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Conclusion

10.1 State of nature/state of the nature

The majority of the Taroko land problems and claims have their roots in the Japanese colonial regime. In chapter 2, I described the formation of the area of Taroko and the state law frames introduced in the indigenous areas. I found that the Japanese authorities viewed the indigenous people's ways of living and their character as being 'state of nature'. I adopt this term to describe the methods and ideologies adopted by the Japanese authorities in order to examine and manage the indigenous people. The term 'state of nature' has been used by Western political philosophers to describe the conditions or characters of those 'others' that were situated in pre-state conditions.

Japanese ideas of indigenous people demonstrate a 'state of nature' that can be characterized by a spectrum of different capabilities and rationalities. At one end of the spectrum is 'animals' with no capacity for rationality; this is followed by 'semi-rational human beings' with limited capacity for rational thought, i.e. people who are not capable of being civilized. Then, at the other end of the spectrum are Japanese 'citizens', fully capable of rationality and deserving of all the rights a state can grant. Thus, we see that the Japanese authorities adopted evolutionary concepts to differentiate the indigenous people and put them into three categories: the raw (uncooked), the semi-cooked, and the cooked. The raw people like those in the Taroko area were considered animals with no knowledge of rationalities and only deserving of war and occupation. The semi-cooked or the cooked indigenous people were later treated as Japanese citizens deserving of recognition and land titles.

Despite this categorization, it was in the interests of the Japanese colonial government to maintain the savage status of the indigenous peoples who might otherwise lay claim to ownership of Taiwan's richest natural resources. Identifying indigenous people as savages gave the colonial government the right to occupy their land. This was a widely shared ideology among the major colonial powers at that time. Like the British colonizers' view of aboriginal land in Australia as terra nullius, the Japanese government perceived the savages of Taiwan as lacking knowledge of property ownership, and thus claimed their indigenous lands as government property. As O'Brien says:
In a similar way, Taiwan indigenous people actually lost all of their territory because it was deemed national land that only the Japanese State owned the ultimate right to.

10.2 Terra Nullius/Sovereignty

During the Japanese encounters with the ‘raw’ Atayal people and also the indigenous peoples in the Taroko area, the cruelties were numerous on both sides. But the raw Taroko people never had a chance of being promoted to semi-cooked or cooked before the Japanese authorities waged war on them in 1914. The Japanese started from the premise that the lands in these ‘raw’ areas were terra nullius. Of course, the Japanese authorities had to be blind not to admit that there were people living on these lands with their own methods of tenure or management. Many of the Japanese consultants, like Mochiji Rokusaburou, put policy priority on lands that could be used by the state and the indigenous people who occupied them were deemed a problem. The doctrine of terra nullius was first suggested by the American consultant LeGendre, who signed memorandums with the barbarians in the south of Taiwan on behalf of the United States in order to urge the indigenous people not to harm any American sailors that drifted ashore. In fact, it was the Qing government that was the de jure subject who should have signed the memorandums with the US, but LeGendre, in his role as an ambassador in Xiamen in south east China, signed the agreement with the barbarians instead. He seemed to think that the southern barbarians were representatives of the sovereignty of the southern area. Following this logic, the people who signed on behalf of the indigenous people in the south should be considered the holders of sovereignty. Yet LeGendre still believed that the areas out of China’s direct control or administrations were terra nullius and, thus, belonged to no one and certainly not to the indigenous people. At a time when many colonial states were competing for the land of Taiwan and elsewhere, the theory of terra nullius was adopted by the Japanese as a way of approaching the lands and people in indigenous areas. In fact, the Japanese approach was a cruel one; they refused to see that the indigenous people had their own lands and way of lives. ‘State of nature’ was a fictive notion and a legal device adopted by the Japanese colonial authorities to neglect human rights.
These theories were different to Western theories such as John Locke’s ‘social contract’, which preached that to move from ‘state of nature’ to ‘state’ or ‘civil or political society’ requires a social contract, to provide a bridge for people in ‘pre-state’ conditions to cross into a condition of state. Many Western philosophers like Locke and Rousseau had different presumptions or ideas about the conditions of the ‘state of nature’. Locke thought that people in ‘state of nature’ did not obey a unitary law or, indeed, any overall rules and they did not recognize mediations or punishments. In *Leviathan*, Hobbes wrote of how people are selfish and compete amongst themselves without caring for others. This reiterates the point that there are different kinds of ‘state of nature’ and how people in a ‘state of nature’ can be so individualized that they are unable to follow any collective rules made by a state or, in fact, any other unit (Tully 1993). Even John Locke, who had great knowledge of the North American Indian peoples (ibid), still urged the state to welcome people in the condition of ‘state of nature’ using the ‘social contract’ theory that the North American Indian people would join the state in their own time and of their own free will if they thought doing so would protect their original properties. Though colonial history shows us that this idea was ultimately rejected in these American Indian areas, an idea still existed that the state should be set up on the condition that the people in a ‘state of nature’ could still keep their properties. There is no evidence to suggest that Japanese colonialists were influenced by these ideas, but we can see from the Taroko case that there was no social contract to bridge the ‘state of nature’ and ‘the state of the nature’. On the contrary, *Terra nullius* was the bridge between the two and the Japanese considered the land in these areas as uninhabited or only inhabited by human beings who lived like wild animals, who were not civilized.

In this period, other colonial powers treated these mini-nations differently. For example, when the English went to Canada and New Zealand, they recognized that the indigenous peoples in those territories were nations. They signed international treaties with indigenous people. These treaties became the basis for later legal claims (Yen and Yang 2004: 241). By contrast, the ‘raw’ indigenous people of Taiwan were not treated like those in other colonial situations. As Yen and Yang found, the Japanese did not recognize Taiwan’s indigenous peoples as a nation. They did not sign treaties with them. They treated them like animals. (Yen and Yang 2004: 241; Vickers 2008). Moreover, the Japanese responded to the ‘animals’ cruelty in kind. The indigenous people of Taroko were simply animals that needed to be conquered.

10.3 War/Peace/Natural Sovereignty

In my fieldwork, I found that Taroko intellectuals have many different reflections on the history of the Japanese time. In particular, there were many different perspectives about indigenous ideals of peace and war, and later the taking of lands and properties by the Japanese army and authorities. Indigenous logic is one of conquering, being conquered or surrendering under certain conditions,
and many rules are based on indigenous customs. For example, with respect to the processes of war, indigenous people believed that if the war was started for convincing reasons then the outcome could be submission without conditions. If, however, the conflict is started without convincing reasons, the indigenous people consider it as invasion and submission to the army should only occur under certain conditions. Based on these indigenous interpretations, I find that indigenous people have an idea of ‘sovereignty’ and that they firmly believed their sovereignty was based on the fact that they had occupied the lands, without being bothered, prior to any states that came later. In one sense, this so-called ‘natural sovereignty’ precedes any state sovereignty and, in another sense, it relates to the natural habitats and resources that are occupied by states. Based on this idea, indigenous people are claiming their rights to, in particular, land and natural resources. Consequently, I find that the Japanese method of ruling the indigenous lands has resulted in three topologies that the indigenous people use differently as strategies for land claims.

10.4 Gaya as institution: in situ, diaspora and hybridity

In chapters 3 and 4, I illustrated three topographies related to indigenous settlements and traditional territories: in situ, hybrid and diaspora. These typologies suggest a decline in the claimants’ closeness to and knowledge of the territories they claim. They seem to divert into objective empiricism and subjective re-constructionism in terms of the ideas and methodology for mapping traditional territories. In an in situ scenario, landscapes are demonstrated through checks and balances on the politics of representation and the ‘subjectivity’ of local people or ‘objectivity’ of land natural resources. But in a diaspora scenario, where stakeholders lack information to keep a check on the relationships between people and traditional territories, the politics of representations are more controversial. We find that locals use a method of scoping on a large scale in order to include territories governed by ancestral gaya, a regime of autonomy of the Taroko people. Future perspectives are concerned with mapping that demands tracing the past. In this scenario, where some direct connections are maintained in the form of, for example, elders who are tour guides, a space or zero-or-sum emerges and awaits rescue. Without rescue, this zero-or-sum space is nothing more than an imagined homeland or a lost land or non-place to the indigenous descendants.

These three ideal types of mapping topology also indicate how levels of communal properties are being constructed. Through these topologies we find that a small tribe seems to function in an in situ scenario. In an in situ scenario, people maintain gaya rules for land use, though many land conflicts still result from the implementation of national laws. In diaspora or hybridity scenarios, the Taroko people have lost their connections with the lands or traditional territories; however, with mapping they can employ an idea of utopian autonomy to try to gain back their territories. Gaya is an institution that substitutes national laws; gaya is practiced on their lands while national laws conflict with indigenous ways.
of land use. So gaya is a utopian doctrine used to govern traditional territories based on their natural sovereignty.

**10.5 Imagining the autonomy of Gayà in Basic Law**

In chapter 5 we found that indigenous peoples have not benefited from the new Basic Law that is awaiting further time-consuming amendment. A clear solution to land issues is deliberately avoided in the text of the relevant articles in the Basic Law. There is a similar opaqueness about the two memoranda for ‘A New Partnership between the Indigenous Peoples and the Government of Taiwan’ signed by President Chen (see appendix 3). For example, the 5th article states:

To restore or recover tribal and ethnic traditional territories for Taiwan indigenous peoples are originally tribal societies where institutions of communal or individual uses are based on communal ownership of land. In order to rebuild an ethno-cultural development subjectivity to process a foundation for autonomy, the government of Taiwan should acknowledge or recognize, regardless of the private ownership regimes on land, the tribal and ethnic subjectivities and their ownership of the traditional territories.

In the above translation, the words ‘restore’ or ‘recover’ have been translated from the Chinese idiom ‘Huei Fu’ (恢復), which denotes a common meaning of recovery. But exactly what is going to be recovered is not clear from the text. Indeed, the indigenous peoples have always asked for the article to be worded using terms such as ‘return’ or ‘give back’. The above translation uses the terms ‘recognize or acknowledge’ in relation to indigenous subjectivity of their traditional territories, but there is no sign of anything being acknowledged or of rights being recognized. A more favourable term would be ‘Indigenous subjectivity’, which recognizes indigenous natural sovereignty. Therefore, many indigenous laws and policies must be reconsidered.

In the preceding chapters, we have discussed how people reconceptualize lands in their collective imagination. Based on natural sovereignty, Taroko people have adopted mappings to project autonomy without interference from outsiders. Through their desire for autonomy, they projected a time when ancestors were living in their traditional territories according to their own gaya. Natural sovereignty is the ultimate right to protect gaya and the ultimate institution for governing the lands that are now occupied by the state. We find that the Taroko people have a doctrine in which sovereignty is the basis for re-coordinating land, human-units, rights and institutions according to ancestors’ rules. In a Draft Taroko Autonomy Constitution, we see that the Taroko people want to be a state or a nation within the state. In a Taroko state or with Taroko autonomy, the indigenous people would manage land-human relations according to their gaya. Natural sovereignty seems to be a solution, but many activists still worry about the many different and competing authorities governing their lands, including
privatized or reservation lands, or lands taken by industries, national parks or the Forestry Bureau. The impact of these *de jure* regimes on indigenous people's practices related to land and natural resources were discussed.

### 10.6 Law-individualism

The theory of *terra nullius* and taking lands and declaring them as state-owned were colonial deeds designed to render indigenous people landless and, ultimately, 'stupid' and therefore incapable of dealing with rational matters such as economics. This kind of thinking still prevails among many people, even among indigenous ones. During my research I found a number of documents circulating among government officials in the department responsible for indigenous affairs that talk of laziness and irrationality. Such themes have informed officials' thinking and policymaking.

The fact that such views prevail in the 21st century is highlighted by the words of a top officer in Hualien County in charge of indigenous affairs: ‘They are not inspired by civilization and have fewer abilities to compete with the Han and the plains people. It is usually the indigenous people who are inferior to the Han when they are dealing with commerce.’ It seems that indigenous people are consistently labeled as not so advanced in terms of dealing with matters of commerce and economics. The system of land reservation appears to have been set up as a bridge to help indigenous people advance, step by step, in terms of capability and rationality. It is a fact that indigenous people are not as advanced as, say, their Han counterparts, in commercial dealings. However, the reason for this has nothing to do with laziness or isolation. In chapter 6, I demonstrate how indigenous people act both collectively and as individuals and prove to be just as rational or as calculating in matters of economics. They still consider many affairs in collective terms, but they also take their own personal interests into account. In my opinion, indigenous people have not been able to advance because they are part of legal and economic structures that limit their ability in the commercial sector. Thus, we see that colonialism has resulted in the reforming of not only governance, but also of ownership.

There are many restrictions on land use and it appears that the reservation land is designed only for agricultural use and cannot be used to provide indigenous people with a basic livelihood. This situation is compounded by the fact that indigenous people have no capital to invest in small pieces of land. They are often forced to move to urban areas in search of low-paid work. Given these limitations, reservation lands are rendered useless and worthless, which has the effect of inviting profit seekers in to take advantage. During this process, the phenomenon of 'legal individualism' emerged and threatened, and sometimes even violated communal ways of dealing with reservation lands. 'Legal individualism' cuts out communal relations and provides a clear cut method of dealing with lands at the nexus of relations or reciprocal responsibility. The process of granting reservation lands is seen as a way of helping indigenous people to learn
the logic of individual autonomy that is supported by laws and administration. By this, I do not mean that the Reservation Land Management Procedures are suitable in terms of helping indigenous people to define and manage land tenure to the extent that it is secure and clear as some economists imagine. In fact, all the Reservation Procedures, starting with the survey and demarcation require collective and mutual recognition, even though more individualized actions are encouraged by later procedures. These procedures are helping indigenous people to own lands securely within the modern cadastre system. Problems arise around the boundary between capital and value equivalences. If we look at previous studies of indigenous land rights, we get a sense of déjà vu. Taiwan’s history shows that from the Dutch time through to the Qing Dynasty indigenous lands have been steadily encroached on legally, socially or politically. In his paper ‘State, Proprietary Rights, and Ethnic Relations in Qing Taiwan, 1680-1840’, Prof. Chen finds that, ‘Despite the official separation policy, numerous Han immigrants (still) encroached on tribal territory in search of new lands and water resources.’ Han people and the authorities are using similar methods in the Taroko area; in particular, a special contractual system described by Chen (ibid) that institutionalizes ‘the separation of title rights and usufruct or cultivate rights on the same piece of land. Both the title holder and functional landowner could independently sell or sublet their property rights; indeed, a major characteristic of Taiwan’s land development was the early and rapid subdivision of property rights among tenant cultivators’. Thus, land rights were separated into two independent parts—subsoil rights held by the title holders and topsoil rights acquired by those households that actually managed the land. This scenario is called ‘fan-chan-han-dieam’ (番產漢佃) by scholars indicating that indigenous lands were actually cultivated by Han people (see also Shepherd, 1993; Ke 2001). From my study, I also found a new form of indigenous lands being worked by Han people ‘fan-chan-han-dieam’ (番產漢佃) emerging in the reservation land system and in the modern cadastre system. We see the rise of illegal holders, permanent leases and many other regulations on the use of certain pieces of reservation land. In theory, the Reservation Land Management Procedures help indigenous people to maintain legal rights over reservation land, but in practice these rights are being encroached on, even by indigenous people themselves. This is a new phenomenon, different from what Li (1982: 104-105, 119) called ‘controlled capitalization among indigenous areas’, a policy to use indigenous land for agriculture in order to help indigenous people survive and with the reservation land protected legally by the government. As agriculture was unable to produce the necessary profits and provide subsistence for indigenous people, the land became vulnerable to capital from outside and prospectors seeking to invest in reservation lands for tourism or mining. The government seems to be unaware of this trend and rather than coming up with better institutions to help the indigenous people survive, in my opinion the Reservation Land Procedure is now being used for state land appropriations related to industry and mining and conservation or preservation of the nature. Moreover, the value of reservation land is now uncontrolled.
According to the Japanese Counselor Mochiji Rokusaburou, it is impossible for indigenous people to have regular land rights until these ‘raw savages’ have been cultivated, civilized and are capable of economic rationale. Mochiji Rokusaburou put this view of gradual evolution forward during the Qing Dynasty to show that raw savages could evolve into cooked barbarians or be ‘Sinicized’ and become normal citizens. After more than a century, we are at a point where indigenous people have indeed learned the ways of cultivation and are capable of economic rationale, but does this mean that the time has come to open Pandora’s Box and allow free transactions of reservation lands? No. The reason why a new form of ‘fan-chan-han-dieam’ (番產漢佃) regarding reservation land tenure is emerging is not because indigenous people are incapable of getting to grip with economics, but because of the legal limitations and the doctrine of terra nullius.

In terms of national land laws being implemented in a more balanced way, Herskovits (1965:326) mentions that, ‘Whatever absolute criteria of property may be set up, the ultimate determinant of what is property and what is not is to be sought in the attitude of the group from whose culture a given instance of ownership is taken, mistakes or distortions should have chances to be corrected’ (see Hann 1998). There are so many regulations and limitations that the indigenous people are unable to develop and fall into the trap of conforming to their stereotype of being ‘drunkards’ and ‘lazy’.

Furthermore, the authorities are still apt to deny ‘customary land rights’ or ‘original titles’ (Huang, Ju-zheng 2009). This has become a significant cause of conflict between the state and the indigenous people in many areas and in many cases around the world. As Ali observed in Southeast Asia (2004:337), ‘the indigenous people are being displaced from their lands, their ancestral traditional abodes and surroundings in the name of or as consequence of development activities by the government. Therefore, the conflict between public agencies and the people has resulted in a conflict of traditional rights versus statutory rights or management (ibid: 338).’

‘Indigenous land rights are conceptualized within the framework of a separate legal regime, distinct from the rest of the country’ (ibid: 338). We may think that the concept of land rights for the hill people is inextricably linked to collective customs and traditions with ‘emotional attachment to the land, as well as issues of morality and justice that are always a central component of debates about property’ (Hann), but these rules and principles have been attacked and mixed with many other ideas resulting in a blurring of land issues within communities. We find many cases where land claims are helped by rumors or street conversations or mediations from elders or even prayers in churches. Communities have alternatives to legal methods to resolve land conflicts.

Frequently, we see that the law demonstrated in the court decisions mentioned in chapter 6 is unable to offer the justice people wanted. Instead, we see that the laws are supporting a form of legal individualism that is causing controversy within communities and breaking down the abovementioned alternative routes to securing property. As Geertz (1983:289-290) has mentioned, ‘the as/therefore level of things is as difficult of determination as the if/then level is (in
theory, anyway) clear and inescapable.' It appears that many cases seem to be
clear in terms of the legal logic of if/then, but unclear in terms of local concepts
of as/there dimensions. Local knowledge and practices need to be acknowledged
in the human-land-nature relationship where we can see that customary laws are
still embedded in strong societal foundations. Many customary rules and ways
of recognizing ‘property’ still have a strong basis of social support.

Taiwan experienced rapid economic development in the 1970s and 1980s
and this inspired an entire development discourse on the ‘Taiwanese miracle’
(Simon 2002). As Simon's article ‘The Underside of a Miracle: Industrialization,
Land, and Taiwan’s Indigenous Peoples’ has pointed out, this view has over-
looked three important facts that should be taken into account when looking
closely at development in Taiwan. First, rapid development was made possible
largely by an oppressive regime of martial law that quelled worker unrest. Sec-
ond: development took place at immense social and environmental costs. And
finally, these costs have been disproportionately borne by Taiwan's indigenous
peoples. Through the cases that I have presented illustrating the encroachment
of industries into indigenous areas, it should be clear that many burdens were
shouldered by the local indigenous people. They suffered greatly as a result of
these development plans in terms of environmental degradation and lack of rec-
ognition of human rights. From the perspective of environmental justice, a sce-
nario of development like ‘borrowing a golden hen to lay golden eggs’ (words
of a Hualien county parliament member), which invited companies from the
west to come to the east of Taiwan to invest, did not bring the promised profits
or bright future for the local people. As for the cement industry, it did not bring
jobs or other tangible or intangible profits as the companies and governments
had insinuated. What these industries have brought is pollution and loss of land.

A report sponsored by the Taroko National Park headquarters states that
the park generated about 5 billion NTD of profits through the tourism industry
for the area each year. This news, headlined in a local newspaper raised much
discussion. Some indigenous people complained that the headquarters had not
hired some high profile scholars just to calculate how much the indigenous peo-
ples have lost each year because of the park (Lin, Yan-zhou 2006).

It would be hard to calculate how much the indigenous people have profited
from the Taroko National Park, which was supposed to 'bring more economic
benefits to the host community (Lin, Y.Z. 2006). The report focuses on the di-
rect income to the National Park, which researchers claim could be income for
the local indigenous people. But as many indigenous people argue, most of the
income goes to the headquarters' employees who set up businesses inside the
park and who dominate the restaurants and souvenir shops. This is considered
a serious injustice by the local indigenous people. Capital is not helping the lo-
cal poor, but rather the capital owners and the government elites who have most
of the opportunities for rent seeking and the instrumentalization of state power
to secure property. This is evidenced in the case of the land conflict between lo-
cal indigenous land owners and the Asia Cement Company. I found an official
document from the Ministry of Interior that defended Asia Cement and suggests
that the local county government should consider keeping the cement factories for a number of reasons. The seventh reason the government lists is:

An official document from the Mining Department in the Ministry of Economy issued as Number 09200253480 on 15th December 2003 says, ‘Asia Cement was set up by the encouragement from the national policy of going east for cement industries. From the year 1979 on, the Asia Cement was set up till now; a lot of investments have been made. The factory has offered many taxes and job opportunities to the eastern citizens. And the factory has obeyed the relevant laws and rules. If the land lease contracts on the lands that the factory are using have now expired, and if the leases are not continued, this would lead to a disruption of the cement prices and supplements. Besides, there will be a negative impact on the factory or the industry, not to mention that the company would require compensation from the authorities. Thus, it should be considered seriously whether to extend the lease for mining (Ministry of Interior 2005).

This case does nothing to help the indigenous side because most of the processes have been carried out legally, although it is acknowledged that some administrative mistakes occurred. Through these frustrating cases, many indigenous communities find themselves in devastating situations, flooded with money, capital, pollution, industry and mining. The government seems to think that the answer lies in more negotiations and more corporations getting involved in development in indigenous areas. Article 21 of the Indigenous Peoples Basic Law, promulgated on 5th February 2005, stipulates that:

The government or private party shall consult indigenous peoples and obtain their consent or participation, and share with indigenous peoples benefits generated from land development, resource utilization, ecology conservation and academic researchers in indigenous people’s regions. In the event that the government, laws or regulations impose restrictions on indigenous peoples’ utilization of their land and natural resources, the government shall first consult with indigenous peoples or indigenous persons and obtain their consent. A fixed proportion of revenues generated in accordance with the preceding two paragraphs shall be allocated to the indigenous peoples’ development fund to serve as returns or compensation.

This article is vague in the sense of knowing who is the real subject of consent and who will be granted the revenues. This is certainly reflected in how disempowered indigenous communities have become in recent times.

It relates to the reconsideration of the arrangements among human units, different characteristics of land, institutions and bundles of rights that are beyond the existence of laws and legal devices or governments now. So far we do not have cases to show how freely the concept of ‘prior informed consent’ is practiced in Taiwan, but my chapters describing the river protection co-manage-
ment practices illustrate how the local and government authorities concerned are experimenting with this new trend of reconsidering human-land management. Through these cases, we see that indigenous locals are putting forward moral and emotional reasons for regaining governance of the environment. Co-management is a way to include governmental resources and to help achieve the promising vision of combining livelihoods, nature and culture.

Ultimately, however, the current legal support is so limited that the implementation has been ineffective. Nonetheless, the state laws support the state taking indigenous private property for the construction of public infrastructure and without the need for reasonable compensation. Indigenous property had actually been recognized to very limited extent by the Japanese, but their compensation was limited because many collectively owned lands were *terra nullius* and now belong to the Bureau of Forestry and the National Park headquarters, who both share the responsibility for implementing co-management with the indigenous locals. The Act of Tourism Promotion seems to be promising in terms of co-management, but actually there are no official procedures laying out how the locals can participate in the governance of government properties. I am curious to see whether the article in the Act of Tourism Promotion Act will provide a promising future for the environment and the indigenous people, particularly as there is a tendency among conservation areas to advocate much stricter rules on national lands that are now seen as a tragedy of commons, symbolized by landslides and floods. No wonder, then, that many scholars think that adding new articles to the Constitution concerning the indigenous peoples will only result in the direction of basic policy but not basic rights. They view these words in the Constitution as weak in terms of the protection and promotion of indigenous rights.

### 10.7 Property relates to sovereignty

Through these river protection co-management cases, we find that there may be more chance of successful implementation when conditions are considered and incorporated in the design principles before co-management begins. If this occurs, there is a better division of labor between the parties. The cases featured here show that locals actually began with no advantages at all. On the contrary, the locals started from almost zero and the 'bundles of rights' to the river properties are not generally controlled by the locals.

From the cases presented here, we find that property boundaries define the 'bundle of rights' that are really concerned with the implementation of co-management. Indeed, many scholars found that successful co-management should be based on a clear definition of property and they often refer to the successful case of Kakadu National Park in Australia, where the indigenous people were granted land rights and sponsorship of co-management projects. Berkes mentions that legal recognition of communal resource-use rights, as occurred in the Japanese coastal fisheries, is key to the success of exclusion under communal-
property regimes. Or, as with private property, the legitimacy of state property in the eyes of the local community is important for enforcement (Berkes et al. 2001). These cases are inspiring Taiwanese indigenous people, and the implementation of co-management or governance of natural resources reflects a stronger demonstration of the idea of sovereignty that comes from a doctrine of communal property. Furthermore, under communal property regimes, ‘exclusion’ means the ability to exclude people other than the members of a defined group (Berkes et al. 2001).

I find that indigenous locals have avoided a perspective that stubbornly insists on ‘sovereignty’ and demands full control and total sovereignty like a nation-state. Instead, they start from the perspective of soft sovereignty and the co-management of areas with ambiguous properties. The reality is that the role the government play is still based on the idea of hardcore national sovereignty. No wonder, then, after so many frustrations and the impact of so many government restrictions that many indigenous activists still insist on starting from the simple premise of pinning down a definition of property and a vision of who has what rights to certain objects or property types. Autonomy or co-management is set firmly on the land rights agenda.