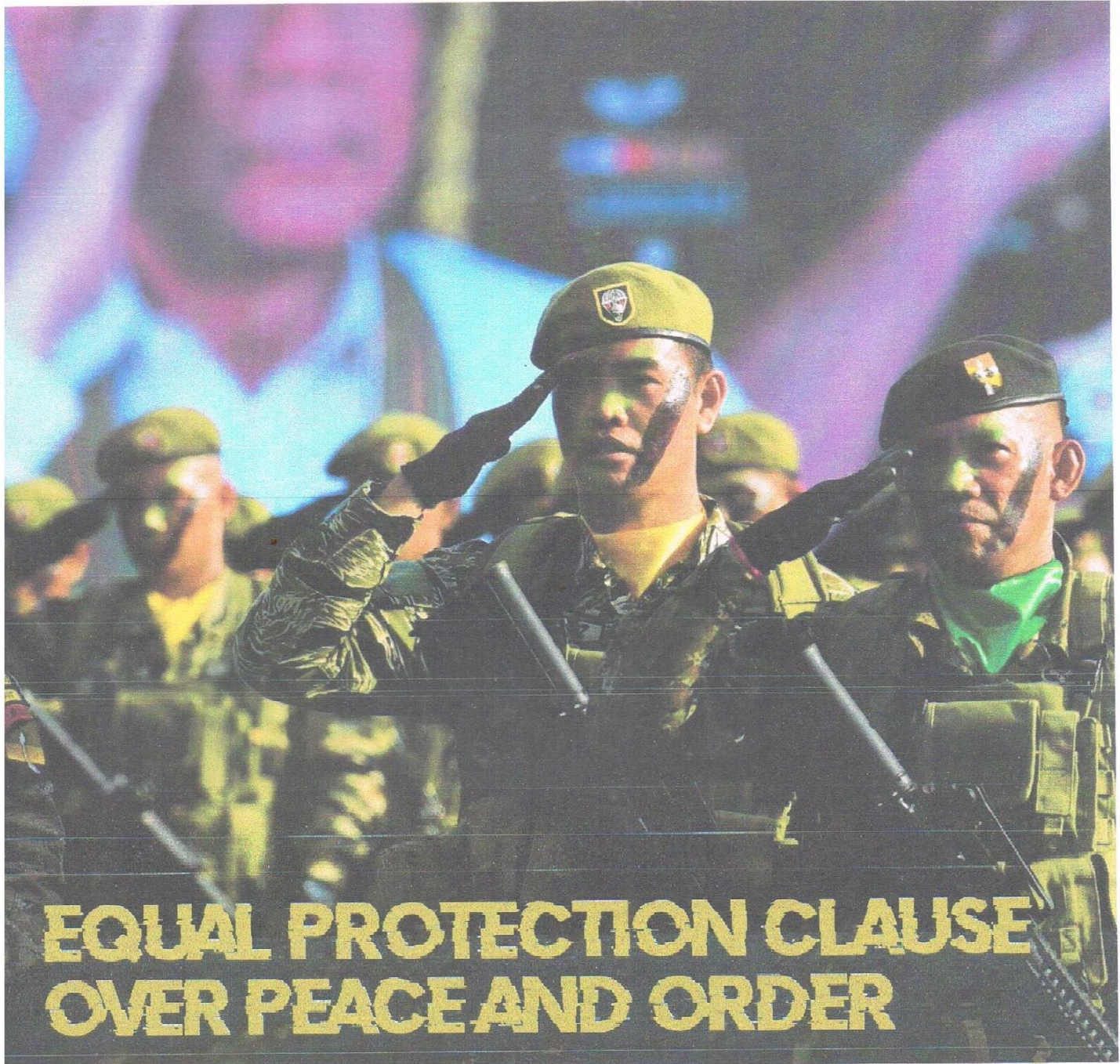




EQUAL PROTECTION CLAUSE OVER PEACE AND ORDER

by Jon Froilan D. Rodriguez

Before the Senate approved the resolution on Military and Uniform Personnel (MUP) base pay hike, ACT Partylist Rep. Antonio Tinio warned that "House Joint Resolution (HJR) 18 will put a wide salary gap among government personnel who have similar qualifications."

"Civilian employees will be left far behind by their armed counterparts although they have similar, even higher qualifications, or have spent equal, even more years in government service," Tinio said.

One of the state principles in the 1987 Constitution is that maintenance of peace and order, protection of life,

liberty, and property, and promotion of general welfare are essential for the enjoyment by all the people of the blessings of democracy.

Last January 1, 2018, President Rodrigo Roa Duterte (PRRD) signed a joint resolution of Congress authorizing a pay increase for the military, the police, and other uniformed personnel in the Government.

Under the bill, a candidate soldier earns P18,587 monthly, while thousands of rank-and-file employees with Salary Grades (SG) 1-10 will receive P10,510 to P18,718. The modified base pay stipulated in the resolution applies to all military personnel under the Department of National Defense (DND) and all uniformed personnel under the Department of the Interior and Local

Government (DILG), the Philippine Coast Guard (PCG), and the National Mapping and Resource Information Authority (NAMRIA). It is undoubtedly very commendable for the Government to recognize the significant and comparable differences in the conditions and hazards of uniform military and police personnel at work.

However, the fact remains that an estimated 1.2 million civilian employees will be on the losing side because of the wide salary gap between the uniformed personnel and other government personnel with similar qualifications.

In response to the latest salary hike, PRRD issued a directive to increase the teachers' salaries. "Today, a Teacher 1 receives P21,000, while a

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policeman receives P40,000. Should not the teacher, should not the health worker, should not the entry-level lawyer in the Department of Justice be the same with everybody?" Drilon said during an interview after PRRD signed the joint resolution.

Increasing the base pay or salary of our MUP does not automatically discourage them from going rogue. It makes these MUPs more professional, although they are already very professional. The Government's message to the public seems unclear; instead, this salary distortion will cause demoralization among civilian personnel.

Now then, let us ask ourselves: does this qualify as a violation of the equal protection clause?

Concept of Equal Protection Clause

One of the basic principles on which this Government was founded is equality of rights embodied in Section 1, Article III of the 1987 Constitution. The equal protection of the laws is embraced in the concept of due process, as every unfair discrimination offends the requirements of justice and fair play.

However, it has been embodied in a separate clause to provide a more specific guarantee against any form of undue favoritism or hostility from the Government. Arbitrariness, in general, may be challenged based on the due process clause. However, if the particular act assailed partakes of an unwarranted partiality or prejudice, the sharper weapon to cut it down is the equal protection clause.

According to a long line of decisions, equal protection requires that all persons or things similarly situated be treated alike, regarding rights conferred and responsibilities imposed. It requires public bodies and institutions to treat situated individuals similarly. The equal protection clause secures every person within a state's jurisdiction against intentional and arbitrary discrimination, whether occasioned by the statute's express terms or improper execution through the state's duly constituted authorities. In other words, the concept of equal justice under the law requires the state to govern impartially. It may not draw distinctions between individuals solely on differences irrelevant to a legitimate governmental objective.

The equal protection clause is aimed at all official state actions, not

just the legislature. Its inhibitions cover all the Government departments, including the political and executive departments, and extend to all actions of a state denying equal protection of the laws, through whatever agency or guise is taken.

In issues involving the equal protection clause, the test developed by jurisprudence is that of reasonableness, which has four requisites: (1) the classification rests on substantial distinctions; (2) it is germane to the purposes of the law; (3) it is not limited to existing conditions only; and (4) it applies equally to all members of the same class.

It cannot be denied that the uniformed military and police personnel are considered a distinct classification of the profession. These personnel play a significant role in securing peace and order, observe a different level of responsibility and accountability, and face substantial risks in the performance of their duties, constantly putting their lives on the line.

How much does the Government need to compensate to keep the law and secure the nation's prosperity? It is undoubtedly an affront against those who have been working in the Government for quite a considerable time only to be demoralized by the lack of appreciation made by the same Government that claims that the MUP should be valued more to pave the path for a country free of corruption.

The irresponsible bill that was recently signed does not apply to all who serve the public, which is why it is not just.

PRRD, DBM, and the measure's sponsors have yet to explain to the hundreds of thousands of rank-and-file government employees the rationale behind the fast-tracking of this unprecedented pay hike for MUP on the one hand and the refusal to grant civilian personnel salary increases on the other.

The grant of benefits to the military and uniformed personnel because of the adoption of the Senate Joint Resolution may undermine the compensation standardization and equal protection of the law clauses in the Constitution, cause disturbance of wage structure and dampen the spirit of civilian government personnel.

Regardless of the means of securing peace and order in our society, increasing the salary of our MUP is undoubtedly not the answer to preventing corruption and poverty.

by Atty. Leo S. Giron

I came across the concept of the Clinical Legal Education Program (CLEP) from the textbook "Legal Counseling with Notes on Practicum and Practice Court" by Recaredo P. Barte. I have used this book in teaching the subjects Legal Counseling (Law 2) and Practice Court 1 (Law 4) since the year 2012 at the Saint Paul School of Business and Law (now Saint Paul School of Professional Studies).

I experimented on CLEP in 2012 as an experiential education (learning by doing) as reflected in the course description of my OBE Syllabus from 2012 to 2019, to wit:

"This course deals with the clinical legal education program or legal internship of a graduating law student, who shall be required to observe actual court proceedings and work as an intern in a law office for a required number of hours. He is required to enter in his notebook or logbook all observations made during his study, including attachments of court calendars and pictures of events and places attended, if any. Photographs and documentation of the court practice shall be compiled, book-bound as a coffee-table book, and submitted to the professor before the end of the semester."

The education portfolio likewise plotted the general objectives, training strategies, rubric for assessment, person-hours required for court observations and law office internship, and grading system.

With the advent of A.M. No. 19-03-24-SC (Revised Law Student Practice Rule) amending Rule 138-A, we revised the course description of Practice Court, to wit:

"This course complies with the 'Law Student Practice' under Rule 138-A of the Rules of Court, as amended by A.M. No. 19-03-24-SC dated 25 June 2019, which takes effect at the start of Academic Year 2020-2021. It deals with the limited practice of law by students certified herein, which shall cover their appearances, drafting and submission of pleadings and documents before trial and appellate courts and quasi-judicial and administrative bodies, assistance in mediation, legal counseling and advice, and such other activities that may be covered by the Clinical Legal Education Program of the law school. The students shall likewise engage in an externship with the Integrated Bar of the Philippines."