Law as a Blueprint of Governmentality:

Managing Indigeneity and Dispossession in the Philippines

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Abstract

This research is an attempt to understand why dispossession of indigenous peoples in the Philippines still exists despite the enactment of a law that specifically aims to recognize, promote and protect their rights. Guided by the Foucauldian concept of governmentality I examined the Philippines' main legislative document on indigenous peoples, the Indigenous Peoples' Rights Act (IPRA) of 1997. With the law as a tool of governmentality, I mapped the ways IPRA manages indigenous relations and conducts. In the analysis, I used three overarching themes in which governmentality functions: population, political economy, and the apparatus of security. I argue that indigenous peoples are a population created to be *managed* and that the manner in which it is executed is based on a certain way of knowing. I then trace the production of knowledge which is informed by the science of political economy. Finally, this work provides an overview of how management of indigenous peoples is carefully maintained through an apparatus of security. The findings point to an understanding of dispossession that is multi-faceted and one that is not always obvious. It shows a dispossession made possible by an assemblage of factors that are contingent historically and spatially.

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Introduction

The Philippine enactment of the Republic Act number 8371 or otherwise known as the "Indigenous Peoples Rights Act" (IPRA) is considered as a milestone in the demands to recognize rights of the indigenous peoples in the country. IPRA is guided by the framework of "national unity" and "development." Internationally, it is considered as one of the most progressive and comprehensive laws passed that was specifically enacted to uphold and protect the rights of its indigenous peoples (Doyle, 2020 and Theriault, 2019). Philippines is also the first country in Asia to do this and remains to be the only one in Southeast Asia that enacted such a law (Asian Development Bank, 2002 and Food and Agricultural Organizations, 2018).

The passing of the law carried with it a resounding effect of indigenous peoples becoming a subject of governmentality in a contemporary democratic Philippines. Thus, even though the events leading to its passing was marked by intense lobbying of advocates, activists, and indigenous peoples themselves, there was also an air of disagreements among them (Inguanzo & Wright, 2016). Different indigenous groups where in tension whether the legislation would lead to a betterment or worsening of their conditions, specifically when it comes to the creation of a bureaucratic process of registering their ancestral domains and land.

The history of the creation of indigeneity in the Philippines can be traced back to its colonization period. This was an epoch of establishing differences that distinguishes superiority over other groups. From the Spanish colonization period and up to a time that stretches until the present, indigenous peoples in the Philippines are marked by a certain level of vulnerability because indigenous identity is linked to inferiority (Eder & McKenna, 2004); as Malayang (2001) implied that the colonization in the Philippines "created a country but splintered a people" (p.661).

What is consistent throughout history is its creation of a population that is bound to a degree of inferiority in need of being developed. With the concept of indigenous identity deeply rooted in an *othering* "from the majority of Filipinos" leads to a treatment of second-class citizenship of indigenous peoples in the Philippines.

Smith (2007) writes that government legislation tends to create a rather limiting definition of identity. This is one of the reasons why even though the law recognizes the right to land of indigenous peoples, they still find themselves more vulnerable to "development aggression and land grabbing" (Dekdeken & Cariño, 2019, p. 293; Rutten, 2016; Paredes, 2017; Castillo & Alvarez-Castillo, 2009). However, it is important to note that such an *othering* of indigenous peoples was not just a result of the enactment of the law but a product of the historical and social trajectories in the Philippines.

This work is an invitation to understand indigeneity in a deeper level. The events that led to my interest in the multiplicity of the lives led by indigenous peoples in the Philippines began when I stayed with an indigenous cultural community for two weeks. In this short span of time, I witnessed a kind of disenfranchisement that I have never seen before. The memory is so vivid that it stayed with me long after that engagement. A few years later, I attended an event called *Lakbayan ng Pambansang Minorya* (Journey of National Minorities) which is annual march of minorities from all over the Philippines to Metro Manila to voice out their concerns and gain solidarity with other sectors. Needless to say, *Lakbayan* is an event that brings together different indigenous peoples even from the farthest corners of the country. Once again, I find myself listening to accounts of dispossession that I have never heard before – countless stories of discrimination, land grabbing, and even extra-judicial killings of indigenous leaders. It led me to

question that if this kind of dispossession of indigenous peoples happen from ends to ends of the country, it must be worth asking and knowing what leads to this systemic disenfranchisement.

Thus, I set out the law as my point of departure. I present a historical legal genealogy of indigeneity in the Philippines that shows how enactment of IPRA must not just be celebrated but also calls for a deeper understanding of the people it seeks to govern. Its shortcomings and successes must be pinned down out of a thorough examination of the intersection of law and the social and cultural life of indigenous peoples.

I use the Foucauldian concept of governmentality (1991) as analytics of power that aims at its core to understand how government *conduct the conduct* of the population it manages. With a focus on the IPRA, this research aims to understand how the law, as a tool of governmentality, manages the relations of indigenous peoples. It also seeks to ascertain the governmental technologies in managing indigeneity be found in the law. It asks how this regulation of conduct of indigenous peoples creates spaces both for possible experience of dispossession. My research begs to contribute to an understanding of dispossession that grounds itself on history, law, and the contemporary experiences of indigenous peoples in the Philippines.

Chapter One: Locating Indigeneity Through Governmentality

This chapter walks its readers to a brief historical legal account of how indigeneity was manufactured in the Philippines. It then side steps to a review of literature on Philippine indigeneity and legislation. The last part discusses the methodological and theoretical approach this study has undertaken.

1.1 Historical Account of Indigeneity

The enactment of the Indigenous Peoples Rights Act solidifies indigenous peoples as "a new object of governmentality in the Philippines" (Casambal-Salazar, 2015, p.78 and Theriault, 2019). Although such is the case in a democratic and post-colonial Philippines, the system of othering and creation of an inferior other is traced back to the Spanish colonization period. The ultimate difference is marked by non-conversion to Christianity by some natives. According to Smith and Dressler (2020) they were labeled *non-Christians,* as well as other names like "indigenas, tribus, infidelis tribus salvajes, igorottes" which resulted to their identities "bound up with a pejorative moralizing and emotive official discourse" (p.5).

There were areas whose native inhabitants employed strong resistance against the Spaniards. These groups and their territories were never colonized by Spain. They were able to maintain their cultural, spiritual, and political sensibilities. Spaniards called them infidels or "tribus independientes" (Scott as mentioned by Doyle, 2020). As such is the case, these domains are technically not included in the Philippine territory that was transferred to the United States of America by the Spanish crown through the Treaty of Paris. However, the Americans assumed that the entire territory was part of their colony.

The American colonization period was marked by intense extraction of natural resources through land grabbing and mining (Doyle). They ignored existence of different independent tribes.

Furthermore, the formal and legal governance of the indigenous peoples started in 1901 during the American colonization period when they established the Bureau of Non-Christian Tribes (Eder & McKenna, 2004). As Kalaw (1919) puts it, the Bureau and other administrative orders enacted to manage the non-Christian population was to establish "friendly relations" with them and to promote "agricultural, industrial and economic development and (their) advancement in civilization" (p.2). The American control over the native and their land was challenged when an Indigenous Ibaloi filed a case of land grabbing against the United States controlled Philippine administration. The case of land grabbing in the Northern Cordillera reached the US Supreme Court, with the final decision siding with the native person.

This led to the passing of the Cariño doctrine which established the titling of native land that recognizes native customs and their ownership of land which traced back to pre-colonial period. It supplanted the Spanish Regalian doctrine which upholds that the state assumes ownership over all non-agricultural land as it is regarded as part of the public domain (Theriault, 2019 and Doyle, 2020). However, managing the relations of non-Chrisitian people continued through program of administration that implemented the following strategies among others: resettling of the natives away from their natural habitat, introduction of educational system, and infrastructure and agricultural development (Kalaw). Among the land laws implemented during the American colonization period are the Land Registration Act of 1902, the Public Lands Act of 1905 and Public Land Law Acts of 1913, 1914 and 1919 (Malayang, 2001). These laws shaped the relationship of the people with their land.

Following the independence of the Philippines from the Americans in 1946, several administrative mechanisms were passed to manage the indigenous peoples, especially on handling ancestral domain. However, the Cariño doctrine that supplanted the Regalian doctrine on dealing

with native land was not carried out after the independence. According to Doyle (2020), the decision to do this was out of interest on the vast mineral and natural resources that is found in the domains if the *natives* that can be contributory to Philippine *development.* This implies that the country is back on the ruling that the state holds ownership of lands and resources that fall under the category of public domain or lands without title.

As land ownership became a matter of legal and administrative concern, the governmentality of the population labeled as *native* during the colonization period continued even after gaining independence. Governing indigeneity follows the same logic during the colonization period, but it took a different face in a democratic Philippines.

From 1957 to 1975, the Commission on National Integration (CNI) is the government agency primary tasked to *integrate* the Non-Christian Filipinos to mainstream society (Eder and McKenna). To realize this goal, the office was mandated to implement *development* projects, education and loan programs for this population. It was in 1974 when the Presidential Decree No. 410 ruled that lands occupied by ethnic minorities were classified as "alienable and disposable" which meant that these groups must apply land title from the Philippine government. Furthermore, it also says that the government, "in the interest of its development program" may allow the entry of industrial projects in ancestral domains, especially if it results to job creation. It is also around this time that other government agencies like the Department of Environment and Natural Resources (DENR) and the Department of Agrarian reforms introduced adminstrative orders that aim to assist indigenous peoples process claims on their ancestral lands and domain (Hespanha et al., 2015)

In 1978, then President Marcos approved the enactment of Presidential Decree No. 1414 which further defined the powers of the Office the Presidential Assistant on National Minorities

(PANAMIN). This office, like other institutions created from the American colonization, is to direct the *ethnic groups* to a path of integration to the rest of the mainstream society. The rationale behind was to keep ethnic minorities from being "peripheral citizens" and to bring them on "equal footing with all the other Filipinos" (National Commission on Indigenous Peoples, n.d).

This mode of governance of indigenous peoples and their land stretched until the 1980s. This was a time of intensified indigenous land rights movement in the Philippines brought about by systematic experience of land dispossession due to entry of different environmental projects in ancestral domain (Theriault,2019; Doyle,2020; Eder and McKenna,2004). According to Inguanzo and Wright, it was also in the 1980s where indigenous movements in Southeast Asia gained international attention because of its intensity. They further noted that Philippine indigenous movement was considered the strongest and most influential at that time.

With the fall of the Marcos regime comes the installment of a new Philippine constitution which explicitly mentioned in Article XII Section 5 that the State "shall protect the rights of Indigenous cultural communities to their ancestral lands" given that it is under the provisions of the "constitution and national development policies and programs." This provision on the 1987 constitution gave birth to the enactment of the Indigenous Peoples Rights Act or the IPRA in 1997. It is considered internationally as one of the most comprehensive legal documents to specifically recognize, promote and protect the rights of indigenous peoples. Despite this legal feat, indigenous peoples in the Philippines still experience dispossession.

This section showed how indigenous peoples in the Philippines traces its origin from what Said (1979) and his work on Orientalism describes as a framing of complex geography and relationship that render a certain population inferior from other people. From the infidelis tribus to the non-Christian tribes, and now the less pejorative and more celebrated identity of *indigenous*

peoples, the colonial experience of the Philippines enabled the conjuring of a population in need of intervention. It continues to justify the creation of administrative mechanisms and laws in governing the conducts of indigenous people and land management in the name of *welfare* and *development.*

1.2 Literature Review

This section is focused on literature that primarily deals with indigeneity in the Philippines, studies that attempt to root indigenous peoples experience of dispossession and resistance in relation to the passing of IPRA. Furthermore, it will also lay down some of the key strengths of the law and situates it on a larger scholarly works that looks at the value of critically engaging with law and order.

A number of authors acknowledged that the implementation of IPRA fall short of its ultimate goal of upholding the right to self-determination of indigenous peoples (Casumbal-Salazar, 2015; Castillo and Alvarez-Castillo, 2009; Hagen and Minter, 2020; Eder and McKenna, 2004; Theriault, 2019; Doyle, 2020). They identified multiple reasons to back this claim. The law that is predicated on self-identification of indigenous peoples tend to provide ambivalent definition of what indigeneity is (Casumbal-Salazar, 2015 and Theriault, 2019). However, there is a stronger clamor to bound indigeneity with territory since one of the highlights of IPRA is the provision for issuing Certificate of Ancestral Domain Title (CADT) and Certificate of Ancestral Land Title (CALT). The reason for this is that most dispossession experienced by indigenous peoples in the Philippines is land grabbing.

Indigenous identity is commonly tied to their territory (Merlan, 2007; Li, 2014; Paredes, 2016). Seamon calls this *place identity* or "the process whereby people associated with a place take up that place as significant part of their world" and an integral aspect of their "personal and

community identity and self-worth" (p.8). However, to treat territory as a fixed reality for all indigenous groups would be a reduction of the multiplicity of indigenous identity. Thus, Merlan (2007) suggests treating this association with territory as a constructivist view of indigenous identity as a result of "indigenous – non-indigenous interaction under particular conditions" (p.126). Merlan also notes, indigenous landedness can be unpacked only if its construction is regarded as "time bound and changing products" embedded in a social context.

Another area where the IPRA is seen to fail is on the issue of representation among different indigenous groups. Rule IV of the IPRA which is titled "Right to Self-Governance and Empowerment" requires indigenous groups to identify a political representative which is subject to a formal recognition by the National Commission on Indigenous Peoples[1] (NCIP). This is problematic because some indigenous groups do not have a political structure that recognizes formal leadership (Hagen and Minter, 2020; Theriault, 2019). Thus, even the need to select a sole representative that would be engaging with the government and non-indigenous people is already creating tension. Consequently, some representatives do not have the confidence from their community.

This is not to say that the enactment of IPRA has done nothing beneficial to the indigenous community. Although limited and long overhaul, some indigenous groups have secured title for their ancestral domains and lands. It also recognizes a wide array of rights for indigenous peoples. Furthermore, Doyle (2020) even recognizes that in some ways IPRA is a more comprehensive document for indigenous peoples' rights compared to the International Labor Organization Convention 169 on Indigenous and Tribal Peoples (C169). He cited three reasons: its "affirmation

[1] This refers to the office created under the IPRA which shall be the primary government agency responsible for the formulation and implementation of policies, plans and programs to recognize, protect and promote the rights of ICCs/IPs

of indigenous peoples' right to self-determination…, a more expansive interpretation defining Ancestral Domain…and its affirmation of the requirement for Free and Prior Informed Consent (FPIC)[2]." (p.173).

Despite an enactment of one of the most progressive laws for indigenous peoples, one reason that IPRA falls short is because the state has its own priorities that runs in contradiction with recognizing the right of indigenous people to maintain control over their land. This is the state's role to manage public resources (Castillo and Alvarez-Castillo, 2009). It is important to note that ancestral land titling and distribution is a resource management issue (Eder and McKenna & Theirault) and with land disputes between indigenous peoples and a mining company that seeks to extract natural resources for profit, the Philippine government usually sides with private corporations and capitalist enterprise, (Eder and McKenna, 2004; Hagen and Minter, 2009; Castillo and Alvarez-Castillo,2009; Doyle,2020). This dispossession of land is also seen to be tied to the global economic structure (Frake, 2014).

According to Hall, Hirsch, and Li (2011) land is subject to changing social relations in Southeast Asia because of "economic growth, industrialization and urbanization" (p.1). Their work examined the power transformations at play that operates in land exclusion. For them land exclusion is a process "structured by power relations" best unpacked in understanding "the interaction between *regulation, force, the market,* and *legitimation"* (p.4, emphasis original). Harvey situates this exclusion as *accumulation by dispossession* wherein the state facilitates capital accumulation is through "neo-colonial, and imperial process of appropriation of assets (including natural resources)" (2005, p.145).

[2] As stated in the IPRA, FPIC "shall mean the consensus of all members of the ICC/IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of an activity, in a language and process understandable to the community"

This literature review maps out some reasons why indigenous peoples remain vulnerable from dispossession. It also points out to some strength of the legislation. However, as Castillo and Castillo-Alvarez argued "the law is not enough" (p.271). Making this statement as a point of departure, I looked into works that threads out the importance of a deeper engagement with legal apparatus. The anthropology of law was something that has been present since the inception of the discipline and has since then thrived and evolved because of its relevance. According to Merry (2017), more recent works on legal anthropology widened its scope to include contradictions found in laws; among others are "the juridification of politics… and the implications of law for governing national and global inequality" (p. ix).

Researches like the one Comaroff (2001) undertaken locates the introduction of law to colonial days and how it was used to co-opt a population and bend their desires and actions accordingly. One of the languages through which the colonies were managed is the lawfare which he further describes as "the effort to conquer and control indigenous peoples by the coercive use of legal means" (p.306). Moreover, controlling a population in a colonial society does not only mean setting rules and regulations for their conducts, it also includes setting the terms and conditions by which they must utilize and own their land. Zenker (2012) showed how laws introduced in colonial South Africa "engendered massive land dispossession" (p.18). Laws bear the stipulations through which one can own properties.

Lawfare was not something that ended during the colonization period but was carried through and maintained in the post-colonies (Comaroff and Comaroff, 2007) as the *rule of law* became the normative means to govern nations (Zenker). Some laws in the postcolonies are informed by the kind of sensibilities through which colonial laws were construed. The legal

apparatus becomes a tool that reproduces a specific type of framing, rendering, and governing; it also involves the reproduction of socio-cultural and political inequality.

In his book "Anthropology and Law", Goodale calls for a practice of the field that puts at the center of its analysis how law transforms society and vice versa. Underscoring how the law assumes responsibility of ushering society to new forms of economic and social setup, he reckons how anthropology provides "a lens through which one might view the hold that law has for people" (p.204). And with legal apparatus as part of technologies of governmentality, it offers a powerful space through which "socially embedded forms of control, (are) acting on bodies and subjectivity" (Merry, p.xi).

Zooming into the intersection of indigeneity and law as a point of departure for this thesis, I aim to surface tensions and contradictions found in IPRA and its implementation. I situate these contradictions as possible markers of Philippine indigenous peoples experience of dispossession.

1.3 Theoretical Framework

In answering my problematique, I use the Foucauldian notion of governmentality. This comes from a lecture series which Foucault initially gave a title of "security, territory, and population" but later on decided to call it "governmentality." Foucault (1991, p.102) succinctly defined this concept as:

> The ensemble formed by the institutions, procedures, analyses and reflections, the calculations and tactics that allow the exercise of this very specific albeit complex form of power, which has as its target population, as its principal form of knowledge political economy, and as its essential technical means apparatus of security.

From this definition, I underscore the notion of population, political economy, and apparatus of security; and shall elaborate on this triad. Their presence throughout the paper as its

framework aims to breakdown and put to surface what forms part the ensemble of governing of indigeneity.

Foucault highlights that for governmentality to work, it must create a population that it will manage because for him it is "the ultimate end of government" (Foucault, p.100). Rose, O'Malley, and Valverde (2009) noted that the actions of such population must be regulated and limited through different technologies and strategies. For Foucault, the government functions to "conduct the conduct", which in general means to police, "shape, guide, or affect the conduct of some person or persons" (Gordon, p. 2). I argue that indigenous peoples are a population created and through its creation is its need to be managed according to the rationalities of governmentality.

Foucault argued that political economy functions as the principal form of knowledge of governmentality. In the first installment of *History of Sexuality,* he underscored the importance of knowledge as an approach to power (Foucault, 1990) A government must be equipped with the appropriate knowledge to be able to execute its goal. To achieve this, a population must be rendered *knowable* through governmental technologies (Rose and Miller, 2009) because the "government is a domain of cognition, experimentation and evaluation" (p.175). Authorities equipped themselves with these capacities since their operation will be founded on these knowledge of the population (Rose, O'Malley, and Valverde). As "governmental technologies" occupy a significant role in understanding the problematics of government, this paper uses Rose and Miller's operationalization of it as "the complex mundane programmes, calculations, techniques, apparatus, documents and procedures" (p.175) being utilized to realize the governmentality's goal.

The modern forms of governmentality operate using political economy. Government, by which Foucault meant "not as an institution…but as the activity that consists in governing people's conduct within a framework, and using the instruments of a state" (1979, p.318), has at its disposal a knowledge that aims to create more wealth, resources, and income for its territory. Foucault noted that the "very essence of government…is the art of exercising power in the form of economy" (1993, p.92). Crucial to Foucault's (1991) concept of governmentality or his "art of government" is the act of managing the economy or the resources. For this study, I argue that the ancestral domain of indigenous peoples is a vessel of rich natural resources which can be appropriated for economic productivity. Thus, I situate my study in looking at how the ways of knowing and regulating indigeneity builds itself from the need to appropriate resources in an economically viable means.

Lastly, Foucault noted the governmentality deals with the management of population in "its depth and its details" (p.102) and also with the "problem of the treatment of the uncertain" (2007, p.11). According to Ceyhan (2012), *uncertainty* must be mitigated to avoid events leading to scarcity of resources. To address these complexities, Foucault noted the deployment of the *apparatuses of security*. In explaining what he meant by security apparatus, he underscored "that sovereignty is exercised within the borders of a territory, discipline…on the bodies of individuals, and security…over a whole population" (2007, p.11).

For this study, I emphasize the Foucauldian notion of discipline through surveillance; as surveillance is considered as one of the techniques of security apparatus. I argue that surveillance of indigenous peoples is used by the government "to capture the contingent features of the 'uncertain'" (Ceyhan, p.38). Drawing from Foucault's *biopower* and surveillance, Ceyhan refer to this as "biopoliticized surveillance" which she defines as:

> …surveillance taking the human body and its movements as the focal points, appears like a political technology of a population management and a technique of reassuring population in complex and uncertain contexts of our times where security has become a high priority. (p.38)

With this, I highlight aspects of how the management of indigeneity in the Philippines uses biopoliticized surveillance to deal with uncertainty.

Legal and administrative apparatus continue to be part of the governmental technologies deployed to manage the conduct of people. These apparatuses become a means through which governmentality is maintained. In this regard, I would like to zoom in how laws can be a blueprint in which other technologies and strategies are spelled out. In choosing law as a focus for this study, I argue that a law can be a board that propels and legitimizes governmentality to penetrate even the smallest aspects of life.

This is where Tania Li (2007) and her concept of "rendering technical" in the book "The Will to Improve" becomes valuable as a heuristic tool of governmentality. Li used governmentality in understanding the rationale of improvement or development mechanisms and its effects. She describes *rendering technical* as how one, in this case the government, cannot intervene in everything so there is a need for them to identify problems and bound these in such a way that the areas where one can intervene are identified. Once these areas of intervention become operationalized comes the formulation of solutions that are technical in nature. For Li, the act of rendering something as technical blurs the contradictions, the *mess*, and the politics that happen in solving problems. I use the concept of rendering technical in this study to surface aspects of the law that depoliticizes some of the indigenous socio-cultural and political traditions.

Li, in the same book, identified two limitations of governmentality; the first one is that the target population to be governed "are not easy to manage" (p. 17) and can actively engage in decision making. Citizens can go against or employ resistance to government policies. The second

reason is that governmentality's knowledge is grounded on political economy, that is the need to maximize economic gains. This bounds the government to ensure a calculated management of governing the people. Doing so meant "beneficial outcomes cannot always be guaranteed" (p.18). This proposition on governmentality by Li is acknowledged as a limitation of governmentality as a framework. In utilizing this concept, I also acknowledge what Foucault (1978) believes as the co-existence of power and resistance.

1.4 Methodology

This research employed a combination of methods. To understand how the governmentality works This research employed a combination of methods. To understand how the governmentality works in managing the population of the indigenous peoples, I did a content analysis of the Implementing Rules and Regulations of the Indigenous Peoples Rights Act (IPRA). I decided to choose this law specifically as it is considered as one of the most important legal documents that the government, indigenous peoples, and advocates adhere when it comes to concerns related to indigeneity in the present terms.

The analysis will be aligned with Foucault's concept of governmentality guided by the triad of population, political economy, and security of apparatus. I aim to extract aspects of the law that spells out the governmental technologies and strategies in managing indigeneity. My analysis will not cover the entire legal document but will only highlight aspects of the implementing rules and regulations that manages the relations of indigenous peoples that is crucially tied to their exercise of right to self-determination and ancestral domain. Additionally, for governmental techniques deployed on indigenous peoples but are not captured by the IPRA or interviews but still needs further information, I consulted news articles and government documents about indigeneity in the Philippines that are publicly available.

Semi-structured in-depth interviews were administered online. These interviews serve to offer real accounts of people who have direct experiences on the implementation of IPRA. The data gathered from the interviews shall complement the thematic analysis of the law. The narratives of the respondents for this study will serve as voices on accounts of the IPRA's implementation on the ground. However, given the constraints of conducting a research under a global pandemic, I was only able to conduct a lone interview with an indigenous person; and another one with a person who works for an NGO that specifically caters indigenous peoples.

The first interview is with an Agta-Dumagat indigenous woman whom I will be referring to as *Lai* for this paper. She has been part of the Philippine indigenous movement since the 1980s and currently serves as the national coordinator of a network of indigenous women's organization. On top of this, she is the Philippine indigenous representative for an alliance of different indigenous peoples in Asia. Her engagements are not under the auspices of the Philippine government. *Lai* identifies herself as an activist and her narrative come from a particular subjectivity that is born out of her experience as an indigenous activist.

My interview with her centered on her experience as an indigenous person that stretches from her younger years until now. Our conversation delved on the enactment of the IPRA and how it directly affected the lives of indigenous peoples. Since her engagement with indigenous movement found its roots prior the enactment of the IPRA, she was able to give an account of what it was like before and during its implementation.

The second interview I did was with a Program Director of a non-government organization (NGO) that specifically works for and with indigenous peoples in the Southern Tagalog hemisphere of Luzon. The NGO works with different indigenous cultural communities from the provinces of Palawan, Mindoro, Rizal, and Quezon. The interview focused on their experience

working with indigenous peoples, the processes involved in their engagements as guided by the IPRA and their general impression of it.

It is important to underscore that both respondents represent a certain positionality that shapes their views. Lai's concept of dispossession comes from her experience as an indigenous person herself and being part of a larger movement that asserts self-determination and right to ancestral domain. I also acknowledge that NGO members carries with them an identity of expertise that frames their views. The data gathered from the interviews conducted with *Lai* and the NGO Program Director were also analyzed according to the themes of governmentality. The result of the interviews as well as the analysis of the IPRA is presented on the next chapters as well as a deeper discussion on governmentality embedded throughout.

Chapter Two: Managing Indigeneity and Its Relations

This chapter sets out a deeper engagement on the theoretical approach I used in understanding indigeneity and their experience of dispossession. The discussion of my framework elaboration and analysis are embedded together.

The first section draws from the historical background discussed in the previous chapter to articulate the creation of indigeneity in contemporary Philippines. The second step is laying down the different relations of indigenous peoples that are being governed and managed. Finally, the discussion engages on a deeper level on the nuances surrounding ancestral land and the right to self-determination by indigenous peoples and how the law frames these concerns vis-à-vis how indigenous peoples construct these two.

2.1 Creating a Population of Contemporary Indigeneity

The creation of indigeneity in the Philippines is historically contingent as highlighted in the earlier sections of this work. Here, I would like to zero in the contemporary creation of a population of indigeneity by providing the nuances of its governmentality, I would balance it with accounts from (1) someone who has the point of view of an indigenous person who is part indigenous movement in the Philippines.

With population as the ultimate end of government, the actions and decisions through which governmentality acts must be for the welfare of this population. Achieving this *welfare* meant deploying technologies and strategies to conduct their conducts, to discipline them, and to make their actions bounded by legal apparatus. In the case of indigenous peoples in the Philippines, their contemporary identity was legalized and legitimized through the enactment of the IPRA. The law provides a lengthy account of who qualifies to be an indigenous people or member of an "indigenous cultural communities". It states that these:

> Refer to a group of people or homogenous societies by self-ascription and ascription by others, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed, and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the majority of the Filipinos.

They became juridical subjects whose difference "from the majority of the Filipinos" continue to bind their identity as an "other". This creates a notion that this population, as a result of their difference, must be subjects in need of governance. This operationalization also ties indigeneity to a certain physical location and temporality that makes it possible to makes sense of certain differences in their cultural sensibilities. However, in an attempt to be holistic, the law also recognizes possibility of dispossession. The definition of ICCs continues to include:

> peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization or at the time on inroads of non-indigenous religions and cultures or the establishment of present state boundaries who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.

Just like in the colonial period, indigenous peoples continue to be the subjects of administrative and legislative policies. The enactment of IPRA did not only define a legal definition of what indigenous peoples are but it also provided a comprehensive account of the nuances of how they ought to function as individual and as a collective. With "national unity and development" as the framework through which the implementing rules and regulations of IPRA was grounded, the indigenous peoples once again became a target group of intervention in the of their development.

However, this is not the kind of recognition through law that the indigenous peoples' movement wanted. According to Lai, being a part of this movement even before the passing of the law, their desire was a recognition of indigeneity that at its core recognizes their right to self-

determination and the ownership of their ancestral domain. The need to fight for this legal recognition was borne out of the scaling up of the systematic dispossession of indigenous land throughout the country happening in the 1980s, it is a reality that exists not only in the Philippines but also in the rest of Southeast Asia (Inguanzo and Wright, 2016). According to Lai, this is the time that a significant upscale of *development* projects started entering the ancestral domain. This created the necessary condition for them to fight once again for an authentic recognition.

The alliance of indigenous groups, according to Lai, knows that a law is powerful enough to govern their actions. Thus, when they were consulted to enact what was then just a bill of IPRA, they vehemently opposed it because some of its content is a bit contentious and appears different from what they were initially demanding. What they were lobbying instead was the recognition of the indigenous-led document which they called the "Indigenous Peoples' Agenda". This agenda was a product of a two-year ethnographic research they conducted on areas all over the county with different indigenous groups; the goal is to have a solid indigenous agenda crafted from a consultative process. Lai claims that the language in the way IPRA speaks utilizes some of the indigenous concepts, which was originally present in their IP agenda, but legislators framed it in a different manner. So even though the bill was met with skepticism from some indigenous groups, the IPRA found its way becoming a full-fledged law.

The law as a tactic of governance also conjures a picture of what intricacies constitute indigeneity in the Philippines, echoing what Comaroff (2001) describes as *lawfare.* This paves the way for governmentality to crystallize the kinds of relationships that should be managed. Creating a population meant acknowledging that it has "a reality of its own" (p.6). This means recognizing the fact that certain population has its own ways of dealing with life's inevitabilities like cultural sensibilities and social relationships. They are considered "as existing within a dense field of

relations between people and people, people and things, people and events (p.6). Thus, indigenous peoples in the Philippines are situated in an array of relationship. Their positionality is determined by their cumulative experience starting from the colonial period and is affected by the intersectionality of this identity with other socio-economic, cultural, and political conditionalities.

2.2 Governing Indigeneity and their Relations

The art of government concerns itself with the management of layers of interconnected relationships and reproducing different positionalities – that create disproportionality of power. This include "the relation between self and self, private interpersonal relations…, relations within social institutions and communities and… relations concerned with the exercise of political sovereignty" (Gordon, 1993, p.2-3). Such management of relationships is present in the IPRA, in the narratives of Indigenous peoples found in the literature, and even in the accounts from the interview conducted for this study.

Indigenous peoples, political sovereignty and social institutions

As already mentioned in the literature review, experiences of indigenous peoples' implementation of IPRA notes the issue of political representation as mandated by the law. The IPRA becomes a tool for managing the relations of political sovereignty by stating the need to authenticate indigenous leadership titles and issuance of certificate for tribal membership. Under a section of the law entitled "Right to Self-Governance and Political Leadership System", IPRA orders the need to appoint or elect a leader that will serve as the representative of a certain indigenous cultural communities in aspects of *development* talks and legislative concerns.

To Lai and other indigenous groups in the Philippines, this is a "bastardation of indigenous political system." There exists a multiplicity of socio-political structures among different indigenous communities. However, having a "tribal chieftain" is not a common reality as leadership in most indigenous communities are not elected. Lai asserted that to most groups,

indigenous leadership is "accumulated"; it is not a result of a voting process but is accumulated through the daily life in the community. Thus, not all of the "chieftains" deputized by the National Commission on Indigenous Peoples are fully recognized and supported by the community where they come from. She cited a case of how a non-indigenous man coming from the Bicol region married a *Dumagat* indigenous woman was deputized as chieftain. She said he doesn't have a single drop of indigenous blood in him.

The law disproportionately provides power to these chieftains as they are the sole holder of the Certificate of Ancestral Domain Title which directly goes against the concept of indigenous collective ownership of land. As the socio-political structures of indigenous peoples are managed, what follows is the management of private interpersonal relationships. The need to deputize leaders has led to countless factions within the community according to my respondent; something that was also present in the literature. Furthermore, the recognized and registered leaders are also the authority figure who can issue "certificate of tribal membership" which will be confirmed by the NCIP. This power of the chieftain greatly affects the management of the interpersonal relationships within the indigenous cultural communities.

This account of representation is important to the workings of governmentality (Rose and Miller). These *representatives* will, in principle, embody the truths and sensibilities of the indigenous cultural communities and will have the power to enter negotiation in behalf of the community. They can now legitimately take part in the "sphere of conscious political calculations" (p.182). What happens when you have a *representative* who might not be fully recognized by the community but was deputized by the national government as the legitimate person to lobby and speak power in behalf of the entire indigenous peoples? A person who then embodies the power

to decide for their ancestral domain. In the subsequent sections of this work, I present the crucial role that tribal chieftains play in the government of indigenous peoples.

Indigenous peoples and territory

Foucault also highlighted that part of governmentality deals with managing the relation of men with their "wealth, resources, means of subsistence, the territory with its specific quality…" (p.93). According to the interview conducted with Lai, for indigenous peoples with ancestral domain, their socio-political, cultural and economic sensibilities are tied to their lands. Thus, an access to the internal workings of how indigenous peoples manage their ancestral domain would entail having access to their relationship with their wealth, resources, and means of subsistence. Knowing this is having a valuable knowledge on the daily nuances of indigenous living.

One of the major provisions of the IPRA is the issuance of land titles to ICCs in the form of Certificate of Ancestral Domain (CADT) and Certificate of Ancestral Land (CALT). According to the NGO director, the mere titling of land already goes against the land sensibilities of some indigenous communities. It creates the mechanism for land to be sold and divided among indigenous peoples. This alter the concept of collective ownership of ancestral domain. She said that the CALT became a tool for individual ownership of land. The CADT and CALT alone results to the management of the relations between natives and their land.

2.3 (Ancestral) Domains of Power and Dispossession

During the pre-IPRA years, which was marked with the continuous struggle against dispossession of different indigenous groups in the Philippines, Lai noted that one of their primary calls is to recognize the existence of Ancestral Domain (*Lupang Ninuno* in *Tagalog)* and their concept of *collective ownership.* This was not an entirely novel call because indigenous peoples have been fighting this for since the American colonization period (Malayang, 2001). Through the

point of view of someone who has lived more than half her life for the fight of indigenous land ownership, Lai described to me what an ancestral domain and its nuances.

Collective ownership of ancestral domain of indigenous peoples means the ownership of everything "above and below" their domains. The stretch of their land ownership is not only where indigenous peoples' houses are erected but everything that is vital for their living. This includes the mountains, rivers, caves, and farms among others. According to Lai, the ancestral domain includes the socio-political and cultural aspect of their indigenous identity; this dictates how they manage their territory. Citing the intricate system of the rice terraces in the Cordillera, she said that this is symbol of how socio-political and cultural aspect becomes embedded in their land.

Despite the years that the alliance of different indigenous movement in the Philippines has spent in the recognition of their collective ownership, Lai noted how the IPRA downplayed the definition of an ancestral domain and the nuances attached to it. Even with contentions from different parties, the IPRA remains to be a powerful legal document that managed the relationship of indigenous peoples with their land. It uses the language of indigenous peoples but carefully threads its specificities using the rationality of governmentality.

Rule III of the IPRA is entitled "Rights to Ancestral Domain/Lands" and it outlines the indigenous concept of ownership and the state's recognition of ancestral domain and land rights. However, the law explicitly says that the rights shall be recognized and respected "by virtue of native title" (p.5) through the issuance of Certificate of Ancestral Domain Title (CADT) or Certificate of Ancestral Land Title (CALT). The IPRA provides a complicated and complex process of application for the issuance of CADT and CALT (Hespanha et al., 2015). Moreover, it specifies how land should be managed by indigenous peoples: "it could not be sold, disposed nor

destroyed." As a tool of governmentality, it effectively managed the relationship of indigenous peoples with their land and resources.

Instrument of Empowerment or Tool of Oppression?

In their work on *Problematics of Government,* Rose and Miller (1992) noted how power operates through the regulation of freedom. If governmentality only concerns itself with limiting the actions of its population, it runs the risk of having the entire population go against its operation. Part of the creation of a population is ensuring that they are "capable of bearing a kind of regulated freedom" (p.174) and it does so in a calculated act. In the case of governing indigeneity in the Philippines, freedom was projected in what is called the "Free and Prior Informed Consent" (FPIC).

In the words of the IPRA, FPIC is "an instrument of empowerment (that) enables indigenous peoples to exercise their right to self-determination" (p.15). This gives the indigenous peoples power to act on their own capacity whether to allow or reject "development interventions" in their community. This is grounded on the premise that external interventions to ancestral domains in the past resulted to an unprecedented disenfranchisement and marginalization of indigenous peoples. Thus, *securing* of the FPIC meant that a certain indigenous cultural community consented to the entry or implementation of certain projects or programs within their ancestral domain.

The legality of an entry of a mining corporation or the greenlight to construct a dam on an ancestral domain only needs to secure a free and prior informed consent of the community. According to Lai, what they value as *collective decision making* was watered down to FPIC by the law. Literature also shows that the provisions of securing FPIC was something that makes the IPRA stand out as one of the most comprehensive law to promote and protect the rights of the indigenous peoples (Doyle, 2020). This is because the process of securing FPIC is commonly tied

to the exercise of their right to self-determination. However, for Lai who has been part of the indigenous movement since the 1980s, the FPIC is a "tool of oppression." According to her, this even helped in facilitating land grabbing of ancestral domains.

What the securing of FPIC reflects is part of *rendering technical* the complexity and multiplicity of indigenous cultures and politics of collective decision making. The process of securing FPIC follows the procedure issued by the NCIP; although the government agency claim that it still must adhere with the customary laws of indigenous peoples. One of the activities conducted is a community assembly wherein members of the community freely discuss in detail about an entry of a project or program. They are supervised by members of NCIP. To an extent, the general assembly is a space created as a public sphere. According to Deutsch (2002) in his study of colonial Tanzania, the creation of a public sphere is important in securing the consent of the population being governed. It becomes a space where community members are told to exercise their freedom to negotiate amongst each other; but it is also a space of performance of power involving the NCIP and the tribal chieftain.

This becomes a space to understand how power works in the community level. That it does not always involve coercion but is an assemblage of activities that aim to bend the desires and mentalities of the community. Thus, it is not an absolute freedom or exercise of right to self-determination since governmentality has already been working its way in managing the conduct and the relations of indigenous peoples. ICCs must decide on FPIC matters on the premise of their already *managed* conducts and desires. This is where the role of the deputized *representatives* of ICCs becomes a crucial part of the web of techniques and strategies used to govern indigeneity.

If there are dialogues, meetings, or negotiations involving use of ancestral domain in a setting away from their territory, the NCIP can just summon the presence of these *representatives.*

Some of these representatives may be fully recognized by their community but those who are not run the risk of sending out someone who does not embody the principles of their community. These representatives will have the power to decide in behalf of the community. The collective decision making was once again overhauled by the power centralized to a single person. And as governmentality rests in manufacturing the desires of its population, it is easy to convince and negotiate with one person than an entire community.

In this chapter, I showed how managing the relations of indigenous peoples creates spaces for what Li describes as "educating (their) desires and configuring habits, aspirations and beliefs" (2007, p.5). And that the process it is done is not always coercive but through avenues that IPRA describes as an exercise of indigenous right to freedom and autonomy. The law becomes a blueprint of possible alteration on the terms in which self-determination is exercised and the relationship between indigenous peoples and their land that has long been defined by their cultural and political sensibilities. As this research proceeds, it calls for a critical take on the implications brought about by these configurations.

Chapter Three: Governing Indigeneity Through Deployment of Technologies

This sets out a discussion of how managing the conducts and relations of indigenous peoples are maintained and under what conditionalities it is justified. The first section draws how governing indigenous peoples at a distance is a technology deployed to maintain knowledge about the population. It then sides step to zero in on governmentality's role of managing the economy and how this relates to the deployment of *development* to rationalize the intervention to ICCs. The section concludes by showing how biopoliticized surveillance of indigenous peoples is a powerful tool to *discipline* their conduct.

3.1 The Technology of Governing at a Distance

Part of my interviews for this study aims to understand the types of interactions and processes that take place between indigenous peoples and National Commission on Indigenous Peoples (NCIP), as well as account of NGOs working with and for indigenous peoples. The enactment of the IPRA comes with the creation of the NCIP. As the primary government agency that is mandated to ensure the proper implementation of RA 8371, it functions as an "independent agency" under the Office of the President.

The NCIP has regional offices and provincial field offices all over the Philippines. Their location is strategically located in areas with high concentration of indigenous cultural communities. In principle, if ICCs need to coordinate or seek help from the government, they will consult the NCIP. As a mechanism to ensure that the agency functions for the interest of indigenous peoples, the NCIP shall be headed by seven (7) commissioners who must come from the seven major ethnographic/cultural areas identified by the law. One of these seven commissioners will serve as the Chairperson of the agency.

For Miller and Rose, government rationality acknowledges the creation of freedom in liberalism and this leads to the creation of technologies that appears not to directly control the population but operates to ensure the welfare of its subjects. They call this "action at a distance" wherein the "liberal government identifies a domain outside 'politics' and seeks to manage it without destroying its existence and its autonomy" (p.181). The entity created to govern at a distance is tasked to administer the conducts of the subject that it governs. It is obliged to be the bearers of the *know-how* of the ways in which the population operates.

To a large extent, the NCIP performs this kind of governing at distance. The Office of the President, through the IPRA, mandates the NCIP to provide an annual comprehensive report that details "the status of policy formulation and coordination, and the implementation of plans, programs, projects and activities for the best interest of the indigenous peoples" (p.27). This will only be possible if NCIP maintains a systematic means of generating information from the indigenous peoples. This is done by the office through different governmental techniques.

One of these techniques is being a depository of data from indigenous peoples which involves census, ancestral domain map ethnographic surveys and comprehensive ancestral domain sustainable development plans carried out by the ICCs themselves. Anderson (2006, p.195) underscores how census and maps form part of what he calls "institutions of power" that feeds on the imagination of a community. This imagined community then informs policies and legislations. Moreover, as mentioned in the previous chapter, NCIP personnel is present in all FPIC processes and dialogue taking place between indigenous communities and external entity that seeks entry to ancestral domains. This is to ensure that the process works for the best interest of the indigenous communities.

However, based from the interviews conducted for this research, the NCIP fails to act on its mandate to promote and protect the right of indigenous peoples. From the words of the NGO Director that I interviewed, the NCIP is the "mouthpiece of mining companies" and other "development aggressive" projects that wish to gain entry to ancestral domain. Based on observations during FPIC dialogues, the director said that instead of discussing what are advantages and disadvantages of allowing entry of these *development projects*, the NCIP discusses *why* it should be given free and prior informed consent. Lai even pointed that NCIP "manipulates" just to implement the law.

Being a depository of information and data from different ICCs is what Foucault describes as mentalities of government. Knowing about population through institutions of power like census and survey assist in drafting technical plans and programmes aiming for 'development'. The *tribal chieftain* can also serve as a link between the community and the administration. For the NCIP, not being physically present in indigenous communities might not always count as an impediment to remain knowledgeable on issues concerning the indigenous peoples. In their capacity, the agency can summon the *tribal chieftain* who can provide them in-depth information.

From the nuances presented above, I make an assertion that the realization of governmental rationality led to the installment of different levels of governing indigeneity from a distance. Some of these are the indigenous commissioners, the personnel of NCIP from the national level down to the regional and then in the provincial level, and the tribal chieftain. The different levels are activated at different moments to connect administration to indigenous peoples.

3.2 Managing the Economy through Development

The creation of indigeneity as a population that needs to be *developed* is a narrative present which started in the colonial period. And this development is only possible if an institution or law

is put in place to govern the actions of the people. From the Bureau of Non-Christian Tribes to the Commission on National Integration, from the PANAMIN to the Office of the Southern and Northern Cultural Communities, and to what is now known as the NCIP, all these institutions found themselves grounded to a goal that is 'development'.

In his study in Lesotho, Ferguson demonstrated how 'development' is different depending on who speaks its terms; it is based on "rules of discourse" and its "problematics" (p.28). And tying this to Foucault's assertion that governmentality knowledge functions through the science of political economy, I then attempted to locate the notion of development used to manage the conduct the indigenous peoples.

The language in which 'development' was discussed and deployed in the IPRA is speaking through a jargon of technicalities which might not be readily comprehensible to all indigenous peoples. And since the land is mostly the source through which indigenous peoples use for subsistence, I would like to zoom in the IPRA's Section 2 of the Ancestral Domain Development and Protection. This requires ICCs to formulate what is called "Ancestral Domain Sustainable Development and Protection Plan" (ADSDPP). This document details the result of census and ethnographic surveys carried out by indigenous peoples within their domain. As stipulated on the IPRA, the content of the ADSDPP is a compilation of the result of the following processes it requires: (1) massive information-dissemination to the community, (2) baseline survey, (3) development needs assessment, (4-6) formulation, submission and validation of the plan. Moreover, it contains the elaboration of the socio-political and cultural dynamics of their community. The intensive processes that creates the comprehensive information that NCIP seeks from indigenous peoples once again feed to the mentalities of government

When I asked Lai about her views on the submission of ADSDPP, her knee-jerk reaction was to highlight the absurdity of the ADSDPP. Lai explained that the template used for the ADSDPP is a pro forma coming from the National Economic and Development Authority (NEDA). NEDA is considered as the Philippine government's "premier socioeconomic planning body" and is "highly regarded as the authority in macroeconomic forecasting and policy analysis and research" (NEDA, n.d). As the government agency in charge of having a critical understanding of development issues in the country, NEDA also becomes responsible for providing expert advice to the country's policy makers. Moreover, part of their task is to supervise infrastructure projects aligned with "government's thrust of increasing investment spending…on quality infrastructure facilities." With NEDA on top of the development planning of indigenous peoples, the goal centers on economic development.

She recalled an account wherein the *final* ADSDPP did not reflect the kind of intervention that indigenous peoples desire. Lai detailed a case where an ICC specifically noted that they need a farm-to-market road that connects their ancestral domain to the market for the selling of their produce. When the ADSDPP reached the provincial governor and the NEDA to discuss the plan and approve it, the final version of the approved document that was returned to the ICC is no longer a farm-to-market road but a construction of a zipline as part of an eco-tourism plan anchored on income generation that profits not the indigenous peoples but owners of what has become eco-tourist spaces or environmental economic zones.

Based on a study by Malayang (2001), ancestral domain stretch is almost 65 percent of Philippine total land area. As most of these areas remain untouched by external intervention, it offers a large reservoir of natural resources that can be utilized for economic development. This creates a conflict for governmentality. On one hand is the government's role to assume the

recognition of rights and welfare of indigenous peoples by giving them autonomy over their land. On the other hand, is its role to manage the economy through generating profit and ensure that the entire population, even outside the bound of ICCs, are managed.

This is the kind of conflict that pushes for the creation of other technologies of governmentality that would usher the dilemmas faced. Since "government is a problematizing activity" (p.181) dealing with development concerns of a population requires what Rose and Miller (1992) describes as "governing the networks of welfare" (p.192). What we have now are institutions like NEDA and NCIP that uses their positions of expertise and authority to synchronize their aspirations, which is informed by governing the economy, to that of the sensibilities of the indigenous peoples through something as technical as ADSDPP.

It then ties back to how ADSDPP becomes part of the process of rendering technical. The complexity and the politics involved in how indigenous peoples desire to manage their lands becomes reduced to a set of documents that is expected to encapsulate all the details. It becomes a technical requirement to ensure that ICCs utilize their land according to the development framework of NEDA. The pro-forma template shapes the mentalities of indigenous peoples. It bounds them to a certain way of utilizing their land.

However, it is important to note that it is not always a given fact that using economic development framework to manage indigenous peoples is problematic. It must be approached with attention to the multiple specificities found in different social contexts that indigenous peoples are embedded in. But to give an account that it might not always contribute to the betterment of indigenous peoples is a study conducted by Duhaylungsod (2001 and 2003) on indigeneity and their utilization of resources. She argued that the increasing encroachment of a production geared to economic accumulation on the lives indigenous peoples might run in contradiction to

communities which still practice subsistence production. This is the type of utilization of resources found in their land which is just enough to sustain their needs. Engaging in this type of production might lead to the eventual accumulation through dispossession that David Harvey refers to.

This prompted me to ask Lai how this relate to the kind of development issues that the indigenous peoples she has encountered are currently facing. Her answer is similar to the kind of disenfranchisement that Tania Li (2009) was describing as widespread in Southeast Asia which was a result of temporal and spatial conjuctures. Lai said that the problems they face aside from threat of land grabbing was access to basic social services like health and education. This minimal, if there is even, access to these services was not only because their location (mostly upland) is geographically distant from rural centers where these are available but is also a result of the discrimination they experience based on their ethnicity. This discrimination was a result of the historical *othering* of indigenous peoples as a population tied to their land.

3.3 The Biopoliticized Surveillance of Indigeneity

This section is not something which is particularly stipulated in the IPRA but since it was an area that was touched during one of the interviews and a crucial aspect of how dispossession of indigeneity in the Philippines are maintained, I found the need to look up its nuances. The indigenous peoples as population to be managed also becomes an object of security. Since they might be regarded as people living in contested territories, the apparatus of security justifies the use of discipline to their bodies. I did this by looking at possible entry points of security logic in the management of ICCs. This study identified two entry points: leadership and the need to maintain order or avoid chaos.

The current chief of the NCIP who identifies as a Manobo formerly served the Philippine army and was part of an anti-insurgency task force of the government shortly before holding the

top position of the agency. His appointment, as well as other national agencies under the office of the President, is part of what a news article describes as the "militarization of the government" or the act of appointing previous military personnel as head of civilian posts (Ranada, 2018). This is not to argue that the current chief would assume a type of leadership that is ultimately and solely military in forms. However, it is important to underscore that their leadership sensibilities were shaped by their military experience and training. Part of this training include the acts of surveillance.

The island of Mindanao holds a vast population of indigenous peoples in the Philippines. President Duterte declared that the entire island be held under Martial Law; it was stretched for two and a half years (May 2017 to January 1, 2020), following the Battle of Marawi which the government labeled as acts of terror. With a Martial Law in place to maintain peace and order, the heightened presence of military units and camp all over Mindanao was legitimized and justified. According to a report by Chandran (2018), this resulted to an unprecedented scale up of military personnel presence in ancestral domains. Some indigenous cultural communities in these areas reported experiencing acts of intimidation from the military which led to their eventual displacement from their land; something that was quickly denied by the NCIP Chief (Nepomuceno, 2019). However, to give probable acts happening in militarized a zone of ancestral domains, I turn to a part of the interview with the NGO director.

She was keen on highlighting what she describes as human rights violation of some of the indigenous peoples in areas which they provide service; adding that all four provinces they cover have military presence on ICCs. She said some of them experience “harassment and intimidation” and “red-tagging” or being labeled communists. Such acts, I argue are part of biopoliticized surveillance. The mere presence of militaries in domains of indigenous peoples provide them the

chance to be made privy on the daily lives of the population. They do surveillance within these communities.

The accounts shared to the NGO by the indigenous peoples involve a distinct managing of their conducts. This involves inspecting the recently bought supplies of indigenous peoples; say a family of five members bought more than five individual packs of coffee or a big portion of rice, the family will be subject of surveillance to make sure that they are not providing shelter to communists. This results to a disciplining of indigenous peoples to act *accordingly.* They will avoid engaging in actions and activities that the military would think as jeopardizing peace and order, even though it might not be in congruence with their socio and cultural sensibilities.

As ancestral domains are large vessels of resources which can be translated to wealth generation for the economy, governmentality uses surveillance to mitigate any uncertainty that might lead to its scarcity. In this case, scarcity can be a multiplicity of different things. It can be attributed to indigenous peoples' land utilization that might aggravate the environment or even granting of full autonomy of land to them; this would imply that the state would have minimal to no access to the resources available in ancestral domains. Although IPRA marks ancestral domain as "zones of peace", the mere threat to a bounded territory makes the deployment of sovereignty possible. This is because if indigenous' claims to ancestral domain are still not translated into CADT/CALT, the land is still technically considered as a public domain.

From here, we draw the important role that security apparatuses play in the maintenance of the complex assemblage of power that makes up the governmentality of indigenous peoples. Drawing from Foucault's biopower or "power over life" (1990, p.139), what we have here is not only a kind of power that manages the conducts of a whole population but one that is superior over life.

This is to put the three sections in a coherent understanding of how the use of a combination of governmental technologies enables the conditions for the dispossession of indigenous peoples. The technology of governing at a distance combined with the technology of rendering technical can significantly bend the desires and sensibilities of indigenous peoples. These configurations create the possibilities of indigenous peoples agreeing, through technical means like the FPIC and ADSDPP, to terms and conditions that stipulate the legal co-optation or appropriation of their land. It is also important to note that the interaction of indigenous peoples with persons who speak from a position of expertise can be already framed in an unequal relationship between both parties. With a governmental knowledge informed by a political economy geared to accumulation of wealth, the plausible goal of governmentality would be to be have the power to appropriate resources found in ancestral domain. Lastly, if such configurations of desires according to governmental rationality seem impossible, it then deploys the technology of biopoliticized surveillance of indigenous peoples. This governmental technology assumes a power over life that makes disciplining of indigenous conduct to an unprecedented level.

Conclusion

When I set myself in conducting this research endeavor, what I hope to uncover is a clear-cut understanding of why the dispossession of indigenous peoples in the Philippines is still systemic. However, the process led me to an understanding of dispossession that is not always obvious; one that is made possible by a complex assemblage of factors that are contingent historically and spatially. Guided by the Foucaldian notion of governmentality, I mapped out how the Indigenous Peoples Rights Act becomes a blueprint of governmental technologies. I underscore that treating the IPRA as a legal apparatus that exists in a vacuum devoid of history that led to its passing would not only be counterproductive but also downright irresponsible. In presenting the summary of what this work offers, I go first back to the triad of governmentality: population, political economy, and security apparatus.

Since its inception as a population during the colonial period, indigenous peoples as a collective identity was framed as an inferior *other* set against the majority of Filipinos. A kind of inferiority that is projected to be caused by their different cultural sensibilities which needs *correcting* through intervention. The IPRA, in its very definition of what indigenous peoples are, continue to reproduce this inequality. Once again justifying interventions in the name of development. This study provided a preview of how the kind of development deployed by the government is informed by its need to manage the economy. And a (economic) development anchored on income generation finds itself in tension with the kind of development that indigenous peoples clamor. It becomes an accumulation geared towards the dispossession of ancestral land and all its resources than can be translated to more wealth. This governmentality frames its understanding of ancestral domain titling as a resource management issue. Thus, the reason in which the intervention(s) on indigenous peoples is rationalized becomes the backbone in which

their dispossession is carried out. Finally, the technical seal that helps maintain such a complex web of dispossession is the deployment of security apparatus that disciplines the actions of indigenous peoples.

The law becomes the blueprint that spelled out how to carry the governmentality that aims to *conduct the conduct* of indigenous peoples. It identified the institutions, procedures, analyses and reflections, the calculations and tactics through which indigenous peoples and their multiple relations are governed. Institutions mentioned in this study, which includes National Commission on Indigenous Peoples and the National Economic and Development Authority, play a significant role in configuring the desires of indigenous cultural communities that is synchronized with the mentalities of government. IPRA calls the procedures of electing tribal leaders, securing of the free and prior informed consent (FPIC) and the crafting of Ancestral Domain Sustainable Development Protection Plan (ADSDPP) as the quintessence of indigenous peoples' exercise of their right to self-determination and autonomy over ancestral domain; even though the very conditionalities of its execution is not always in congruence with indigenous peoples sensibilities. IPRA spells out the tactics of doing ethnographic survey, ancestral domain mapping and submitting reports that make calculations possible. It is a legal apparatus that reproduces a specific type of framing, rendering, and governing of indigeneity. The IPRA then becomes a tool of governmentality that reproduces the same socio-cultural and political inequality that frames Philippine indigeneity.

This study has its own limitations by virtue of the methods employed to gather data. I believe that a deeper understanding dispossession is more plausible through an ethnographic approach and at least with a more significant number of respondents. However, given the mobility restrictions caused by the COVID-19 global pandemic, it was not possible to conduct an

ethnographic research and reaching out to possible respondents was limited by the available communication means. Furthermore, I did not employ an analysis of IPRA that exhausts the entire legal document as that would require larger themes that limited time might not allow me. My analysis of the law and of the interviews conducted would have been more informed and nuanced if I was equipped with a knowledge that comes from an actual experience of what happens on the ground.

This work offers but a glimpse of the complexity of the intersection of law and indigeneity in the Philippines. It does not provide an entire picture of the multi-faceted dispossession experienced by indigenous peoples, as well as the multiplicity of resistance that they deploy against this dispossession. What I hope to create then through this study is continuous questioning and understanding of the social processes that shapes the experience of indigenous peoples in the Philippines.

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