

Aborigines fighting for their land

Written by Pasuya Poiconu
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Aborigines fighting for their traditional territories set a record by staging a 100-day protest on Ketagalan Boulevard in Taipei.

Based on the Indigenous Peoples Basic Act (原住民族基本法), the Cabinet's Council of Indigenous Peoples insisted on excluding privately owned land from such territories when proposing the draft indigenous peoples land or tribe allocation bills to the Legislative Yuan.

It seems the confrontation between the opposing views and actions of the public and private sectors has had an effect neither side had expected: The Aboriginal community has started to attach importance and give serious consideration to the traditional land issue. Even Han people who are confused and do not understand the issue are trying to understand what really constitutes traditional territories.

The act does not provide a definition of "traditional territories." Article 2 merely defines Aboriginal land, saying that it "refers to the traditional territories and reservation land of indigenous peoples." Opinions differ as to exactly what traditional territories refer to and how big they are.

Aboriginal land is classified into two categories: reserved land and traditional territories. The 260,000 hectare reserved land includes both privately owned and government-owned land area, such as township offices' properties and land for government agencies or public facilities.

Publicly owned land on traditional territories includes national forest compartments, lands for government agencies or public schools, university experimental forests and the Veterans Affairs Council's properties.

It also includes privately owned land, mainly in Aboriginal areas on the plains. Originally, there was only private land on the plains and no reserved land, which was only added later. A lot of private land has been bought by individuals or businesses, leased — often for several decades — or transferred to Taiwan Sugar Corp and other businesses.

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For many years, traditional territories in Aboriginal areas on the plains of Hualien and Taitung counties have been occupied and developed by the public and private sectors. It is easy to understand the heartfelt call of the Aboriginal protesters on Ketagalan Boulevard for the government to delineate not only government-owned, but also privately owned land as traditional territories, and this is where the problem lies.

The controversy over Article 21, paragraph 1 of the act can be interpreted in two ways.

First, Aboriginal land — traditional territories and reserved land — is a distinct subject in itself and separate from “government-owned land” in the article.

According to this view, the Council of Indigenous Peoples should have included both government-owned and privately owned land when demarcating traditional territories and reserved land, as well as tribal land adjacent to the government-owned land. This is the view of Aboriginal protesters and some academics.

According to the second interpretation, “government-owned land” refers to government-owned land on Aboriginal land — traditional territories and reserved land — tribal land and land adjacent to tribal land. This is the government’s view and the council proposed the draft based on this view.

The logic of the article is flawed and that is the reason why both interpretations can be seen as legitimate. The situation became even more complicated after the term “government-owned land” was added through an amendment in 2015.

Could it be that the council is unaware of the first interpretation? That is impossible. Information that has become available later, as well as messages posted on Cabinet members’ Facebook pages and other statements, has made it clear that the council was under tremendous pressure concerning the delineation of traditional territories from other concerned ministries and agencies.

The Cabinet can only release government-owned land on traditional territories, while privately

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owned land on traditional territories — temporarily set aside due to concerns over the significance of the effect — will be handled later. Given the pressure, the council had no choice but to propose a draft based on the Cabinet's interpretation and policy. The council was willing, but unable.

However, at the first Indigenous Historical Justice and Transitional Justice Committee meeting, President Tsai Ing-wen (蔡英文) confirmed that Aborigines' traditional territories existed before the state, and that they are integral and should not be classified as public or private territory.

Perhaps the two sides should try to understand each other's stances and difficulties, and jointly clarify the management of both government-owned and privately owned land in traditional territories, so as to negotiate the priorities when handling the issue.

As the draft is about to take effect soon, all Aboriginal peoples and communities should negotiate with each other to reconfirm their boundaries on traditional maps to gradually increase their awareness of their territories and then put that awareness into practice.

Confrontation holds up progress, while those who have occupied Aboriginal traditional territories chuckle to themselves over the constant confrontation. A number of academics have proposed their own views on this complicated issue and a lot of work needs to be done. Let us stop fighting and move forward together.

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Translated by Eddy Chang

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