive, evasive excuse, usually anchored on procedural grounds. Rarely does a complainant get an audience with the officials of a given office. Few taxpayers will persist in the face of the *cordon sanitaire* usually found among high government officials.

The aggrieved citizen can, of course always go to any of the government offices with oversight functions and lodge the required formal charges or complaints. The prospect of going through the proceedings that are required investigations, hearings, countercharges, threats of reprisal are usually enough to deter most complainants from pursuing the case further.

Thus, the transacting public has to work in tandem with a more influential advocate—media, NGOs, politicians—if it is to be effective and obtain results.

*Mamamayan Muna—The Citizen Now*

Giving ordinary citizens an advocate is what the *Mamamayan Muna, Hindi Mamaya Na!* Program of the Civil Service Commission is all about. Loosely translated, the term means “the citizen now, not later.” The program employs an easy-access client feedback mechanism: the citizen is given all the encouragement and the means to report bad as well as good service and behavior by government employees. The program employs telephone hotlines, radio programs and a nationwide network of action officers complemented by non-governmental organizations.

The client-feedback mechanism is the basis for subsequent carrot-and-stick actions: fast rewards for those who do good and quick punishment for those who don’t. This is a rather simplistic description which does not reveal the fact that the *Mamamayan Muna* mechanism is necessary because regular channels for reward and sanction are too tedious and convoluted, particularly the latter. Imposing sanctions in
the bureaucracy can be a forbidding exercise for both the transacting public and well-meaning superiors alike. *Mamamayan Muna* offers a viable alternative to bestow quick rewards and impose quick punishment for minor misdemeanors without going through tedious administrative and legal proceedings.

At the moment, the successes of the *Mamamayan Muna* campaign are lodged in first, the rewards for good services, and second, in the settlements facilitated between erring bureaucrats and complaining taxpayer. What usually happens is that the immediate problem of the taxpayer on hand is solved and the erring bureaucrat is properly chastened by the mere fact that he was the object of a documented complaint.

We cannot claim to have caused drastic changes in the mindset of civil servants, much less reinvigorated the bureaucracy through *Mamamayan Muna*, which at best is a transitory measure. There is the danger that *Mamamayan Muna* might perpetuate the notion that erring bureaucrats can still get away through amicable settlements and by facilitating the resolution of the problem of the complainant. There too is the danger that *Mamamayan Muna* might just go the way of other reform measures: so much promise at the start, only to wither away later.

Thus, beyond *Mamamayan Muna*, the CSC is coming down hard on offenses by government personnel with particular focus on violations involving deficiencies in service delivery. Beyond discourtesy, it is tightening tip on such violations as inefficiency, neglect of official duties, dishonesty and the like. Finally, it is speeding up the administrative justice system without jeopardizing due process.

**Government Unions as a Fiscalizing Presence**

The latest institutional mechanism to enhance ethical behavior in the public sector are government employee unions. Unionism in government emerged after the restoration of democracy in 1986 largely as a self-defense mechanism of apprehensive employees whose jobs were threatened in the face of the massive purge and government reorganization undertaken by the new administration. Subsequently, the 1987 Philippine Constitution guaranteed government employees the right to self-organization and collective negotiations and fleshed out further by a presidential order.

The grant of these rights to government employees was anchored on basic democratic principles. However, it has also been repeatedly emphasized that government employee unions and associations perform a fiscalizing role, i.e., as watchdogs against official malefiance.

The growth of public sector unionism in the Philippines has been very rapid. From 38 registered unions and employee organizations in 1987, they now number 291 and still growing. While this is but a fraction of the entire government workforce, government unions have proven to be an increasingly vigilant and assertive lot. Expectedly, most of these concerns are on matters of self-interest such as wages and benefits but they are also asserting their roles as fiscalizing agents.

On case involved a government agency with a very big budget for construction and infrastructure. The employee union in the agency unmasked and documented several instances of large-scale financial anomalies involving very high officials of
the agency. With the help of the media and non-governmental organizations, the employee unions pursued the case even in the face of official harassment and threats of bodily harm. Eventually, the top man of the agency and several of his deputies were relieved from their positions and some now facing criminal charges. The government union, on the other hand, was recognized with a special award given by the President.

With the vigilance and assertiveness of government employee unions, an increasing number of government managers have recognized and accepted the notion that government employee unions are accountability centers, which they have to take into consideration. The role of government employee unions as graft-watchers has been formalized under a formal agreement with the Ombudsman.

Challenges Remain

Sustained but non-adversarial and non-obtrusive monitoring by organized groups extraneous to the government is slowly proving its worth in enhancing ethical behavior in the Philippine public and even in the corporate sector—for example, oil companies are now acutely conscious of public reactions to increases in their product prices.

Still, a much greater challenge lies ahead. At the moment, adherence to ethical behavior is being imposed through a system focused mainly on the punitive aspect—catching those who do not conform to the set norms arid standards. Thus, the short term, view is that government people and businessmen will behave because there are defined do’s and don’ts and that there are people and organizations and watching them and that there will be consequences for not following the do’s and don’ts. While hardly an ideal situation, this is a phase which all countries, particularly developing countries must have to pass. The ideal scenario would be for proper ethical behavior to be so internalized such that the punitive mechanisms and institutions earlier discussed will be rendered almost superfluous.