

The Rights of Indigenous Communities in International Law: Some Implications under Philippine Municipal Law

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Historically, indigenous peoples were original inhabitants of colonized lands. With the twilight of the age of empires and the rise of the international community, developments in indigenous peoples' rights have been burgeoning, tied with the right to self-determination. The Essay examines the different international legal instruments promoting and protecting indigenous rights, as well as writings and treatises by noted publicists on the matter, and their application to Philippine municipal law.

Classical attitudes toward indigenous communities did not attribute them a role in decision-making or self-determination. They were invisible to the processes of government and nationhood. Still, some classical writers acknowledge indigenous peoples. Historically, indigenous people have also been seeking recognition and representation before municipal governments, the United Nations (UN), and other intergovernmental organizations.

The struggle for recognition would eventually materialize into international legal instruments, the first of which was the Indigenous and Tribal Populations Convention. The International Convention on the Elimination of All Forms of Racial Discrimination followed. Recent developments include the adoption of the UN General Assembly Resolution and Declaration on the Rights of Persons Belonging to National or Ethnic Religious and Linguistic Minorities and the draft UN Declaration on the Rights of Indigenous Peoples.

The main elements of the Draft Declaration identifies a distinct collective legal personality of indigenous peoples, defined historical territories and the right to hold and own them, and international responsibility in defending indigenous peoples' rights.

The Philippine experience towards indigenous communities consists of punitive expeditions by foreign colonialists to the Cordilleras and the Moroland. Nonetheless, Philippine jurisprudence touched on indigenous people's rights in *Cariño v. Insular Government* (53 L. ed. 594 (1909)), *Reavis*

v. Fianza (215 U.S. 16 (1909)), and *Rubi, et al. v. The Provincial Board of Mindoro* (39 Phil. 660 (1919)).

The Author ends with the controversy involving the Regalian doctrine and the Indigenous Peoples' Rights Act (Republic Act No. 8371), noting the increasingly progressive attitude towards indigenous communities and their rights.