

The cognitive rupture of indigenous rights between the state and indigenous peoples: Comments on the judicial yuan interpretation no. 803

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Abstrak

Indigenous hunting has always been an indigenous human rights core issue that has received high attention in the conflict between national laws and indigenous legal traditions. J.Y. Interpretation No. 803 affirmed indigenous hunting culture is a constitutional guaranteed fundamental right enjoyed by individual indigenous people. Nevertheless, the said Interpretation did not satisfy indigenous claimant's assertions. The most critical are the collective nature of indigenous right and the aboriginal title still in the predicament of unclear concept and undetermined content. This article starts with a brief comparative law study, and then analyzes the said Interpretation, and continues with the theory of multicultural constitutionalism to make the argument based on the indigenous claims of traditional territorial rights.