

SHAME HONOR: THE OXYMORON OF THE FLAG AND HERALDIC CODE OF THE PHILIPPINES

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What could have been an honor for “Concert King” of the Philippines, Martin Nievera to be privileged to sing the Philippine National Anthem before a multitude of viewers around the world during the Pacquiao-Hatton fight in Los Angeles, California, last May 8, 2009 became a shame when the National Historical Institute (NHI) of the Philippines thumbed down said performance. NHI and some conservative sectors of Philippine society did not like it and considered it an unacceptable interpretation of the anthem in violation of the law.

“Lupang Hinirang”, the Philippine National Anthem is not open to free interpretation, according to the National Historical Institute Chair, Ambeth Ocampo. Nievera, the personal choice of Manny Pacquiao, received negative reactions from Filipinos when he sang the anthem in a slow tempo in the beginning, went to a march in the middle, and ended with a sustained (birit) high note in the end.

Section 37, Chapter 2 of Republic Act 8491 or the Flag and Heraldic Code of the Philippines provides that the National Anthem should be played or sung in accordance with the musical arrangement and composition of its composer, Julian Felipe. Violation of the said law will subject the offender to a fine of at least Php5,000.00 to Php20,000.00 and imprisonment of not more than a year.

The original version of the anthem “Marcha Filipina Magdalo,” lasted for only 55 seconds and was composed by Felipe in an instrumental march commissioned by General Emilio Aguinaldo in 1898 during the proclamation of Philippine Independence from Spain, on June 12, 1898.

Nievera’s version, which lasted for 90 seconds drew flak and generated opposing views. Dr. Amur Mayor, Filipino teacher of Letran was adamant in saying “Lupang Hinirang is not subject to any interpretation as the law said so.” She stressed further that the reason why the boxing host said, “Let’s welcome Martin Nievera to sing the Philippine National Anthem and not let’s welcome Martin Nievera of his own rendition of the Philippine National Anthem, is for Martin not do his own version of the song,” she quipped.

Moreover, Father Juan Ponce, Letran's Vice-Rector for Academic Affairs and Dean of the College of Liberal Arts and Sciences, said that he personally did not like Nievera's version of the Philippine National Anthem. Also, a survey in my Philippine History class turned out only 10 of the 42 students or 23 percent said they like it. Conversely, Baby Orosa who wrote in her STAR column *Sundry Strokes* said "Martin did a great job," even giving him a resounding "Bravo!"

Furthermore, there were various comments published online too. One summed up his reaction to Nievera's rendition to be "artistic, flawless and not boring." Another one says "it could have been better if it was sung traditionally." Interestingly, another said that he "liked the ending because it is as if you proudly declared your being a Filipino."

The controversy actually started not just with Mr. Nievera's rendition. Ever since the live and broadcasted singing of the Lupang Hinirang in boxing matches of the phenomenal success of the world's greatest pound for pound boxer king, Manny "Pacman" Pacquiao, many of the local artists and singers in the Philippines had been rebuked by NHI in their interpretations of the anthem. These artists include Sarah Geronimo, Lani Misalucha, Bituin Escalante and Geneva Cruz, to name a few.

This hullabaloo had become a contemporary social issue that it needed a commensurate addressing by the Philippine Congress, the NHI, and even us - the Filipinos!

In context, there were two opposing views in this case. One was of the legalist and the other was of the artist. The Latin legal maxim "*dura lex sed lex*" which literally meant "the law may be harsh, but it is the law" was basically what the former view must have adhered to. NHI upheld the legalist view through section 2 of RA 8491 that stated:

"Reverence and respect shall at all times be accorded the flag, the anthem, and other national symbols which embody the national ideals and traditions and which express the principles of sovereignty and national solidarity. The heraldic items and devices shall seek to manifest the national virtues and to inculcate in the minds and hearts of our people a just pride in their native land, fitting respect and affection for the national flag and anthem,

and the proper use of the national motto, coat-of-arms and other heraldic items and devices." (emphasis supplied)

Moreover, in order to ensure the respect at all times of the anthem and other national symbols of the country, the NHI had been mandated by the law to be the leading repository authorized to espouse RA 8491.

On the contrary, the advocates of the artist view argued that artists and singers couldn't be censured to have violated RA 8491 by invoking artistic license and freedom of expression as defense. Clashing the legal view head to head, it looked like it had impressed a hovering penumbra of legal combat. However, a court battle will hardly resolve the issue. To utilize the magistrates in the Supreme Court will not be our best option to resolve the issue. This had not been a legal conflict. This one redounded into the wisdom of the Filipino nation.

Ocampo in an article, "*Looking Back*", wrote that if RA 8491 were taken literally, "Lupang Hinirang" may only be sung "with a solo piano or a brass band." Hence, if we were to strictly apply the law, all current performances of the anthems were in violation of the law. Undeniably however, the anthem as played or sung enhanced with more musical instruments sounds better compared to the original version.

The Philippine Anthem recorded commercially in CDs and the ones played in the opening and ending of cinemas and theatres were much longer than the original version due to a prolonged introduction, extended ending or due to the embedded audio-visual presentation (AVP). Technically, there was a slight improvement here from the original version but did not necessarily imply a travesty of the former to the latter.

Hence, a complete 40-man set of orchestra that will play the Lupang Hinirang will without doubt sound better than a solo piano or a brass band. If this did not necessarily hone the virtue of nationalism, nonetheless, did not also mean to have promoted otherwise.

Modern technology and modernization itself influenced many things around us. Felipe would not probably have thought the possibility that today an AVP can be inserted to boost the anthem while being played. He would probably have not thought that the Philippines would

produce great singers and artists who can sing the national song with a slight artistic difference but not necessarily disrespecting his composition and arrangement. In one way or the other, if taken positively, these slight variations and enhancements could even help in the law's objective in promoting nationalism and patriotism.

In contrast, NHI is in a thrust to preserve tradition. There are things that must remain as is due to some historical and nationalistic reasons. This of course, we had already understood and have already accepted that everything does not necessarily have to change in modern age.

In line with this, we understood that there is a perpetual need for deep reverence of these heraldic national symbols to forge and promote nationalism and patriotism. The Philippine flag for example is to be profoundly respected as paragraph D4, section 34 of the same law states: "*the Philippine flag will be prohibited from being displayed in discotheques, cockpits, night and day clubs, casinos, gambling joints and places of vice or where frivolity prevails.*" More so, section 34, paragraph E continued by stating "*it is prohibited to even wear the flag in whole or in part as a costume or uniform.*"

The Filipinos have a polarised view on the interpretation of the national anthem. The proponents of the artist view took a liberal side in considering different interpretations to be a welcome change. The supporters of the legalist view, on the other hand, strongly stuck to what was traditional and considered it better than the inventive improvisations.

In perspective, if we were to strictly sing the Philippine National Anthem the way Julian Felipe had arranged and composed and as the law mandated, does it mean that if one was out of tune in singing it, one had also violated the law? Technically, being out of tune was definitely veering away from Felipe's arrangement and composition.

There were many singers in the past who sang the anthem in a manner worse than Nievera, as they not only changed the arrangement but some were also out of tune and worse even forgot the lyrics. We had singers in the past like Geneva Cruz and J. Bautista who were out of tune when they sang the anthem and worse, in the case of singer Christian Bautista, forgot the lyrics. Strictly speaking, these actuations are punishable by law.

Representative Elpidio Barzaga Jr. of Cavite who planned to indict Mr. Nievera, said, "Good faith is not an excuse." If good faith is

not even a defense, then this will subject a lot of our local singers and artists to fine, face imprisonment or both for singing the anthem differently to that of Felipe's composition and arrangement, for being out of tune which theoretically distorted the arrangement of the original version, or even for forgetting the lyrics which in principle changed the wordings of the song. If good faith is not an exception, the law if strictly applied will not probably even accept freedom of expression and artistic license as defense.

Unlike Ocampo, most of us witnessed the live telecast of the battle of the "East VS West". In certain restaurants in Makati in that Sunday afternoon, many were glued at the TV waiting for the much-awaited Pacquiao-Hatton bout. The singing of the National Anthem was actually one of the highlights that many wanted to witness.

After Martin Nievera sang the National Anthem, there were some who were impressed saying that he sang it beautifully. A few even commented that it gave them goosebumps. It never dawned on them that it could be considered objectionable to NHI and other sectors of society.

From the artist's point of view, the slight change to the anthem's arrangement was not that appalling. It is fast gaining ground, though this remained to be not the majority opinion. Some congressmen though shared the same opinion with some Filipinos who begin to accept this non-obtrusive and not exactly a defiling interpretation of the national anthem.

Likewise, sustaining this view, proponents argued that the inclusions of art and style and self-expression were justified and considered to be in the same objective in advancing the ideals of the country. Artistry must be understood not with the aim of corrupting the principles of nationalism. If it did, it was not art to begin with.

Some of us may not personally like Mr. Nievera's interpretation. But, can we say that his interpretation destroyed the embodiment of the ideals of our traditions or perhaps, to the extreme, disparaged the principles of sovereignty and national solidarity? Did we become less a united people henceforth? Did the aftermath destroy nationalism or did we become too critical because of the provisions of RA 4891? "The law maybe harsh, but it is the law."

Quite the opposite of the dictum *dura lex sed lex* is the Latin legal adage: *Ratio legis est anima legis*. In English, it means, "the reason of the law is its soul." Hence, when the soul of the law no

longer exists, the law is no longer applicable. Once the law loses its reason, it will no longer be considered law but sheer words of mechanics.

As a result, Representative Teodoro Casino of Bayan Muna filed House Resolution 1137 to call for the review of RA 8491 to determine whether restrictions on the manner of singing “Lupang Hinirang” should be relaxed or strengthened. In addition, Representative Risa Hontiveros-Baraquel of Akbayan said the law should be amended to allow artists to deliver new “but still reverential” renditions of Lupang Hinirang.

Also, Baraquel said artistry and creativity in the treatment of the national anthem should be allowed as long as the anthem is not made irreverent. Baraquel does not think that Martin Nievera’s rendition of the national anthem made millions of Filipinos feel less nationalistic or patriotic. For her, it was very artistic and was not in any way disrespectful of our national dignity.

The rationale of the Flag and the Heraldic Code of the Philippines is to protect the potential abuse and the insolence of the national symbols of our country. It was not in the interest and intention of Filipino artists and singers to mock the country when they sing the Philippine National Anthem in the best way possible, and if they were sent to jail for what they had done in good faith, the law would be put to shame.

It is about time for Congress to review and amend RA 8491. The law if not amended will perilously enslave its own people by focusing too much on technicalities. The essence of the law that is to protect and serve the Filipino people will be diminished by some of the outmoded provisions of RA 8491.

There is a saying that if we ask fifty people to sing the national anthem, we can expect to hear fifty different interpretations. For the welfare of the nation and its citizens, the Flag and Heraldic Code of the Philippines should be reviewed and amended to suit innovations that are deemed to be artistic and creative. A law that persecutes talent in modern times is a farce. The Congress needs to review and amend this right away before another Filipino singer or artist is mortified.

In spite of the revision, the lyrics of the anthem should still be regarded with reverence and performed in a manner as close as

possible to that of Julian Felipe's original composition and arrangement. The lyrics should not be changed at all, but certain adjustments in the arrangement may be permitted. The NHI can definitely set more updated guidelines in this regard.

Additionally, we should be optimistic that at the end of the day, enhancing our National Anthem could actually be enhancing our respect for it and even augment our spirit of nationalism. In fact, some of us were really impressed, proud and moved every time we hear a great singer sing our anthem well.

Lupang Hinirang has been entrenched in our hearts since our childhood days. We paid respect the moment we hear the song played. It has been that familiar that we can exactly tell the difference whether it has been sung in the right way or not.

Finally, we know better today that somebody's singing, no matter how artful or inspiring, may not necessarily be equated to somebody's love for country. We can tell well when one is out of tune; still this is neither to be equated with one's degree of nationalism nor to be construed as despoiling our own values and legacies. Hence, it is outright wrong that those who are given the honor to sing it could end up in shame, or worse, in jail.

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