

## **Book Review: Culture and the Question of Rights: Forests, Coasts, and Seas in Southeast Asia**

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Charles Zerner. *Culture and the Question of Rights: Forests, Coasts, and Seas in Southeast Asia*. Durham, N.C.: Duke University Press, 2003. 289 pp. \$19.95 (paper).

When William of Normandy landed on the shores of England in 1066, he foraged the land. Goods were confiscated, farms were burned, and the inhabitants killed to prevent them from supporting King Harold. By 1071 one-fifth of the English population had been decimated. William gave their land to the knights and vassals who had sworn allegiance to him. Only two Anglo-Saxons owned land 20 years after the Normandy invasion; the English had been disenfranchised. This method of disenfranchisement has been the fate of non-Western people. Europeans discovering new lands, claim those lands for their monarchs. The indigenous people have no title, and therefore no rights. In the name of civilization, indigenous people are then transplanted to reservations so that the land can be developed by "civilized" folks.

Discovery of new land has always resulted in the disenfranchisement of the local people. European powers ignored the customary practices that regulated the land, water, and produce, and imposed their own property laws. These first world powers had national sovereignty over the land that was recognized by the European community. In the United States, the landmark case of *Johnson v. M'Intosh* (1823) validated the "discovery doctrine". Johnson had purchased land from the Pinankeshaw Indians in 1775 when the United States was still an English colony. The land was controlled by Virginia when the colonies declared its independence from Britain in 1776. In 1784 the Virginia colony transferred the land to the United States government. In 1818 Congress sold the land to M'Intosh. Johnson's heirs brought suit in federal court to regain ownership of the land. The Marshall court held that the land originally belonged to England based on the "discovery doctrine" but was ceded to the United States Government after the American Revolution. The court's position was that Native Americans had the right to occupy the land but did not own it, and could not sell it. Johnson's heirs lost their claim to the land. The same reasoning has disenfranchised indigenous people worldwide.

However, today indigenous people are challenging this doctrine. Indigenous people are the local people, the first ones to settle the land. They are the people who were con-

quered by Europeans, or other foreigners, who occupied their land. They have been subjected to genocide and ethnocide - annihilation of the culture of an ethnic group by the dominant group. It is these indigenous people that Charles Zerner discusses in his book *Culture and the Question of Rights*. They have survived the initial contact with the colonizer and are now struggling to retain or regain their rights to land, water, and produce via "translation" — sharing, promoting, and interpreting their culture to outsiders. It is through this cultural information of song, dance, and linguistic text that these indigenous people assert their rights to the land. Through translation government and others know that there is a culture that governs the everyday activity of these people.

*Culture and the Question of Rights* is a discourse on property rights in Southeast Asia. It is a discussion of indigenous people fighting to have their culture, rights, and laws respected and accepted by the state. In a series of articles, Charles Zerner documents how the local people challenge the "discovery doctrine" that disrespected their customary laws. We learn about local land, water, and agricultural practices. Through song, dance, poetry, and dreams, ownership and usage is recognized by indigenous people; westerners use a deed to convey the same rights. These ethnographic articles expose us to the injustices perpetrated against indigenous people in the name of development, progress, and civilization while at the same time providing information on customary property law.

The first article by Anna Lowenhaupt Tsing, "Cultivating the Wild: Honey-hunting and Forest Management in Southeast Kalimantan," discusses the importance of culture in defining what is considered to be a commodity. Among the Meratus Dayak of Indonesia, no one has legal claim to honey trees or the honey that they produce. The community recognizes claims of ownership based on finding and nursing the trees. Even when a man claims ownership, the honey belongs to everyone and must be shared. Ownership of the tree is not absolute; the hunter must convince the tree, the bees, and the community that the tree is his through song, poetry, and his ability to get the honey. Tsing reminds us that not everyone sees the world through Western lens.

The second article by the editor, Charles Zerner, "Sounding the Makassar Strait: The Poetics and Politics of an Indonesian Marine Environment," is a discussion of the precarious nature of fishing and the inequities of the state. Mandar fishermen must propitiate the spirits every time they

enter the waters. They offer food and speech in return for fish, safety and prosperity. "Failure to tell the one in control that one has arrived, to tell it the daily news, that one is fishing or traveling, and to make requests...is to steal from the guardian spirit" (p.74).

The sea forces fishermen to renegotiate every time they enter the water with the pantheon of gods. However, the power of the gods are superseded by the power of the state. Customary law allows local fishermen to carve out their territory on a first come basis. Once a roppong is anchored to the floor of the sea, the fisherman has customary claim for two to five kilometers surrounding the area. Newcomers must cede their rights to fish to owners of the first roppong site, and first roppong fishermen can use violence to reclaim their territory. If there is conflict, first roppong must prevail based on customary law. However, the state perceives customary law as an impediment to development. According to the state, the sea belongs to all citizens, and first roppong sites can not prevent new roppong sites from fishing in state waters. Mandar fishermen have been forced to share the local waters with interlopers while they continue to appease the guardian spirits. If they fail to acknowledge the guardian spirits, they risk misfortune; if they fail to acknowledge state law, they risk jail. In a society that depends on fishing for its livelihood, Mandar traditional practices have been labeled maladaptive for state development, an impediment to progress. But progress promotes inequality, enriching some while impoverishing others. Development policies support the privilege; opening local waters up to everyone allows non-Mandar tuna vessels with modern technology to usurp the tuna industry. Their technology allows them to catch more fish and sell it cheaper. Local fishermen fearing the lost of their livelihood opposed the state's new law and reinstated the customary one that barred non-local fishermen from fishing in local waters. Zerner's article is an indictment that cultural practices usually function to level the playing field or redistribute the wealth. Governments do not always recognize the negative impact that progress may have on indigenous people. Progress in this case created unequal access to scarce resources, which the locals refused to accept.

The next article by Marina Roseman, "Singers of the Landscape: Song, History, and Property Rights in Malaysian Rainforest," tells how the Temiar of Malaysia claim title to their land through song and dreams. These people do not recognize individual ownership but communal rights. Members of the village have the rights to live, gather, plant, harvest, hunt, fish, and be buried on communal land. They decide how the cultivable land will be divided among members. Household ownership rights are acknowledged for production and distribution of produce only. Fruit trees, which are associated with past residences, are associated with the person who plant and tend them. This person does

not own the fruit they produce but does have a say in when it is gathered and how to distribute it. The rights to the fruit tree are inherited by the children of the parent who planted it.

Stephanie Gorson Fried's "Writing for their Lives" is the most poignant article in the collection. The author discusses the Bentian Dayak leaders attempt to salvage their land rights by asking the government of Indonesia to issue them a certificate of ownership. One is almost moved to tears as the leaders initially condemn their slash and burn farming in order to convince the government that they are pro-development. They switch from condemning their traditional agricultural practices to defending it as less destructive to the environment than tree logging. The local leaders contend that their people have not been adequately compensated for the destruction of their farms and land, and that the land the national government wants to give to developers is land that the Bentian Dayak bought from the original indigenous people many, many years ago.

One is distraught to discover their efforts futile; the land is given to developers, and the farms destroyed. One wonders how the Indonesia government could be so insensitive to the needs, customs, and laws of these indigenous people. The reader, if not the government, is convinced by the end of the article that the "adat," Dayak customary law, should be the law of the land.

Nancy Lee Peluso further elaborates on the concept of property and resources for the indigenous people of Indonesia. When the Dayaks were no longer able to practice slash and burn agriculture, they planted rubber in their gardens. Rubber trees increased the value of their land and allowed them to feed their families. Durian trees were also planted along side the rubber. These trees, and their fruit, belonged not only to the planter but to their wives and children and the children of their children. Two or three generations down the line, the trees are owned by cousins. The fruit must be shared, but it is usually agreed that the person who tends the tree has primary ownership. Peluso's article shows how one group of Indonesia people have benefited from the political and economic changes that have been imposed upon them.

Ethnocentrism, racism, mercantilism, and capitalism have deprived the indigenous people of Southeast Asia of their land and water rights. Today these people are trying to educate the government and all who will listen about their culture and laws. They seek recognition and utilization of their law in deciding property rights. Unfortunately, their struggle has just begun. Only time will tell if they will be victorious. In the meantime, Zerner has exposed us to the problems of indigenous people everywhere, not just those in Southeast Asia. This book is recommended reading for anyone interested in Southeast Asia and international studies.