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ARTICLE

Tigi: Justice and Indigenous citizenship among the Iraya Mangyan in Mindoro

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ABSTRACT

The Iraya practice of the Indigenous justice system called *tigi* shows the limitation of the Philippines' recognition of similar models in legal pluralism. Beyond mere dispute resolution, the State is unaware that such models as the Iraya practice are also used in reinforcing identity, exercising collective rights, and establishing a shared notion of citizenship. This article reflects upon the question: what does it mean to be Indigenous in a nation-state? It highlights the patterns, themes, and dynamics of the *tigi*, bringing insights on how the Iraya shape their idea of ordinary-day-to-day community life, and how such life engagements shape the idea of justice alongside their exercise of the right to be different. The article concludes by suggesting community-based values and practices the State may adopt in dispensing justice, and by challenging the State's ambition at consolidating diverse communities.

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KEYWORDS

citizenship, cosmopolitics, Iraya Mangyan, justice, legal pluralism

Introduction

The Iraya Mangyan[1] are swidden cultivators traditionally living in the highlands of Mindoro in the Philippines (see Bacalzo 1996; Miyamoto 1988; Padilla 1991; Schult 1997). Today, they are one of the most assimilated Indigenous cultural communities (ICCs) among other "Mangyan tribes" in the island (cf. Bawagan 2009, 2012; Dinopol 2007; Gibson 2015; Rosales 2019). Like many ICCs in Southeast Asia, they now confront entangled issues brought by their rapid transition to modernity and integration into the nation-state (see Li 2014; Paredes 1997, 2013, 2015, 2017).

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Benedict Anderson "defines the nation as an imagined political community that is both inherently limited and sovereign" (1983, 15; in Gupta 2007, 268). But, as James Scott has pointed out, the nation-state too "as the standard and nearly exclusive unit of sovereignty has proven profoundly inimical to *nonstate* peoples" (2009, 11, italics mine). This is because at its disposal are apparatuses that require ICCs to comply with the law even if it is contrary to their "lifeways," coercing them to give up portions of their ancestral land for the benefit of its citizens,[2] settle in the lowlands, embrace new political-economic systems, abandon their Indigenous knowledge and beliefs for Western science, and pay taxes.

Akhil Gupta believes that these demands are created because the nation must always assert "newness" within the time continuum that traces the "historical condition of modernity" (2007, 273, 275–77). While this "newness" can assume many forms such as "development projects" (Li 1996, 2014) within Indigenous territories, it is "citizenship" (see Blackburn 2009; Isin and Wood 1999; Wood 2003) that holds these forms together so that the state's agenda of incorporating many diverse ICCs into its political order shall ever be valid within its own legal scheme. To this end, the nation-state sees itself as the modern and the historical beginning of all peoples.

Hence, as Tania Li postulates, some ICCs who cannot resist such demands compromise with state's assertion "to join the march of progress promised in modernization narratives, only to encounter the polarizing effect of the capitalist relations that soon emerged among them" (2014, 5, 178–85). In effect, as a case in point, the Iraya Mangyan also suffer the consequences of such forced transition and incorporation consolidated as "villagization" (Scott 1998, 223; see also 224-61) articulated in late stage capitalism and globalization (Appadurai 2006; Hall and Fenelon [2009] 2016) that is also called progress.

These include loss of land, resource scarcity through environment degradation, State regulations that restrict traditional economic practices such as hunting, foraging, and swidden cultivation *(kaingin)*; government reforestation projects; mining of "Mindoro jade;" insurgencies; non-governmental organizations' (NGOs) intrusion; and Korean religious missionary activities (as shown in Figure 1), which have been rapidly undermining their belief system, to name a few (cf. Dressler 2009).

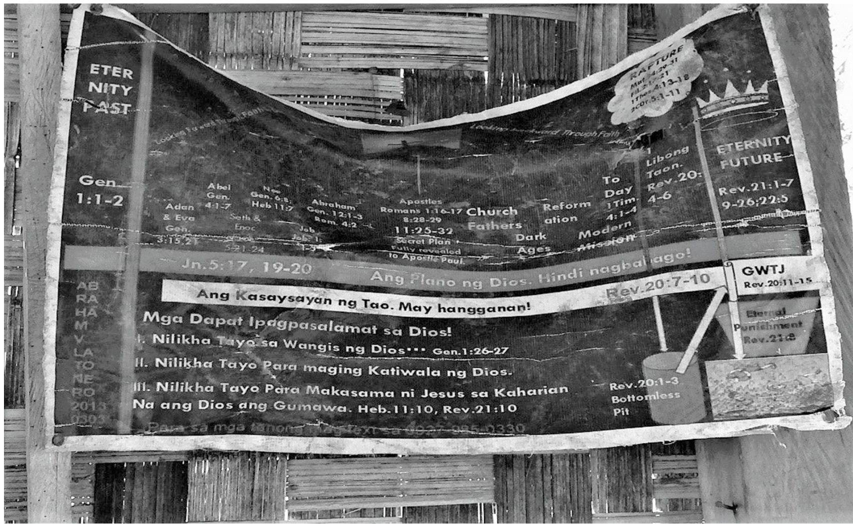

Figure 1. Religious doctrinal tarpaulin showing biblical teachings on morality, stewardship, and creation among others that contradict Iraya cosmology. Photo by Christian A. Rosales.

While this is their condition, the Iraya are not powerless because they also resist the intrusion of modernity by invoking their own "indigenous identity" (Wood 2003). The Iraya believe that while all State's actions are nearly possible because they are legally executed with an idea of "homogeneity" or in being "Filipino," they are also aware that to fully exercise their rights through their political and cultural practices, they need to invoke their own local identity. Like with many ICCs,[3] the Iraya know that their identity carries with it a different concept of humanity. But to do this means "resistance" and "struggle"[4] without offending the State[5] to reformulate such local identity through a practice of Indigenous justice system (IJS) that has its own ontology, political structure, concept of power, and order that shape their "life-world."

For this reason, they retain their IJS called *tigi* or *tigian* as a paramount aspect of their identity. Even with the presence of State's courts, *tigi* is resorted to whenever conflicts arise, and their resolutions call for a shared understanding of justice.

Comparing it with the work of Li (2014) among the Lauje[6] in Indonesia where she asks "what it means to be Indigenous on a land frontier" (9), the Iraya case changes this question into "what does it mean to be Indigenous in a Nation-state?"

I suspect that this shift happens because the Iraya are aware of who they are as a people. They know that their identity notion is reinforced through some forms of traditional practice like the *tigi*. It is also important for them to claim their Iraya identity because it is only through this that they could share among themselves rights over their ancestral lands. "Indigenous people" (IP/IPs), as Wolfram Dressler puts it "may associate identity with space on the basis of occupancy and use, and/or stress indigeneity politically to enhance claims over territory" (2009, 23, see also 24–25, 199).

That is why, even if Iraya IJS is recognized as one of the many forms of "legal pluralism" (Prill-Brett 1994) in State territories so that "plural identities" (Wood 2003) and access to rights therein may be possible, *tigi* practice remains non-negotiable since it necessitates "self-governance" through Indigenous citizenship apart from State-citizenship.

I discuss all this as follows: First, I critique the concept of "national citizenship" and "legal pluralism" as part of the State's political rhetoric. Second, I present the ethnographic details of the *tigi* and its themes as aspects of Iraya identity, and how, through the Indigenous values it generates, the Iraya resist outright State incorporation. And finally, I conclude by reflecting on what the Nation-state may learn from the Indigenous conflict resolution.

Fieldwork and ethics

I first conducted fieldwork among different Mangyan ICCs ten years after the enactment of The Indigenous Peoples' Rights Act (IPRA) in 1997. In 2007, most of the Mangyan elders became divided as they believed that it was not necessary for them to be categorized under the National Commission on Indigenous Peoples (NCIP).[7]

This was also the time when their communities[8] were subjected to extensive militarization. Thus, this made them suspicious of visitors whom they thought were either military spies, rebels, miners, or loggers. The Iraya particularly behaved this way while most of their communities were forced to settle in the lowland.

At first, I moved into a small-mining village called Maryugo[9] in the highland near Oriental Mindoro where travel was quite challenging because of the terrain. For example, most neighboring communities there may be reached only after three, six, or fourteen hours to a few days of walking with rest, depending on the terrain. But later on, upon the advice of my informant who worried for my safety, I stayed in the lowland, particularly with those who reside in the towns of Mamburao, Abra de Ilog, and Paluan in Occidental Mindoro (Figure 2). They locally call their communities Apis, Ti-oy, Maati Malaki, Purbis, Balisong, Pola, Purikon, and Hulo. Traversing these communities is less difficult since the entrance to the nearest *haron* or temporary shelter could be reached after traversing only a few kilometers (Figure 3).

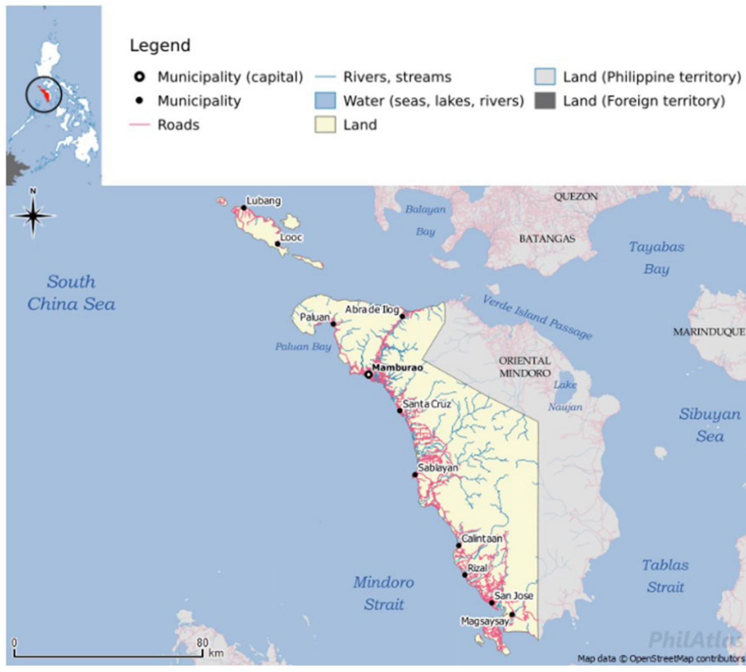

Figure 2. Occidental Mindoro map (2021) comprising towns of Abra de Ilog, Calintaan, Looc and Lubang (no Mangyan inhabitants as of this writing), Magsaysay, Mamburao (capital), Paluan, Rizal, Sablayan, San Jose, and Sta. Cruz. Source: www.philatlas.com/luzon/mimaropa/occidental-mindoro.html.

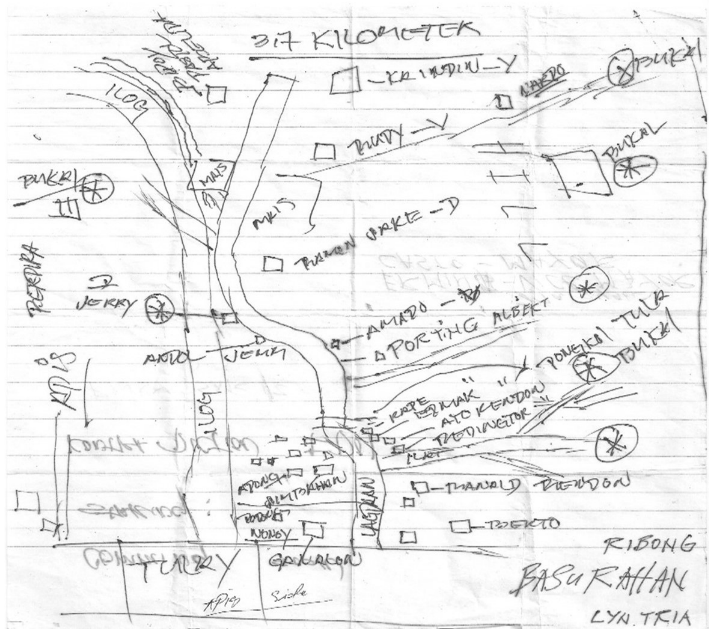

Figure 3. Informant's sketch showing distance from the main bridge (*tulay*) to the entrance of nearest low-lying *haron* clusters. The asterisks represent springs (*bukal*) customarily supervised by specific Iraya families. Springs serve as customary boundary markers of communities. According to informants, political families (e.g., "Lyn Tria," town mayor of Mamburao) now own some Iraya land parcels and springs which were originally part of their communities. Photo by Christian A. Rosales.

In these villages, Iraya were welcoming to students and anthropology practitioners because they believed that such persons possess technical skills that could help them secure their ancestral domain claim. Iraya elders admit that they are less familiar with the technical process imposed on them by the State. Fortunately, they learned some of these from some "engaged" organizations working among them (see San Jose 2012).

For this reason, the Iraya elders who approved the documentation of the *tigi* for my dissertation convened several meetings during my preliminary fieldwork to formulate an inter-community agreement. Such an agreement involved not only their consent but also a discussion on the impact of my study on their communities. Made aware of the implications of my study, from its analysis to its eventual publication, they set clear conditions, such as names and descriptions of offenders must be concealed from the public. As I was a participant observer in several trial-rituals, I was forbidden from transcribing the elders' long audio-recorded magic formula. The Iraya believe in the sanctity of those words, which, when disclosed to the public, may bring them adverse effect. However, my request to include in writing portions of intoned chants known even to participants was allowed so that I could situate the *tigi* ritual in "ethnographic time and space."

My fieldwork sometimes became intermittent due to lack of funds, among many difficult situations. Hence, it can be divided into preliminary (2007–2009), formal (2010–2015), and validation (November–December 2015) phases. Nineteen elders participated as key informants (see Rosales 2020a for discussion on elders), fifteen community members as casual informants, and eleven guilty offenders for the focus group discussion. I gathered thirty-five cases and witnessed nine actual trials either through the *tari, bigas,* or *bakal/bato*[10] (see also Rosales 2016, 63–71 and Rosales 2020a).

Indigenous citizenship, identity

As Carole Blackburn has pointed out, "citizenship has undergone considerable transformation since its inception as a legal identity linked with rights and membership in a nation-state" (2009, 66; see also Bosniak 2006, 24). Wood (2003) notes that "indigenous citizenship" exposes the limits of this transformation in reflecting the complexity of both identity and rights.

In other words, beyond what it loosely connotes, "citizenship embodies the multifarious and complex character of the *political* subject" (Isin and Wood 1999, 25, italics mine). Beyond legality, this also means a constant struggle for identity along with "everyday resistance" against the state (Scott 1985).

In the same way, both struggle and resistance establish "spaces of indigenous agency, authority and autonomy, [which are] concerned with indigenous peoples defining their own terms of belonging to the state" (O'Sullivan 2020, 17), not the other way around. Ponciano Bennagen observes a concrete example of this among

the Teduray and the Lambangian Manobo who, "as distinct peoples," insisted on "autonomy in their ancestral domain so as to live their way of life guided by their *tegudon* or creed beyond what the State-Bangsamoro could recognize" (2015, 3; see also Bandara 2002; Paredes 2015).

Thus, there is a problem when the state sees only "citizenship as rights" (Marshall 1981, [1950] 1992) because for many ICCs, rights are produced out of cultural dynamics that cannot be constrained by mere legal identity. For example, some ICCs in Mindoro like the Tau-Buhid "reversed alterity discourse" by "embracing the position of other-ness to assert for the right to be isolated" (Rosales 2019, 112) in the face of the State's conservation projects. For them, "identity" is a community property founded on a shared morality. If one fails to uphold this shared morality, one also loses one's rights as Tau-Buhid, including the right to live (see 133–35, 140–46).

Hence for ICCs, the dynamics of rights and identity is complex because it embodies a sense of "alterity" (High 2013) constantly reinforced whenever "terms of State-membership" are imposed on them. For instance, Aiwa Ong observes that within a nation populated by migrants,[11] "group membership" and not a "national citizenship" commands legitimacy as basis for rights and identity because it has a shared notion of ethnicity, politics, religion, history, and some practices that make up the concept of who they are more intelligible to them (2003, 14 –70).

June Prill-Brett proposes a "legal pluralism" to solve the divide between citizenship and rights so that "plural identities" and their respective rights may be accessed by all involved through recognition of "the existence of the different bodies of law within the same socio-political space" (1994, 677). But Sally Engel Merry doubts if it could sustain this "scheme" because the nation habitually reconfigures the concept of rights to fulfill its totalizing agenda even in Indigenous territories (1988; see also 1992; Li 2014).

Grassroot engagement with many ICCs also suggests that even "legal pluralism" itself acts as an apparatus of the state's power and control by creating new forms of dominance (see, e.g., Tebtebba Foundation 2008) within a territory through what Mary Constancy Barrameda calls "mainstreaming" (2009). Through this process, a certain customary legal practice not only becomes part of the mainstream but is also transformed as its "standard." Many times, it has been proven that efforts at mainstreaming IJS fail because "there is a strong feeling and conviction" among Indigenous peoples "that no State laws and ordinances can take the place of customary laws and traditions" (Barrameda 2009, 11). The mainstreaming that eventually leads to codification also poses a threat not only to the practice itself but also to the ICCs who own it. This is because, as Clifford Geertz suggests, customary legal practices as a system of meaning for interpreting the world (or worlds, see de la Cadena and Blaser 2018) are linked to local knowledge (1983; see also Bennagen 1996). And as local knowledge should not be documented irresponsibly[12] with an aim of making it available for anyone to practice, replicate, and eventually

commercialize, taking it out of its cultural context, so, too a customary legal practice may not be codified given that culture is central to its practice. Its form and the way it is originally practiced do not conform to a standard set of rules, and change depending on the values a community wants to reinforce effectively. In fact, a customary legal practice is in some cases gender-based, where only men or women members of an ICC may lead their people in settling a dispute, so that a community may reinforce the value of gender roles among themselves. It is in most cases age-based, where only IP elders may interpret its corresponding customary laws, so that the value of respect for the elderly and trust in their wisdom may be reinforced among their members. Similarly, a customary legal practice is also localized and may only be practiced in the territory it is found as a way of buttressing the value among themselves of an Indigenous land as an inalienable collective property.[13] In short, the link of customary legal practice to local knowledge is about the process of generating values essential for constructing a collective identity as Indigenous peoples. Sadly, such a process is broken whenever a customary legal practice is codified.

Given these problems, I am more inclined to subscribe to Patricia Wood (2003) who contemplates the possibility of "indigenous citizenship" rather than simply hoping for "recognizing" rights. Such an approach helps us admit that "colonialism cannot be undone" (O'Sullivan 2020, 15) and that it will continue to be the "legitimizing script" of one's citizenship as "Filipino" (see Azurin 1996), and that through it, State "sovereignty will continue creating policies and laws to regulate its subjects" (O'Sullivan 2020, 15, see also 51–69). For example, as intrusion in "indigenous frontier" (Li 1996, 1999, 2014) becomes even more aggressive, the Iraya with other "Mangyan tribes" who joined the "march to modernity" in the guise of what Scott (2009) terms "ethnogenesis"—by becoming Filipinos with legal basis endowed by the State—are on the brink of "ethnic collapse." Hereby, to legitimize such a condition, the State calls the Iraya as the "Mangyan" an "exonym" (see Scott 2009, 238–82 for a discussion of this term), with the connotation that they are a "non-modern" or "uncivilized" people who live in a far distant world.

This "kind of scheme" (Scott 1998) gives impression that the Iraya need to undergo a transition to become modern, civilized, taxable, and literate inhabitants of Mindoro.

But by Indigenous citizenship, we are empowered to know that "subjects as political entities" (O'Sullivan 2020) may be emancipated by way of defining themselves through the knowledge that we are diverse. Through it, the identity paradigm veers away from mere rights recognition.

Why are we obsessed with legal recognition while local realities instead call for "political emancipation" or independence from state control? Is not recognition a rhetoric that if examined carefully is found along "capitalist relations"? Capitalist relations "refers to the ensemble of relations characterized by private and unequal ownership of the means of production (land, capital) . . . " (Li 2014, 8, see also

116–49). Li (2014) warns us against the "totalizing" promise of a relation in which, "for better or worse, everyone will eventually be incorporated" (4). In fact, problems arise whenever ICCs are pushed by some field workers to claim such recognition, because once acquired, they are mired in the legal complexity that this recognition requires. It ramifies into unnecessary need for assistance from the NCIP lawyers, development workers, capitalists for park creations, missionaries who guised their political interest in religious activities and many others—as ICC advocates (cf. Bennagen 2015; Gatmaytan 2007).

Many IP elders said their communities already have their "experts" who do not require any assistance from outside to interpret their customary law. Legal assistance from outside even creates internal factions among ICC members. This is especially true when their members invoke customary and/or national law in upholding their customary and/or legal rights.

For instance, Prill-Brett (2007) notes how in the Cordillera, legal pluralism is used by some IPs as a strategy to gain control over tenure on lands that are not part of their ancestral domain (28). It also happens in Mindoro that through "legal pluralism," ICC members find a way to own land parcels through mere occupancy of public land by virtue of "land rights"—a gray area in the law.[14] Rights over these newly occupied public lands are then sold to lowlanders who convert these lands into gmelina and mahogany plantations. Worse, even land parcels which are part of ancestral domain are also sold to lowlanders in the guise that they are public land now owned privately through "rights." Lowlanders who are not aware of which lands are public or parts of an ancestral domain encounter problems when they start the process of titling as they discover that those lands cannot be acquired because they are parts of ancestral domain. Some powerful political families who fell "victim" to this scheme, unable to trace the IP land-rights seller, exhaust the natural resources found in those lands such as trees and ornamental rocks as a "repayment" for capital loss through some special laws (Rosales 2016). The problem escalates when a group of IP cannot exercise an economic activity like swidden cultivation on such land parcels because of their disputed ownership. In some extraordinary cases, powerful lowland families find a way to acquire whatever lands they like with cooperation from other members of the IP. In other words, factions between ICC members happen, all because IP can shift from customary law to national law, vice-versa or combine these laws (see Prill-Brett 2007, 27-29), to make their land acquisition and selling scheme successful. For many elders, their members who use this scheme "think like how the Tagalogs do" or as legally minded individuals. Put another way, legal pluralism polarizes a rather egalitarian community through the knowledge it provides in securing legal rights.

Hence, legal pluralism is not only problematic on its own but also poses a threat to Indigenous collective rights, especially when it is used by the same State that recognizes it as an option for ICCs. It is stated in The Indigenous Peoples' Rights Act (IPRA) that:

> The ICCs/IPs shall have the right to use their own commonly accepted justice systems, conflict resolution institutions, peace building processes, or mechanisms and other customary laws and practices within their respective communities as may be *compatible* with the national legal system and with internationally recognized human rights (Chapter IV, Section 15, italics mine; see also 13–14, 16, 19 and NCIP Administrative Order No. 1, Series of 1998).

However, what practices that are apart from the mainstream need to be compatible with the "national legal system" and "internationally recognized human rights"? Terrence Turner said that "efforts to discover a universal cross-cultural core principle or principles of human rights . . . recognized by all the world's cultures seem unlikely to succeed" because "differing cultural formulations of rights [are] extrapolations under different contextual conditions of such common, transcultural principles of right, equity, or justice" (1997, 4; see also Renteln 1985, 1990). Furthermore, it is against the same "human rights" to force ICCs to make their cultural practices compatible with those rights because they too have the "right to be different" (UN 2008; see also O'Sullivan 2020, 9).

Thus, the issue on identity and rights is not about legal pluralism but more about Indigenous citizenship. In the frame of Indigenous citizenship, ICCs exercise the right to interrogate the question: where do we belong?—a complex question that involves history, struggle narratives, cultural expressions, moral consciousness, and other aspects of being different—to answer, as it illuminates the rights overlooked in mere State-citizenship.

Justice and the "right to be different"

Like the Iraya, many Philippine ICCs resort to their IJS because of the shared political system, values, and ontology that make up the idea of justice. Among those recorded are the Teduray (Schlegel 1970), Ifugao (Barton [1919] 1969), and the Banwaon in Agusan del Sur (Gatmaytan 2007), to name a few.

Among the Iraya, their elders, called *kuyay, amay,* and *ang matanda* are like the *monkalon* (mediator) of the Ifugao. The *monkalon* may resolve a case but do not have absolute political authority (Barton [1919] 1969; see also Barrameda 2009). Furthermore, Iraya elders are like the *kefeduwan* (customary law expert) in the *tiyawan* among the Teduray (Schlegel 1970), who need to be morally upright and articulate. Victoria Dinopol observes that being articulate is important for the Iraya elders to effectively communicate values among their members (2007). Their duty is like the *katangkawan* (supreme *datu*) among the Banwaon in Agusan del Sur province who "maintain peace by persuading disputing parties to resolve their differences amicably" (Gatmaytan 2007, 5).[15] At times, Iraya elders convene as a group to decide on issues that threaten community well-being. Disagreements among them may erupt but they would rather respect each other to arrive at a resolution to their collective problem. Nestor Castro notes that in the case of the Kalinga elders in Dananao (Municipality of Tinglayan, Cordillera Administrative

Region), respect on the basis of the *chinogwas* or of being in the same age group is important because elders are mindful of their responsibility over the welfare of their community—a place they had grown together from childhood to old age (2005). The practice of respect works among Indigenous elders as a reminder that their responsibility outweighs individual differences.

Largely, Iraya elders act like "shamans" in other parts of the world, equipped with wisdom and magic skills (Pedersen 2011), which help elevate a case to the spiritual realm, should it become necessary.

Like in other ICCs, Iraya elders possess gifts, special abilities,[16] and most importantly, powers, which, as Mary Constancy Barrameda puts it, arise from a cultural attitude that gives primacy to three key elements of their communal life: community consensus decision-making, community egalitarianism, and cooperation (2009). Such power is created by all actors involved, contrary to its coercive employment in the nation-based justice system in the administration of punitive justice (cf. Dogan 2003; Vincent 2002; Vincent and Nugent 2008).

On the surface, power and justice go together seamlessly in many aspects of communal life because it is held that only through justice is power conceived by an elder through communal affirmation, while it is only through power that justice is dispensed to the aggrieved. This cannot be mistaken for a "dual form of politics" because it is likewise held that justice cannot be achieved without the power with which it is dispensed through the legitimacy of a ritual, in this case the *tigi*. The performance of the *tigi* needs to be requested by the parties involved; it needs to be presented before a community. It cannot be demanded by elders. The ritual, including the power by which its performance becomes valid, is always consensual in nature.

For the Iraya, like with many ICCs, consensus means being one with the community in whatever decisions they make (see Hauggard 1997; Lewellen 1978, 2002, 2003; Naroll and Cohen 1973). So, when a problem arises in the community, elders "cannot really tell anyone what to do but must act as arbiter for the group and as expert advisor in particular situations" (Lewellen 2003, 23). For example, in giving advice, elders may somehow indirectly suggest a *tigi* to resolve a difficult case. This is often done when a case has reached a dead-end, such as those involving killing and theft. Elders know that they must be careful not to directly influence the decision of the complainant because they would not want to be blamed by suspects when they are called in for a trial by ordeal.

In a trial, elders as ritual specialists ensure access to "influence" and "control." These are the fundamentals of their power acquired through careful manipulation of the interplay among three elements of the *tigi*: the *alam* or supernatural knowledge, *speech* or poetic rhetoric, and *age* or seniority. It must be noted that while any community member may somewhat influence others through possession of privilege in using any of these elements in ordinary life engagements, an elder who performs the ritual harmonizes the three to embody consensual power translated to a sense of respect, which cannot be sustained by just one element

alone. For instance, someone who may possess an *alam* but lacks rhetoric or is still "very young" cannot be entitled to the respect that elders receive. Put another way, in Iraya society, it is only the elders who truly possess consensual power. It puts them in an advantageous position since they also carry the knowledge which goes along with it and which survives only through them.

The knowledge of the elders does not only command respect but also trust, for they are perceived to be models of honesty, a virtue important in the *tigi*. This is because its opposite, dishonesty, leads to a trial by ordeal when shown during a dispute. According to Roy Franklin Barton, it is also the view of the Ifugao that when a disputant is dishonest, they challenge each other to an ordeal in the hope that ancestral spirits may harm the untruthful and protect the innocent ([1919] 1969).

Similarly, *tigi* is also viewed as influenced by spirits. Aleli Bawagan notes how for the Iraya, it is better to admit a crime than to resort to an ordeal, because spirits that are conjured in a ritual could bring harm, and possibly death to an offender when proven guilty of a crime (2009, 2012). Such a belief is an affirmation of commonly held values among ICCs that honesty is needed in fair dealings with others for their communities to thrive. In the absence of such a virtue, crimes could escalate and may eventually disrupt community order based on kinship, friendship, and community alliances in a limited geographic location.

John Braithwaite notes how in small-scale societies, the justice system works by means of "reintegrative shaming" (as opposed to "disintegrative shaming") when offenders deny the values they uphold together ([1989] 2006; Candaliza-Gutierrez 2012; Walgrave and Aertsen 1996). He observes that this is effective as deterrent in committing crimes. This is because "repute in the eyes of close acquaintances matters" to them, and they would rather solve a case among themselves by honestly admitting an offense than bringing it to the mainstream courts (Braithwaite [1989] 2006, 69, 70–83; see also Rosales 2020a, 40).

For Maria Roda Cisnero, preventing a dispute from reaching the courts also serves two practical purposes. First, the resolution of a case in IJS is "fast and non-costly" (2008; for an example, see 123) because it is decided right away by all involved. Secondly, ICCs believe that through IJS the truth of a case cannot be hidden, since none can conceal the truth of one's heart before the cosmological beings conjured during rituals (2008; for an example, see 104-5). It could be the reason why even in *barangay* halls, some Iraya resort to *tigi* through the *Katarungang Pambarangay* (Manuel and Vigo 2004) when their case involves lowlanders.

Justice for these ICCs, though woven in the fabric of ideal human characteristics such as honesty, is not purely a human affair, but humans, in the case of their elders, are conduits of the spirits who dispense justice to the aggrieved. It is remarkable that the notion of justice dispensed by spirits is not unique among the Iraya or in a community sanctioned justice system alone but also shared by other ritual traditions.

To demonstrate this, let us cite a practice observed among the Azande in South Sudan. While witchcraft[17] practices are deemed a form of "social justice" when the aggrieved successfully inflicts harm on the offender, such harm cannot fall on them without the aid of the spirits (Evans-Pritchard 1937). Harm is conceived to be from spirits, while humans are agents who facilitate the success of their cooperation, provided that the victim is guilty. Similarly, contact with the spirit realm is also true for the Cebuano. According to Richard Lieban, sorcerers use retaliatory magic to bring justice to the aggrieved when it is impossible to resolve a predicament through conciliation (1967). More recently, I note how for the Tau-Buhid Mangyan, in the absence of a direct *tigi*-like system, the parties face each other to resolve a conflict peacefully: *"Lag tamgawayan gfasini way tam itoy, kaylat o nankamat-toan tam sas fagtainan?"* ("Let us not fight against each other, let us try to resolve this, do you want to talk about this in the presence of the elders?"), but when such confrontation fails, parties subject each other to sorcery called *amurit* (2019). The Tau-Buhid believe that through sorcery, justice can be achieved by the one who feels aggrieved through consultation with ancestral spirits (see Gibson 2015 in the case of the Buid). This is also true among the Tausug who, even in the observance of a more formal Sharee'ah law, resort to a syncretic form[18] of recourse to a conflict through the *adat* (customs). This is because while a misfortune brought by a crime is *"Giyanta' sin Tuhan*" (*"*It is the will of God*"*), expressing homage to the *jinn* (unseen spirits) has "positive effect in life" (Jundam 2006; see 20–27 for a discussion of this). Such action affirms the primacy of a guiltless heart, which is believed to be what spirits examine even in the context of everyday life. Hence, being "guiltless" puts one in an advantageous position to receive justice from spirits.

Here, spirits are therefore conceived as ontological realities who exercise their agency absolved from human interference while they reflect human ideals (cf. Gibson 2015; Mosko 2017; Stewart and Strathern 2004 for the importance of "spirit agency"). In other words, justice for many ICCs is not only an end that is to be achieved but an ethos of a moral attitude that needs to be maintained. It is a crucial aspect of Indigenous sociality which makes spirits conspire with one's actions. Thus, when one transgresses this idea, especially among the Iraya, one is cursed right away with the help of the spirits. The act of cursing is symbolic of the desire to restore the collective notion of justice.

These are only some examples showcasing a concept of justice that is not originating from human agents but achieved through the artifices of the spirit world by humans (cf. Barton [1919] 1969; Benedict 1916; Scott 1994). They also show that justice is not isolated from daily activity, but always ideally demands one to be cognizant of whether one's action is just or not. Be it restorative or retributive, the principle behind the belief that "he who is guilty dies" (cf. Lieban 1967; Rosales 2019) seems upheld in many cultures across the globe. Perhaps this is the case because the spirit realm is an ontological reflection of what does not change. In the *tigi,* "guilt" needs to be cleansed but it cannot be changed. One cannot be innocent when in fact, one is guilty. Hence, during a trial one needs to admit guilt because only by admission could elders remove it.

Guilt, which "cannot be changed," could only be "seen" by spirits who are constant. Such an understanding has wider implications on how the land is inalienable for the Iraya because spirits reside in the land. According to Marisol de la Cadena these spirits may be called "earth-beings" or "entities" ICCs "conjure in the political sphere" (2010, 336, see also 365). They are "ontologies" whose "condition of existence" (Blaser 2009) has an impact on how ICCs share understanding about the world they live in. That is why the Iraya ostracize one who is unremorseful. It reinforces the idea that one's guilt cannot be changed except when one wills it for good, because one's guilt is found in the spirit of the heart. As one indeed has spirit, then one is rooted in the land with the "multitude earth-beings" (de la Cadena 2010; see also Blaser 2009, 2016; de la Cadena and Blaser 2018). Thus, "ostracism" may be considered as an indirect punishment, for it is difficult for the guilty to live in a community occupying a common land in which the spirits are rooted. One who is unrepentant has therefore no right to live in the land. This explains why in sorcery as social justice, one is allowed to be killed, while in *tigi*, the unrepentant is expelled from the community.

A *tigi* ritual is participated in by *Apo Iraya* (ancestors) along with various *diwata* (benevolent spirits) and a multitude of other land spirits, one of which is the protective but ferocious *barungi*.[19] Through this means, *tigi* is believed to possess sufficient supra-natural power to liberate the innocent from shame and cleanse away guilt of the accused. To determine who carries such guilt during a trial, elders[20] use an elaborate play of political power mired in magic rhetoric to equally (re)distribute the burden of the accusation to both disputants. By "distributing" it fairly, elders are assured that no disputants deceive them during a ritual since it is seen as sacred. Such guilt distribution "transforms" a trial space into a coherent ritual system (Hamberger 2014). Any mockery done is said to cause adversarial effects on the community, such as illnesses, drying of water sources, and pestilence in animals, among others (cf. Bawagan 2009), again on the premise that *tigi* is a communal ritual invoking the spirits of nature who "never lie," unlike humans. Its use is magically sanctioned to avoid such communal mishaps. As a result, *tigi* dictates the moral life of the Iraya.

Therefore, for the Iraya, justice that is dispensed by various earth-spirits is anchored on how elders access such justice through power embodiment symbolic of community cohesion, which is reinforced whenever a *tigi* ritual is performed. In this case, justice is like "ritual objects," though non-reified, "that talk back" to the one who pleads for it through a shared consideration of its attributes (Severi 2020, 3, 22). It is as if justice is a "being" with a life of its own. Hence, when someone is aggrieved, they would sorrowfully sigh and say "*magtigian tayo*" ["let us subject ourselves to *tigi*"], symbolic of one's reliance on ideals which make up the concept of justice to arrive at an amicable settlement. Given this logic, its reversal is also invoked: whoever is guilty receives a curse.

The *Tigi*

The practice of *tigi* is communally and spiritually bound. It requires the presence of the community members and uses magic devices such as *bulong* or incantations, *dasal* or chants, and other spells and symbols of invocation to both spirits of nature and the ancestors conjured as *Apo Iraya.* The Iraya believe that spirits examine the human heart where truth resides and which may be subject to a curse. Because of this, the term *tigi* or *tigian* may roughly refer to the heart, as "when an Iraya recounts a crime… the gesture is always toward the heart" (Rosales 2020a, 20).

The most severe form from the three types of *tigi* I mentioned in the foregoing is the *bakal/bato*. Each is a trial by ordeal wherein metal implements like a steel rod or a *bolo* are used in the *bakal*, and a stone or pebble in the *bato*. It is deemed extreme/*matindi* and believed to have an "unalterable" effect on the guilty. Informants aver that during its ritual, an accused, when truly guilty, cannot escape its deadly curse. Any disputes arising from daily activities, as shown in Figure 4, may be settled through *bakal/bato*, provided they were unresolved after going through the two previous types of *tigi*.

Figure 4. Customary law in the *haron* during a *puwagan* (beehive harvest season). The slashed twig (**A**) points to the location of the hive in a tree reserved to its finder. Notice the man standing in the background (**B**); he is inspecting the size of the hive. He remarks that the finder was fortunate to have such a huge hive, and he is even luckier that it was already in its proper age or *gulang*. The age of the hive is important in determining the quality of its honey. In this scenario, even if he likes the hive so much, he cannot take it anymore since it was already marked. Failure to respect such a custom would qualify as *pagnanakaw*. In turn, if the case aggravates, it may be presented before an elder who would try it through *tigi* as may be demanded by the aggrieved. Photo by Christian A. Rosales.

Cases

In Table 1, I provide cases which contain mitigating and aggravating circumstances leading to a trial by ordeal. Note that the English terms provided approximate the meanings of the original terms and are insufficient in fully capturing their cultural context. Furthermore, exact legal equivalents are not appropriate since they may become "prescriptive," not to mention that the Iraya do not have exact names for each crime, only a description of what may be considered as a crime (Dinopol 2007). In addition, elders use numbers figuratively to recount the number of their occurrence in the communities. State-court counterparts of these cases are used only to convey an idea of how they are most likely recognized in the Philippine legal system.

Table 1. Cases Leading to a Trial by Ordeal

Customary Term with Approximate English Translation	Approximate Legal Equivalent/Context	Aggravating Circumstance 1	Aggravating Circumstance 2	Conciliator	Instance
***Pagnanakaw* (Theft or Robbery)**	Robbery, Theft, Qualified theft, Brigandage, Malversation	*Tahasang pagtanggi* (Willful denial)	*Paghahamon* (Challenge)	Elder	Numerous (100+)
***Pandaraya* (Deception)**	Estafa, Swindling, Fraud, Culpable insolvency	*Tahasang pagtanggi* (Willful denial)	*Paghahamon* (Challenge)	Elder	Numerous (100+)
***Pagsisinungaling* (Lying)**	False Testimony, Perjury, Incriminating innocent person, Libel, Intriguing against honor, Estafa, Deceit, Falsification, Fraud, Culpable insolvency	*Tahasang pagtanggi* (Willful denial)	*Paghahamon* (Challenge)	Elder	Numerous (100+)
***Pangungupit (kupit)* (Cheating)**	Theft	*Tahasang pagtanggi* (Willful denial)	*Paghahamon* (Challenge)	Elder	Numerous (100+)
***Pagtatago ng kabuhayan ng iba* (Appropriating another's livelihood)**	Robbery, Theft, Light coercion/Seizing property of a debtor as payment for a debt	*Tahasang pagtanggi* (Willful denial)	*Paghahamon* (Challenge)	Elder	Few (-10)
***Paninira ng kagamitan at pananim* (Destruction of property or crops)**	Malicious mischief (deliberately causing damage to the property of another for the sake of doing it), Arson	*Tahasang pagtanggi* (Willful denial)	*Paghahamon* (Challenge)	Elder	Few (-10)
***Pagpatay ng hayop: kalabaw, kambing, baboy, manok, aso, kabayo, at iba pa* (Killing of animals: carabao, goat, swine, poultry, dog, horse, and others)**	Malicious mischief or Theft of large cattle	*Tahasang pagtanggi* (Willful denial)	*Paghahamon* (Challenge)	Elder	Few (-10)
***Pagtataksil ng magkasintahan: dalaga at binata* (Unfaithfulness to one's betrothed: a single woman or man)**	Unjust vexation (there is no crime if not married)	*Tahasang pagtanggi* (Willful denial)	*Paghahamon* (Challenge)	Elder	Few (-10)

Customary Term with Approximate English Translation	Approximate Legal Equivalent/Context	Aggravating Circumstance 1	Aggravating Circumstance 2	Conciliator	Instance
***Pagtataksil ng asawang lalaki* (Concubinage)**	Concubinage	*Tahasang pagtanggi* (Willful denial)	*Paghahamon* (Challenge)	Elder	Few (-10)
***Pagtataksil ng asawang babae* (Adultery)**	Adultery	*Tahasang pagtanggi* (Willful denial)	*Paghahamon* (Challenge)	Elder	Few (-10)
***Pagpatay ng tao* (Killing a human being)**	Murder, Homicide, Infanticide (child less than three days old), Parricide	*Tahasang pagtanggi* (Willful denial)	*Paghahamon* (Challenge)	Elder	Very Few (1, 2–3, -5)

Note: Instances are approximations by elders where the numeric 100 *(isandaan laang)* denotes that specific cases are numerous, while 10 *(kakaunti laang)* denotes few cases. They are not literal. Elders note that there are only very few *(madalang laang)* occurrences of cases that are considered "big" *(malaki)*.

Mitigating circumstances

Comparative to the State-courts, mitigating circumstances "are those which if present in the commission of the crime, do not entirely free the actor from criminal liability, but serve only to reduce the penalty" (Reyes 2006, 249). The basis of a certain case being reduced in penalty arises from diminution of freedom of action, intelligence, or intent, or on the lesser perversity of the offender (2006).

Whereas in the *tigi*, a certain case is declared already mitigating when there has been a "*pag-amin*" or admission of an offense. It follows that even if a case is tried under *bakal/bato*, for as long as there is an admission, it is to be declared mitigated. If this happens, the ritual is immediately closed, followed by a written or verbal resolution which may accompany some penalties.

Although it looks simple, customary rules strictly dictate that one cannot simply admit a crime to protect others. Elders held that admission of a crime is bound by one's sincere heart:

> If your heart is indeed clean, you will not really be harmed because *Apo Iraya* examines one's heart. This is the reason that even as the past elders suggest, it is always good to admit one's offense. Even if parents, or friends admit it on the offender's behalf, still the curse can never be lifted, thus it is better to admit one's crime so that no further harm can happen to them.[21]

Customs dictate that admission (*pag-amin*) is deemed sincere only when done with willingness to: (1) pay the damages in cash or kind, in cases involving property matters, or a return of the property, in crimes like robbery and theft; (2) never commit the same offense again; (3) transfer to another Iraya community if the crime committed is adultery or concubinage (if the offender is a man), or stay with one's parents or relatives (if the offender is a woman); (4) be willing to receive corporal punishment as may be demanded by aggrieved party; and lastly,

(5) refrain from lying again. Depending on the crime committed, if the offender is unwilling to follow the custom, an admission is deemed insincere, and the case aggravates.

Aggravating circumstances

Informants note that there are two elements in a case for it to aggravate. First, there must be a willful denial or *tahasang pagtanggi*, which means that if the accused from either the *tari* or *bigas* trial denies an allegation even if the result clearly points to them, then it is deemed aggravated. When such denial is present, the accused is declared to be keeping a *motibo* (contextually, an intention), which raises the case to a more aggravating state. Second, there must be a willful denial and *hamon* (challenge), which means that when the accused persistently denies the charges against them despite being guilty, the parties may now challenge each other to a trial by ordeal. At this point, the *bakal/bato* type is resorted to.

Elders know that as a rule, there should be an apparent challenge or *paghahamon* from either party which they both must agree on. If this element is present, elders initiate the ritual to find the guilty one in the hope of arriving at an outright resolution to the dispute.

Challenging one to an ordeal is a freedom accorded to both parties. If thrown by the accused, it becomes their utmost expression of sincerity to undergo such ordeal in the hope of being declared innocent. It is also a wish to be free from the shame brought by the allegation against them. If the aggrieved demands the challenge, it is perceived as an expression of their earnest wish to know the truth of the whole case. It is their petition to prove that their accusation is correct and not executed out of ill will.

The declaration of willingness to challenge the other party serves as an expression of bravery since anything that is contrary to the anticipated result of the trial exposes a person to the risk of receiving the curse. If the accused is proven guilty and accepts the result without resistance, then a resolution is immediately made. The resolution is mediated by the elder who performs the ritual. In forging an agreement, the families and relatives of both parties are required to be present. This is a common arrangement, especially when the case is heinous in nature, such as killings.

The curse

Informants held that the *bakal/bato* possesses a deadly curse. This curse is difficult to lift and may last for many years if it has not been dispensed during a trial because the guilty is not among the disputants. During a ritual, when one is proven guilty, the antidote is immediately given so that their lives would be saved from the curse. It is for the same reason that *bakal/bato* is viewed as an ultimate resort to testing the truth of one's heart.

In rare instances when the accused knows that the signs in the water, fire, smoke, or in the heated rod point to them as being guilty but suddenly refuses to participate in the ritual, the elder will be forced to declare that the *tigi* has failed.

However, a failure spells misfortune not only for the offender but also the community. It is said that just as the curse lingers on all the implements used during the trial and is not dispensed properly to the guilty one, so it must seek them beyond the periphery of where the *tigi* was performed. It creeps through the swidden, the households, the forests where games reside, up to the farthest land that the community can access. Their people get sick, disasters happen, and deaths are frequent until the curse completes its task. To avoid these, elders need to observe the customary rules governing the ritual, and to admit to themselves if they truly have the magic skills to perform *bakal/bato*. Not all elders are equipped with such knowledge, and any mistake on their part is fatal.

Cases in *bakal/bato* and the act of challenging

Listed in Table 1 are cases which can be meted out using the *bakal/bato tigi*. Except for human killings, some of these cases may also be processed in the *tari* and *bigas*. Cases belonging to this category are prioritized based on gravity. *Bakal/bato* is immediately performed when the offenders do not account for the crime after the request of the family or relatives of the offended. Since all suspects are considered respondents, all adults or those of the right age in the community without exception are also required to be present during the trial.

After failing to convince the accused to admit their offense and when reconciliation is impossible between disputants, the elder has no option but to resort to this type. Elders held that this must be upon the request of the parties themselves: "when nobody admits the offense, these two parties will challenge one another, if it is like this then we shall perform the *tigi*." The elder immediately makes their announcement when the challenge is firmly established.

At the start of the process, the disputants are asked again to declare their sincere *paghahamonan* (challenge) in a symbolic gesture. The two hold hands tightly while facing each other, gazing downward towards the "earth." At this point, the elder loudly recites the invocation to *Apo Iraya*: *"Apo Iraya dungawi iri . . .*" ("*Apo Iraya* see us down here . . .") a formula that combines both Tagalog and Iraya words. For the elders, it is essential that this stage is established. Even if an elder wishes that a trial by ordeal is executed, it is impossible for it to happen without the *paghahamon* from the parties. They can only decide on the method, but never can they compel specific persons to submit themselves in the process. As an elder comments, "Challenge is important, for we can see here the true color of their hearts; if both or one of them was just forced to submit themselves in the *tigi*, it will not have any effect. Sometimes, it can even cause perils."[22] In other words, the "act of challenging" binds the parties to the ordeal, thereby putting the burden of proof of the case on both.

“*Walang paulian*”: An extreme ordeal

In exceptional cases, the parties can even agree to enter into an extreme ordeal that is deadlier in form, commonly called “*walang paulian*” (literally translated as “no antidote”). When this option is chosen, the elder has no recourse but to let the guilty suffer from their burns until they die on the spot because the curse runs so swiftly into one’s heart. As elders describe it, “the curse is faithful to itself” by accomplishing its bidding without forgiveness. They believe that when it is created in the ritual, it seeks nothing but the heart of the guilty. Its task is to see the truth of the case into one’s heart and find guilt there inside. However, if it finds that one’s guilt is shrouded with lies instead, it kills that heart. From this logic, it is not surprising that death is imminent in the fate of the one who lies, when this ordeal is chosen.

Features of *bakal/bato tigi*

If the *bakal* is chosen, an elder secures a *bareta* (a type of steel rod for digging), a *bolo*, or any metal rod, provided that it could resist extreme heat without melting. If the elder chooses the *bato* method, they send the accused to a nearby riverbank to collect a fist-sized nearly spherical-shaped stone. In other occasions, a single clean pebble, coin, or a bead may suffice. The elder examines the stone if this is according to their specification. When satisfied, they pronounce the formula over it. This is the start of a formal ritual process.

Ordeal by *bakal*

Two distinct elements are emphasized in the ritual: fire for the *bakal* and water for the *bato*. Whatever the form, the elder sends both parties to the nearby forest to gather dry twigs to make the fire.

The elder takes the metal rod as soon as the fire starts. They carry it from end to end (if a *bareta* is used) then declare *“Ito’y ating gagaw-in ayon sa kahilingan ng dalwang iri”* (“We will perform this according to the request of these two parties”) then for the last time, they ask the disputants again, “*Kayo baga’y sigurado na dini?”* (“Are both of you sure about it?”)

They proceed to the complex process when both parties agree to submit themselves to the ritual-trial. The elders stick the other end of the rod unto the ground then utter the prescribed *bulong* and immediately blow (*buga*) their “sacred breath” to its end, where they hold it down to the other end. Right after, they pronounce the curse loudly in this manner *“Lamunin nawa ng apoy ang puso ng may sala*” (“May the fire consume the heart of the guilty one”). After the curse is intoned in a somewhat theatrical way, it is now deemed created and therefore effective. This time, they put the half-end of the metal into the blazing fire.

When the metal rod becomes red from smoldering heat (*nagbabaga*), the elder commands the accuser to get the heated end. They inform them, *"Kung ikaw baga'y nagsasabi ng toto-o*, *kunin mo ang bakal*" ("If you are telling the truth, take the metal rod from the fire"). With full resolve, the accuser takes it with their bare right hand without hesitation or even a sign of pain, and then presents it to the elder who sits just a little farther from the fire. Immediately, the elder commands them to put it on the ground. Then, the accuser shows their hand to them. While the officiating elder examines it, they also wash the accuser's hand with chicken blood. Unharmed, the accuser is asked to return the rod to the fire.

Again, when the rod turns red from full heat, the elder asks the accused to come forward, tells the accused to show their hands, and then convinces them to admit their crime without undergoing such ordeal. If the accused still refuses to admit the crime despite all efforts to convince them, then the elder will instruct them to take the rod using their bare right hand. Before the accused can do this, the officiating elder releases the curse by repeating the following verses: "*Kung ikaw baga'y walang kasalanan, nawa'y makuha mo ang bakal, kung ikaw ay may sala tupukin ng apoy ang iyong puso*" ("If you are innocent may you take the rod from the fire, but if you are guilty may the fire consume your heart").

Initial signs of guilt

Allowing the accused to admit the crime instead of risking themselves being burned comes from the elder's initial interpretation of guilt. For example, if the accused is indeed guilty, the smoke envelops them, follows them where they move, and there can even be a time when the fire rages bigger. Generally, the color of the metal can become bluish with reddish spots to indicate the subject's guilt. The accused must admit to the crime when these manifest. If they insist on their innocence even in the face of warnings, and if they touch the rod but are unable to lift it with their right hand, they will already have acquired burns before even noticing them. At that moment, it is held that the curse has already entered the body. To lift it, the elder takes another chicken, cuts its throat, and sprinkles its blood all over the offender's hand. Informants held that this blood coupled with incantation is the only antidote against the curse.

Ordeal by *bato*

The dry section of a riverbank near the community is the usual place for the trial, as shown in Figure 5. When the elders think that all required implements are ready for the ritual, they immediately begin the process. They call on the two disputants to present themselves before the community and declare their respective challenges. Like the usual process in the *bakal*, the two hold hands while their eyes gaze downward toward the soil. The gesture binds the two to the ritual.

Figure 5. Lanas River (Mimping River for the Tagalog, should not be confused with Lanas Lake) passes along Purikon, Brgy. Balansay, Mamburao. Most *bakal/bato tigi* occur in remote dry areas of rivers like this. Here, Iraya children play and swim at around 12 noon. After swimming, they are expected to bring home fish, shrimp, and/or *talangka* (crab species) to contribute to their food economy. As of this writing, Iraya elders have resisted quarrying activities in most of their rivers. Photo by Christian A. Rosales.

The elder prepares the pot and fills it with water while uttering an incantation. They put the pot on the fire, then after taking the stone presented by the accused and holding it in their right hand, the elder declares, "We will perform this according to the request of these two parties." Similar with the *bakal*, they incessantly ask again both parties if they are willing to undergo the ritual. Assured that there is indeed an agreement, they take the stone and while they cast another *bulong* over it, they intone a portion of the formula, creating the curse, "May the fire consume the heart of the guilty." Then, they put it inside the pot.

When the water reaches boiling point, the disputants are asked to present themselves in the middle of the crowd again.

First, the elders ask the accuser to present both their hands to them. Then, they pronounce, "If you are telling the truth, take the stone from the pot." After they examine their hands and with the command released, the accuser immediately gets the stone from the pot. If they get it without being harmed, they raise their hand for all to see. When all are satisfied, the accuser drops the stone inside the pot. Their hands are again presented to the elder, who washes it with plain water while uttering some formula verses.

After the accuser is done with their ordeal, it is the turn of the accused to prove their innocence. In a similar way, the elder commands that they present their hands to them. For the last time, the elder convinces the accused to admit their offense without undergoing the test.

If they refuse to admit their guilt despite all avenues for persuasion, then the elder intones an incantation with much emphasis, ordering the accused, "If you

are innocent take the stone from the pot, whence if you are guilty, may the fire consume your heart." After the spells are pronounced, the accused must proceed to take out the stone immediately.

Early deadly warning signs

As demonstrated in Figure 6, anyone at this stage who is indeed guilty of a crime is shrouded with the smoke of the firewood, making them unable to approach the stove on which the pot is placed. This is interpreted as a warning to admit the crime so that they may no longer proceed with the ordeal. Along with the smoke, the flame gets furiously bigger than usual. Elders held, "The smoke, fire, and water will consume the liar."

Figure 6. Example of an ordeal by *bato*. The smoke (**circled**) going toward the direction of a person is a sign that they are guilty of the crime and have to admit to the killing charges against them. To protect the respondent from any harm which may arise from this photo, the date, place, and possible identifications have been concealed. This is a resolved case tried in a dry part of a river. Photo by Christian A. Rosales.

If the early warning signs are ignored, then the last sign is inevitable. The elders turn to metaphor to describe the last warning sign: the boiling water becomes like a "peaceful river." But as soon as the accused tries to put their hand in it, the boiling water bursts into its boiling point like "an angry but silent cat." Elders use these metaphorical phrases to describe how the powers inherent in the ritual with all the spirits who bestow such magical effects admonish the guilty. Before one knows it,

it would be too late to do anything to amend their mistake. Their hands, face, and some parts of the body are now burned. The curse has successfully consumed them. For the Iraya, the guilty is now called *natigian*. In a normal situation, when one is *natigian* ("someone whose heart has been scalded or burned"), they feel excruciating pain, leading to their admission of the offense. However, there is only limited time to lift the curse during the ritual. The elder immediately takes the chicken and cuts its throat. With fresh blood and incantation, they wipe it swiftly over the guilty's hand or both hands, then on the other harmed body parts. This way, the curse is believed to be broken and the angry spirits appeased.

The resolution

After the ritual comes the formulation of the resolution. The offender admits again their crime with a promise to return the goods they had stolen in property cases, or both families of the parties may come to an agreement. In whatever arrangement they arrive at, the mediating elder has to approve it, in conformity with customary law. If the agreement is deemed beneficial to both and the community, the elder declares the case resolved, especially when no monetary or goods return is agreed upon. In short, the fastest way to resolve the case is by means of forgiveness from the offended, which can happen only when the offender admits the crime.

The penalty

Although elders have no absolute power to impose penalties upon the offender, they alone have the special role to confirm that the demands of the offended for punishment are equal to the crime.

Customary rule on penalty imposition

As a customary rule, elders may intervene whenever they find that the demanded penalties included in an agreement are more than the crime committed. Customs dictate that penalties may only be equal to the crime, if they cannot be avoided at all.

To simplify, if person A is killed by person B, the family of A may demand for penalty from B. But the penalty is neither exactly like the crime itself nor more severe than the crime. In other words, A's family's demand for punishment should only be to the extent that B may realize the offense they committed and where A's family may feel that they have received justice.

For many elders, the aim of the rule is to administer justice for the attainment of harmony between the disputants that benefits the community in a non-violent manner, i.e., a killing may not be repaid with a killing. Observance of this custom maintains peace in the community by avoiding irreparable damages to the offender who, if punished severely, may solicit sympathy and/or anger from their family that could later transform into vengeance.

To avoid retaliatory actions, there are two basic forms of exactment available: monetary and corporal. Elders guide disputants to freely choose from them.

Corporal punishment, fines

Corporal punishment may be understood as an exact repayment of the anger of the aggrieved towards the offender. For the offended, such a repayment is necessary as a means of satisfying their anger by seeing how the offender suffers for their crime. Following the customs, elders validate the degree to which it can be satisfied. Usually, it is required that the offended must be present while a punishment is administered to the guilty one.

Here, although penalties include real corporal punishment for the guilty, alternative arbitrary fines to return goods in property-related cases are also resorted to. But whenever punishment is agreed upon, it is executed either by means of *pangaw* or *haplit/hampas* (beating/flogging) using *uway* or *yantok* (for details, see Rosales 2016). For many elders, a resolution by means of monetary rather than corporal payment as a mitigating option for both parties is the best decision to make. Again, the reason is for the offender not to be harmed physically, and for the offended to use the money for other purposes.

Accordingly, it means that two elements are important in deciding the corporal penalty of the crime. First, such a decision must be formed, usually through a verbal agreement, although a written one may also be done. The second element is the damages inflicted to the offender. Hence, the parties are mediated by the elder to arrive at a decision, considering both the content of the agreement and the damages caused by the offender. However, more than damages, *kasunduan* (agreement) is significant in any penalty demand. This is from logic that if a certain offender is forced to subject themselves in the *pangaw* or by means of beating/flogging, anger is created in their heart. In such cases, even after the guilty has fulfilled the execution of their penalty and reintegrated back to the community, they carry a vengeful heart. Therefore, it is practical that the guilty is involved in the formulation of the agreement that contains penalty imposition to avoid vengeance.

Pangaw

Pangaw is utilized through agreement of the disputants. In practice, it must be in accordance with the elder's validation of severity agreement through strict observance of customary law. Men and women may be punished through *pangaw,* but this is not absolute. In most cases, women are accorded due consideration because customs dictate that it is an insult for men to see a woman being punished in a "way that their legs are spread away." Following such a customary logic, an elder may suggest another form of punishment for the parties to consider. It

may include flogging/beating or both may agree for a return of goods, such as in property-related disputes, if the family is economically able. Responsibilities for payment are mostly upon the woman's family.

Figure 7. The *pangaw* is a traditional punishment device by feet contraption (inset, wooden bar with holes). Photo by Christian A. Rosales.

As seen in Figure 7, a *pangaw* through its *ipit* (wooden contraption) typically allows the feet[23] of the offender to be raised from the ground. The height where the *ipit* can be adjusted is also based on the agreement of both parties. Usually, the point of reference is also the offender's stature. Elders may require the offender to stand, then, using sticks, measure the height from the ground, where the offender's feet rest, to their hip. This is the highest level to which the feet can be raised if the body is supine on the bed. The lowest level the feet can be raised is equal to the height from the ground where the offender's feet rest to their *sakong* (ankle). As shown in Figure 8, the *pangaw* can work well even without the bed.

Figure 8. An offender prepares to settle down to serve their punishment through the *pangaw* without support of a bed.

In crimes that are deemed heinous like killings, the offender's feet are traditionally raised to the highest level. This can last for seven days to two weeks, or until the whole lower extremities are turned "*itim na itim na*" (very dark). It is said that after the offender has exhausted the penalty, they normally become very ill, and others even die. Today, the elders emphasize diligence in observing the general customary rule when administering punishment. It should not cause death, even if the crime being punished is heinous. In addition, the offenders are even accorded attendants if they need to drink or eat. When the offender agrees to accept the punishment for serious crimes, they must complete it according to what has been arranged. Among the communities described here, no fatalities of *pangaw* have been reported since the offended normally accords mercy to the offender if they observe that much suffering has already been rendered. Moreover, even if an agreement prevails over the decision of both parties, only the offended can request the elder to release the offender from the *pangaw* even if they have not fully served the agreed duration. This happens most of the time.

Hampas, haplit

In cases involving property disputes, the most widely used form of punishment is beating/flogging the guilty using *uway* and occasionally *yantok*, as shown in Figure 9. This is evident in most communities in Mamburao. The Iraya use the

Tagalog terms *haplit* and *hampas*, which both mean "to beat someone," but in different ways. For example, *haplit* is lashing the guilty using a woven *uway*, which causes finer abrasions on the skin, while a *hampas* is inflicting hard strokes on the guilty using *yantok*, causing a contusion (*pasa*).[24] But since imposing the penalty depends on the agreement of the parties, each argues, with the help of the elder, for the number of strikes to be given and the material to be used (such as either *uway* or *yantok*) to determine the amount of suffering in the form of pain infliction.

Figure 9. An elder shows a *panghampas* made from *yantok* (a type of rattan), which is commonly used in punishment. Photo by Christian A. Rosales.

Remarkably, the Iraya punishment is not done by simply giving harm to others. For example, the elders believe that there is wisdom accompanying it. When a person serves the punishment, they can have more personal time to reflect on what they had done. It somehow allows them to be "confused," as if being tormented by the memory of their crime, seeing themselves humiliated in front of the community and visitors, seeing their own family being disgraced by their acts, and being humbled by themselves even if they agreed to receive such punishment would help them resolve never to commit a crime again.

In the end, the moral basis of punishment for many elders is to make one's mind and heart clean. It restores the individual as an ideal Iraya again. Furthermore, it is held that serving a punishment cleanses one from evildoing and sets in them the full resolve never to repeat their crimes. Because among the Iraya,

> Sacred rituals weigh heavily on the positive side, ensuring that the Offender would not violate his sworn promise of not repeating the wrong deed . . . there are usually no recidivists after the settlement of a case (Dinopol 2007, 123).

"*Kasunduan at kapatawaran*"

It is evident from the foregoing that an agreement (*kasunduan*) is significant in resolving which penalty can be imposed on the offender. Penalty and punishment are administered for a conciliatory end: parties exhaust sentiments, anguish, anger, and all malevolent acts from the willingness of the offender to amend their wrongs, no matter how heinous they may be. It serves as an avenue for the exercise of freedom of both parties to manifest their individualities through the willingness of the remorseful one to subject themselves to a certain penalty. Or, they may refuse it, turn their back, and face the unknown by risking oneself and the community against the curse of the *tigi*.

Similarly, the offended, in their willingness to be repaid exactly according to the perceived amount of punishment, constantly confronts the anger, resentment, despair, pain, and all ill-emotions still present deep within them, until all of these are gone. Realizing that they have been released and seeing that justice has been received, they are now ready to forgive (*magpatawad/kapatawaran*), thereby reintegrating into the community to live a peaceful life again.

Conclusion and recommendation: Toward "justice beyond punishment"

In this article, the Iraya case asks: what happens when an aspect of ethnicity is retained to assert a different identity within the Nation? Specifically, and more pressing, what happens when certain practices like *tigi* are impossible to give up upon assimilation into the State?

As Scott (2009) observes, when ICCs are alienated by the process of incorporation, they return into the highlands to autonomously survive there. It could be the reason why for the Iraya, resorting to *tigi* is not only for resolving disputes, but also for orchestrating resistance so they, too, could gradually reclaim life in the upland Mindoro. This remains true even when *tigi* rituals are held in *barangay* halls, as symbols of state influence and interface of community justice. The rituals reinforce an already amplified "right to be different" among their members. The Iraya are aware that to retain their Indigenous identity, when access to justice necessitates allegiance to State-citizenship, they need to continually practice *tigi* in these places so they could also avoid outright incorporation. By such means, they also delineate their own sense of belongingness to each other away from mainstream citizenship, which limits justice to mere legality.

Furthermore, the Iraya proves that identity and rights are beyond legal prescription. Hence, the State needs to realize that the mere "rule of law" does not hold anymore in a society with plural identities asserting for justice that is based on local understanding. This is because diverse communities are "circumspect about the assumed link between access to justice and the rule of law" (Lucy 2020, 377). It also needs to reassess its overly centralized governing strategy along with its relevance in the face of diversity because, as the Iraya case proves, "culture and [Indigenous] citizenship complicate the idea of [state] citizenship" by "challenging the basis of the very existence of the nation-state" (Wood 2003, 371; see also 375–77). Specifically, this means learning[25] that traditional values such as forgiveness, conciliation, respect, and "reintegrative shame" are vital aspects of a wise resolution aimed at restoring relationship than its dissolution. This also means that emotions like anger and desire for vengeance need to be acknowledged for reconciliation to be meaningful. By exhausting these emotions, disputants come to terms with the "truth of their hearts." Through this process, offenders realize that irreparable damage to others had been done, recognizing their accountability to a crime. The offended, in turn, recognize that even punishments may not reverse the situation, and one should forgive for the sake of the community.

Although the logic of Iraya justice is quite simple, it is difficult to grasp in a Nation plagued by inequalities, and where multiple layers of the law are interpreted to calibrate truth as a political weapon of the stronger.

Finally, the State needs to reassess the damage brought by "disintegrative shaming" through "stigmatization of the offender" (Braithwaite [1989] 2006; see also Candaliza-Gutierrez 2012) if it truly wishes to form a just, equitable, if not perfect society (cf. Sen 2009 and Pilapil 2019). It needs to accept the local reality that State-law cannot be rigid and impassionate.[26] Simply put, above everything, the State needs to devise means on how a community-based understanding of accountability, forgiveness, healing, and peace may be part of dispensing justice beyond punishment.

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Endnotes

1 The Mangyan ethnolinguistic group includes the Alangan, Bangon, Buid, Hanunuo, Iraya, Ratagnon, Tadyawan, and Tau-Buhid (also called Batangan). The Bangon are a disputed group because their origin is similar with the Cuyonon in Palawan (Rosales 2019). Internally, for the Mangyan they would rather use their tribe's name because the term "Mangyan" is derogatory. Furthermore, it is important to note that anthropologists are cautious about using "tribe" because of its connotation that "indicates lower level of social evolution and development" (Salzman 2015, 353), including its colonial origin implying "primitiveness" (Peralta n.d.). Locally, tribe (*tribu*) is acceptable among the Mangyan to delineate their distinction from the lowlanders. For instance, among the Tau-Buhid the chief is called "Punong Tribo."

2 The Indigenous Peoples' Rights Act (IPRA/RA 8371) protects, upholds, and promotes the rights of Indigenous peoples. Despite the enforcement of the IPRA, Indigenous peoples find themselves in a disadvantaged position whenever development encroaches into their territories. For instance, the New Centennial Water Source-Kaliwa Dam Project that would supply water in Metro Manila passes along the ancestral domain of the Dumagat-Remontado. They fear displacement of their communities once the project is successful (see Metropolitan Waterworks and Sewerage System 2019).

3 For example, among the Tau-Buhid, the practice of sorcery is deliberately done to exercise "otherness" so that they could live autonomously away from State-control in Mts. Iglit-Baco Natural Park, where there have been extensive conservation projects. In this manner, they reinforce their identity as well as the rights therein and consequently deny the Nation-based citizenship imposed on them.

[4] I use the terms "resistance" as a covert act against the State (Scott 1985) and "struggle" as an everyday attempt at reformulating Iraya identity when confronted with issues brought by State-citizenship.

[5] Take for instance the State's recent human rights violation on and the effect of the controversial Anti-Terrorism Act of 2020 (RA 11479) among IPs and marginalized communities (see UN 2020 paragraphs 42, 46, 55–56, and 62–73 in particular).

[6] Li (2014) describes how the Lauje highlanders on the Indonesian island of Sulawesi compromised their autonomous way of life with the entry of modernity in their Indigenous frontier, which later reorganized their traditional relationship into "capitalist relations."

[7] To put it in context, kindly see my unedited paper, "Beyond Cultural Issues: Representation and Consent among the Iraya and the Tau-Buhid," which was presented in a roundtable discussion at the Association for Asian Studies (AAS) in Asia online conference in Kobe, Japan on August 31–September 4, 2020. There, I discussed the politics, issues, and difficulties I encountered in my fieldwork beyond the legal complexity of securing research permits.

[8] In 2020, upon the order of President Rodrigo Duterte, the Provincial Government launched an extensive military operation to end insurgencies in the province through the Provincial Task Force to End Local Communist Armed Conflict (PTF-ELCAC). Those who surrendered are placed under Enhanced Comprehensive Local Integration Program (E-CLIP) (see Philippine News Agency 2020).

[9] Informants requested not to indicate its exact location on the map for security reasons.

[10] *Tari* refers to the use of a wooden wand to answer a "yes" or "no" question in relation to a predicament. It also has other purposes, such as in weather forecasting and in healing rituals. *Bigas* on the other hand refers to a type of *tigi*, where litigants are asked to chew up rice grains. Whoever produces "milk-like" saliva is considered innocent, while the guilty one cannot produce saliva at all. *Bakal* and *bato* are severe forms of *tigi* usually employing a trial by ordeal.

[11] Ong (2003) refers to the Khmer-Cambodians who were assimilated in American society, but later on created new "identities" based on traditional Cambodian practices.

[12] Take for example issues of cultural appropriation and commodification surrounding the "Nas Academy, Whang-Od controversy" (see Hernando-Malipot 2021).

[13] An idea I shared as a panelist in a roundtable table discussion on "Doing Engaged Anthropology with IP Communities in the Philippines: Learning from/for a Reflexive Practice" on 23 Oct. 2020.

[14] For a discussion on the complexity of this issue, kindly read Act No. 2874 or "The Public Land Act", 29 Nov. 1919, as amended by Acts Nos. 3164, 3219, 3346, and 3517, Republic of the Philippines.

[15] Gatmaytan (2007) notes that the *katangkawan* are also called "supreme datu," "where sanctioned by a council of *datu* or headmen, he may also punish wrongdoers or lead a retaliatory attack *(pangayaw)* against other groups" (5, 6–8).

[16] It may include chanting of *marayaw* for healing and other purposes. A record of *marayaw* may be found in Jonas Baes (1988).

[17] The goal of Evans-Pritchard (1937) was to "scientifically" reframe it (see Wiener 2017).

[18] It may be part of what Jundam (2006) calls "Tausug folk Islamic rituals." I think he uses such a category to overemphasize the "supremacy" of the Sharee'ah law because of its Qur'anic injunction over the *adat*.

[19] They protect animals in the forest from exhaustive hunting. The Iraya describe them as beings with lips larger than their bodies who take the soul of anyone who sleeps at night facing up (see also Kohn 2013, for the importance of sleep positions in other ICCs).

[20] According to the informants, there were also women elders in the past who officiated the *tigi*. I never witnessed one during my fieldwork.

[21] Literal translation from original Filipino statements. All extracts from fieldnotes have been translated into English, except terms/phrases that carry cultural concepts and are difficult to translate. Also note that the Tagalog (Filipino) words and statements may not follow standard Filipino spelling, enunciation, pronunciation, and syntactic structure. Similarly, some hyphenated words express the exaggerated pronunciation of informants when making emphasis in statements. This is similar to what Harold Conklin notes in his study of some Tagalog speakers which he called "Tagalog speech disguise" (1956; see also 2007). I retained them here for ethnographic reasons.

[22] Original Filipino statement in verbatim: *"importante ang hamunan, sapagkat diyan nasusukat ang tunay na kulay ng puso ng dalawang nag-aaway na iyan. Kapag ka iyan mga 'yan, o kahit ang isa sa kanila ay napilitan laang ay walang epekto iyang tigi na iyan. Minsan nga ay puwede pa iyang makapahamak*."

[23] For cultural reasons, I retain "feet"/"foot" as the direct English translation of the Filipino term *paa* even if in actuality it is the ankle area of the leg that is placed in the *pangaw*. Note also, depending on the agreement, an offender's foot may be subject to *pangaw*.

[24] Cultural description, not medical.

[25] Candaliza-Gutierrez (2012) provides an example that inmates willingly undergo the justice system of the *pangkat* (inmate gang) to resolve disputes and deal with inmate offenses rather than follow the State judicial system. According to her, the *pangkat* formed inside the prison in the 1950s, composed of ethno-linguistic divisions between the Tagalog and non-Tagalog inmates, transitioned into local self-governance with a mechanism for leadership and dispute arbitration, where inmates have the opportunity to regain lost moral status (see 193) through inclusivity. The *pangkat,* following her discussion, serves as a reflection on how the mainstream justice system learns from Indigenous models where both offenders and communities are responsible for rehabilitation (see also Rosales 2020a).

[26] As opposed to Aristotelian adage, "the law is reason free from passion" (Newman [1902] 2015).

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