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Discussant's Comments, Aboriginal Stream

The papers in our Aboriginal Territories and Management Rights stream have been diverse in their geographical and topical coverage. They have been of high quality and I thank all our speakers and our audiences for their contributions. What our papers have in common is that they all direct our attention to Aboriginal property rights in land, waters, and other resources, which are grounded in traditional law and custom.

Further, I believe that it is possible to formulate three propositions about customary Aboriginal property rights. Planners, managers, politicians and fellow citizens would do well to learn more about customary Aboriginal property rights.

1. Aboriginal customary property rights exist ethnographically, and in Australia and Canada, they exist legally.

They exist ethnographically because they continue to order and inform Aboriginal people's daily and not-so-daily lives. And they are legally "visible" (to use Jim Scott's phrasing) and recognized in Australia under the Mabo No. 2 decision and the Native Title Act (1993) and in Canada under the Delgamuukw appeal decision.

2. Aboriginal customary property rights are multidimensional and embedded in whole ways of life. They are at once social, cultural, economic, political, spiritual / religious, etc.

3. Aboriginal property rights display aspects of both dominion and sovereignty. They include the rights to use, occupy and enjoy specific property, and they also include the right to present oneself or group as traditional owners. But they also include the right to represent oneself or group as owners with respect to other property rights and interests. Aboriginal property rights are rich proprietary rights, not limited use rights. In other words, Aboriginal property rights include the right to manage one's property, and in complex state-based societies (which includes the whole world now), they include the right to co-manage.

Bruce Rigsby, June 1998