

# Successes and Defeats in Defense of Military and Uniformed Personnel (MUP) Pension System

## Part II: The Future Challenge

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### A. Introduction

1. It being Part II, the paper is a sequel to that published in PMAAAI's The Cavalier Magazine March-April 2019 issue which covered the efforts of stakeholders to resume MUP Pension Indexing to prevailing base pay rate. This paper enumerates recent developments in the implementation of the Pension Indexation and discusses the challenges if ever a bill will be filed to make the MUP Pension System contributory. It is also intended to keep the stakeholders informed on issues and information regarding the MUP Pension System.

2. The paper posits that it is unconstitutional to enact a new pension system that will make the military pension contributory because AFP retirees are veterans whose benefits are mandated by the 1987 Constitution to be funded by the government.

### B. Recent Developments in the Implementation of MUP Pension Indexing to Prevailing Rate

1. Pursuant to Joint Resolution No.1 S 2018, the MUP Pension Indexing to the prevailing rate commenced in June 2019 and is already in place. It is only a matter of time that all arrears from 1 January 2018 onward will be paid by the government. It may be recalled that on 2 May 2019, the Chairman and CEO and the President of PMAAAI jointly wrote the President through the Secretary of National Defense which among others, recommending that the President order the OIC, DBM to generate funds to implement Pension Indexing in 2019 even in the absence of approved budget for the purpose. Contrary to customary position of DBM, Senator Lacson advised that the President is authorized under the Constitution to order the payment of Pension Indexing by utilizing unused funds. The President ordered the payment after the DND favorably endorsed the letter in two separate letters, one for

funding of Pension Indexing for the AFP and another on amendment of Executive Order No. 201. Hence, by 15 June, the AFP retirees had already in their personal bank accounts the adjusted monthly pension.

2. The Chairman and CEO, PMAAAI in his letter to the President through the Secretary of National Defense dated 2 July 2019 recommended the amendment of Executive Order No 201 S 2016 to recompense the MUP, active or retired, for wrongful loss of benefits due them in 2016 and 2017. The letter was actually a follow through to the previous three letters of the Confederation of Uniformed Services Associations (CONUSA) to the President from 2016 to 2017 as mentioned in the PMAAAI letter on 2 May.

3. Likewise, in another letter to the President through SND dated 2 July 2019, the Chairman and CEO, PMAAAI recommended that the President endorse to Congress and certify as urgent bill a Draft Bill entitled "*An Act Rationalizing the Retirement and Disability Benefits of Military and Uniformed Personnel*" in order to rectify the disparity of retirement and disability benefits for the MUP as follow:

3.1. Authorize pension indexing to prevailing rate of base pay in the active service for Philippine Coast Guard (PCG) personnel who retired after effectivity of RA 9993 in 2010;

3.2. Increase maximum pension for the military from 85 to 90 percent in order to be at par with that allowed for the uniformed personnel of the DILG and the PCG;

3.3. Allow the military and coast guard retirees to receive in advance and in lump sum their retirement pay for the first five years to be at par with the entitlement of DILG uniformed personnel;

3.4. Allow the retirement grade for CSAFP and Chief PNP at SG 31 (one rank higher); and,

3.5. Adopt the provision of Section 35 of RA 8551 (PNP Reform and Reorganization Act of 1998) in order to provide for physical disability benefits that will apply to all MUP.

4. The series of letters from the PMAAAI signifies its recent engagement in advocacy to promote the general welfare and common interest of the MUP. This is laudable and a positive development that will be much appreciated by the MUP, active and retired. It may also serve as an example for the other associations to engage in MUP-related advocacy through the chain of command in order to promote their morale and welfare, discipline, professionalism, and ethical standards in the service, to name a few. This advocacy was an offshoot of an agreement between Cavalier Rufo De Veyra, Chairman and CEO, PMAAAI and Cavalier Edgardo Aglipay, Chairman BIRCI for the latter to support the PMAAAI's Strategic Planning and Investment Committee. Cavalier Aglipay then organized and headed a team named "Voltes 5." The members are Cavaliers Ariston Delos Reyes, Alejandro Flores, Vidal Querol, and George Piano. Among the issues being addressed by the team is the MUP Pension Indexing. The PMAAAI letter on 2 May was the outcome of the Voltes 5 brainstorming with Cav De Veyra during the breakfast meeting at the residence of Cav Aglipay on 1 May (Labor Day).

5. Considering the above developments, it may be considered that sufficient measures have, thus far, been undertaken by the government and initiatives made by MUP stakeholders to ensure the proper implementation of existing laws on MUP retirement and disability benefits.

### C. The Future Challenge: Any Bill to Make the MUP Pension System Contributory Will be a Problematic Situation

1. Making the MUP pension contributory has long been advocated by the Department of Budget and Management and other government financial technocrats. The present system is non-contributory, meaning that members do not contribute to their pension while in the active service. Hence, their pension is funded through annual appropriation. The proponents cited *"huge budgetary implications"* as the main reason to require the MUP while in the active service to contribute to their retirement through monthly payroll deduction, as in the case of civilian government employees who are members of the Government Service Insurance System (GSIS). The government pays its counterpart contribution to GSIS.

2. The advocacy was reinforced by a projection in 2012 that by 2017, the military pension would exceed the pay of those in the active service which actually turned out to be a wrong projection. Yet, they persistently consider changing the system from a purely financial point of view and without due consideration to its adverse effects on the morale and future recruitment of military and uniformed personnel.

3. The total cost of MUP pension for 2019 (indexing included) is about P116 Billion or about three percent of the national budget benefiting more than 220,000 pensioners. Taken as is, the amount may be large but not really, when compared with P95.3 Billion worth of vetoed line items in the General Appropriations Act which the President considered unconstitutional or not included in his priority programs.

**D. Approach to Save MUP Pension System from Being Made Contributory**

1. All pension systems that are non-contributory should be the subject of reform and not be limited to that for the MUP only. The non-contributory pension systems such as those of the judiciary and constitutional commissions should likewise be reviewed. Otherwise, the reform will be discriminatory to the MUP.

2. An alternative pension system may be recommended for the retention of all non-contributory pension systems but will be indexed only to cost of living adjustments or annual inflation rate as may be determined by cognizant government agency. This is practiced by the United States Government that applies to the salary of its federal employees and pension adjustment for retired military personnel.

3. However, should the planned reform of MUP pension system to make it contributory persist and be filed in Congress, then the military pension

system should be excluded and should remain non-contributory and indexed to prevailing rate of base pay because it has constitutional and legal bases.

3.1. Section 7, Article XVI (General Provisions) of the 1987 Constitution provides that "the state shall provide immediate and adequate care, benefits, and other forms of assistance to war veterans and veterans of military campaigns, their surviving spouses and orphans. Funds shall be provided therefore. . . ." One of such benefits for the veterans which the government has already been funding since 1936 is the non-contributory military pension. Thus, an enactment that will make the system contributory and ultimately stop funding for it will be unconstitutional.

3.2 Commonwealth Act No. 1 (S 1935) effectively established the military pension system as non-contributory and for which it initially allocated P300 Million for 1936 and such amount or amounts annually appropriated thereafter.

3.2.1. Section 97 provides budgetary items for pay and allowances of personnel, including the specific provision for *"amount or amounts annually appropriated for the pension and retirement fund for the army"*.

3.2.2. Section 98. Appropriation of Funds for 1936 provided P300 Million for the pension and retirement fund (including P200 Million for the retirement fund of the Constabulary). It is apparent that such fund would serve as the *"seed money"* that should have been built up and augmented through the years through annual appropriation.

3.3. The other non-contributory veterans' monthly pensions include old age pension upon reaching age 65 (RA 6948 S 1990) and total administrative disability pension upon reaching age 70 (RA 7696 S 1994).

3.4. Pursuant to RA 6948 S 1990 as amended by RA 9396 S 2007, all retired military personnel are considered veterans.

3.5. The non-contributory AFP pension system is similar to and patterned after that of the United States Armed Forces except that the latter is indexed to cost of living adjustments (COLA). In the case of the AFP, Presidential Decree No.1638 S 1979 granted pension indexing to the prevailing base pay rate. Years later, the military pension system was adopted for the other uniformed services which all turned out to be even more generous as maximum pension for PNP, BFP, BJMP (RA 6975 S 1990), and PCG (RA 9993 S 2010) is 90 percent. The maximum pension for the judiciary and constitutional commissions is 100 percent of pay and allowances (RA 9946 S 2010).

4. The framers of the 1987

Constitution included the provision on benefits of veterans to be funded by the government and was subsequently ratified by the citizenry. It may be considered a gift of the Filipino people to soldiers who serve the country and retire with honor and devotion to duty, and when called for, even at the risk of life and limb. The soldiers perform multifarious tasks as enumerated below.

4.1. They are in the forefront of national defense and internal security operations.

4.1.1. During World War II, though ill equipped and lacking in preparedness, they fought gallantly against the Japanese invaders in Bataan and Corregidor; suffered the death march then continued fighting the war through guerrilla warfare. At present, though still with limited capabilities, they occupy islands in the Kalayaan Island group to show the flag and our determination to defend our territories.

4.1.2. They have been engaged in anti-dissident campaigns against the Hukbalahap, Kamlon uprising, CPP- NPA, MNLF, MILF, ASG, BIFF, and others.

4.2. They undertake United Nations peacekeeping missions. They fought in Korea in the 50's when a total of 7,420 military personnel were deployed with 114 of them killed in action and 229 wounded. They had also been deployed in Vietnam, East Timor, Liberia, Haiti, and Golan Heights.

4.3. They perform non-military tasks such as humanitarian assistance and disaster response; building of roads, bridges, and school buildings in far flung areas; election duties; and even law enforcement when called for.

In order to perform these multifarious tasks, they are on duty on 24/7 basis without overtime pay, and usually, in places of assignment away from their families. They do not have security of tenure. They are not only covered by the revised penal code but also by the more stringent articles of war under the military justice system in order to instill military discipline.

**E. Conclusion**

1. Making the MUP pension contributory and allowing non MUP pension systems to remain non-contributory will be discriminatory to the MUP.

2. An enactment to make the military pension system contributory is unconstitutional.

3. Maintaining all non-contributory pension systems (MUP and non MUP) as they are but indexed to annual inflation rate will be a more acceptable policy option.

