

## Respect integrity of Aboriginal land

Written by Taiwan Association of University Professors 台灣大學教授協會  
Friday, 24 March 2017 09:11

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The history of Taiwan has been shaped by successive violent invasions: China's Qing Dynasty, the empire of Japan and the Republic of China are examples of foreign powers that plundered Taiwan, leaving it damaged and its people scarred.

The passing of time presents an opportunity for yesterday's "outsiders" to become today's "insiders."

However, the desire to find peace and protect one's home must not be based on the "status quo" of the vested interests of those who forcefully invaded the island.

The Democratic Progressive Party calls itself Taiwan's first "localist" party. In order to live up to this image, it must restore the process of transitional justice so that those individuals who plundered Taiwan are brought to justice. Most important of all, the natural rights of Taiwan's Aborigines must be returned to them.

President Tsai Ing-wen (蔡英文) on Aug. 1 last year delivered an official apology to Taiwan's Aborigines on behalf of her government at the Presidential Office Building.

During her speech, Tsai acknowledged that Aborigines are Taiwan's original inhabitants, with their own language, culture, customs, land and sovereignty rights and that successive political regimes sent military expeditions to plunder their ancestral land, violating their rights and interests in doing so.

Tsai said she hoped to clarify the facts and find reconciliation so that all the peoples of Taiwan can coexist in a peaceful, harmonious and multicultural society. It was a significant step in the right direction.

In the past few years, the dispute surrounding the Council of Indigenous Peoples' draft bill, "A method for the demarcation of Aboriginal land and tribal realms," means that the nation has yet to see whether the Tsai administration has the will and resolution to fulfill its campaign

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promises.

The origin of the dispute centers around two key issues: consultations on the exercise of the right to consent and the definition of traditional Aboriginal territory.

Article 21 of the Indigenous Peoples Basic Act (原住民族基本法) states that: “When governments or private parties engage in land development, resource utilization, ecology conservation and academic research in indigenous land, tribe and their adjoin-land which owned by governments, they shall consult and obtain consent by indigenous peoples or tribes, even their participation, and share benefits with indigenous people.”

Although the council drafted its bill in accordance with that clause, privately owned land was removed from the definition of traditional Aboriginal territory, which provoked a furious response from Aboriginal communities.

According to the government’s wording, the exercise of the right to consent would violate private property rights guaranteed under the Constitution, and that is why privately owned land was excluded from the definition of traditional Aboriginal territory.

From the point of view of Aborigines, it is an incontrovertible historical fact that they were the first inhabitants of the island and that their traditional land was established before the formation of a state.

State and privately owned land stems from a system of land ownership and property rights that is a product of modern society, and these rights might even include land that was unjustly appropriated.

If the government consents to the transfer of state-owned land, but excludes privately owned land, this would be a new form of exploitation, and it would not help clarify historical facts or be a sincere process of reconciliation.

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Not only has Tsai not made good on her promises, some key government officials have even played a lead role in mobilizing opposition to the reconciliation process and tried to stir up fear among the public.

The legitimacy of a localist government is most closely linked to the restoration of historical justice.

As such, it should not pursue a course that will result in the fragmentation of Aborigines' traditional land based on the public and private ownership model that was established at a later date.

The government should not be propping up the unjust "status quo."

It needs to communicate better with the public and promote public debate to clarify the definition of traditional land and create legislation or amend existing legislation to implement Aborigines' right to traditional land.

The Tsai administration must understand that a person's bond to their nation is directly related to their ability to participate in the construction of country and nation.

In a nation whose systems and structures have historically been built on violence and looting, it is the duty of a genuinely localist government to investigate and rectify any remaining forms of injustice: this includes land.

Although land is a limited resource, a system designed around reciprocity and mutual benefit — and that recognizes the importance of maintaining the integrity of traditional Aboriginal land — is the only way to start building the kind of nation that can truly be called a home by all of its people.

Translated by Edward Jones

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