



**Being “Indigenous” in Indonesia and the Philippines:
contradictions and pitfalls**

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In recent years, a number of groups in Southeast Asia have tapped into the international discourse, networks, and instruments on “indigenous peoples” to gain leverage over their national governments and improve their political, social and economic status. Yet, in the context of Southeast Asia, such labels and categories create important contradictions, and even pitfalls. Who is indigenous? Who came first? Indonesia and the Philippines are artificial constructs, as legacies of colonial boundaries that were later raised to the status of “nations” by post-independence political leaders. Who is an Indonesian or a Filipino has varied through time, as well as who is “indigenous.” Filipinos and Indonesians are constituted by a variety of regionally and linguistically distinct peoples for whom local identities have remained sometimes equal or more important than “national categories.” Almost all of these groups claim long ancestral ties to their region. In this context, how can claims of “indigeneity” be made and provide leverage for distinct political status?

Some ethnic groups in Indonesia and the Philippines have claimed an international status as “indigenous” in order to increase their leverage in their negotiations with the state. In the Philippines, the “Igorot” people of the Cordillera have mobilized since the 1970s to claim rights to ancestral lands. Papuans in Indonesia have participated in international forums to make similar claims against the state. They have more forcefully made claims to self-determination but they have shared similar claims to land rights, protection of culture, and preservation of their traditional ways of life as the people of the Cordillera.

The strongest political asset for these groups has been the increasing recognition of indigenous rights by the United Nations. Since the formation of the Working Group on Indigenous Populations in 1982, numerous groups have made claims to the status of “indigenous peoples” to present their case at the United Nations and gain international support for their claims. In June 2006, the United Nations Human Rights Council, at its first meeting, adopted the draft *UN Declaration on the Rights of Indigenous Peoples*, which had been discussed at the Working Group on Indigenous Populations for over a decade. Indonesia supported the motion while the Philippines abstained. (UN Human Rights Council 2006) The UN General Assembly considered the declaration at its meeting on November 20-21, 2006 and decided to defer its consideration to allow for more consultation. The rise in international status of indigenous groups have given this particular category of ethnic groups greater leverage to make claims from their respective states.

The status of “indigenous group” in the Philippines and Indonesia, however, is highly contestable. No groups can claim prior occupation of territory since they were all present in the archipelago before colonial times, except the Chinese who migrated at various historical time periods. Unlike Latin American countries, there was little mixing between colonial rulers and local populations and few mixed peoples remained at the time of independence.¹ In Indonesia, the category “indigenous” was used, instead, to differentiate “non-indigenous” Chinese immigrants -- whether Indonesian citizens or not -- from all other Indonesians after independence.

¹ In the Philippines, boundaries between the *mestizo* and non-*mestizo* groups remained blurred and so disappeared after independence.

As a result, the capacity of groups to use international leverage in these countries is limited. States can manipulate definitions of “indigenesness” to deny aspects of claims made by these groups, and they can even deny recognition to groups making such claims. Although it does not erase the ability of these groups to gain some support internationally, the effectiveness of this support for negotiating domestically is much more limited than in North America, Latin America, or Australia where indigenous groups and associated characteristics are much more clearly defined. The Filipino and Indonesian states have responded very differently to claims by indigenous groups, despite similar conditions. They illustrate the difficulties encountered for indigenous groups in Southeast Asia.

Indigenous Peoples and their international recognition

In the last two decades, indigenous peoples have gained increasingly strong presence and recognition on the international stage. Prior to the 1980s, there were very few instruments that could be used by indigenous peoples to make claims against states where they reside. The dramatic shift, which was epitomized with the adoption by the Human Rights Council of the *Declaration on the Rights of Indigenous Peoples*, has increased very significantly the leverage of indigenous peoples to negotiate improved conditions.

The United Nations Working Group in Indigenous Populations (WGIP) created a new forum in which organizations of indigenous peoples could present their grievances. Prior to 1982, there were few instruments available to indigenous groups to promote their interests. International conventions on the prevention of discrimination against minorities were weak instruments in as much as they were targeted at redressing the status of minorities and making them equal to majority groups. Indigenous groups, instead, sought additional protections that could allow them to preserve their group’s identities and preserve livelihoods in situations where their survival was threatened. (Sanders 1989: 406)

The WGIP is unique in the UN system as it has been very open to hearing a large number of indigenous organizations. In other UN forums, only states, accredited international NGOs, and a handful of other actors could formally intervene. The sessions of the WGIP opened up opportunities for groups to make their cases heard and raised as an international profile. It has created an incentive for groups to cast themselves as indigenous in order to advance their cause.

Gaining recognition as a different category internationally has been accompanied by a set of standards deemed necessary to protect indigenous peoples. Definitions of indigenous peoples vary considerably but they are generally associated with a territorial occupation by a socially organized group that becomes dominated by an external cultural or ethnic group, and that continue to live according to social customs that differ from those of the state within which they live. It is the protection of these livelihoods, traditions and customs that distinguishes them from other minorities, and that are considered to require different instruments from measures to defend minorities rights more generally.

One of these instruments is self-determination, which has created some controversy for some governments. Hyndman nicely summarizes the political power and

peoples. By the mid-1980s, their international lobbying with the UN Working Group on

occupation of ancestral lands, but their demands began to broaden and include requests made by indigenous peoples in other countries. The Cordillera People's Alliance made the broadest claims. In a first

powers to allocate rights to mining companies, including lands located in the Cordillera. At the same time, the government adopted the most progressive piece of legislation on indigenous peoples anywhere in Asia, and one of the most progressive in the world. The Indigenous Peoples' Rights Act (IPRA) was largely considered a new step by which the state not only recognized indigenous peoples but gave them legal measures to protect their rights to ancestral lands, exploitation of natural resources, their traditional ways of life, customs, and socio-political structures. Mining, logging or other development projects on ancestral domains could only be pursued with the consent of indigenous communities. One significant limitation was embedded in the legislation itself, as section 56 provided for the respect of property rights already allocated within ancestral domains. The implication was that companies that had ongoing projects in the Cordillera, including those who had only recently obtaining rights by the 1995 Mining Act, could continue their activities without seeking consent from indigenous communities. In itself, this implicated already a good portion of ancestral lands. (Stavenhagen 2004: 11)

The poor implementation of IPRA also shows that the Philippine state attempted to limit its actual effectiveness and to interpret it narrowly, while symbolically giving recognition to indigenous rights for the Igorot to appease them. From the beginning, there were impediments to the implementation of the main agency responsible for protecting indigenous rights, the National Commission on Indigenous Peoples (NCIP). Its most important task was to issue Certificates of Ancestral Domain Titles (CADTs). Its budget, however, was withheld during the time of its investigations and, at the end, the task force created two new bodies that largely replicated the work of the NCIP, and contributing to further administrative overlap and bottlenecks. By 2000, not a single CADT had been issued. (Castro 2000: 41-45) It continued to experience problems with funding and bureaucratic obstacles, so that it was not able to "consolidate its specific role and leadership in the promotion of indigenous peoples' rights within the framework of the Administration." (Stavenhagen 2004: 10)

Some of the obstacles in implementing IPRA have come from the indigenous communities themselves. For instance, not all Cordilleran groups supported IPRA after it furthcoce,

owners in such claims processes. The militarization of indigenous areas has also contributed to transgressions of existing laws and disregard for established rights. Sweeping operations have been used to clear the way for development projects, thereby leading to destruction of local property and displacement of communities. The Philippine

The Philippine's official response to the UN Human Rights Council's adoption of the *Declaration on the Rights of Indigenous Peoples* is revealing. The declaration was adopted by almost all countries on the Council but the Philippines abstained. In its statement of the reasons for abstaining, the Philippine representative explained that "his delegation would have liked time to ascertain that the draft was fully compatible with the Constitution and legislation of the Philippines and to enable national implementing agencies to discuss its legal and policy implications."(UN Human Rights Council 2006: 7) Although one could interpret the statement in different ways, it does reinforce the preceding analysis suggesting that the Philippine state is reluctant to adopt a definition of indigenous peoples that might force a broader recognition than has already been extended.

Such a definition might suggest, as well, a much clearer and distinct division between the Cordilleran peoples and other Filipinos, therefore undermining the state's view that ultimately there are all one people, at some level. The implication is much greater in the case of the Muslims, if self-determination were combined with the idea that they are not the same people as the Filipinos, but similar consequences could occur for the Cordillerans, who can then exercise much greater claims to autonomous decisions and non-interference from the central state over their lands and resources. It is also unlikely that the Philippine state would want to be constrained in the kinds of rights it has already extended and within which it has been able to weave through its economic and security interests.

Papuans in Indonesia

Papuans have had much more difficulty in obtaining recognition and gaining rights than the Igorots. They share many characteristics that are similar to them and to other indigenous peoples, namely a distinct culture, continual occupation of lands, a marginalized status, and infringement on their lands by the state. In addition, they have been displaced by migrants and can claim to be racially very distinct from other Indonesians. Yet, the Indonesian state has been far more reluctant to extend the kinds of rights obtained by the Igorots. Although special autonomy has been granted, it has not been accompanied by any formal recognition of indigenous status that could extend to recognized claims to land, natural resources or self-determination. The Indonesian state, in fact, has been much more able to manipulate concepts of "indigeneity" to limit claims made in that name.

The Papuans have strong claims to make as "indigenous peoples". Constituted of a large number of cultural communities living mostly in the highlands of the Western part of the island of New Guinea, the Papuan identity evolved mainly as a result of contact with Dutch colonial rulers and subsequently the Indonesian

Papuans, instead, became marginalized and displaced mainly as a result of their integration to the Indonesian state. Even though they had never been part of the same administrative colony as other subjects of the Dutch East Indies, Indonesian rulers made claims to Papua in terms of a shared expe

fairly disorganized, and never mounted a significant military challenge against the Indonesian state. A few peaceful protests consisted of raising the Morning Star flag, the

Guinea in response to ill-treatment. These themes were to be developed more fully over time, with different emphases. (Free Papua Movement 1984)

The following year, in the same forum, strong emphasis was placed on the effects of transmigration. At this point,

Constitution, which states that the government shall advance the national cultural heritage of

represent Papuan groups as *indigenous tribal groups*, whereas the PDP embodies democratic representation of all Papuans without regard to tribal group differences. This adds a layer of complexity to the “indigenous” category.

The establishment of the DAP consisted of a strategic attempt to mobilize Papuans in terms of identities as “indigenous”. Its role was to protect the environment, the land, sea and natural resources of the Papuan people; provide respect for the territorial rights of all indigenous groups in Papua; and broker the development of natural resources with external actors for the benefit of all Papuans.

The DAP’s role in promoting self-determination added more ambiguity to the objectives of the Papuan people. In international forums, Papuan leaders always emphasized the right to self-determination of Papuans as a people. The DAP, however, has a mandate to respect the right of self-determination and autonomy for each tribe. The possibility of implementing self-determination and autonomy to all 253 groups in Papua does raise the question of its feasibility and its implications for the actual institutional significance of exercising such a right. (Mandowen 2005)

Internationally, interventions by various Papuan groups multiplied after 1998. The DAP made frequent appearances before the Permanent Forum on Indigenous Issues as well as the Working Group of Indigenous Populations. There were many more groups making representations for Papuans in international forums. For most of the 1990s, one organization represented Papuans at the WGIP, the West Papua Peoples’ Front. In 2001 and 2002, ELSHAM Papua, a legal aid organization, made appearances at the Forum. In 2003, six organizations from Papua made presentations. ELSHAM’s statement is illustrative of the themes being addressed by these organizations. It emphasized the rejection by Papuans of the Act of Free Choice and denounced the violence perpetrated against civilians by security authorities, the law splitting the province into three, as well as the increasing presence of non-Papuans in the province. Demands were made for a referendum to exercise the right to self-determination and Indonesia’s ratification of various human rights treaties. This latest demand has been increasingly heard by Papuan leaders, eager to use Indonesia’s adherence to human rights international law and norms as leverage for their case. (2003) At the 10th session of the Working Group on Minorities, Yan Christian Warinussy from the Institute of Research, Analysis and Development for Legal Aid, Manokwari (LP3BH) stressed the same points as the previous years, with updates on recent developments in the province. (2004b) In the 2006 session of the Working Group in Indigenous Populations, four organizations represented Papuans, including the DAP, the Bureau of Consultation for West Papua Indigenous Community Development, AncAs’ Frejssoci Tc0.0002 Tw()-11 on Minorities,

codified during the colonial period. Remnants of these practices survived the advent of the independent, which then replaced customary law by a uniform legal system for all Indonesians. *Adat* was allowed to survive in villages in restricted realms. Even village communal land practices, family law, and religion were replaced by state legislation. After democratization, an *adat* movement began to resurface. Across Indonesia, several groups requested the restoration of customary laws at the village level. These demands were made from a number of different ethnic groups. This usage of *adat* has been consistent with the usage of *masyarakat adat* do denote an ethnic group. From this definition, all ethnic groups in Indonesia are given this particular label.

In their documentation, Papuans use the term, however, to refer to “indigenous peoples.” *Masyarakat adat* is used no longer to denote ethnic groups in general but only those that fall under the category of “indigenous”. In the common usage of the term, this leads to a significant ambiguity. While it can share with the broader concept the connotation of peoples who have preserved their local customs and traditions, at the same time it does not mean that a more restrictive sense of indigenous peoples is understood by the term. As a result, the Indonesian government can claim that all groups are indigenous, and can point to all ethnic groups in Indonesia has having traditions and certain customs, as well as identities based on certain lands. Most groups also still have people living in villages where these customs would have been more strongly preserved, and where unique social and cultural institutions would still be preserved (or revived in some respects).

The conceptual confusion is compounded by the usage of indigenous and non-indigenous applied to a different context in the last several decades. The Indonesian word for indigenous is *pribumi*, which was used as a category to differentiate all Indonesians from the ethnic Chinese (*non-pribumi*), who were categorized as such by the authoritarian regime of President Suharto because of their origins as a migrant group, irrespective of how long ago they actually migrated to the archipelago. In this respect, the distinction emphasizes groups who have had a clear territorial location in the archipelago, from the ethnic Chinese who were dispersed and mainly urban based. These distinctions were institutionalized in legislation and the categories were used to discriminate against the Chinese.

In recent years, the Indonesian government has eliminated officially the *pribumi/non-pribumi* categories from its legislation, but it has not filled the conceptual void to identify groups as “indigenous” along different criteria. It also revoked presidential decrees placing restrictions on certain traditions and religious practices of the Chinese, reviewed its legislation to eliminate discrimination, and eliminated requirements that Chinese carry proof of Indonesian citizen. The government justified these changes to the UN CERD in the following terms: “This is to ensure equal treatment and services for all the peoples of Indonesia in the field of government, social services and development and the elimination of all discrimination based on tribe, religion, race or place of origin.”(UN CERD 2006: 26) While it has contributed to improving the status of the Chinese, it has also reinforced the government’s conception of all ethnic groups being equal in Indonesia. With the inability to use the word *pribumi* to identify indigenous groups, it has resorted to *adat*, with the connotation of all ethnic groups being *adat* people. For Papuans and other groups seeking to be recognized internationally and

domestically as indigenous groups to gain certain particular rights, such as self-determination, such a conceptual field becomes difficult to negotiate.

In this respect, the Indonesian government justified its support for the Declaration on the Rights of Indigenous Peoples. It voted in favour of the Declaration, since it could then define the groups to which the Declaration could apply and interpret the Declaration in a way that fits its own conceptual categorizations of “indigenous peoples.” In explaining Indonesia’s support for the declaration, the Indonesian delegate also emphasized that “the principle of self-determination set out in the draft declaration should not be construed as authorizing or encouraging any action that might dismember or impair totally or in part the territorial integrity or political unity of sovereign, independent States.”(UN Human Rights Council 2006: 7)

Conclusion

The UN Declaration on the Rights of Indigenous Peoples

More frequent appearances at the Working Group on Indigenous Populations and the Permanent Forum on Indigenous Issues, combined with the creation of the DAP, illustrate this trend. They have faced, however, strong resistance from the Indonesian state, which has continued to promote the view that all ethnic groups in Indonesia are indigenous and therefore the basis for making special claims is unfounded.

The Indonesian state has been able to exploit the ambiguities of the conceptual field. The different usage of *adat*, and *masyarakat adat*, have sufficiently strong connotations that significantly broaden the understanding of indigenous groups to reach a very broad spectrum of groups. It has allowed the Indonesian government to give its support to the UN Declaration, and to claim its support to issue of indigenous peoples, by developing legislation targeted at *adat* groups. By doing so, it can place emphasis on common issues of access to land and preservation of certain customary practices in villages across Indonesia, instead of differentiating a particular sub-set of people as indigenous relative to others. Given the past usage of indigenous to differentiate all non-Chinese Indonesians from the Chinese, it has been able to claim new standards of equality for all groups, and side-step issues pertaining to more vulnerable groups, such as the Papuans. Most importantly, it has provided a basis for rejecting claims to self-determination that depart from its own understanding of local autonomy, thereby squarely rejecting Papuan appeals.

The effectiveness of the UN instruments to protect indigenous peoples is limited in Asia because the definition and applicability of the category can be contested. Contesting claims by indigenous peoples is much less feasible in countries where there are clear demarcations between indigenous and non-indigenous peoples. In the case of Asia, who is “indigenous” is not entirely clear and therefore can be manipulated by states intent on limiting rights extended to particular groups. While the Filipino state has gone the furthest in adopting legislation that recognizes claims of indigeneity and indigenous rights for the Cordilleran people, at the same time it has reserved an area of ambiguity that can be exploited. As for the Papuans, the prospects for using international instruments on indigenous peoples to their advantage are far less promising.

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