

Indigenous, Diversity, and the Future of Human Rights in Regional Legal Systems



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ABSTRACT

Indigenous peoples and cultural diversity present both opportunities and challenges for advancing human rights at the regional level. Although their rights are recognized in the constitution and under international law, the implementation of these protections remains difficult. This study aims to assess the protection of indigenous peoples' rights within the regional legal framework. The research employs a normative juridical method, utilizing a conceptual approach, statutory analysis, and a comparative perspective with the Philippines. The findings indicate, first, that indigenous peoples in Indonesia remain vulnerable to discrimination, marginalization, and the infringement of their rights, despite constitutional and international recognition. Some regions have responded by enacting Regional Regulations to ensure that indigenous rights are acknowledged and protected. Second, the Philippines, through the National Commission on Indigenous Peoples (NCIP), has established a relatively advanced legal framework to safeguard indigenous communities. Third, the study highlights the need for a new paradigm that prioritizes effective implementation, respect for cultural diversity and local knowledge, harmonization of customary law with national and sectoral legislation, and the recognition and protection of traditional knowledge. Such a paradigm is essential to guarantee the sustainable protection of the rights of customary law communities, reduce legal conflicts, and enhance their social, economic, and cultural well-being within the regional legal system.



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1.Introduction

The terms Customary Law Communities, Traditional Communities, Indigenous People, and Native People frequently describe the world's indigenous populations. Around the globe, approximately 5,000 indigenous communities comprise a total of 370 million people across 70 countries, including Indonesia.¹ These communities represent about 1,072 ethnic groups, 11 of which have

¹ Tyas Ismi Trialfhianty, Claire Helen Quinn, and Maria Beger, 'Engaging Customary Law to Improve the Effectiveness of Marine Protected Areas in Indonesia', *Ocean & Coastal Management*, 261 (2025), 107543 <https://doi.org/10.1016/j.ocecoaman.2025.107543>



populations exceeding one million. Indonesia ranks among the most culturally diverse countries in the world. This diversity, along with the presence of indigenous communities across various regions, including Indonesia, has facilitated the international legal recognition and protection of indigenous peoples, particularly through human rights-based instruments.²

International human rights instruments morally affirm that protecting the existence of indigenous peoples constitutes a part of socio-cultural rights.³ These instruments ensure that indigenous peoples receive the protection they deserve in their creative and innovative activities through socio-cultural freedoms.⁴ Human rights safeguard socio-cultural rights and confer legal authority, prohibiting discrimination or restrictions, provided that individuals respect legal norms and refrain from harming others. Although non-legally binding, these international instruments, such as those issued by the United Nations General Assembly (UNGA), aim to become legally enforceable once adopted into national or international law.⁵

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) provides strong protections for indigenous peoples' rights to access and use natural resources. While it functions as soft law and is not legally binding, the declaration remains significant and could serve as a foundation for future binding instruments or the development of customary international law. As more countries recognize the rights of indigenous peoples, governments must respect the cultures and values that are integral to these communities.⁶ UNDRIP stands as the primary international instrument that acknowledges and protects indigenous rights, obligating states to respect and fulfill these rights.⁷

The UN formally adopted the UNDRIP on 13 September 2007, through Resolution A/RES/61/295, after years of negotiation. Scholars widely recognize it

² Tobias Haller, 'From Commons to Resilience Grabbing: Insights from Historically-Oriented Social Anthropological Research on African Peasants', *Continuity and Change*, 37.1 (2022), 69–95 <https://doi.org/10.1017/S026841602200011X>

³ Paul Atagamen Aidonojie and others, 'Examining Human Rights Abuses on Religious, Cultural, and Political Intolerance in Nigeria', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.1 (2025), 78–94 <https://doi.org/10.53955/jsderi.v3i1.55>

⁴ Kazuhiro Harada and others, 'The Role of NGOs in Recognition and Sustainable Maintenance of Customary Forests within Indigenous Communities: The Case of Kerinci, Indonesia', *Land Use Policy*, 113 (2022), 105865 <https://doi.org/10.1016/j.landusepol.2021.105865>

⁵ Festus A. Asaaga, 'Building on "Traditional" Land Dispute Resolution Mechanisms in Rural Ghana: Adaptive or Anachronistic?', *Land*, 10.2 (2021), 143 <https://doi.org/10.3390/land10020143>

⁶ Sandra F. Joireman and Rosine Tchatchoua-Djomo, 'Post-Conflict Restitution of Customary Land: Guidelines and Trajectories of Change', *World Development*, 168 (2023), 106272 <https://doi.org/10.1016/j.worlddev.2023.106272>

⁷ Bernard Adjei-Poku and others, 'Customary Land Ownership and Land Use Change in Kumasi: An Issue of Chieftaincy Sustenance?', *Land Use Policy*, 125 (2023), 106483 <https://doi.org/10.1016/j.landusepol.2022.106483>

as the most comprehensive international legal instrument regulating indigenous rights. UNDRIP protects the cultural and identity rights of indigenous peoples, as well as their rights to land, territories, and resources, whether they are individually or collectively owned. It also recognizes property acquired through traditional ownership or customary use.⁸

Similarly, the 1945 Constitution of the Republic of Indonesia recognizes the existence of indigenous peoples. The Constitution mandates that the state acknowledge and respect the unity of indigenous legal communities and their traditional rights, as long as they remain viable and align with the principles of the unitary state. The state must protect these rights, as they cannot be overridden by national interests in promoting general welfare. By enacting regulations to support the development of indigenous communities and safeguard their traditional rights, the state provides recognition, opportunities, and protection. Consequently, the government must ensure that the legal rights of indigenous communities to their natural resources remain secure from interference by external parties.⁹

Indigenous communities possess a profound and diverse historical and cultural legacy that has evolved within the framework of their local communities. These societies have legal conventions that have been passed down over centuries. These are, of course, different from the rules that the state enforces. In a society with diverse cultures, human rights are of utmost importance. In this case, human rights serve as a legal guarantee that all cultural groups, including those that are not in the majority, have the right to be recognized and accepted.¹⁰ By prioritizing human rights, communities can foster an environment where everyone is treated equally and has the opportunity to participate in social, economic, and political life. However, the problems that arise are significant. In many parts of the world, discrimination, intolerance, and human rights violations remain prevalent.¹¹

Therefore, it is crucial to remain committed to preserving cultural diversity and upholding human rights. In a multicultural society, human rights are paramount in protecting and preserving cultural diversity. The Universal Declaration of Human Rights (UDHR) says that everyone has the right to express their cultural

⁸ Philipa Birago Akuoko, Timothy Adams, and Tobias Haller, 'Balancing Customary and Statutory Governance to Sustain Informality in Ghana's Public Spaces', *Cities*, 165 (2025), 106127 <https://doi.org/10.1016/j.cities.2025.106127>

⁹ Tiatité Noufé, 'Impact of Land Tenure Security through Customary Law on Agricultural Productivity in Burkina Faso: Propensity Score Matching Approaches', *Land Use Policy*, 134 (2023), 106907 <https://doi.org/10.1016/j.landusepol.2023.106907>

¹⁰ Patria Bayu Murdi and Rahimah Embong, 'Legal Issues of Health Frontier in Two Countries: Challenges from Indonesia and Singapore', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.3 (2024), 264–86 <https://doi.org/10.53955/jsderi.v2i3.51>

¹¹ Estradivari and others, 'Marine Conservation beyond MPAs: Towards the Recognition of Other Effective Area-Based Conservation Measures (OECMs) in Indonesia', *Marine Policy*, 137 (2022), 104939 <https://doi.org/10.1016/j.marpol.2021.104939>

identity, variety, and freedom of thought. Article 6, paragraphs (1) and (2) of Law No. 39 of 1999 respecting Human Rights show that Indonesia recognizes and respects customary law communities and their traditional rights.¹² To defend human rights, the law, society, and the government must take into account and protect the differences and needs of indigenous legal communities (paragraph 1). The cultural identity of indigenous legal groups, including their rights to customary land, is protected in line with current trends (paragraph 2). This clause clearly demonstrates the importance of having a legal tool to protect the culture and rights of indigenous legal groups when it comes to the government, particularly regional administrations, in enforcing and protecting their human rights.¹³

The idea that the State, as the highest authority in controlling the lives of its people, must do everything it can to protect the constitutional rights of its citizens, including the rights of Indigenous Legal Communities, is in line with the idea that protecting the rights of Indigenous Legal Communities is a form of social justice. From a Human Rights (HAM) perspective, the authority of regional governments to defend Indigenous Community Rights is largely based on the authority of the Provincial Government and the authority of Regency and/or City Governments.¹⁴ The Dutch legal term *bevoegdheid* is often used to mean "authority" or "power." In actuality, there is still a gap between regulation and execution, even though regional government authority is supposed to protect the rights of indigenous peoples. A lack of political will, a centralized growth model, and limited institutional capacity often render this power ineffective. This arrangement enables political marginalization and systemic discrimination, which gradually erode the bargaining power of indigenous peoples in their dealings with the state.¹⁵

Political marginalization and institutional inequality make indigenous populations even more vulnerable. The lack of indigenous populations' representation in legislative and public decision-making bodies is a strong sign of political marginalization. When development strategies and public services don't take into account the unique needs and circumstances of indigenous populations,

¹² Madison Cachagee and others, 'Indigenous Oral Health: A Matter of Rights', *First Nations Health and Wellbeing - The Lowitja Journal*, 3 (2025), 100069 <https://doi.org/10.1016/j.fnhli.2025.100069>

¹³ Keyuan Zou and Qiang Ye, 'The Relationship between UNCLOS and Customary International Law: Some Reflections', *Marine Policy*, 154 (2023), 105691 <https://doi.org/10.1016/j.marpol.2023.105691>

¹⁴ Linda Mensah, 'Legal Pluralism in Practice: Critical Reflections on the Formalisation of Artisanal and Small-Scale Mining (ASM) and Customary Land Tenure in Ghana', *The Extractive Industries and Society*, 8.4 (2021), 100973 <https://doi.org/10.1016/j.exis.2021.100973>

¹⁵ Gerlov van Engelenhoven, 'From Indigenous Customary Law to Diasporic Cultural Heritage: Reappropriations of Adat Throughout the History of Moluccan Postcolonial Migration', *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique*, 34.3 (2021), 695-721 <https://doi.org/10.1007/s11196-020-09781-y>

it leads to structural discrimination, which makes the socio-economic gap even bigger. Indigenous communities' ability to successfully advocate for their rights at national and regional levels is diminished, resulting in long-term consequences.¹⁶

The clash between customary law, national law, and international law is one of the most complex aspects that makes it difficult for indigenous tribes to determine the law.¹⁷ National law is based on current state legal systems that are uniform across the board and are founded on the traditions, values, and social structures that have been passed down through generations within a particular community.¹⁸ For now, international law, especially human rights treaties, sets universal criteria that recognize the collective rights of indigenous peoples. Even while customary and international law clearly recognize customary land, national law often ignores it. This is an example of how these three systems often come together.¹⁹ This disagreement creates challenges for implementing actions, especially in countries that prioritize national law over customary law. Another big problem is that indigenous people can't use regional human rights protection procedures. Many indigenous tribes are unaware of how to file complaints with regional human rights agencies, such as the Inter-American Commission on Human Rights or the African Court on Human and Peoples' Rights. The absence of a binding human rights court in ASEAN exacerbates this problem in Southeast Asia. Language challenges, expenses, and a lack of legal capacity for indigenous peoples make it difficult to utilize existing regional tools.²⁰

In reality, the realization of indigenous peoples' autonomy often conflicts with national development policies. The free, prior, and informed consent (FPIC) of indigenous peoples impacted by infrastructure initiatives, natural resource extraction, and substantial investments is often overlooked. When indigenous autonomy is not respected, indigenous peoples lose control over the land and resources that keep them alive.²¹ This leads to abuses of human rights, which can

¹⁶ Sigit Nugroho and others, 'Customary Law Harmonization Norma Interaction and Legal State in the Management of Natural Resources Conservation', in *Proceedings of the Proceedings of 1st Workshop on Environmental Science, Society, and Technology, WESTECH 2018, December 8th, 2018, Medan, Indonesia* (EAI, 2019) <https://doi.org/10.4108/eai.8-12-2018.2283961>

¹⁷ Joireman and Tchatchoua-Djomo.

¹⁸ Victor Onyebueke and others, 'Urbanisation-Induced Displacements in Peri-Urban Areas: Clashes between Customary Tenure and Statutory Practices in Ugbo-Okonkwo Community in Enugu, Nigeria', *Land Use Policy*, 99 (2020), 104884 <https://doi.org/10.1016/j.landusepol.2020.104884>

¹⁹ H.S. Geyer, 'Conflicts and Synergies between Customary Land Use Management and Urban Planning in Informal Settlements', *Land Use Policy*, 125 (2023), 106459 <https://doi.org/10.1016/j.landusepol.2022.106459>

²⁰ David le Bris, 'Testing Legal Origins Theory within France: Customary Laws versus Roman Code', *Journal of Comparative Economics*, 47.1 (2019), 1–30 <https://doi.org/10.1016/j.jce.2018.10.003>

²¹ Sapriani Sapriani, Reza Octavia Kusumaningtyas, and Khalid Eltayeb Elfaki, 'Strengthening Blue Economy Policy to Achieve Sustainable Fisheries', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.1 (2024), 1–19 <https://doi.org/10.53955/jsderi.v2i1.23>

happen in two ways: directly through evictions and violence, and indirectly through environmental damage and the loss of jobs.²²

To ensure the protection of indigenous peoples' human rights, effective enforcement mechanisms must operate at both national and regional levels. Indigenous communities benefit from stronger legal safeguards in regions with binding human rights instruments, such as the European Convention on Human Rights, which is enforceable through the European Court of Human Rights. In contrast, within ASEAN, the protection of indigenous peoples' rights remains limited due to the predominantly declaratory nature of its mechanisms. This disparity in binding authority directly influences the extent of autonomy that indigenous peoples are able to maintain.²³

Indonesia needs to compare how well it protects the rights of indigenous people with how well the Philippines does it. The Philippines has a more evolved legislative framework and operational mechanisms for recognizing and protecting indigenous people. The Indigenous Peoples' Rights Act (IPRA) of 1997, passed in the Philippines, clearly states that indigenous peoples have rights to their traditional lands, natural resources, and cultural heritage, as well as the right to participate in development. The constitution and several laws in Indonesia recognize the presence of indigenous people living there, although these laws aren't always adhered to at the national and local levels. Indonesia can learn from the Philippines' approach to better enforce certain rules. For example, Free, Prior, and Informed Consent (FPIC) is a constitutionally required way for people to participate.²⁴

The National Commission on Indigenous Peoples (NCIP) is an independent agency in the Philippines responsible for enforcing customary law, resolving disputes, and ensuring the recognition of the rights of indigenous peoples. This institutional model illustrates how human rights protection, customary law, and national law can work together in a coordinated manner. Indonesia can assess the shortcomings of its national implementation and identify best practices for adoption or adaptation, including the incorporation of international human rights

²² Divya Karnad, 'Navigating Customary Law and State Fishing Legislation to Create Effective Fisheries Governance in India', *Marine Policy*, 86 (2017), 241–46 <https://doi.org/10.1016/j.marpol.2017.09.002>

²³ Jean-Baptiste Ndikubwimana and others, 'A Re-Conceptualisation of the Batwa's Right to Recognition as a Minority and Indigenous People in Rwanda: A Human Rights-Based Approach', *Heliyon*, 10.10 (2024), e30848 <https://doi.org/10.1016/j.heliyon.2024.e30848>

²⁴ Laurence Klein, María Jesús Muñoz-Torres, and María Ángeles Fernández Izquierdo, 'Free, Prior, and Informed Consent and Human Rights Impact Assessments: Lessons from Repsol's Operations in Wayuu Territories in La Guajira, Colombia', *Resources Policy*, 106 (2025), 105554 <https://doi.org/10.1016/j.resourpol.2025.105554>

standards, mediation, and monitoring systems. This will enable the permanent and effective protection of the rights of indigenous peoples.²⁵

Miasiratni's previous research has demonstrated that regional laws are crucial for establishing a clear and precise legal framework for protecting indigenous groups in various regions. Still, there are several challenges to implementing them, including difficulties in coordinating with national policies and insufficient resources. To best protect indigenous people, it is essential to ensure that laws and rules work in tandem and strengthen regional capabilities.²⁶ Furthermore, Tundjung Herning Sitabuana et al. did a study that illustrated the strong connection between the presence and enforcement of Indigenous Peoples' rights and the matter of their safeguarding. Current legislation expressly and indirectly embodies the legal safeguards provided to Indigenous Peoples. However, the weakening or exclusion of Indigenous Peoples' rights stems from the inconsistencies and ambiguities inherent in sporadic and sectoral rules. To make sure that Indigenous Peoples are always protected, it is vital to apply existing legal ideas and rules in a clean and consistent way. It is essential to coordinate and organize legislation, which may necessitate the creation of specific laws and regional regulations to recognize and preserve the rights of Indigenous Peoples.²⁷ Chairul Fahmi has also conducted research that shows the United Nations has recognized and worked to protect the rights of indigenous peoples in recent decades, particularly their right to their ancestral lands, territories, and resources. There are many rules that protect these rights, such as the UNDRIP and ILO Convention No. 169. However, most Asian and African countries, including Indonesia, have not ratified these agreements. Because of this, these rights have not been included in national policies, as they need to be ratified before they can be implemented through national regulations. Indonesia also questions the customary rights of indigenous peoples to land, territory, and resources.²⁸

This research distinguishes itself from the three previously stated studies by analyzing not only the legal framework and implementation issues but also examining the autonomy of indigenous peoples within a human rights context through the lens of regional legal systems. This research highlights the possibility

²⁵ Tade Matthias Spranger and Joana Günther, 'Indigenous People in International Law: Developments and Perspectives', 2025, pp. 223–37 <https://doi.org/10.1016/bs.dnb.2024.12.003>

²⁶ Miasiratni, 'Peran Peraturan Daerah Dalam Melindungi Hak-Hak Masyarakat Adat Di Indonesia', *Journal of Global Legal Review*, 2.2 (2024), 65–70 <https://doi.org/https://doi.org/10.59963/jglegar.v2i2.362>

²⁷ Tundjung Herning Sitabuana and Dixon Sanjaya, 'Urgensi Pembentukan Undang-Undang Pengakuan Dan Perlindungan Masyarakat Hukum Adat Sebagai Jaminan Konstitusional Keberadaan Masyarakat Hukum Adat', *Seri Seminar Nasional Ke-III Universitas Tarumanagara Tahun 2021*, 2021, 171–82 <https://doi.org/https://doi.org/10.24912/pserina.v1i1.16157>

²⁸ Chairul Fahmi and Muhammad Siddiq Armia, 'Protecting Indigenous Collective Land Property in Indonesia under International Human Rights Norms', *Journal of Southeast Asian Human Rights*, 6.1 (2022) <https://doi.org/10.19184/jseahr.V6i.30242>

of acknowledging and successfully applying the principle of autonomy within regional legal frameworks, which encompasses the right to self-governance, the administration of land and resources, and the safeguarding of cultural identity. A participatory approach is essential to bolster the safeguarding of human rights for indigenous populations, necessitating their active engagement in the formulation of policies that affect their life. This involvement is not just a formality; it must ensure meaningful engagement that allows indigenous peoples to articulate their interests and needs. Indigenous peoples' autonomy can provide a secure platform for achieving cultural sustainability and social equality amidst global modernization through the integration of legal recognition, effective enforcement mechanisms, and meaningful involvement.

2. Research Method

The research methodology utilized is normative juridical, focusing on the analysis of pertinent legal norms at both national and international levels concerning the recognition and protection of the rights of indigenous peoples. This study employs three principal approaches. Initially, a conceptual framework is employed to identify and examine key concepts, including the rights of indigenous peoples, cultural diversity, and regional legal systems, through a comprehensive literature review of legal doctrines and relevant legal sources. Secondly, a legislative approach that examines national laws and international instruments, such as the 1945 Constitution, Law Number 6 of 2014 regarding Villages, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and ILO Convention No. 169, to determine the legal basis for the safeguarding of indigenous peoples' rights. The third approach is comparative, which involves examining how Indonesia and other countries safeguard and recognize the rights of indigenous peoples. The Philippines is one of the Asian countries with the most extensive and advanced legal frameworks for recognizing and safeguarding the rights of indigenous peoples, as outlined in the IPRA and the Free, Prior, and Informed Consent (FPIC) system. Prescriptive analysis is used to develop legal solutions or policy suggestions that enhance regional legal harmonization and the protection of indigenous peoples' rights.²⁹

3. Results and Discussion

Indigenous Rights and Diversity in Regional Legal Contexts

In Indonesia, "customary law communities" refer to groups of people who continue to follow traditional rules and practices. These communities are some of

²⁹ Madeline Beattie and others, 'Even after Armed Conflict, the Environmental Quality of Indigenous Peoples' Lands in Biodiversity Hotspots Surpasses That of Non-Indigenous Lands', *Biological Conservation*, 286 (2023), 110288 <https://doi.org/10.1016/j.biocon.2023.110288>

the most vulnerable when it comes to protecting their rights.³⁰ Customary law communities have often faced marginalization and prejudice throughout history, even before the Formation of the Republic of Indonesia. Customary autonomy is a means by which communities that adhere to customary law can safeguard their rights and govern their lives in accordance with the rules and customs of their region. This weakness has made it even more important to recognize and safeguard customary autonomy.³¹

Essentially, customary autonomy (or indigenous self-government) means recognizing that indigenous groups have the right to govern themselves according to their own laws, traditions, and customary institutions. The concept of self-determination, as outlined in Article 1 of the International Covenant on Civil and Political Rights (ICCPR), is closely related to this idea in international law. This clause acknowledges the right of every nation to self-determination.³² However, its execution at the regional level depends on the political institutions, legal systems, and colonial history that are common in the area. Everyone agrees to protect and recognize the rights and lands of Indigenous Peoples, as stated in the Universal Declaration of Human Rights (UDHR), the UN Commission on the Elimination of Racial Discrimination's recommendations, and the UN Declaration on the Rights of Indigenous Populations. It is against the law to take away the rights and lands of Indigenous Peoples for any reason unless they agree and are given fair, equitable, and appropriate compensation.³³

Law No. 12 of 2005, which went into effect on October 28, 2005, made Indonesia a signatory to the UN International Covenant on Civil and Political Rights (ICCPR). Article 27 of the ICCPR says that there are religious minorities in a state. This means that people from these groups can freely practice their religion, discuss their culture, and appreciate their own heritage. Article 15 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR, 1966), which Indonesia ratified in 2005, stipulates that countries must take steps to conserve and promote local culture where necessary. Article 15, Paragraph 2 further says that "the full realization of this right shall include measures necessary for its conservation." Local

³⁰ Antonia J Clarke and others, 'Prevalence of Dementia among Indigenous Populations of Countries with a Very High Human Development Index: A Systematic Review', *The Lancet Healthy Longevity*, 5.12 (2024), 100658 <https://doi.org/10.1016/j.lanhl.2024.100658>

³¹ Michael Barry and Ephraim Kwame Danso, 'Tenure Security, Land Registration and Customary Tenure in a Peri-Urban Accra Community', *Land Use Policy*, 39 (2014), 358–65 <https://doi.org/10.1016/j.landusepol.2014.01.017>

³² Malayna Raftopoulos and Damien Short, 'Implementing Free Prior and Informed Consent: The United Nations Declaration on the Rights of Indigenous Peoples (2007), the Challenges of REDD+ and the Case for the Precautionary Principle', *The International Journal of Human Rights*, 23.1–2 (2019), 87–103 <https://doi.org/10.1080/13642987.2019.1579990>

³³ Lara Domínguez and Colin Luoma, 'Decolonising Conservation Policy: How Colonial Land and Conservation Ideologies Persist and Perpetuate Indigenous Injustices at the Expense of the Environment', *Land*, 9.3 (2020), 65 <https://doi.org/10.3390/land9030065>

governments are required by both international and national laws to carry out programs that protect and respect Indigenous and Tribal Communities.³⁴

The primary objective of granting regions as much autonomy as possible is to expedite the attainment of community welfare by enhancing services, empowering communities, and engaging them more actively. Regions are also expected to become more competitive in the globalized strategic environment by focusing on the principles of democracy, equality, justice, privileges, and uniqueness, as well as the potential and diversity of regions within the Unitary State of the Republic of Indonesia, through broad autonomy. In the context of constitutional law, the concept of a unitary state is what enables regional autonomy to function effectively. In a unitary state, sovereignty resides solely with the central or national authorities, excluding any regional autonomy or sovereignty. Therefore, the central government remains ultimately responsible for overseeing regional governments, regardless of the level of autonomy granted to the regions.³⁵

To achieve good governance, central and regional governments must adhere to the general principles of governance. The Unitary State of the Republic of Indonesia uses effective administration fairly across its large area and diverse population to make sure that all Indonesians, particularly Indigenous Peoples, get justice. The active engagement of regions in promoting public welfare, a key state objective enshrined in the constitution, gains strategic significance through the implementation of regional autonomy programs. One way to do this is to support the empowerment, respect, and protection of indigenous people and existing indigenous institutions in the areas.³⁶

The idea that the State has a duty to uphold the constitutional rights of its citizens, including those of Indigenous Peoples, is in line with protecting the rights of Indigenous Peoples as a form of social justice. The legal formulation process, which involves protecting citizens' rights, shows what a state based on the rule of law should be like. Legal ideals are mental constructs that signify a duty to steer the law towards the aspirations of society. Legal concepts serve as both constructive and regulatory standards. From a human rights perspective, the authority of regional governments to protect the rights of indigenous peoples is primarily exercised through Provincial Governments as well as Regency and City

³⁴ Tomohiko Kobayashi, 'Role of the Indigenous Exceptions in International Economic Law for Effective Protection of Indigenous Peoples' Rights and Interests: A Case Study of Mexico – GE Corn Dispute under the USMCA', *Polar Science*, 44 (2025), 101163 <https://doi.org/10.1016/j.polar.2024.101163>

³⁵ Ellen Kohl, 'Rights for Nature or Protecting People's Rights?: The Operationalization of Rights of Nature in Non-Indigenous Communities in the United States', *Geoforum*, 156 (2024), 104124 <https://doi.org/10.1016/j.geoforum.2024.104124>

³⁶ Lise Smit and others, 'Human Rights Due Diligence in Global Supply Chains: Evidence of Corporate Practices to Inform a Legal Standard', *The International Journal of Human Rights*, 25.6 (2021), 945–73 <https://doi.org/10.1080/13642987.2020.1799196>

Governments. To ensure the protection and respect of indigenous peoples and their customary institutions, regional governments must actively promote policies that align with regional development objectives and integrate these principles into the actions of each sector within regional apparatus organizations. The realization of such protection becomes feasible when regional governments codify these principles into binding legal instruments, such as regional regulations (Perda), which explicitly recognize, protect, respect, and empower indigenous peoples.³⁷

Under the current legal framework, the Minister of Home Affairs Regulation Number 52 of 2004 on Guidelines for the Recognition and Protection of Indigenous Legal Communities and the Draft Law on Indigenous Legal Communities (RUU MHA) constitute the primary instruments governing the national recognition system for indigenous communities. However, a closer examination of these mechanisms demonstrates that they remain inadequate for effectively addressing the challenges faced by indigenous peoples and for ensuring the realization of justice. Article 5 of the 2020 draft of the RUU MHA adopts a highly technical and bureaucratic approach by establishing a recognition system that consists of four stages: identification, verification, validation, and determination.³⁸ These steps occur at the community level and then escalate to the ministerial level.

In this context, it is imperative to amend the recognition and protection mechanisms for indigenous communities, regardless of the state's acknowledgment of their existence, as these mechanisms will inevitably interact with bureaucratic processes influenced by the political interests of stakeholders who formulate recognition policies. The most serious consequence is that they are not protected because the state does not recognize them. The industrialization of investment following the passage of the Job Creation Law is also an increasing threat to their land and existence. The Indigenous Peoples Bill does not address these issues. In an ideal world, the government would assist with the registration process, and the recognition process would be overseen by traditional institutions. The government only makes a decree that recognizes indigenous peoples. The 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) says that indigenous peoples exist not only in Indonesia, as stated in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, but also around the world.³⁹

The intellectual framework of customary autonomy concerning human rights is generally well-defined at the international level; nonetheless, its execution at the regional level encounters significant challenges. Political opposition from nations

³⁷ Kathryn Tomlinson, 'Indigenous Rights and Extractive Resource Projects: Negotiations over the Policy and Implementation of FPIC', *The International Journal of Human Rights*, 23.5 (2019), 880–97 <https://doi.org/10.1080/13642987.2017.1314648>

³⁸ Tomlinson.

³⁹ Peter MUCHLINSKI, 'The Impact of the UN Guiding Principles on Business Attitudes to Observing Human Rights', *Business and Human Rights Journal*, 6.2 (2021), 212–26 <https://doi.org/10.1017/bhj.2021.14>

apprehensive about relinquishing territorial sovereignty, variations in the concept of "indigenous peoples" across regions, and competing interests in natural resource exploitation often hinder implementation.⁴⁰ Moreover, the gap between the official legal recognition and the real ability of indigenous groups to be independent is a big problem. To truly understand this concept, you must not only be familiar with the law and international standards but also comprehend how politics and society operate in each respective area.⁴¹

The Perda is to protect the rights of indigenous groups. They have been implemented in several parts of Indonesia. For example, Mimika Regency Regulation No. 5 of 2012 clearly states that indigenous peoples have rights to land, territory, culture, and customs.⁴² It also establishes opportunities for them to be involved in business and development in regions where they are customary. Letters of acknowledgment of customary territories, consultations before mining or major development projects, and facilitating the resolution of disputes between indigenous people and companies are all ways to facilitate implementation. Still, the economic pressure from industry and the fact that national rules overlap remain significant problems.⁴³

Papua Provincial Regulation No. 8 of 2008 lays the legal groundwork for recognizing the existence of indigenous communities, including their rights to traditional land and natural resources. This rule makes it clear that indigenous groups still have the right to be included in decision-making processes regarding development in their areas. It includes setting up customary community deliberation forums at the district level, getting input from people before government or private projects start, and mapping out customary territories.⁴⁴

Nevertheless, significant challenges persist, including weak coordination between provincial and local administrations and frequent conflicts with business interests. An illustrative example can be found in Kutai Kartanegara Regency

⁴⁰ Philile Mbatha, 'Unravelling the Perpetuated Marginalization of Customary Livelihoods on the Coast by Plural and Multi-Level Conservation Governance Systems', *Marine Policy*, 143 (2022), 105143 <https://doi.org/10.1016/j.marpol.2022.105143>

⁴¹ Jeremy Patzer, 'Indigenous Rights and the Legal Politics of Canadian Coloniality: What Is Happening to Free, Prior and Informed Consent in Canada?', *The International Journal of Human Rights*, 23.1–2 (2019), 214–33 <https://doi.org/10.1080/13642987.2018.1562915>

⁴² Renata Travassos da Rosa Moreira Bastos, Cátia Cardoso Abdo Quintão, and David Normando, 'What Do the Indigenous People of the Amazon Have to Teach Us about the Etiology of Dental Malocclusion?', *Seminars in Orthodontics*, 31.4 (2025), 584–91 <https://doi.org/10.1053/j.sodo.2025.07.003>

⁴³ Hitomi Kimura, 'Differentiating Indigenous Peoples from Local Communities under Climate Regimes in Just Energy Transition: Implications for the Inuit and Sami Peoples', *Polar Science*, 44 (2025), 101123 <https://doi.org/10.1016/j.polar.2024.101123>

⁴⁴ Wensislaus Fatubun, 'Papuan Voices: An Initiative for Decolonized Filmmaking to Document Indigenous People's Lived Experiences in West Papua', *Video Journal of Education and Pedagogy*, 8.1 (2023), 1–15 <https://doi.org/10.1163/23644583-bja10044>

Regulation No. 9 of 2014, which formally recognizes the collective rights of indigenous communities to land, customary forests, and local resources. It also establishes mechanisms for resolving land conflicts through customary discussions and mediation. The publication of documents that recognize the rights of indigenous peoples, the mediation of disputes between indigenous groups and third parties, and the development of empowerment programs to protect natural resources and cultural heritage all demonstrate that these initiatives are being put into action. But economic pressures from industrial investment and weak judicial enforcement against violations of customary rights still make it hard to preserve the rights of indigenous peoples.⁴⁵

Indigenous peoples' rights are inherent entitlements that have existed since the establishment of their communities and should not be contingent upon formal governmental recognition. International instruments such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) affirm that states have an obligation to respect, protect, and fulfill these rights. They encompass, among others, the right to self-determination, the preservation of culture, and the authority to govern and manage land and natural resources. Nevertheless, Indonesia's legal system remains highly formalistic and bureaucratic, often hindering the effective exercise of these rights. For instance, the recognition process for indigenous communities is typically prolonged, thereby heightening their vulnerability to resource exploitation, territorial encroachment, and violations of cultural rights.⁴⁶

Regional Legal Systems and Indigenous Rights in the Philippines

Indigenous peoples make up 14–17% of the total population of the Philippines. After the Marcos administration fell in 1986, the Philippines was the first Asian country to recognize the rights and indigenous status of indigenous peoples.⁴⁷ Despite a comprehensive legal framework, protecting indigenous peoples' rights in the Philippines remains challenging. The Indigenous Peoples' Rights Act (IPRA), Republic Act No. 8371 of 1997, stands as the primary legislation addressing the historical marginalization of indigenous groups. Widely regarded as one of Southeast Asia's most progressive laws, the IPRA affirms rights to ancestral domains, self-governance, cultural preservation, social justice, and human rights.

⁴⁵ Helen Newing and others, "'Participatory" Conservation Research Involving Indigenous Peoples and Local Communities: Fourteen Principles for Good Practice', *Biological Conservation*, 296 (2024), 110708 <https://doi.org/10.1016/j.biocon.2024.110708>

⁴⁶ Eryn Braley and others, 'Experiences of HIV among Global Indigenous Populations through the Lens of the UN Declaration on the Rights of Indigenous Peoples', *The Lancet HIV*, 10.8 (2023), e543–51 [https://doi.org/10.1016/S2352-3018\(23\)00106-6](https://doi.org/10.1016/S2352-3018(23)00106-6)

⁴⁷ Emmanuel A. Onsay and Jomar F. Rabajante, 'Measuring the Unmeasurable Multidimensional Poverty for Economic Development: Datasets, Algorithms, and Models from the Poorest Region of Luzon, Philippines', *Data in Brief*, 53 (2024), 110150 <https://doi.org/10.1016/j.dib.2024.110150>

Complementing this, the 1987 Philippine Constitution provides a constitutional foundation for recognizing and safeguarding indigenous rights at the highest level. Together, these instruments establish a robust legal framework, though implementation continues to face practical and structural obstacles.⁴⁸

The Philippines ratified ICCPR, ICESCR, and ICERD, and supports UNDRIP, reinforcing obligations to protect indigenous peoples' rights internationally.⁴⁹ The 1987 Philippine Constitution provides a strong foundation for the protection of human rights through its Bill of Rights and the establishment of the Commission on Human Rights (CHR), mandated to monitor and address violations. Building on this constitutional framework, the Indigenous Peoples' Rights Act (IPRA) of 1997 remains one of the most significant legislative measures safeguarding indigenous communities. The law affirms indigenous peoples' rights to their ancestral domains, self-governance, and cultural integrity. Central to the IPRA is the principle of Free, Prior, and Informed Consent (FPIC), which requires indigenous approval before any development projects affecting their lands proceed.⁵⁰

The Indigenous Peoples' Rights Act (IPRA) of 1997 guarantees indigenous peoples' rights, including ancestral domain through CADT and CALT, and self-governance, recognizing customary law, traditional governance, and conflict-resolution systems as legitimate expressions of indigenous autonomy and cultural integrity.⁵¹ The IPRA guarantees social justice, human rights, and cultural integrity, and ensures development participation through Free, Prior, and Informed Consent (FPIC), empowering indigenous communities to safeguard culture and control development on their lands.⁵²

The National Commission on Indigenous Peoples (NCIP) is responsible for implementing the IPRA. It is an independent body that handles CADT/CALT, ensures that FPIC is followed, provides legal assistance, and facilitates mediation

⁴⁸ N. Yakovleva and others, 'Free Prior Informed Consent in the Extractive Industry: Approaches to Involving Indigenous Peoples in Decision-Making in Russia', *Journal of Environmental Management*, 344 (2023), 118341 <https://doi.org/10.1016/j.jenvman.2023.118341>

⁴⁹ Juan M. Pulhin and others, 'Contextualizing Sustainable Forest Management and Social Justice in Community-Based Forest Management (CBFM) Program in the Philippines', *Trees, Forests and People*, 16 (2024), 100589 <https://doi.org/10.1016/j.tfp.2024.100589>

⁵⁰ Justin See and others, 'From Absences to Emergences: Foregrounding Traditional and Indigenous Climate Change Adaptation Knowledges and Practices from Fiji, Vietnam and the Philippines', *World Development*, 176 (2024), 106503 <https://doi.org/10.1016/j.worlddev.2023.106503>

⁵¹ Karen Bouchard, 'Extracting Insights: A Systematic Review of Mining Impacts on Indigenous Peoples', *The Extractive Industries and Society*, 23 (2025), 101686 <https://doi.org/10.1016/j.exis.2025.101686>

⁵² Laurence L Delina and others, 'Are Capital Assets under Pressure? The State of and Challenges to Indigenous Rice Farming in the Cultural Ricescapes of Indonesia and the Philippines', *Journal of Rural Studies*, 106 (2024), 103235 <https://doi.org/https://doi.org/10.1016/j.jrurstud.2024.103235>

and dispute resolution.⁵³ However, there are several issues with implementing the IPRA. For example, there are conflicts between the rights of indigenous people and the interests of investors, the NCIP doesn't have enough resources, and indigenous people who reject particular projects are threatened. Still, the laws in the Philippines are more progressive than those in Indonesia. For example, they grant full ownership rights to ancestral lands, make FPIC a legally binding process, and recognize the indigenous peoples' right to govern themselves without requiring the local government's recognition.⁵⁴

The Constitution and other laws stipulate that the rights of indigenous peoples should be protected, but in practice, these provisions are not always adhered to. There is a significant difference between how indigenous peoples' rights are protected by legislation and how they are actually protected in practice. The primary reasons for this issue are insufficient legal enforcement and collusion among official entities in evading their legal obligations.⁵⁵ This shows how resources and influence are spread out in a society where indigenous peoples are some of the most marginalized when it comes to making and carrying out policy decisions. There are several problems with implementing these protections. Some regulations that only apply to certain industries could take away the rights of indigenous people as a group. For instance, the Mining Act of 1995, which lets foreigners control up to 100% of mineral lands, has forced indigenous people to move.⁵⁶ The National Integrated Protected Areas System Act (NIPAS) makes it harder for indigenous people to get to their ancestral lands that are now national parks. The Forestry Code, on the other hand, says that land with a slope of more than 18 percent is public land. This means that indigenous people who live in hilly places are not allowed to live on their own land.⁵⁷

The Philippines' history indicates that even if there are laws that safeguard the rights of indigenous peoples, sectoral legislation (such as that about mining,

⁵³ Rosalie C. Mendoza and others, 'Wood Identification: A Tool for Preservation of Indigenous Architecture of Traditional Houses in Ifugao, Philippines', *International Journal of Wood Culture*, 2.1–3 (2022), 53–88 <https://doi.org/10.1163/27723194-bja10004>

⁵⁴ Minqi Liu and others, 'Indigenous Peoples, Environmental Accountability and the Semantic Meaning of Resource Extraction Firm Disclosures', *Accounting, Auditing & Accountability Journal*, 38.5 (2025), 1375–1404 <https://doi.org/10.1108/AAAJ-03-2024-6935>

⁵⁵ Robert Charles G. Capistrano, 'Reclaiming the Ancestral Waters of Indigenous Peoples in the Philippines: The Tagbanua Experience with Fishing Rights and Indigenous Rights', *Marine Policy*, 34.3 (2010), 453–60 <https://doi.org/10.1016/j.marpol.2009.09.012>

⁵⁶ Nelzo C. Ereful and others, 'Assessing Nutritional and Genetic Variations within Foxtail Millet (*Setaria Italica*) Landraces Collected from Indigenous Communities across the Philippines', *Heliyon*, 9.12 (2023), e22964 <https://doi.org/10.1016/j.heliyon.2023.e22964>

⁵⁷ Emmanuel A. Onsay and Jomar F. Rabajante, 'Do Indigenous People Get Left behind? An Innovative Methodology for Measuring the Unmeasurable Economic Conditions and Poverty from the Poorest Region of Luzon, Philippines', *Heliyon*, 11.3 (2025), e41076 <https://doi.org/10.1016/j.heliyon.2024.e41076>

forestry, and conservation) can actually go against these protections.⁵⁸ Indonesia needs to ensure that sectoral laws, such as the Mineral and Coal Mining Law, the Forestry Law, or the rules for conservation areas, don't infringe upon the traditional rights and access rights of indigenous people.⁵⁹ For protection to be effective, rules in different areas must be consistent. Indonesia could also utilize the Indigenous Peoples' Rights Act (IPRA) model, which provides a comprehensive legal framework that fully recognizes ancestral land rights, cultural rights, political rights, and the right to self-determination.⁶⁰ It also sets up cross-sectoral protection mechanisms. The Philippine concept of Free, Prior, and Informed Consent could also be incorporated into Indonesian laws as a strict requirement before natural resources can be developed or utilized in indigenous areas. This would give indigenous people a better chance to negotiate and stop initiatives that hurt them.⁶¹

Transformative Models for the Future of Human Rights in Regional Legal Systems

Various laws and regulations in Indonesia implicitly acknowledge the existence of indigenous legal communities across different sectors. However, mere governmental recognition remains insufficient to provide effective protection and guarantee the full realization of their rights.⁶² The 1945 Constitution of the Republic of Indonesia explicitly mandates that indigenous legal communities and their local knowledge be regulated and protected under the law.⁶³ This implies that regulations must be implemented promptly, beginning at the lowest level through Perda. Such measures are essential to establish a concrete legal framework for indigenous legal communities within the regions, while simultaneously

⁵⁸ Tomiwa V. Oluwajuwon and others, 'Assisted Natural Regeneration for Tropical Forest and Landscape Restoration in the Philippines: Implementation, Motivations, Challenges and Future Directions', *Trees, Forests and People*, 20 (2025), 100896 <https://doi.org/10.1016/j.tfp.2025.100896>

⁵⁹ Samsul Maarif, 'Re-Establishing Human-Nature Relations: Responses of Indigenous People of Indonesia to Covid-19', *Interdisciplinary Journal for Religion and Transformation in Contemporary Society*, 7.2 (2021), 447–72 <https://doi.org/10.30965/23642807-bja10023>

⁶⁰ Ginbert Permejo Cuaton and Yvonne Su, 'Local-Indigenous Knowledge on Disaster Risk Reduction: Insights from the Mamanwa Indigenous Peoples in Basey, Samar after Typhoon Haiyan in the Philippines', *International Journal of Disaster Risk Reduction*, 48 (2020), 101596 <https://doi.org/10.1016/j.ijdr.2020.101596>

⁶¹ Carol Zavaleta-Cortijo and others, 'Indigenous Knowledge, Community Resilience, and Health Emergency Preparedness', *The Lancet Planetary Health*, 7.8 (2023), e641–43 [https://doi.org/10.1016/S2542-5196\(23\)00140-7](https://doi.org/10.1016/S2542-5196(23)00140-7)

⁶² Daniel H. Weisberg, 'The Practice of "DR" Paep: Continuity and Change in Indigenous Healing in Northern Thailand', *Social Science & Medicine*, 18.2 (1984), 117–28 [https://doi.org/10.1016/0277-9536\(84\)90032-7](https://doi.org/10.1016/0277-9536(84)90032-7)

⁶³ Kelly Gingrich and others, 'Degrowth in a Settler State: Climate-Just Economic Transitions and Reconciliation with Indigenous Peoples in Canada', *Ecological Economics*, 232 (2025), 108549 <https://doi.org/10.1016/j.ecolecon.2025.108549>

strengthening governmental recognition of local wisdom and the indigenous communities under their respective territorial jurisdictions.⁶⁴

Article 18B (2) of the 1945 Constitution requires the state to recognize and respect indigenous legal communities and their traditional rights, ensuring protection through laws and regional regulations consistent with national principles.⁶⁵ In practice, only a limited number of regional leaders consistently implement the constitutional mandate to protect indigenous culture and local knowledge. This selective compliance often stems from the perception that culture and local knowledge represent valuable regional assets capable of generating economic benefits. As tourism expands, these cultural resources are increasingly promoted as attractions to boost local revenue. Several provinces, including Bali, Kalimantan, and Papua (formerly Irian Jaya), have enacted regulations to safeguard indigenous communities and their cultural heritage. Protecting indigenous groups and local wisdom thus serves a dual function: preserving national culture from erosion in the face of modernization, while simultaneously strengthening local economies by attracting tourism, improving community welfare, and creating sustainable sources of regional income.⁶⁶

Customary law remains weak against national law, leaving indigenous rights vulnerable. Despite constitutional recognition, protection is largely symbolic, with judges often prioritizing state law over indigenous traditions in legal disputes.⁶⁷ Conflicts between national and customary law create uncertainty over indigenous land rights in Indonesia. Overlapping regulations cause disputes among communities, government, and corporations, particularly in managing territories and natural resources.⁶⁸ Indigenous groups show remarkable ecological and cultural sustainability through local knowledge in managing resources. Yet, lack of clear legal recognition marginalizes them in development, worsening inequities driven by modernization and industrialization.⁶⁹

⁶⁴ Rasmus Kløcker Larsen and others, 'Finding the Cracks: How Do Frontline Officials Maneuver State Institutions to Advance Indigenous Rights to Land and Environment?', *Earth System Governance*, 25 (2025), 100270 <https://doi.org/10.1016/j.esg.2025.100270>

⁶⁵ John Burton and others, 'Mapping Critical Minerals Projects and Their Intersection with Indigenous Peoples' Land Rights in Australia', *Energy Research & Social Science*, 113 (2024), 103556 <https://doi.org/10.1016/j.erss.2024.103556>

⁶⁶ Kløcker Larsen and others.

⁶⁷ Jacobo Ramirez and others, 'Conflicting Injustices in Decolonization and Indigenous Land Rights: The Case of the Lake Turkana Wind Power Project', *Energy Research & Social Science*, 120 (2025), 103912 <https://doi.org/10.1016/j.erss.2024.103912>

⁶⁸ Lars Östlund and others, 'Timber Colonialism in the Periphery: Timber Frontiers and Indigenous Peoples Land Use in Northern Scandinavia and Southern Patagonia in the Late 19th and Early 20th Century', *Journal of Historical Geography*, 89 (2025), 213–25 <https://doi.org/10.1016/j.jhg.2025.06.006>

⁶⁹ Tania Eulalia Martinez-Cruz and others, 'Water Is More than a Resource: Indigenous Peoples and the Right to Water', *Social Sciences & Humanities Open*, 10 (2024), 100978 <https://doi.org/10.1016/j.ssaho.2024.100978>

Protecting indigenous rights requires transformative models emphasizing participation, legal recognition, and cross-sectoral harmonization. Such approaches foster inclusive, flexible regional legal systems, safeguarding human rights while respecting cultural uniqueness and sustaining local knowledge.⁷⁰ The transformative approach seeks to create a regional legal framework that guarantees both recognition and effective implementation of indigenous rights, ensuring equitable access to land, resources, and development participation.⁷¹ The transformative method establishes harmonized and adaptable legal frameworks that integrate customary and national systems, ensuring indigenous participation, protecting human rights, and respecting cultural knowledge, while effectively bridging the persistent gap between statutory recognition and genuine on-the-ground protection.⁷²

Integrating international human rights norms like UNDRIP and ILO 169 into national and regional law strengthens indigenous rights protection, ensuring property, resources, participation, and cultural preservation, while requiring institutional and oversight reforms for consistent implementation.⁷³ Consultative forums, customary commissions, or independent bodies can mediate between governments, indigenous groups, and businesses, translating international norms into locally relevant practices while preventing abuse of power and ensuring fair implementation.⁷⁴ The preamble and Article 31 of UNDRIP affirm indigenous peoples' right to preserve, safeguard, and develop traditional knowledge. Incorporating these standards and harmonizing customary, national, and sectoral laws fosters an inclusive, adaptable, and sustainable regional legal framework.⁷⁵

The ICCPR (1966), particularly Article 27, protects minority groups' rights to enjoy their culture, affirming indigenous peoples' freedom to sustain customs, beliefs, and knowledge systems vital for their cultural integrity, identity, and long-

⁷⁰ Simo Sarkki and others, "'Rights for Life" Scenario to Reach Biodiversity Targets and Social Equity for Indigenous Peoples and Local Communities', *Biological Conservation*, 280 (2023), 109958 <https://doi.org/10.1016/j.biocon.2023.109958>

⁷¹ Alexander J.F. Martin and others, 'History, Engagement, and Visibility of Indigenous Peoples in Urban Forest Management Plans from Canada and the United States', *Environmental Science & Policy*, 166 (2025), 104026 <https://doi.org/10.1016/j.envsci.2025.104026>

⁷² K. Kovanur Sampath, Yan Ann-Rong, and S. Brownie, 'Culturally Appropriate Care for Indigenous People with Type 2 Diabetes Mellitus (T2DM)- a Scoping Review', *Primary Care Diabetes*, 19.3 (2025), 238–45 <https://doi.org/10.1016/j.pcd.2025.02.008>

⁷³ Martin Scheinin, 'Indigenous Peoples' Right to Fish', in *The Significance of Sámi Rights* (London: Routledge, 2023), pp. 37–51 <https://doi.org/10.4324/9781003220640-4>

⁷⁴ Effah Kwabena Antwi and others, 'Socioeconomic Framework and Indicators for Assessing Cumulative Effects of Resource Development on Indigenous Nations', *The Extractive Industries and Society*, 24 (2025), 101735 <https://doi.org/10.1016/j.exis.2025.101735>

⁷⁵ Valentin Schatz, 'Incorporation of Indigenous and Local Knowledge in Central Arctic Ocean Fisheries Management', *Arctic Review on Law and Politics*, 10 (2019), 130–34 <https://doi.org/10.23865/arctic.v10.1630>

term survival.⁷⁶ The Human Rights Committee, in *Lubicon Lake Band* (No. 167/1984) and *Kitok* (No. 197/1985), affirmed that indigenous cultural survival is inseparable from their land. Similarly, the ICESCR (1966), particularly Article 15, safeguards indigenous rights to participate in cultural life and access scientific progress. CESCR's General Comment No. 21 (2009) further clarifies this, emphasizing states' duties to respect, protect, and fulfill cultural rights, especially those of indigenous peoples.⁷⁷ The CESCR affirms that cultural participation extends beyond mere access to goods and services, encompassing the right to actively shape cultural expressions. Accordingly, indigenous peoples hold an inherent right to preserve, practice, advance, and transmit their traditional knowledge and cultural heritage.⁷⁸

A transformative model unites international norms, national laws, and indigenous participation, ensuring sustainable, adaptive, and inclusive protection of indigenous rights. Indigenous rights protection requires integrating UNDRIP, ILO 169, ICCPR, and ICESCR into national frameworks, ensuring FPIC for resource use, recognizing customary land and governance, and promoting state, community, and corporate collaboration through participatory mechanisms fostering sustainable, equitable development.⁷⁹ This model highlights the importance of practical implementation that respects indigenous knowledge and culture, bridging legal recognition with reality while fostering sustainable development and protecting indigenous peoples' rights, identity, and well-being at regional levels.⁸⁰

4. Conclusion

The laws and Constitution of Indonesia formally recognize the rights of indigenous peoples; however, their effective implementation faces significant challenges, including political marginalization, structural discrimination, limited institutional capacity, and overlapping legislation. Indigenous communities

⁷⁶ Anatoly N. Sleptsov and others, 'Arctic Indigenous Peoples and Intellectual Property Law', *Sibirica*, 21.3 (2022), 195–203 <https://doi.org/10.3167/sib.2022.210309>

⁷⁷ Wawan Lulus Setiawan and others, "'Indigenous' Cooperatives Supporting SDGs Development in Indigenous Communities: A Study of Social and Communication (Case: The Consumer Cooperative of Warga Sauyunan, Kampung Naga, Regency of Tasikmalaya, West Java, Indonesia)', *International Journal of Ethno-Sciences and Education Research*, 3.2 (2023), 70–76 <https://doi.org/10.46336/ijeer.v3i2.427>

⁷⁸ Yota Negishi, 'Multi-Level Legal Protection of Traditional Knowledge of Arctic Indigenous Peoples: Decolonizing Knowledge Production for Sustainable Development', *Polar Science*, 44 (2025), 101135 <https://doi.org/10.1016/j.polar.2024.101135>

⁷⁹ Lucy Erdika and others, 'Integration of Customary Law in Agrarian Law Development in the Industrial Revolution 4.0 Era', *Peradaban Journal of Law and Society*, 3.1 (2024), 88–103 <https://doi.org/10.59001/pjls.v3i1.131>

⁸⁰ Biffanca Allya Kenedy and Ifan Deffinika, 'Environmental Adaptation of Indigenous People: Baduy Tribe's Local Wisdom in Environmental Management', *IOP Conference Series: Earth and Environmental Science*, 1066.1 (2022), 012017 <https://doi.org/10.1088/1755-1315/1066/1/012017>

remain highly vulnerable to discrimination, exclusion, and violations of their inherent rights, despite recognition under the 1945 Constitution, the ICCPR, ICESCR, and UNDRIP. Although some regions have enacted local regulations to protect indigenous rights, these measures are insufficient without formal recognition, strengthened indigenous institutions, and participatory mechanisms that ensure genuine enforcement. In comparison, the Philippines has made notable progress through the Indigenous Peoples' Rights Act (IPRA) of 1997 and the 1987 Constitution, which affirm rights to ancestral lands, self-governance, cultural preservation, social justice, and participation in development, with the Free, Prior, and Informed Consent (FPIC) mechanism implemented by the National Commission on Indigenous Peoples (NCIP). Challenges remain, including sectoral law conflicts, limited institutional capacity, and investment pressures. Addressing these issues requires a transformative model integrating international human rights standards, harmonizing customary law with national and sectoral legislation, and empowering indigenous peoples to participate in resource and development decisions. By prioritizing traditional knowledge, cultural diversity, and local wisdom, this model ensures lasting protection, reduces legal conflicts, and enhances the social, economic, and cultural well-being of indigenous communities.

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