

Auriel Del Carmen

Life and Law in the Premodern World

Final Paper

### The Origins of the Code of Kalantiaw

The Philippines has one of the most unique histories from what we learned in high school. In the West, all the students will ever learn in world history about the Philippines is the sudden colonization of the country by foreigners such as Spain, the United States, and Japan. Often neglected in students' history books in the West and the Philippines itself is the country's ancient history which is barely covered even in college or university. One such particular writing was the Code of Kalantiaw, which was supposedly the legal code written in 1433 by one of its native leaders, Datu Kalantiaw.<sup>1</sup> The Code was similar to or at least influenced by other famous legal codes such as the ancient Code of Hammurabi or the Law Code of Manu. Throughout the first half of the twentieth century, the Kalantiaw Code was often presented in history or law textbooks as a historical document. It has been proven to be a work of fiction in recent years. One big question remains unanswered to this day. Where did the author get inspiration to write this supposed Code of Kalantiaw if it was a work of fiction?

Before the Spanish conquest, the Philippines had its own laws and judicial system. The government was patriarchal, with each barangay governed by a datu with executive, legislative, and judicial powers. Disputes were resolved by the datu with the assistance of barangay elders, and trials were held in public with litigants presenting their cases and witnesses. During the Spanish regime, the judicial system consisted of superior courts, including the Audiencia

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<sup>1</sup> *Kalantiaw, the Hoax*. [http://paulmorrow.ca/kalant\\_e.htm](http://paulmorrow.ca/kalant_e.htm). Accessed 16 Apr. 2024.

Territorial de Manila, and local courts such as the Courts of First Instance and Justice of the Peace courts.<sup>2</sup> The American regime introduced a new judicial system modeled after the United States, with a Supreme Court, Courts of First Instance, and Justice of the Peace. The Commonwealth period in which the Philippines was in transitional administration towards full independence from the United States saw the independence of the judiciary and the transfer of rule-making power to the Supreme Court. During the Japanese occupation, the People's Court was created to try crimes against national security. After the liberation of the Philippines, the Supreme Court maintained its prestige and impartiality.<sup>3</sup>

The Code of Kalantiaw itself supposedly written in 1433, presents similarities to the ancient Code of Hammurabi and other ancient law codes written thousands of years before Kalantiaw did. The first few codes state that: You shall not kill, nor steal, nor do harm to the aged, lest you incur the danger of death.<sup>4</sup> You shall obey your headman, and meet all your debts punctually. Obey and observe; let no one have women that are very young nor more than he can support; nor be given to excessive lust. Observe and obey; let no one disturb the quiet of the graves. Slavery for a doam is decreed for those who steal the women of the headmen, keep ill-tempered dogs that bite the headmen, burn the fields of another, sing while traveling by night, kill the Manual, tear the documents belonging to the headmen, or mock the dead.<sup>5</sup> All those who interfere with their superiors, abuse themselves through their lust, destroy their anitos (religious icons), or steal anything from the chiefs or agorangs shall be drowned or made slaves for life.<sup>6</sup>

Those who break anitos, destroy daggers, break drinking jars, wound or kill the young of the

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<sup>2</sup> Pangalangan, Raul C. "I. Overview of the Philippine Judicial System." 1.

<sup>3</sup> Pangalangan, Raul C. "I. Overview of the Philippine Judicial System." 3-5.

<sup>4</sup> Justiniano, "Jose E. Marco's Kalantiaw Code: Implications for Philippine Historiography and Filipinos' Historical Consciousness." 27.

<sup>5</sup> Justiniano, "Jose E. Marco's Kalantiaw Code: Implications for Philippine Historiography and Filipinos' Historical Consciousness." 27.

<sup>6</sup> Justiniano, "Jose E. Marco's Kalantiaw Code: Implications for Philippine Historiography and Filipinos' Historical Consciousness." 27.

Manaul, or the white monkey, shall be beaten, their fingers shall be cut off, and they shall be killed if they profane sites where anitos are kept.<sup>7</sup>

The Code of Kalantiaw seems to be a set of rules aimed at maintaining social order and moral conduct within the community. It echoes principles found in other ancient legal codes, emphasizing respect for authority, prohibitions against harming others, and consequences for disobedience. It has its unique codes compared to other legal codes such as the killing of the White Monkey or the ill-tempered dogs that could harm someone. While it reflects the values and structure of its time, some of its punishments, like drowning or mutilation, seem harsh by modern standards. Overall, it offers insight into the societal norms and concerns of the era in which it was supposedly written by Datu Kalantiaw.

Now one of the big questions is where this code was found. Keep in mind during the first half of the 20th century, the Kalantiaw Code was considered a historical document. According to this lecture written in 1914 by Norberto Romualdez to law school, a chief named Kalantiaw signed his name as "3rd Chief" in Panay in 1433, indicating that there were "1st" and "20th" chiefs and that they were related in some way.<sup>8</sup> This information is taken from a manuscript book authored in 1838 by Father Josi Maria Pavon y Aranguru and titled *LAS ANTIGUAS LE-YENDAS DE LA ISLA DE NEGROS*. Dr. James A. Robertson, the Librarian of the Philippine Library, has already arranged for the publishing of the full book. He was able to share this information. The Philippine Library was able to acquire this book thanks to the efforts of Mr. Jose E. Marco of Pontevedra, Occidental Negros.<sup>9</sup>

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<sup>7</sup> Justiniano, Maureen. "Jose E. Marco's Kalantiaw Code: Implications for Philippine Historiography and Filipinos' Historical Consciousness." 27.

<sup>8</sup> Romualdez, "A Rough Survey of the Prehistoric Legislation of the Philippines." 153.

<sup>9</sup> Romualdez, Norberto. "A Rough Survey of the Prehistoric Legislation of the Philippines." 149.

After reading this lecture, his writings about the Code of Kalantiaw made it seem like it was an actual document. He explained the Penal Laws that include the Kalantiaw mentioning the existing circumstance of self-defense in the case of an injury inflicted upon an old man when the accused acted in defense of his life. According to his lecture, a priest who wrote a manuscript about the code in the 1830s was found by Jose Marco. Romualdez did not even question where Marco found the manuscript and made it seem like it was legit back then.

The Code of Kalantiaw was allegedly found by Jose E. Marco, an antiquarian and stamp collector from Negros. He presented several manuscripts to the Philippine National Library, including the Pavon manuscript, which contained a reference to one of the oldest penal codes in pre-colonial Philippines. This research examines Jose E. Marco's alleged historical works, specifically the Kalantiaw Code of 1433, and its implications on Philippine society. It seeks to understand why this issue did not evoke a stronger reaction from Filipinos, and what it means for pre-colonial history in the national consciousness.<sup>10</sup>

William Henry Scott, an American lay missionary, exposed Jose E. Marco's fraudulent pre-colonial Philippine documents, including the Code of Kalantiaw. A retired American lay missionary challenged the validity of several Philippine ancient documents, including the Pavon manuscript, while pursuing his doctoral degree in Philippine history at the University of Santo Tomas (Manila, Philippines) in 1965. Scott concluded that Marco's collection of ancient documents were fraudulent works provided by Jose E. Marco. Despite this, many Filipinos still believed in the existence of Datu Kalantiaw and his brutal code of laws, prompting Scott to examine how Filipinos reacted to the debunking.<sup>11</sup>

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<sup>10</sup> Justiniano, "Jose E. Marco's Kalantiaw Code: Implications for Philippine Historiography and Filipinos' Historical Consciousness." 1.

<sup>11</sup> Justiniano, "Jose E. Marco's Kalantiaw Code: Implications for Philippine Historiography and Filipinos' Historical Consciousness." 20.

José Marco explained the origin of the manuscripts to the Philippine Studies Program at the University of Chicago in 1954, saying that an old cook had stolen them during the looting and sold them to Marco. There are even more pieces of evidence that Jose Marco's works have been fictionalized. According to this article, *Kalantiaw The Hoax*, José Marco claimed to have discovered several documents in the Philippines, but his translations are full of anachronisms. He dedicated *Leyendes* to the King of Spain in 1839, but Spain had no king at that time. The examples of ancient Visayan writing in *Leyendes* looked very similar to others that José Marco allegedly discovered, but they contained the same mistakes. They were spelled phonetically in the Spanish style, using ancient Filipino letters as substitutes for Spanish letters. Another piece of evidence that this was heavily fictionalized was that Friar José Mara Pavón acknowledged many sources of information for his books, including untraceable informants and unknown documents. His own life story was equally dubious. Pavón claimed to have arrived in the Philippines in 1810, but there are no records to support this. He also claimed to have completed *Las Antiguas Leyendes* in Himamaylan in 1839, but this was 12 years later.<sup>12</sup>

If this supposed Code of Kalantiaw was fictionalized, then how did it make its way in the first place to the form of being a legitimate piece of information to the judicial system of the Philippines? The Americans should have known better earlier than this, especially during their colonization of the islands. The colonial government set up laws that were directly influenced by their mainland counterpart yet this Kalantiaw Code made its way to being taught as a legitimate piece of information for the first half of the 20th century. Not only Kalantiaw was made legit, but the President established the Order of Kalantiaw in 1971 to recognize any Filipino citizen who has provided exceptional and meritorious service to the Republic in the administration of justice

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<sup>12</sup> "Kalantiaw, the Hoax." [http://paulmorrow.ca/kalant\\_e.htm](http://paulmorrow.ca/kalant_e.htm).

and the field of law.<sup>13</sup> A Philippine Navy ship was also named after Kalantiaw in 1967 although it was run aground by a typhoon in 1981.<sup>14</sup>

Apparently, according to this article by Gloria Cano. Marco's works were donated to the American historian, James Alexander Robertson, the same librarian of the Philippine National Library. Robertson's prestige was enhanced by attending conferences, where he presented his knowledge about the Spanish colonial system as supporting the 'black legend' of Spanish rule. However, one of his documents, the pre-Hispanic criminal code of the Philippine Islands, was proven to be fraudulent. This is referring to the Code of Kalantiaw. Despite the use of a fraudulent document, Robertson's reputation remained intact, and modern historiography exonerated him as having acted in good faith. In other words, Robertson deliberately distorted translations of the Spanish colonial historical record in the Philippines.<sup>15</sup>

Do not forget the fact that Datu Kalantiaw, the supposed historical person who wrote the code was also a made-up person by Jose E. Marco. Kalantiaw's name was first documented in July 1913 in an article titled "Civilización prehispana" printed in *Renacimiento Filipino*. The article detailed 16 laws purportedly established by King Kalantiaw in 1433, along with a fort erected at Gagalangin, Negros, reportedly destroyed by an earthquake in the year A.D. 435 (not 1435). This article was authored by Manuel Artigas, who, just a year earlier, had contributed footnotes to José Marco's inadequately composed essay, "Reseña historica de la Isla de Negros."

<sup>16</sup>He was called Songcuya, Datu Bendahara Kalantiaw, the title and name given by Sol H.

Gwekoh in 1966, and Lakan Tiaw by Gregorio Zaide in 1970.<sup>17</sup>

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<sup>13</sup> Marcos, Executive Order No. 294, Pub. L. No. 294 (1971).

<sup>14</sup> "PS/PF Datu Kalantiaw Class."

<sup>15</sup> Cano, "Evidence for the Deliberate Distortion of the Spanish Philippine Colonial Historical Record in 'The Philippine Islands 1493-1898.'"

<sup>16</sup> "Kalantiaw, the Hoax." [http://paulmorrow.ca/kalant\\_e.htm](http://paulmorrow.ca/kalant_e.htm).

<sup>17</sup> Scott, "Pre-Hispanic source materials for the Study of Philippine history."

Many Filipino scholars chose not to address the findings of W.H. Scott's dissertation on the study of Philippine history. This may be because they did not want to confront their inadequacy in conducting research or because they did not want to acknowledge the questionable source materials that shaped the study of ancient Philippine history. Only two reviews of Scott's book were published, one of which praised his work for providing more factual information in history textbooks. Some Filipino scholars continued to include the Code of Kalantiaw in their textbooks, even though its authenticity had been questioned. This may have been due to the influence of former President Ferdinand Marcos, who promoted the code to legitimize his regime. During the Marcos regime, it was dangerous for scholars to oppose the accepted version of history openly, but even after Marcos was replaced, some scholars still neglected to make the necessary changes in their works. This could be largely attributed to a resistance against foreign scholars attempting to control historical discourse in the Philippines. Filipino scholars may have seen Scott's findings as an attempt to undermine their understanding and interpretation of their history.<sup>18</sup>

During the later half of the 20th century, questions were being raised about the legitimacy of the Code of Kalantiaw. Somehow this code still made its way to this unclassified document, the *Origins of the 1986 Constitution of the Philippines* written by Mark Stevens of the US Department of State. The author states that the early Filipinos lived under a regime of laws, both written and unwritten. These laws covered practically the entire spectrum of modern law, including family relations, property, contracts, adoption, divorce, murder, rape, perjury, etc.<sup>19</sup>

Going back to the big question. Where did the author get inspiration to write this supposedly Code of Kalantiaw from if it was a work of fiction? It is hard to find the answer as no

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<sup>18</sup> Justinano, "Jose E. Marco's Kalantiaw Code: Implications for Philippine Historiography and Filipinos' Historical Consciousness." 22-24.

<sup>19</sup> Stevens, "*Origins of the 1986 Philippine Constitution*".

sources have come up close to this question. Filipino reactions to the debunking of the Code of Kalantiaw depend on a variety of factors, including the way history is taught. Passive learning can lead to a disregard for historical truth when personal interests or national agendas are involved. Many sources would have referred to this question had they found Marco's true intention for writing this kind of fiction. According to William Henry Scott, the contributions of Jose E. Marco to Philippine historiography examined in this study viz, the Povedano 1572 map, and the Povedano 1572, 1577, 1578, and 1579, Morquecho 1830, and Pavon 1838-1839 manuscripts appear to be deliberate fabrications with no historic validity. There is therefore no present evidence that any Filipino ruler by the name of Kalantiaw ever existed or that the Kalantiaw penal code is any older than 1914.<sup>20</sup> In other words, the origin of the Kalantiaw Code came from a manuscript that is proven to be also fiction. In 2002, Filipino historian Ambeth R. Ocampo was appointed the new NHI Chairman. He conducted thorough research on the validity of the Kalantiaw Code and passed NHI Resolution No. 12 in 2004 which Declared that the Code of Kalantiao has no valid historical basis.<sup>21</sup> This resolution was approved by the Office of the President of the Philippines.

In conclusion, the Code of Kalantiaw, formerly regarded as an important element of pre-colonial Philippine history, has been shown as a forgery. The code, originally attributed to Datu Kalantiaw in 1433, impacted judicial and scholarly circles for decades before being proven false by scholars such as William Henry Scott and Ambeth R. Ocampo. Jose E. Marco, a writer and forger, staged the deception by writing a false tale into the Philippines' historical fabric. This revelation emphasizes the complexities of building national identity, as well as the importance of

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<sup>20</sup> Scott, "Pre-Hispanic source materials for the Study of Philippine history.", 134

<sup>21</sup> Justiano, "Jose E. Marco's Kalantiaw Code: Implications for Philippine Historiography and Filipinos' Historical Consciousness." p. 25



careful historical analysis in distinguishing fact from fiction. The debunking of the Code of Kalantiaw serves as a reminder of the continual search for truth in historical narratives.

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