

# **Kalinga Customary Law And Philippine Criminal Justice System: Implication For Conflict Resolution**

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## **Abstract**

This study explores the Kalinga customary law, and the Philippine criminal justice system in resolving conflicts. Grounded in legal pluralism, restorative justice theory, and conflict transformation theory, the research examines how indigenous and formal justice systems coexist, how law enforcement processes cases involving customary law, the challenges in integration, and possible recommendations for improvement. A qualitative hermeneutic phenomenological design was employed to capture the lived experiences and interpretations of participants, including Philippine National Police personnel, prosecutors, barangay officials, and Bodong holders/IPMRs in Kalinga. Findings reveal that the Bodong system promotes fast and efficient conflict resolution, strong community involvement, and restorative justice that emphasizes reconciliation and social harmony. Law enforcement agencies complement these practices by fulfilling legal mandates while providing mediation, legal guidance, and respect for victim autonomy. However, challenges persist, particularly delays in formal justice processes that lead to complainant disengagement, and tensions between customary reconciliation and the requirement for criminal accountability in serious offenses. The study concludes that both systems can complement each other in promoting culturally responsive and effective justice. It recommends strengthening institutional coordination, defining the boundaries of customary law, adopting a victim-centered approach, enhancing capacity building and education, and encouraging further research to support a more integrated justice system.

**Keywords:** *Bodong, Pagta, customary law, criminal justice system, restorative justice, Kalinga*



## INTRODUCTION

The justice system, in whatever form, is fundamentally designed to achieve fairness and equity among individuals and groups. Its primary objective is to ensure that justice is served for all parties involved while preventing actions that may harm others or disrupt social order. At its core, the formal justice system relies on institutional mechanisms such as courts, which operate under principles of impartiality, due process, and adherence to codified laws. However, justice is not exclusively administered through formal institutions; in many societies, alternative and customary systems of dispute resolution play a vital role in maintaining peace and order. Globally, the importance of customary and informal justice systems has been widely recognized. International frameworks, particularly those advanced by the United Nations, highlight the role of these systems in promoting peace, reconciliation, and access to justice, especially in indigenous and rural communities. The UN Charter (Article 33) emphasizes the peaceful settlement of disputes through negotiation and mediation, while Sustainable Development Goal 16 (SDG 16) advocates for inclusive institutions and equal access to justice. Similarly, the United Nations Office on Drugs and Crime (UNODC) underscores the integration of restorative and customary practices into formal justice systems, provided these align with human rights standards. These global perspectives suggest that customary law can complement formal criminal justice by offering culturally grounded and community-based mechanisms for resolving disputes, while also emphasizing the need for safeguards to ensure accountability and fairness.

Across different regions, customary law functions either as a parallel or complementary system to formal legal institutions. In Sub-Saharan Africa, for example, traditional courts and councils in countries such as Uganda and Sierra Leone address both criminal and civil disputes with a strong emphasis on reconciliation. In Indonesia, the *adat* system provides localized and restorative approaches to justice, particularly in rural communities where access to formal courts is limited. Likewise, Pacific Island nations, including Papua New Guinea and Samoa, incorporate customary practices into their justice systems to preserve communal harmony and social cohesion.

In the Philippines, the coexistence of formal and informal justice systems is evident. Early efforts to institutionalize alternative dispute resolution mechanisms can be traced to the enactment of the Katarungang Pambarangay Law in 1978, later incorporated into the Local Government Code of 1991. This law established the *Lupong Tagapamayapa* to facilitate community-based dispute resolution. However, it applied uniformly across communities and did not fully recognize the distinct justice systems of indigenous peoples. A more comprehensive recognition came with the passage of Republic Act No. 8371, or the Indigenous Peoples' Rights Act (IPRA) of 1997, which acknowledged the rights of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) to practice their customary laws and justice systems. The 1987 Philippine Constitution further reinforces this recognition by affirming the rights of indigenous communities to preserve their cultural traditions and institutions.

Despite these legal frameworks, the implementation of indigenous justice systems within the broader state structure remains complex. In many cases, state mechanisms have been introduced into indigenous communities without fully integrating indigenous legal traditions into



formal legal consciousness. This has resulted in a gap between statutory law and customary practices, particularly in the administration of justice.

One notable example of a customary justice system in the Philippines is the Bodong system practiced in Kalinga, a province in the Cordillera Administrative Region. The Bodong is a traditional peace pact system that governs intertribal relations and conflict resolution. Rooted in indigenous customs and traditions, it is guided by a codified set of rules known as the *Pagta*. The Bodong system functions not only as a legal mechanism but also as a socio-cultural institution that promotes restorative justice, collective responsibility, and communal harmony. Through the leadership of *pangat* (tribal leaders), disputes are mediated, and agreements are enforced to maintain peace among tribes.

Historically, the Bodong system has played a crucial role in preventing and resolving intertribal conflicts, facilitating trade, and fostering social cohesion. While earlier practices sometimes involved retaliation, reforms such as those introduced during the 1998 Bodong Congress have prohibited automatic revenge, demonstrating the system's adaptability to evolving social norms. Today, institutions such as the Matagoan Bodong Consultative Council (MBCC) further illustrate efforts to interface customary practices with formal legal systems.

However, the Bodong system operates alongside the Philippine criminal justice system, which is largely based on Western legal traditions emphasizing formal procedures, codified laws, and punitive measures. This duality creates both opportunities and challenges. On one hand, customary systems like the Bodong provide accessible, culturally relevant, and restorative approaches to justice. On the other hand, tensions may arise in cases involving serious crimes, human rights concerns, and inconsistencies with national laws.

Given this context, there is a growing need to examine how customary and formal justice systems can coexist and complement one another. Alternative Dispute Resolution (ADR), as discussed by Mnookin (1998) and Shavell (1995), provides a useful framework for understanding non-adversarial approaches to conflict resolution, including mediation and arbitration. These approaches align closely with the principles underlying the Bodong system, particularly in their emphasis on dialogue, reconciliation, and mutual agreement.

This study, therefore, seeks to explore the interplay between the Bodong system of Kalinga and the Philippine criminal justice system. Specifically, it aims to analyze how indigenous practices can complement formal legal mechanisms, identify areas of conflict or limitation, and propose pathways toward a more inclusive and culturally responsive justice system. By bridging the gap between customary law and formal institutions, this research contributes to the broader discourse on legal pluralism and the pursuit of equitable and sustainable justice in diverse societies.

### **Theoretical Framework**

The present study is anchored in three interrelated theoretical perspectives: Legal Pluralism, Restorative Justice Theory, and Conflict Transformation Theory.

Legal pluralism recognizes that multiple legal orders—such as state law and customary law—can coexist and interact within a single society. In the case of Kalinga, Bodong continues to function



as a legitimate and functional mechanism for resolving disputes even in the presence of the Philippine criminal justice system. This lens helps the study understand how actors navigate between formal legal procedures and indigenous norms, and how these systems may complement, compete, or conflict with one another.

Restorative justice theory complements legal pluralism by emphasizing reconciliation, accountability, and the repair of relationships as central to the justice process. Rather than focusing solely on punishment, restorative justice prioritizes dialogue between victims, offenders, and the community to restore social harmony. Bodong shares many of these principles, as it seeks to prevent retaliatory violence, facilitate dialogue, and ensure restitution rather than mere retribution. Viewing Bodong through a restorative justice lens highlights how indigenous practices may deepen or challenge state-driven conceptions of justice.

Finally, conflict transformation theory offers a broader perspective by treating conflict not only as a problem to be resolved but as an opportunity for constructive change, social learning, and cultural affirmation. This framework underscores that conflict can lead to the redefinition of relationships, norms, and institutions when handled through inclusive and participatory processes. Applying conflict transformation theory to Bodong allows the study to examine how the peace pact system reshapes intertribal relations, strengthens community resilience, and contributes to the long-term stability of Kalinga society.

#### Objectives of the Study

This study aims to determine the interplay between Kalinga customary law and the Philippine criminal justice system, with a focus on how each system approaches conflict resolution. Specifically, it seeks answers to the following questions:

1. To examine the role of Bodong (peace pact) and Pagta (law of the Bodong) in sustaining peace and justice among the Kalinga people.
2. To explore how law enforcement agencies resolve and process cases or conflicts that involve Kalinga customary law within the justice system.
3. To explore the challenges faced in integrating the Kalinga customary law in the Criminal Justice System (CJS)?
4. What recommendations can be proposed to bridge the gaps and enhance the system?

#### METHODOLOGY

This study employed a qualitative, hermeneutic phenomenological design to explore the lived experiences and interpretations of individuals who have engaged with both Kalinga customary law and the formal Philippine criminal justice system in resolving conflicts. Anchored in Heideggerian philosophy, this approach seeks not merely to describe participants' experiences, but to uncover the deeper meanings embedded in their narratives. The study is grounded in the view that reality is socially and culturally constructed, and that understanding emerges through interpretive engagement with the voices of those who have navigated indigenous and state-based legal frameworks.

## Research Design

A qualitative, hermeneutic phenomenological design was adopted to examine how the Bodong peace pact system and the Philippine criminal justice system coexist, interact, and influence conflict resolution in Kalinga. This design is appropriate for exploring the subjective meanings participants attach to their experiences, as well as the socio-cultural context in which customary and formal justice mechanisms operate.

### Participants of the Study

Purposive sampling was used to select participants who have direct experience with the application and administration of Kalinga customary law and the formal criminal justice system. The respondents were categorized as follows:

Table 1. Research Participants

Respondents	Number of Respondents	Criteria
a. PNP Personnel	8	Currently designated records Officers from police station in Kalinga/ per municipality including Tabuk city
b. Barangay Chairmans	8	Barangay Official of different municipalities in Kalinga as suggested by NCIP office.
c. prosecutors	5	Identified prosecutors from Kalinga province.
d. Bodong holders/elders and IPMR	14	Two representatives per tribe of Bodong holders (Elders/IPMR) were identified from each ancestral domain in Kalinga, as suggested by the NCIP office.



### Data gathering Procedure

Data collection followed a systematic procedure in which key informants were identified from Bodong holders and actors within the Philippine criminal justice system such as tribal leaders (*pangat*), elders, barangay officials, IPMR, and designated prosecutors in Kalinga with the NCIP office assisting in the recommendation of participants from the ancestral domains, after which the researcher obtained ethical clearance from the Institutional Review Board (IRB) and the certificate to conduct research, implemented the FPIC process through the NCIP, briefed each participant on the study's purpose, objectives, and intended use of the data, and secured written informed consent before conducting interviews in the participants' preferred language (Kalinga or Filipino), which were audio-recorded when permitted and held in convenient and comfortable locations, using a semi-structured interview guide anchored on elements of the Bodong system, customary law, and experiences with the criminal justice system, followed by transcription of the interviews and subsequent member checking with the respondents to validate the accuracy and meaning of the responses and thereby strengthen the credibility and trustworthiness of the data.

## RESULT AND DISCUSSION

### Result

1. To examine the role of Bodong (Peace Pact) and Pagta (Law of the Bodong) in sustaining peace and justice among the Kalinga people with key themes emerging from the data.

#### Theme 01: Fast and Efficient Case Resolution

The results show that disputes are resolved quickly through the bodong system, allowing immediate settlement and reconciliation. Respondents emphasized that conflicts are addressed through the coordinated efforts of elders, the community, barangay officials, and law enforcement, resulting in reduced delays, minimized tensions, and prevention of escalation. This efficiency not only restores peace promptly but also helps decongest court dockets. The findings further highlight that collective decision-making and the active involvement of elders contribute to the effectiveness of the system, reinforcing trust and cooperation within the community.

#### Theme 02: Helpful to Criminal Justice (Peace and Order),

The results indicate that the Pagta provides clear rules and culturally accepted mechanisms for accountability, ensuring that conflicts are resolved peacefully. Respondents noted that early intervention by elders prevents retaliation and promotes reconciliation, while community cooperation helps ensure that offenders are held accountable in ways that maintain harmony. This reflects the restorative nature of customary law, where the emphasis is placed on restoring relationships rather than imposing punitive measures, thereby strengthening peace and order within the community.

2. Explore how law enforcement agencies resolve and process cases or conflicts that involve Kalinga customary law within the justice system.

There were four (4) major themes emerging from the data collected on How do law enforcement agencies resolve cases of conflict that will involve Kalinga customary law?

#### Theme 01: Fulfillment of Mandated Duty

The findings show that the PNP, prosecutors, and barangay officials continue to follow formal legal procedures while also respecting customary practices. They proceed with investigations and due process when cases are filed but allow amicable settlement when preferred by the parties.

#### Theme 02: Assistance/Legal Advice in Customary Resolution

Law enforcement plays a supportive role by providing legal guidance, explaining the implications of decisions such as affidavits of desistance, coordinating with elders, and maintaining peace and order during settlement processes. These actions ensure that justice is both legally sound and culturally sensitive.

#### Theme 03: Respecting Victim's Choice in Settling Cases

The findings reveal that victims are given autonomy in deciding whether to pursue formal legal action or settle through customary law. Authorities act as facilitators by presenting options and ensuring that victims are fully informed, but they ultimately respect the decision of the parties involved.

#### Theme 04: Filing of Affidavit of Desistance

It was found that this document serves as a formal mechanism that bridges customary settlements and the formal justice system, allowing cases to be legally withdrawn once reconciliation has been achieved.

### 3. Challenges in integrating customary and formal justice systems.

#### Theme 01: Not Interested to Continue the Complaint or Absence of Complainant

The findings show that delays in the formal justice system often discourage victims from pursuing cases, leading to withdrawal of complaints and difficulties for law enforcers in continuing legal proceedings. This highlights a gap between the efficiency of customary practices and the slower processes of the formal system. This interpretation is consistent with broader research on the Philippine justice system. Respicio & Co. (2025) identified chronic delays in court decision issuance, noting that procedural complexity and institutional inefficiencies often violate the constitutional right to a speedy disposition of cases. Similarly, Fallaria (2024) described the justice system as "crawling at a turtle's pace," emphasizing public frustration and loss of confidence in formal courts. These findings echo the sentiments of law enforcers and community leaders who observe complainants losing interest due to prolonged proceedings.

#### Theme 02: Harmony through Bodong with Accountability under Law

The results reveal tension between the restorative approach of customary law and the need for criminal accountability under national law. While customary law is effective for minor



disputes, respondents emphasized that serious or heinous crimes must still undergo formal legal processes to ensure justice, deterrence, and protection of victims.

Overall, the discussion demonstrates that the bodong system remains an effective and culturally appropriate mechanism for resolving conflicts due to its emphasis on speed, reconciliation, and community involvement. At the same time, law enforcement agencies operate within a plural justice framework where customary and formal systems coexist and complement each other. However, effective integration requires stronger coordination, clear boundaries, and continuous education to ensure that both systems work together in promoting justice, accountability, and sustainable peace.

#### 4. Proposed recommendations aim to address gaps and strengthen the system.

Based on the interviews, respondents not only identified challenges but also suggested ways forward. Their recommendations emphasize the importance of stronger cooperation, faster case resolution, and improved communication between Bodong Holders/IPMRs and formal justice institutions.

First, Institutional coordination emerged as the top priority, as respondents highlighted the need for stronger communication and collaboration between law enforcement agencies and Bodong holders/IPMRs. This ensures that both systems complement rather than conflict with each other, particularly in cases where disputes have already been settled. Effective coordination prevents law enforcement from expending unnecessary time and resources, as they are promptly informed when conflicts have been resolved.

Second, Boundaries of Customary Law were identified as essential, particularly the need to exclude heinous crimes such as murder and rape from customary settlement and ensure these are processed under the formal justice system while maintaining fairness in penalties.

Third, the Victim-Centered Approach was emphasized, highlighting the importance of addressing victims' psychological needs, providing support services, and ensuring that human rights principles are upheld in both systems.

Fourth, Capacity Building and Education was recommended to improve awareness of customary law, strengthen cultural values among the youth, and equip bodong holders with legal and technical knowledge.

Finally, Research and Modernization were suggested to enhance the effectiveness of customary practices by encouraging further studies, updating provisions to fit modern contexts, and improving transparency in case processes.

## CONCLUSION AND RECOMMENDATIONS

### Conclusions

In conclusion, the study demonstrates that while the Kalinga Bodong system and the Philippine criminal justice system pursue different priorities, reconciliation and harmony on one hand, accountability and punishment on the other hand.



This study shows that both Kalinga Customary Law and the Philippine criminal justice system are vital in conflict resolution. The use of customary law complements the formal system, particularly in prosecution, by helping resolve cases and easing court dockets. The continued practice of out of court settlements, with the support of Bodong holders and IPMRs, demonstrates its effectiveness. At the same time, law enforcement contributes by offering assistance and legal advice, ensuring that peace and justice are promoted. Harmonizing these approaches allows justice to be both culturally meaningful and legally enforceable, fostering lasting peace in the community.

### **Recommendations**

Based from the findings of the study, the following recommendations are presented:

#### 1. Strengthening Coordination and Communication

Strengthen coordination between law enforcement agencies and bodong holders/IPMR to align customary practices with formal justice systems, ensuring timely communication so law enforcers don't waste time on already settled conflicts. It is recommended that elders are to issue a certification that the conflict has been settled.

#### 2. Education and Awareness

To conduct information and education campaigns to raise awareness about the role of customary law.

3. The provisions must be revised and adapted to align with contemporary standards and the evolving conditions of modern society.

#### 4. Victim Centered

In settling disputes there is a need to address victims' psychological trauma, recommending treatment and support for them to overcome their trauma.

#### 5. Encouraging Further Research

To encourage academicians to conduct broader studies on the effectiveness of customary law. Future researchers conduct studies focusing on heinous crimes, particularly in relation to their inclusion and treatment within the unified Pagta law.

#### 6. Legal advice

To encourage law practitioners and community leaders to seek regular legal advice or consultation from qualified attorneys and prosecutors when drafting provisions. Doing so ensures that the language of the law is precise, enforceable, and aligned with existing legal standards, while also safeguarding the interests of the community. These professionals possess the necessary expertise in the mechanisms of the formal justice system, ensuring that customary practices are aligned with legal standards and that decisions made within the community are both culturally meaningful and legally enforceable.

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