

Smangus and the case of the tree stump: a personal account

by David Reid

January 2008

I first learnt of the case of Smangus via reading the Smangus blog¹ at the end of April 2007. I was struck by the obvious injustice of the situation. In fact it seemed the injustice was so great that perhaps some facts were missing or there was some other agenda involved.

A few weeks later I read an article about the case in Taipei Times² and it moved me to write a short article on my blog. I wrote:

I think this case really goes to the heart of the rights of indigenous people, not just in Taiwan, but throughout the world. Indigenous people have lived on the land for many generations. They have the knowledge and understanding of how to use the local resources in a sustainable manner. To deny them the right to continue their traditions and use their knowledge is attacking their most basic rights.³

Reading the article in the Taipei Times gave a more reliable verification of the facts of this case about which there seems to be no dispute. It is worth recounting these basic facts and also adding a little more background on the Smangus community.

Typhoon Talim (aka Isang) hit Taiwan on 31 August and 1 September 2005. It damaged the road to Smangus. Some people from Smangus repaired the road on 2 September 2005 and moved a fallen beech tree to the side of the road. On 12 October 2005 they discovered the Forestry Bureau had taken the trunk of the beech tree. A community meeting was held and three men were asked to bring the stump back to the village. The Forestry Bureau subsequently charged the three men with stealing forest products. On 26 April 2007 the three men were found guilty by the Xinchu District Court. They were fined NT\$160,000 each and given suspended sentences of six months imprisonment. The case was appealed in the High Court which passed down its decision in September 2007. The fine and sentences were reduced to NT\$59,000 and three months respectively.⁴

I had been aware of Smangus before this in the context of it being a remote village and a destination for ecotourism. It is located at 1,500 metres altitude in Xinzhu County on the north side of Shei-Pa National Park. The village has a population of about 150 people. They belong to the Atayal tribe. There was no electricity in the village until 1979 and no road access until 1995. Reaching the village still requires travelling for several hours along narrow, twisty mountain roads. The village relies on tourism for the majority of its income with some income also coming from the sale of fruit and vegetables. It promotes itself as an ecotourism destination.⁵

1 Smangus blog, "Taiwan's Indigenous Community-Smangus Battles for the Unfair Trial." <<http://smangus.blogspot.com>>. This blog was written in English to complement the Chinese language blog <<http://blog.yam.com/smangus/>>. Dr Lin Yih-ren said this was the first time in Taiwan's history that indigenous people had used an English language blog for activism.

2 Loa, Iok-sin. 2007a. "Aborigines protest court ruling." *Taipei Times*. 31 May 2007, p. 4.

3 Reid, David. 2007a. "The Right to Live in the Forest." <<http://blog.taiwan-guide.org/2007/05/th-right-to-live-in-the-forest/>> [accessed 12 December 2007]

4 Compiled from Smangus blog and articles from the Taipei Times.

5 For more background about Smangus and ecotourism please see Cheng, Zoe. 2007. "Forest Guardians Find a Future." *Taiwan Review* June 2007. pp. 12-19 and AFP, 2004. "Smangus is God's Tribe." *Taipei Times*. 8 November 2004. p. 16.

The next significant bit of news I read about the Smangus case was at the end of September 2007. The Taipei Times reported that the three men had their appeal heard in the High Court. The result of the hearing was that the period of their suspended prison sentence and was reduced.⁶

On the same day another article appeared in the Taipei Times about indigenous people's rights in Taiwan.⁷ The article noted that the United Nations General Assembly had adopted the Declaration on Rights of Indigenous Peoples. The article quotes Minister of the Council of Indigenous Peoples⁸ as welcoming the move. He goes on to say that Taiwan's Indigenous Peoples Basic Law, passed in February 2005, covers about 90% of the UN Declaration. However, he also said there is a need for further legislation to make the Basic Law more effective. I wrote a short article covering both of these issues on my blog.⁹

On 1 October 2007 I went to see some of the films screening at the Taiwan International Ethnographic Film Festival. This is a biennial event organised by the Institute of Ethnology at Academia Sinica.¹⁰ There I saw the documentary "When the Village Encounters the Country" that had been produced by and screened on Taiwan Indigenous Television.¹¹ The 28 minute documentary covered the events surrounding the trial of three men from Smangus in the Xinzhu District Court and a protest at the Forestry Bureau in Taipei. While I didn't get a lot of new information from the documentary, it made it a lot more real as I was able to better visualise exactly what happened and to hear some of the people involved in the case explain the situation in their own words.

I began studying in the International Masters of Taiwan Studies at National Chengchi University in September 2007. In the subject Culture and Ethnic Structure of Taiwan taught by Dr. David Blundell we were required to do a group project. Ben Goren was my partner for this project and we decided on studying the topic of indigenous rights in Taiwan with specific reference to the Smangus case.

Our initial research focused on finding out the laws regarding indigenous people in Taiwan. We then decided to visit Smangus and make a video to record our experience. We also made plans to interview some people with special knowledge about Smangus and indigenous people in Taiwan.

A small breakthrough for the Smangus and indigenous people of Taiwan came in October when the Council of Indigenous Peoples (CIP) defined the boundaries of the traditional territories of the Atayal villages in Xinzhu County. This was the first time indigenous peoples' traditional territories were recognised by the government. According to the CIP it was also a realization of Article 15 of the Forestry Act.

6 Chuang, Jimmy. 2007. "Atayal men to appeal high court ruling." *Taipei Times*. 29 September 2007. p. 4.

7 Loa, Iok-sin. 2007b. "Minister urges faster review of Aboriginal legislation." *Taipei Times*. 29 September 2007. p. 4.

8 The Council of Indigenous Peoples is a government organisation under the Executive Yuan. It is Taiwan's peak body for the management of indigenous affairs.

9 Reid, David. 2007b. "Indigenous rights and the Smangus case." <<http://blog.taiwan-guide.org/2007/09/indigenous-rights-and-the-smangus-case/>> [accessed 13 December 2007]

10 For more information see the Taiwan International Ethnographic Film Festival website at <<http://www.tieff.sinica.edu.tw/>>. Also see the article I wrote on my blog about the festival. Reid, David. 2007c. "2007 Ethnographic Film Festival." <<http://blog.taiwan-guide.org/2007/10/2007-ethnographic-film-festival/>> [accessed 13 December 2007]

11 Masou, Pisuy; and Vikung LaLegeam. 2007. "Dang Buluo Yudoa Guojia [When the Village Encounters the Country]." 28 minute documentary. Taiwan Indigenous Television.

However, many regarded the decision as less than satisfactory. Lin Shu-ya, secretary-general of Taiwan Association for Human Rights, was quoted in the Taipei Times as saying, “The concept of Aboriginal autonomy outlined by the Aboriginal Basic Law is absent -- having to 'apply' before being 'allowed' to gather forestry products still puts Aborigines in an inferior position.”¹²

On 30 November 2007 I took an early morning train from Taipei to Shalu in Taizhong County. Then at the gate of Providence University, I met Ben and we went to interview Dr Lin Yih-ren. Dr Lin is a Professor in the Department of Ecology. He has been working on a mapping project with the people of Smangus and also supported them during their case. He is also an official adviser to the government on indigenous issues. Our interview with Dr Lin was quite fascinating and he provided us with many insights into the Smangus case.

Dr Lin told us that the three men from Smangus had been charged under article 52 of the Forestry Act. This article is about theft of forest products. However, article 15 of the Forestry Act says that indigenous people may take forest products from their traditional territory according to their traditional customs. However, defining these things in the court proved very difficult. Dr Lin appeared in the court as an expert witness.

The mapping project Dr Lin is involved in uses GIS for indigenous people to map their territory. This is one way that indigenous people can provide proof of their claim to land. He also showed us a video about the Atayal which had been made to show at the visitors centre of Shei-Pa National Park. He said there is a need to “respect multiple ways of transmitting knowledge”. GIS and video are two ways of providing an interface between the indigenous peoples' oral tradition and the dominant culture.

Dr Lin thinks the problem is not the law, but that the government doesn't know how to practice it. He thinks the case was an “historical moment”. Even though the court case was a failure, the discourse and action from Smangus and concerned people has bought the community together and made the issue known to the whole society.

The next day (1 December 2007) Ben and I set out in a hired car from Taizhong to visit Smangus. The first part of the journey was along the freeway and quite fast, but after we left the freeway we soon found ourselves travelling on twisty mountain roads. We were blessed with a beautiful day with clear blue skies which gave us the chance to really appreciate the magnificent scenery.

After several hours of driving we finally arrived in what we thought was our destination. We asked several people in the village and eventually determined that this was not the Smangus village we were aiming to visit. Although some people there said it was the “original” Smangus. In fact, it was the Xinguang village, also known as Taigang.

We had lunch at the elementary school there. The children were all excited by the presence of two foreigners. After lunch we had a walk around the village and interviewed a man by the name of Tali. He was familiar with the case of the tree stump. During the interview he made the statement, “If they want to charge three people then they need to charge everybody. The children, all the village, can go to court

12 Loa, Iok-sin. 2007c. “CIP defines boundaries over Smangus.” *Taipei Times*. 19 October 2007 p. 2 and Wu, Amber. “CIP creates new rule protecting aborigine's rights in tribal lands.” *Taiwan Journal* 26 October 2007 <<http://taiwanjournal.nat.gov.tw/site/Tj/ct.asp?xItem=24832&CtNode=122>> [accessed 30 October 2007]

together.” This echoed what Dr Lin had told us the day before.

The information we were given about how long it would take to drive to Smangus was conflicting. Some said three hours, others said two. In the end it took a little over one hour. Driving over the roads it was easy to appreciate how isolated the people living in the area are. We frequently encountered road works and small landslides. I imagine after a typhoon or heavy rains, at least one section of the road would be blocked and need repairs.

Finally, we arrived in the Smangus village a little later than originally planned. There was a noticeable chill in the air from the altitude even though it was a sunny day. My initial impression of the village was that it all looked very neat and well organised. The standard of construction of the buildings and houses was quite high and, as they were mainly constructed from wood, they looked a lot more attractive than the concrete buildings that typify most of Taiwan.

The village was buzzing with activity. Every weekend several hundred visitors come to the village. In addition, on that evening the local government was preparing a special performance. We met "Yuming" Wang, one of Dr Lin's students. He was staying in Smangus to work on a mapping project and he was very helpful in showing us around the village and introducing us to people. He also told us some interesting things about the traditional customs of the Smangus people, the case and the mapping project.

We conducted an interview with the village chief, Icyeh. He said that they follow their traditional laws (*gaga*), but these do not agree with the laws of the nation. He said that a community had a meeting and decided to take the stump of the tree to use in the village. The three men were following the orders of the community. He felt they had been treated badly by the Forestry Bureau and he hopes that in the future the traditional laws can be recognised.

We also made a connection with Cumu, a young man who lives in the village and works as a tour guide. The day was reaching its end and we still had to drive back to Taipei. The last bit of time we spent in the village we went up the watchtower. As well as having a view over the whole village, there was a magnificent mountain vista illuminated by the rays of the sun piercing through the clouds.

Leaving Smangus we had a long drive back to Taipei. It had been a busy two days and we had learnt many things that enriched our understanding of the Smangus case. The next step was to spend time going through the interviews to take notes and make transcripts. Ben started work on editing the video.

In Taipei on 11 December 2007 Ben and I went to Taiwan Indigenous Television in Neihu to interview reporter Pisuy Masou. Pisuy is Atayal and she produced the documentary I saw at the Ethnographic Film Festival and has since made a second documentary about Smangus. She spoke about how she had been to see the court case and that it made her realise the Indigenous Peoples Basic Law was “just a piece of paper”. However, she also spoke of how many people had supported Smangus. At the first protest in April 2007 there were just 40 or 50 people. However, on 30 May 2007 400-500 people came out to show their support for Smangus in the protest at the Forestry Bureau. They weren't just there for Smangus, but protesting for the rights of all indigenous people in Taiwan.

On the same evening we conducted an interview with our teacher, Dr David Blundell. We asked him about traditional customs of the Atayal, particularly regarding how they define their territory and

manage resources.

On 1 January 2008 I went down to Taizhong again to work with Ben putting the final touches to the video. Ben had done a great job putting together the video from the available footage. Everything was almost ready for presenting the video in class.

Learning about Smangus from my initial interest to researching the topic more thoroughly and making the video with Ben has greatly deepened my understanding of the rights of indigenous people in Taiwan today. Much of what I have learnt will be further expanded on in another paper I am writing about indigenous people and the law in Taiwan.

Acknowledgements

Many thanks to Ben Goren for working with me on the project. Dr David Blundell, Dr Lin Yih-ren and Pisuy Masou generously shared their expert knowledge. “Yuming” Wang helped guide us around Smangus. Last but not least, thanks to the people of Smangus.

For more information about Smangus please visit <http://smangus.blogspot.com/> (English), <http://blog.yam.com/smangus> and <http://www.smangus.org/> (Chinese).