
Development Aggression in Panay: A Study on the Impact of Dam Projects to the Tumandok Indigenous People in the Philippines

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In 2017, the Philippines approved a total of 26 projects worth approximately USD 20 billion. While this translates positively to the public following promises of economic growth, job creation, and improved infrastructure, indigenous communities are threatened by these changes. This research looks at the Tumandok ethnic community located at Panay Island in the Philippines and how indigenous people (IP) interacted with the changes brought by the Jalaur River Multi-Purpose Dam (JRMP) and the Panay River Basin Development Project (PRBIDP). These two mega-dam projects are predicted to provide year-long irrigation, road improvement, among others. This research links the State-led projects within the ancestral domain of the Tumandok community to the global phenomenon of development aggression, where land dispossession and loss of traditional livelihoods occur in the name of development. Through key informant interviews and the tenets of grounded theory, this research uncovered issues connected to the militarization of ancestral land, questionable consent acquisition procedures, and loss of livelihood within Tumandok's ancestral domain. This backdrop sits in striking contrast to the expected behavior of the State that is a signatory of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and has enacted the Indigenous People Rights Act (IPRA) of 1997. Finally, this research argues that the IP's resistance to development projects displays their stake in society and should be considered partners of development.

Introduction

The United Nations Development Programme (UNDP) in the Philippines

has recorded 110 ethnolinguistic groups, representing approximately 10-15 percent of the national population.¹ These groups are homogenous communities identified through self-ascription or ascription of others based on a distinct set of cultures and languages. In addition, a distinctive feature among indigenous communities is its strong affiliation to traditionally owned land that they have held since time immemorial.² Natives, locals, or aboriginals are synonymous words to describe these traditional communities. However, the term 'Indigenous People' or IP provides a generic description of the original inhabitants, and subsequently, this term has been used in various international platforms. More importantly, IPs link their ownership of land, commonly called ancestral land, to cultural survival.³

These ancestral lands are rich in natural resources and have become religious dwelling places for indigenous communities. In Human Geography, concepts such as culture and lifestyle flourish with the interaction with one's land. In addition, this spatial relation has influenced human behavior and created a sense of identity to distinguish one group from the other.

This long-standing importance of land and the need to uphold indigenous communities' cultural dignity is supported internationally and nationally. A leading document is the UN Declaration on the Rights of Indigenous People (UNDRIP), where it articulates IPs' rights, including their rights to utilize resources within their traditionally owned land. The Convention 169 on Indigenous and Tribal Peoples adopted by the International Labour Organization (ILO) further stressed the state's obligation to guarantee ownership of traditionally owned lands to the IP. In Asia, the ILO has also placed the Philippines, along with Nepal and Cambodia, as trailblazers for adopting a contemporary understanding of the concept of IP and recognizing the IP's

1 United Nations Development Programme, *Fast Facts: Indigenous Peoples in the Philippines*, report for the United Nations, June 24, 2013, http://www.ph.undp.org/content/philippines/en/home/library/democratic_governance/FastFacts-IPs.html accessed July 31, 2018.

2 *The Indigenous Peoples Right Act of 1997*, Congress of the Philippines, Tenth Congress (1997).

3 R.K. Tartlet, "The Cordillera People's Alliance: Mining and Indigenous Rights in the Luzon Highlands," *Cultural Survival*, March 2001, [https://www.culturalsurvival.org/publications/cultural-survival-quarterly/cordillera-peoples-alliance-mining-and-indigenous-rights#:~:text=The%20Cordillera%20People's%20Alliance%20\(CPA,of%20the%20anti%2Dmining%20movement](https://www.culturalsurvival.org/publications/cultural-survival-quarterly/cordillera-peoples-alliance-mining-and-indigenous-rights#:~:text=The%20Cordillera%20People's%20Alliance%20(CPA,of%20the%20anti%2Dmining%20movement).

attachment to their territory.⁴ In terms of national legislations, the Philippines enacted the Indigenous Peoples Right Act of 1997 (IPRA) that comprehensively recognizes IP rights and subsequently creates the National Commission on Indigenous People (NCIP) with the mandate of promoting the well-being of IPs.⁵

With this level of recognition of IP rights, opportunities for IPs to develop themselves within and outside their ancestral land appeared optimistic. However, IPs around the world face ongoing threats in preserving their ancestral land and means of livelihood. One of the triggers that heighten IPs' vulnerability is economic development programs that damage ancestral land and exhaust natural resources.⁶ These ancestral lands are generally rich in natural resources that have attracted domestic and international economic activities. Industrialization and development projects within these lands create jobs and contribute heavily to increasing national revenue. This is perceived as progress by the general public. However, the other end of the spectrum believes otherwise as these development activities harm the IPs. Alleged dispossession of property and coercion is widely reported, such as land-grabbing cases from Afro-Colombian communities in Colombia⁷ and cultural assimilation issues of the Cree Nations in Canada.⁸

This research focuses on the Tumandok IP community residing mainly in the provinces of Panay, an island located in the central Philippines. Tumandok people that stay in the hinterlands are generally farmers of crops, including rice,

4 Stefania Errico, "The Rights of Indigenous Peoples in Asia. Human Rights-based Overview of National Legal and Policy Frameworks against the Backdrop of Country Strategies for Development and Poverty Reduction," *International Labour Organization*, March 1, 2017, https://www.ilo.org/gender/Informationresources/Publications/WCMS_545484/lang--en/index.htm

5 "Vision, Mission, and Mandate," National Commission on Indigenous Peoples, accessed July 31, 2018, <http://www.ncip.1gov.ph/index.php/agency-profile/vision-mission-and-mandate>

6 Chandra Roy, Victoria Tauli-Corpus, and Amanda Romero-Medina, eds., *Beyond the Silencing of the Guns*, (Philippines: Tebtebba Foundation, 2004), VI.

7 Jérémie Gilbert, "Land Grabbing, Investments, & Indigenous People's Rights to Land and Natural Resources: Case Studies and Legal Analysis," report for the *International Work Group for Indigenous Affairs*, 2017, 30.

8 Selena Randhawa, "'Our Society Is Broken': What Can Stop Canada's First Nations Suicide Epidemic?" *The Guardian*, August 30, 2017, accessed July 31, 2018, <https://www.theguardian.com/inequality/2017/aug/30/our-society-is-broken-what-can-stop-canadas-first-nations-suicide-epidemic>.

coffee, coconut, banana, and ginger. IPs also grow root crops and fruit trees, including jackfruit. These crops are generally for the personal consumption of each household since selling these crops has only yielded marginal profit. Male members are often expected to tend to their farm lots, but these roles are also open to female IP members. IPs that reside in lowland areas interact more with non-indigenous communities and are often motorcycle drivers or household helpers. The livelihood and the way of life of these communities are threatened with the construction of two mega-dam projects on the island.

This research looks at the Tumandok ethnic community located at Panay Island in the Philippines and how indigenous people (IP) interacted with the changes brought by the Jalaur River Multi-Purpose Dam (JRMP) and the Panay River Basin Development Project (PRBIDP). This research asks, “How does IPRA protect the rights of the Tumandok concerning these development projects?” and “How does the Tumandok community in Panay perceive development?” The research attempts to underscore the imbalanced relationship between the marginalized IP groups and the State. Despite the promised benefit in terms of irrigation, jobs creation, and sources of hydroelectric power, this research zooms in at the human cost and land dispossession issues, which translates to acts of development aggression. Development aggression is an individual or collective rights violation that often manifests in the exploitation of ancestral lands and expropriation of said territories for state-sponsored development projects.⁹ In addition, this research is carried out using the principles of grounded theory. According to sociologists Blumer, Dey, and Jeon, grounded theory posits that meaning is negotiated and understood through interactions with others through social processes. These processes have structures, implied or explicit codes of conduct that circumscribe how interactions unfold and shape the meaning that comes from them. With this in consideration, this work adopted a qualitative research approach to capture the interaction of IPs with the changes in their surroundings. Grounded theory further calls on the researcher to draw up themes that emerged during data processing to establish their claims of development aggression.

The research project sought the assistance of JRPM in acquiring consent among Tumandok members, identifying research participants, and assisting in any research-related needs, including translation. The interview

9 *Victims of Development Aggression. Indigenous Peoples in ASEAN*, report for the Asia Indigenous Peoples Pact, 2011, <https://humanrightsinasean.info/wp-content/uploads/2018/10/Victims-of-development-aggression.pdf>

was semi-structured in design to allow flexibility in exploring the lived experiences of the respondents as they navigate their experiences about these projects. Likewise, a historical review of the development of indigenous communities in the Philippines was used in analyzing how the Tumandok interacted with its changing environment. In-person interviews were conducted with a total of 15 respondents, where each interview time-averaged to 45 minutes. The language used during the interview was a mix of Hiligaynon, a local language, and Filipino, the country's national language. However, the more senior respondents, despite their knowledge of Hiligaynon, replied using Karay-a, a local dialect often used by IPs in the hinterlands. The researcher has a base understanding of Hiligaynon owing to his family background. However, to avoid misinterpretation, this research sought the assistance of a local IP member knowledgeable of both languages. The selection of respondents was based on seniority in the community, positions assumed in its local political structure, and availability during the interview period.

Given that most Tumandok members are farmers, ten out of fifteen participants are female, while the remaining are male IP members. Most male members tend to set out to their farming lots at around 4:00 and return at around 16:00, which gave the researcher limited time to interview the whole area covered in darkness from 17:30 due to the lack of electricity. Thus, only limited male members were able to participate in the research. Names of the respondents are written in initials to protect their identity and ensure their safety. Before the actual interview, administrative approval and meetings with the civil organization first took place from the 9th-14th of September 2017. Upon receiving approval from the National Commission for Indigenous People, the fieldwork commenced in Barangay Tapaz from the 15th-21st of September 2017. The subsequent fieldwork in Barangay Alibunan was conducted from the 9th-12th of October 2017.

The Projects and Tumandok

One of the mega-dam projects, the Jalaur River Multipurpose Project (JRMP), was authorized under Republic Act. No. 2651. In 2015, the National Irrigation Administration (NIA) and members of Tumandok allegedly signed a Memorandum of Agreement pursuant of the construction of the project. Tumandok communities in 16 affected areas in the Province of Iloilo were reportedly consulted regarding the free, prior, and informed consent (FPIC) standards. Daewoo Engineering & Construction Co. Ltd was awarded as the contractor of this PHP 11.2 billion Philippine Peso (approximately 240

million US Dollars) project.¹⁰ According to reports, the project would source its water from the Jalaur River basin, which covers 176,500 hectares, supplying resources to over 3 million in 75 cities and municipalities, as of the 2010 census.¹¹ Among the potential benefits of JRMP include year-round irrigation to 22,340 hectares; generate 6.6 megawatts of hydroelectric power; create 86,400 cubic meters per day of potable water; mitigate flooding hazards. The project would entail the creation of two high dams across the Jalaur River and Ulian River.¹² In addition, the Tumandok community allegedly consented to a resettlement plan proposed by NIA. As of a 2016 study, a total of 697 Project Affected Families (PAFs) have been displaced as several houses and farm lots have been submerged due to the dam construction.¹³

The Panay River Basin Integrated Development Project (PRBIDP) is another proposed mega-dam slated for construction in the province of Capiz. This project would source water from the 152 km. Panay River and reportedly would provide irrigation to a total of eighteen municipalities. Among the structures to be built is a High Dam towering up to 112 meters high and 12 meters wide, which would provide water storage for irrigation, potable water, and energy generation.¹⁴ Apart from feasibility studies, reports suggest that government agencies seek an estimated cost of PHP 18 billion Philippine Peso (approximately 362 million US Dollars) from donors in China. Further, NIA is set to conduct an FPIC process to 19 IP areas affected by this project.¹⁵

In response, the members of the Tumandok community have partnered with the Jalaur River for the People (JRPM) and other civil rights organizations

10 EC Garcia, "Winning Contractor Readies for JRMP II Construction," *Province of Iloilo*, March 2018, accessed July 31, 2018, <http://iloilo.gov.ph/infrastructure/winning-contractor-readies-jrmp-ii-construction>.

11 *Integrated River Basin Management and Development Master Plan*, report for the Department of Environment and Natural Resources, November 2014, <http://rbco.denr.gov.ph/wp-content/uploads/2017/10/jalarexecutivesummary.pdf>.

12 "NIA – JALOUR RIVER MULTI-PURPOSE PROJECT STAGE OO," *Environmental and Social Monitoring Updates*, <http://jrmp.nia.gov.ph/>.

13 National Irrigation Administration Upland Land Acquisition Action Plan (Upland LARAP), Jalaur River Multi-purpose Project Stage II (JRMP-II), July 31, 2016, 2.

14 National Irrigation Administration, Panay River Basin Integrated Development Project, Environmental Impact Statement, 1-5.

15 Lydia Pendon, "NIA includes Tapaz IPs for Panay River Basin project," *SunStar Philippines*, February 5, 2016, accessed July 31, 2018, <https://www.sunstar.com.ph/article/56591/>.

to express their dissent to these projects.¹⁶ Actions such as blockades, lawsuits, and submission of alternative proposals to funding agencies were carried out as means to resist the project. One of its notable actions was in 2018 when JRPM facilitated a meeting between an IP member and officers of two South Korean companies that have won the JRPM construction contract. These are the Export-Import Bank of Korea (funding entity and the Daewoo Engineering & Construction (construction entity) in South Korea.

Literature Review

The relationship between IPs and the state or IPs and private enterprises have been the research interests in anthropology and environment studies. In his work, *The Art of Not Being Governed*, James Scott discussed the indigenous way of life due to state and nation-building in Southeast Asia. Scott portrayed the condition of indigenous communities residing along the mountainous region he coined as “Zomia.” He presented an alternative view on history and historiography in Southeast Asia by linking together concepts of civilization, agriculture, topography, development, and ethnicity into one. Moreover, the book discussed a recurring theme of how the ruled, which refers to those that welcomed the socio-political dogma of a dominant group, continued to engage the unruly or indigenous communities through state-initiated projects.¹⁷ The author has described his work as an anarchist for highlighting the narrative of the subaltern and marginal IPs, particularly on how they escaped state-making efforts of dominant cultures in Southeast Asia.

As Scott discussed, traditional dominant cultures endeavored to fully incorporate hill/indigenous people through farming, creation of walled-in communities, political structure, and common language. These pursuits were packaged as development, economic progress, education, and social integration. Centers and lowland folks gain an advantage in the dialectic relationship by building a strong military force and concentrating workforce and food supply. Hill peoples are then tagged as barbaric and nomadic, which presents a threat to the military and economy of lowland communities. The diverse lifestyle of the hill people is the main challenge

16 “Jalaur River Multi-Purpose Project (JRMPP) Phase II Dam, Iloilo, Philippines,” Environmental Justice Atlas, accessed May 18, 2021, <https://ejatlas.org/print/jalaur-river-mega-dam-project-philippines>.

17 James Scott, *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia* (New Haven: Yale University Press, 2009), 3

for integration. Personifying an “indigenoussness” trait was seen as a strategy and adaptation design to evade state capture and state formation. Scott’s work captures parallelism to this research as it depicts the long-standing struggle of IPs to submit or fight off state-building mechanisms.

The book *In the Way of Development* by Harvey Feit and Glenn McRae, published in 2004, discussed the relations between globalization agents, particularly involving corporations and indigenous peoples worldwide. Globalization has allegedly continued to threaten the ancient ways of life. Nonetheless, the work by Feit and McRae suggests it is possible to integrate the concern of indigenous communities into a state’s national development agenda. In addition, the book showed how IP communities do not simply resist or react to the pressures of market and state. IP communities create ‘life projects’ of their own, which embody the local history and incorporate visions and strategies for enhancing their social and economical ways of living.¹⁸ This literature underscores that the framing of the plight of IPs can create traction for policies to ensue. Further, this work has tackled lessons learned from IPs activism, which can be studied and applied to the context of the Tumandok.

The article by Alfonso Castro and Erik Nielsen entitled “Indigenous people and co-management: implications for conflict management” focused on the interplay of local community members, indigenous people, private enterprises, and state agencies, particularly on spaces created by these groups to increase collaboration and responsibility-sharing.¹⁹ Locating and establishing this space, coined as ‘co-management,’ is not exclusive to the government and may even transfer from among non-state actors themselves. Non-state actors here refer to IPs, local small-scale businesses, and civil society organizations. Authors cited some examples in Canada, South Asia, and Norway where conflict served as a prerequisite for co-management regime creation.

The concept of co-management regimes, such as the James Bay and Northern Quebec Agreement in Canada and the Joint Forest Management in India, tackled the power relations between IP communities

18 Mario Blaser, Harvey Feit, and Glenn McRae, eds., *In the Way of Development: Indigenous Peoples, Life Projects and Globalization* (Zed, IDRC, 2004), 45.

19 Alfonso Peter Castro and Erik Nielsen, “Indigenous People and Co-management: Implications for Conflict Management,” *Environmental Science & Policy* 4, no. 4 (August 2001): 230.

and state agents.²⁰ Examples in this literature presented how the state transitioned to sharing its resource responsibility with other stakeholders despite perceived conflicting (but ideally complementing) interests. Co-management is described as the joint decision-making of about one or more aspects of natural resources executed in though participatory, collaborative, and multi-party manner. The goal of such partnerships may go beyond conservation and resource protection, such as in the case of the Norwegian Coastal Fisheries agreement, which was to increase profit among small-scale fishers while protecting marine life from excessive resource accumulation.

According to authors, Doyle and Gilbert, development aggression manifests itself in the questionable acquisition of consent among IPs, the disproportionate impact of the projects on community and livelihood, and the failure to include perspectives of IPs on the concept of development. In short, acts of development aggression are evidenced by rights-denying developmental processes experienced by the IPs.²¹ In response to these global phenomena, IPs have crafted a self-determined development premised on the respect of their rights, governance structures, and philosophies. The authors mainly argued that national development policies should encourage IP-led development efforts, remain compliant to FPIC standards, and ensure that formal policies hold all stakeholders accountable. However, as most State-led development projects are designed to extract natural resources found within ancestral lands, state-led development projects remain elusive.

In terms of studies related to Tumandok, there has been two significant anthropological research done in the indigenous communities in Panay. Professor F. Landa Jocano, in 1968, released his work entitled *Sulod Society*, where he discussed how the IPs are identified based on their kinship system, which governed the social equilibrium and rituals of the people. His monographs also revealed how other settlers described indigenous communities. Lowland communities call the IPs “Bukidnon,” which means “mountain dwellers” and often carries a derogatory meaning of being ignorant. Meanwhile, Christian inhabitants have used the term “Mundo,” which means

20 Ibid., 235.

21 Cathal Doyle and Jeremie Gilbert, “Indigenous Peoples and globalization: From “Development Aggression” to “Self-determined Development,”” *Social Science Research Network*, (January 20, 2015): 21

“very wild.”²² In the end, Jocano used the term *Sulod* or *Sulodnon*, which means “room” to reflect the dwelling spaces of indigenous communities, which are enclosed by the tall mountain ranges. According to Jocano, members in a *sulod* community are likely to be related to each other by blood or marriage. That leadership is often assigned to the oldest male member of the settlement.

As for their way of life, the author noted that the community practiced dry agriculture and believed in spirits.²³ Similarly, the work of Professor Alicia Magos discussed the nomenclature on identifying the IPs based on a specific territory. Her work stated that indigenous communities living near the Panay River are called Pan-ayanon, while those along the Jalaur River are called the Halawodnon.²⁴ Professor Magos further asserted that the identity of the Pan-ayanon and Halawodnon are linked to the local epics that they passed on to their kin. The chanting of epics plays an important feature in the social life of the people.²⁵

This survey of related studies directs the goal of this research, particularly in tracing acts of aggression towards the IPs. As most of the research done on Tumandok focused on the cultural and historical significance of the community, this research contributes to expanding the role of Tumandok as a pivotal stakeholder in the national development goals of the State. As such, this research tackles development issues and human rights problems faced by minority groups. Moreover, this study links the narrative of the IP rights struggle in the Philippines to the global phenomena of land dispossession and violation of international standards that uphold IP rights.

History

Understanding the relationship of IPs to their land entails a closer look at meeting points of these elements embedded in historical accounts and legal frameworks. This section presents an introduction of the IPs in the Philippines, including the oral history of indigenous communities that reflect the value of land to people and accounts of how traditional Filipino

22 Jocano, F. Landa, “The Sulod: A Mountain People In Central Panay, Philippines,” *Philippine Studies* 6, no. 4 (November 1958), 405.

23 Ibid., 407.

24 Alicia Magos, “The Sugidanon of Central Panay,” in *Edukasyon. Harnessing Indigenous Knowledge for Education* (Quezon City: Center for Integrative and Development Studies. University of the Philippines, 1996): 121.

25 Ibid., 130.

society responded to the entry of the Spanish colonial government.

Colonial Period

Efforts of the Spanish colonial government to integrate the Philippines under the crown were a complex process. The early recorded accounts from Spanish friars and historians state that traditional communities lived in political units called *barangay*.²⁶ This political unit is headed by a local leader called *datu*, to whom people owe their allegiance.²⁷ As part of its state-making projects, the Spanish colonial government retained the *barangay* system but maintained a close relationship with individual *datos* to win over the community quickly. Through a divide-and-conquer and their military superiority, the Spaniards successfully established their dominance in most parts of the Philippines. The colonial government installed a Governor-General as the highest political figure in the colony and acted on behalf of the crown. Corollary to this, the Roman Catholic Church played an influential role in reinforcing loyalty to the crown and removing indigenous beliefs.

In the sixteenth century, King Philipp II issued the *Recopilacion de las Leyes de los Reynos de las Indias*, which effectively presided over land distribution to religious organizations, ruling elites, and farm lots.²⁸ Rights over owning land were passed on to the colonial power, which allowed for creating a *pueblo* or plaza complex. This design of old towns in the Philippines followed a pattern where colonial administrative buildings and catholic churches are built at the center of the towns. The sound of church bells ringing would allegedly echo through all corners of the town, suggesting that *pueblos* were made to assert colonial dominance and control of the Filipinos. Moreover, this was an attempt to distinguish Christians from non-Christians. The term *indio* referred to indigenous people (or the general Filipino community). At the same time, *moros* was used to describe the Muslim community that was the most severe threat to the Spanish colonial government during their natal state-making projects. The religious importance of this geographical

26 Patricio Abinales and Donna Amoroso, *State and Society in the Philippines* (Philippines: Anvil Publishing, Inc., 2005): 12

27 William Henry Scott, *Barangay. Sixteenth-Century Philippine Culture and Society* (Ateneo de Manila University Press, 1994): 6.

28 Jaime Veneracion, *Philippine agriculture during the Spanish regime* (University of the Philippines, College of Social Sciences and Philosophy Research and Publications and the Presidential Commission for the New Century and the Millennium, 2001): 85.

planning manifested with the exclusion of *indios* and *moros* who were disposed from the original inhabitants and resided outside these pueblos.²⁹

Despite policies during the Spanish period, indigenous communities were able to flee the colonial rule and preserve their identity. Geography and local resistance were factors for IP communities to escape the friars and the colonial rule. Traditional ancestral lands are situated in high mountainous areas that were difficult to access. IPs thrived in the Cordillera Region and the Sierra Madre mountain ranges in Luzon. The Lumads in Mindanao are just some examples where Spaniards failed to integrate indigenous communities. On the other hand, resistance was based heavily on the fight against conversion to the Catholic faith.

When the Spanish rule ended in 1898, the American colonial government continued to pay attention to indigenous communities, called non-Christian tribes. In 1917, the Philippine Commission created the Bureau of Non-Christian Tribes. Part of its programs was to provide a public school system, extend public work to ensue development, and invest in fertile regions in Mindanao to encourage domestic immigration.³⁰ The Bureau became an entity that allowed American researchers to conduct ethnological surveys in the country and learn about IPs' cultural attributes. In the end, indigenous communities became an object of research among western scholars, most of whom have described IPs as "savages, uncivilized or semi-civilized."³¹ This attitude towards IPs was best captured in Philippine history during the 1904 St. Louis Expedition, where the Igorot indigenous community in the Mountain Province were brought to America to serve as "living exhibits" and showcase their way of life, by which the main attraction was their practice of eating dogs.³² With the thrust of providing education and "civilizing" traditional communities, the Bureau became a springboard to assimilate minorities to the dominant culture.

29 Patricio Abinales and Donna Amoroso, *State and Society in the Philippines*, 53.

30 Maximo Kalaw, "Recent Policy towards the Non-Christian People of the Philippines," *The Journal of International Relations* 10, No. 1 (1919): 3.

31 Mary Jane Rodriguez, "Reading A Colonial Bureau: The Politics of Cultural Investigation of the Non-Christian Filipinos," *Social Science Diliman* 6, no. 1 (2010): 23

32 Greg Allen, "Living Exhibits at 1904 World's Fair Revisited," *NPR*, May 31, 2004, <https://www.npr.org/templates/story/story.php?storyId=1909651>.

Indigenous People's Rights Act of 1997

In 1997, the Philippine Government passed the IPRA law to protect and promote the rights of IPs. Some of the salient features of this law are recognition of the scope of ancestral domain and IP rights in case of displacement in their territory. Concerning this study, the most relevant section of the law is the formal recognition provided by the state concerning IP rights over their ancestral land. In chapter two, section three of the law, the ancestral domain is defined as:

...all areas generally belonging to ICCs[indigenous cultural communities]/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals, corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral land, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which they traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators.³³

This provision features self-determination among IPs to empower the minorities to continue with their traditional activities. Self-determination in UNDRIP adopts the same principle forwarded by the UN Commission on Human Rights (UNCHR), where individuals or groups of people are accorded with the right to participate in the democratic process of governance and decide their own economic, social, and cultural development.³⁴ However, the law contains a provision where these ancestral domains need to undergo a certification

33 *The Indigenous Peoples Right Act of 1997.*

34 International Work Group for Indigenous Affair, "Self-determination of Indigenous Peoples," April 8, 2011, <https://www.iwgia.org/en/focus/land-rights/330-self-determination-of-indigenous-peoples>.

process or land titling, which is carried out by the National Commission on Indigenous Peoples (NCIP). Chapter three, section eleven of the law states:

The rights of ICCs/IPs to their ancestral domains by virtue of Native Title shall be recognized and respected. Formal recognition, when solicited by ICCs/IPs concerned, shall be embodied in a Certificate of Ancestral Domain Title (CADT), which shall recognize the title of the concerned ICCs/IPs over the territories identified and delineated.³⁵

The need to secure a CADT from a state agency has caused potential conflict between IPs and the state. In fact, despite NCIP's issuance of 182 CADTs, only less than 50 were registered to the country's Land Registration Authority. Registration of the CADTs is the next step to assign the scope of a certain ancestral domain officially, and at the same time, allows for the enforcement of laws against intrusion.³⁶ However, participation in this process required a full grasp of laws, which indigenous communities are not necessarily accustomed to doing. In addition, the determination of ancestral land meant that government officials would be given access inside indigenous territories. Given the history of the fragile relationship between State entities and IPs, this process might potentially have negative repercussions. While there is much to be celebrated with the IPRA law, the rights of IPs over their land remain fragile. Indigenous communities have long maintained their presence within these lands. However, the entry of colonial power in the past and the laws passed by the Philippine government have further threatened the tenure of IPs in their ancestral domain. The case of the Tumandok communities highlights the complicated relationship between IPs and the State.

This history emboldens the community with a strong connection to their ancestral land. The provisions in international norms and domestic laws also uphold IP rights but have nonetheless rendered inefficient as the Tumandok continues to find themselves struggling for their rights.

Militarized Ancestral Land

35 Ibid.

36 Paul Nera, *Situation of Indigenous Peoples in the Philippines: Submission to the 59th Session of CESCR*, report for the Tebtebba Foundation, <http://www.tebtebba.org/index.php/content/383-situation-of-indigenous-peoples-in-the-philippines-submission-to-the-59th-session-of-cescr>.

Despite the historical claims and legal provisions that promote IP rights, Tumandok communities remained exposed to constant threats owing to the context where its claimed ancestral land stands. Approximately 33,000 hectares of land in Jamindan and Tapaz in the province of Capiz in Panay Island is considered a military reservation camp under the Presidential Proclamation No. 67 decreed by then-President Diosdado Macapagal in 1962.³⁷ Part of this proclamation included the establishment of the 3rd Infantry Division of the Philippine Army. One of its known base camps is Camp Peralta, where military exercises and weapons training are conducted. This military camp is considered one of the largest military camps with responsibility for sixteen provinces and a mandate to contain insurgency problems in the Visayas region.³⁸

Militarization of IP land is defined both as the presence of military personnel and the actions done against IPs that disrupt their way of life. Thus, declaring the land of Tumandok as part of an ancestral domain continues to constitute a complicated process. The traditionally known ancestral land is officially a military base, which waters down the claim of the IPs over their land since the State grants no official title. The livelihood of the IPs was further threatened following the declaration of Martial Law in 1972 by then President Ferdinand Marcos as it placed the whole country under strict military oversight purportedly to cease communist threat. The respondents claim that the IPs have been erroneously tagged as communist members or have supported communist activities. At the height of Martial law, Tumandok members claimed that house searches and prosecution of male IPs became rampant. Implications of tagging Tumandok members as communists continue to the present-day experience of the community, most notably in the extrajudicial execution of 9 indigenous leaders and 17 IP members in December 2020. Alleged police and military operation in Barangay Tapaz were conducted to seize communist activities in the area.³⁹

Given this imbalanced relationship between the IP community and

37 "Tumandok People's Struggle for Their Ancestral Lands," *Philippine Network for Food Security Programs, Inc.*, accessed July 31, 2018, <https://www.pnfsp.org/single-post/2013/03/02/Tumandok-Peoples-Struggle-for-their-Ancestral-Lands>.

38 "3ID's HISTORY AND LEGACY," *Spearhead Troopers*, November 2, 2014, accessed July 31, 2018, <http://www.spearheadtrooper.com/unit-history/>.

39 Nestor Burgos Jr., "Tumandok in Capiz Flee Homes After Killings," *Philippine Daily Inquirer*, January 2, 2021, <https://newsinfo.inquirer.net/1378437/tumandok-in-capiz-flee-homes>.

the State, this research explored the actions done against IP members to pursue these development projects. While the country is a fervent supporter of IP rights, owing to its active involvement in the UNDRIP and passage of relevant IP laws, forms of development aggression persisted.

Findings

This research uncovered two categories that highlight acts of development aggression, which include questionable consent acquisition and failure to include IP-based perspectives in these development projects. It is important to remember that the full implementation of the dam projects is not in place as of this writing. There are future potential shifts in the current form of the projects since lobbying efforts to resist the construction is still ongoing. It is noteworthy nonetheless to discuss how the indigenous communities responded to constant changes in their ancestral land.

Consent Acquisition

The NCIP typically carries out consent acquisition in compliance with FPIC standards. When these standards are in place, coercion is avoided; all parties are aware of a certain project's timeline; full disclosure of any transaction is provided. In the end, all stakeholders would benefit when the FPIC is carried out. The NCIP has further codified its consultation practice in two documents entitled *The Indigenous Knowledge Systems and Practices and Customary Laws Research and Documentation Guidelines* and *The Revised Guidelines on Free and Prior Informed Consent and Related Processes*. Some of the salient features of these documents include consultation mechanisms and the power to reject activities as decided by the leadership body of the IP community. In addition, this document puts forward creating an indigenous socio-political structure (ISPS), which stands as the official body to conduct consensus-building mechanisms in the community and to liaise concerns of the IPs to other stakeholders.⁴⁰ This body has no codified structure since the IPs themselves decide it, but it has been a practice to elect identified elders as members of the ISPS.

The process of acquiring consent conducted by the State has been viewed as problematic by the participants of this research.

40 "The Revised Guidelines on Free and Prior Informed Consent (FPIC) and Related Processes of 2012," NCIP Administrative Order, no. 3 (2012), <http://ncipro67.com.ph/wp-content/uploads/2015/09/NCIP-AO-3-Series-of-2012-FPIC.pdf>.

Allegations of deceit and inducing one to agree to the terms of the projects were among the concerns brought by the Tumandok people. One of the common stories that surfaced during the fieldwork was an incident where IPs were deceived into signing an agreement. One spoke

...The FPIC conducted meetings here. They asked us to sign the attendance sheet. For them, when you sign the attendance sheet, that means you already agree with the implementation of the project. Just like in the case of Jalaur dam. The residents near the project site are very innocent about the matter. When the authorities came and gave them food items, they were asked to sign a paper. The authorities said that the signature was just for reference and for receipts when in fact, the signature of the residents meant that they already allow the dam project to push through. They trick people. This is the reason why we are really against NIA. There are a lot of reasons why we feel like this. (RG, 47 years old)

The absence of coercion and manipulation guides a standard process in FPIC.⁴¹ As such, the experience of the community in seeking its consent for the said projects has been tainted with direct manipulation. Likewise, due to their lack of formal education, the community has been forced into a situation where they have to absorb technical information that may be beyond their level of comprehension. A Tumandok member who also sits as a local leader said that government officials only present the projects' positive impact and place less importance on the social cost. He said:

Those who are not well-informed do not know about FPIC. However, officials like us are trained or informed about issues and matters like the FPIC. The problem with these government officials is that they only present the good side of the project. They don't reveal the projected negative impacts of their plans. (RL, 54 years old)

Tumandok members, even those elected officers, have been spared of the full implications of the project. Apart from deceitful and undemocratic tactics, the principle of consensus-building was not championed during

41 "Free Prior and Informed Consent," *Food and Agriculture Organization of the United Nations*, accessed May 19, 2021, <http://www.fao.org/indigenous-peoples/our-pillars/fpic/en/>.

this process. One respondent claimed that she was rendered powerless to object to the project as bulldozers were already surrounding her property.

I just agreed eventually since they come to us every day just to convince us to say yes. I was actually avoiding and hiding from them before. But we didn't really have a choice because there are bulldozers around the area already. If we won't agree to them, they might bulldoze our house. (LC, 65 years old)

FPIC standards ultimately accord IP members a full array of choices. However, the experience of the Tumandok suggests that the State's actions overwhelmed some Tumandok members to give up their property eventually. The right to change one's mind is all within the tenets of the FPIC, but the experience of elderly members suggests that they were forced against a wall.

Viewing Development

With the history of violence in their ancestral land and fraudulent accounts during the consultation process, one must investigate how the IPs view development. The Tumandok community remains active in participating in political spaces, evidenced in the election of some of its members to local government posts. Likewise, the community has submitted petitions to other local politicians concerning the mega-dam projects' social and geological issues. In this section, this research argues that the community believes in forwarding its stances on development. Advocating for its survival and its stake in the development discourse links with the global trend of indigenous communities resisting development aggression. One participant claim that development projects are nonetheless beneficial and suggest progress. However, components of progress in these mega-dam projects are not highlighted:

In my own understanding, being progressive means being respectful of the desires of the people or the majority, absence of fear, peaceful life, absence of problems about sending your children to school, sense of security that your land will not be taken away from you and absence of projects that will bring about harm to the people or will take your property away from you, and most of all, having enough resources that will help you live and survive everyday life. In my own understanding, since I live in an agricultural community, they must invest on projects that will upgrade the agricultural system in the country without compromising

the poor people or marginalized groups. (RG, 47 years old)

Investing in agriculture-related projects, ranging from crops, equipment, and irrigation were the kind of development that the IPs wish to have. When asked if the IPs have any recollection of social welfare initiatives implemented in their communities, many participants would point to NGO projects first rather than those carried by the local government. Caritas Luxembourg and the Panay Center for Disaster Response (PCDR) have reportedly constructed a hanging bridge crossing Jalaur River, which helped ease the access of Tumandok in Barangay Tapaz down to low-lying plains. PCDR also has provided relief and disaster training to the IPs following the effects of Typhoon Haiyan in 2013. The finding suggests that the impact of social development projects is placed at higher importance by the IPs than infrastructure-related projects, such as mega-dams. When asked what the IPs' expectation from the government are, she said:

...We are expecting something from the government. Something that can make people feel loved and projects that provide people with necessary materials they need for their livelihood. Sadly, we haven't received any sort of project until now. (GK, 60 years old.)

The case of the mega-dam projects highlights this distinction that IPs have created when looking at development projects. Some respondents argue that when a project has ruined one's ability to grow their crops, it should not be viewed as development. When asked to weigh the benefits of the mega-dam projects and their potential positive gains for the Tumandok community, one respondent stated the following:

We don't need it. What are we supposed to do with the electricity and irrigation if we don't have our livelihood anymore? Our lands will be taken away anyway. (MA, 52 years old)

The benefits of development projects are easily overlooked by the Tumandok community when their sense of identity and way of living are vulnerable. Protecting their ancestral land remains at the core consideration when IPs accept a development project. The state development projects, such as the dam projects, have been viewed more for its ill effects on their land and ultimately on people's survival. Despite the fragile relationship of the state and IPs, there are still opportunities to coexist.

It should be noted that the government has not abandoned its role in introducing social projects to the community. Government-initiated aid such as a conditional cash transfer program (locally known as 4Ps) and livelihood projects are some of the programs enforced in IP communities. In short, state development projects are implemented in indigenous communities, and yet it is not being perceived as development. The case of the mega-dam projects highlights this distinction where IPs no longer regard these efforts as development projects.

Conclusion

The case of the Tumandok represents the global phenomenon of development aggression experienced by vulnerable groups. As economic globalization heightens, unused resources become a new target of the expanding capitalist market. Development projects remain an essential piece for the overall growth of a nation. The case of the two mega-dams in Panay ushers a list of benefits for the whole island, including irrigation, hydroelectric power, and job creation. However, these projects would allegedly impact the livelihood and lifestyle of the Tumandok community as the construction of these projects sit within the IP's claimed ancestral domain. Given that these lands hold historical and cultural significance among the Tumandok, this research tackled how the State protects IP rights and how IPs themselves appreciate the promise of development.

In doing so, this research traced the history of IPs in the Philippines and, with that basis, conducted in-person interviews with members of the Tumandok community. This study followed Grounded Theory tenets to capture the experience of the community as it interacted with the changes in its environment. This research argues that at the onset, the claims of the Tumandok over its ancestral domain stand on fragile ground, given that their land is part of a military camp. Tumandok members claim that they have been wrongfully associated with communist insurgencies and have been persistently harassed by State agents. Concerning the mega-dam projects, this research uncovered reports of deceit allegedly from the government in inducing Tumandok members to sign their consent for the construction of these projects. This research argues that these mega-dams further marginalized the Tumandok community, evidenced by the failure of the State to enforce FPIC standards. Furthermore, this research further noted that the Tumandok community was not passive recipients of aggression but instead has taken proactive solutions to resist the projects and forward its alternative proposals that cover their vision of development.

In sum, the weak enforcement of consent acquisition standards,

failure to adopt IP's version of development, and the continued human rights violations linked with the presence of the military presence have all played a factor in the rights-denying actions done against the Tumandok. Relocating and seeking different economic opportunities have become less of an option to a community that has, for decades, worked as the herders of the land. Traces of development aggression are further highlighted by the inability of the government to put previously supported international norms into practice. Failure to fully enforce the principles of the UNDRIP and IPRA highlights the Philippines' approach to international standards, as though promulgation and support of it was a token gesture to the worldwide call for IP rights. Thus, the Tumandok narrative contributes to how indigenous communities defend their livelihood and their land. It is a narrative of active resistance not for the sole purpose of antagonizing other stakeholders but to claim their position in the greater society.