

Community, Commons and Natural Resource Management in Asia

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CHAPTER FIVE



Historical Changes in Communal Fisheries in Japan

YUTAKA SUGA

When a large number of people make joint use of a certain resource, they often compete with one another. Resources can be beneficial to human beings, but there are often disputes and friction over how to acquire, maintain and manage them. For example, the questions of who should take the initiative, have priority rights, and have a say in the management and use of resources have always been of great concern to people living close to the resources.

Traditionally, Japanese society resolved or mitigated such conflicts and friction by developing a mechanism for the collective exploitation and management of resources. This mechanism is called *iriai*. It is a customary institutional arrangement under which inhabitants of a local community, who are entitled to share certain rights, collectively manage a designated area of forestland, grassland, or fishing grounds, and make joint use of the resources available from that area. As such, *iriai* can be regarded as an indigenous Japanese version of the commons. In cases of forests and wilderness where *iriai* was established as a form of pre-modern customary law, the concept of *iriai* has, since the inception of Japan's modernization process, been incorporated into modern law in the form of *iriai-ken* (*iriai*, or common, right). On the other hand, in cases involving aquatic resources from seas and rivers, the communal practice of managing fisheries that existed in pre-modern times has been

incorporated into modern fisheries laws in the form of stipulations to the effect that a community's customary rights to exclusively manage and exploit resources under its collective control should be respected.

Internationally, the publication of Garret Hardin's 1968 paper "The Tragedy of the Commons"¹ was an epochal event, in the sense that it stimulated worldwide interest in, and animated discussion on, the commons in a wide range of academic disciplines including political science, human ecology, and sociology. In the ongoing discussion on commons, *iriai* has often been referred to as a representative example of a communal resource management system.² In Japan as well, *iriai* continues to attract much attention among researchers in fields such as environmental sociology, economics and, sociological jurisprudence.

During the period from the pre-war years until the early post-war era, both empirical and theoretical studies in Japan on *iriai* were carried out primarily by researchers specializing in sociological jurisprudence. Many of these studies took a negative view of *iriai* as an old custom inherited from pre-modern times that could be detrimental to Japan's modernization. These studies also gave strong theoretical justification for the state's effort to dismantle the system. By contrast, rural sociologists who spoke actively in support of *iriai* in the early post-war years, as well as the present generation of environmental sociologists and economists who have been influenced by discussions on the commons, discuss *iriai* in a positive light, emphasizing its potential to help support the underprivileged and to make the natural environment more sustainable.³ It should be pointed out, however, that many of the existing studies on *iriai* focus primarily on its social and ecological functions, and often fail to undertake in-depth analyses of the process by which it emerged as a form of commons and underwent changes over time.

Iriai as a commons is a historical product that has emerged, evolved, and changed under the impact of changes in social, political, economic, and other external factors. This chapter examines specifically a particular form of river fishery with a history going back more than three centuries, which is still practiced on a certain river and is characterized as a commons. It attempts to demonstrate that the process of evolution and transformation of the commons over the years has been significantly affected not only by changes internal to the community concerned, but also by changes that are external, and in particular changes in the policies of the feudal domain government and the modern national government.

Rivers as Commons

The Ōkawa River, which runs through Sanpoku-machi, Murakami-shi in Niigata Prefecture, is the site of the *kodo* fishery, a traditional salmon fishing method with a history going back more than 300 years. The word *kodo* refers to a small cage-shaped structure, with all four sides covered with tree branches. The structure is set in the river close to the bank, with its opening facing downstream; as salmon swimming upstream to spawn are lured into this artificial hiding place, a fisher (person engaged in fishing) peeping into the structure from above uses a gaff to catch them one at a time. As such, the *kodo* fishery is an individually practiced, small-scale, inefficient, and extremely rudimentary fishing method. What makes it worthy of special attention is that it has been handed down not simply as a form of technology, but rather in combination with a social arrangement indispensable for its practical application. At present, a license for exclusive salmon fishery rights on the Ōkawa River is held by the Ōkawa Fisheries Cooperative Association (FCA) based in Sanpoku-machi. Only people residing in one of 12 villages spread along the river, including Iwasaki, Fuya, Horinouchi, Nukuide, Ōtanizawa, Sugitaira, and Tonoshita, and who are members of the FCA, are allowed to practice salmon fishery here.

If a commons is defined as “a general term that refers to a resource shared by a group of people,”⁴ then the Ōkawa River does indeed qualify. The characteristics of the Ōkawa River as a commons become much clearer when we look at the way salmon, the river’s outstanding resource, are handled. One characteristic of the usage customs of the river’s fishing grounds is the close involvement of the communities concerned. Even though the rights to catch salmon along the entire length of the Ōkawa River are issued *en bloc* to the Ōkawa FCA, in practice the salmon fishery on the river has been carried out with respect for each community’s customary discretion over the management of the fishing grounds in its territory, and by customarily allowing fishers to use the grounds individually under the supervision of their respective communities. In other words, each community has maintained its own social system for co-managing the fishing grounds. It has been customary for the villages in the Ōkawa valley to manage the fishing grounds jointly, and to do so in practice by essentially dividing the overall fishing grounds into a series of *gyojoku* (fishing ground zones), with each village managing the specific zone designated under its control. An individual salmon fisher living in a

certain village is allowed to catch salmon only within the *gyojoku* of his village. What is important to note here is that the various arrangements mentioned above, namely the partitioning of the overall fishing grounds into different *gyojoku*, the management of each and their exclusivity, have not been established on any legal grounds, but have remained effective solely on the basis of customary arrangements that have been in effect in the area for centuries.

Salmon fishers are thus only permitted to catch salmon in the *gyojoku* of their respective villages, but this is not the end of the story. Within each village, individual fishers are assigned their domains for each season. These individual domains, known as *basho* (fishing spots), are allocated among the fishers of each village each season by means of competitive bidding. This practice of allocating the “fishing spots” among the fishers of each village has also been maintained customarily over the years. Furthermore, anyone can participate in bidding for *basho* as long as they reside in the village. Within villages, there are disparities among households with regard to land ownership, income, family status, and period of establishment. Use of communal resources such as common forests is restricted for more recently established households. For example, in Tonoshita village, households established in 1928 or later are allowed only limited use of communal resources. However, even in this village, every individual is afforded the right to practice salmon fishing the moment they become a village resident, without the restrictions associated with other communal resources. In villages in the Ōkawa River valley, the right to participate in salmon fishing is applied equally to all village residents.

The bidding for fishing spots is carried out as an annual event in each community. Today, the proceeds from the sale of the rights to the fishing spots are included in the FCA’s revenue. However, the practice of putting the proceeds from the bidding for “fishing spots” into the FCA only dates back to the 1970s, and before that they were used by the villages to finance their own self-governing activities. It is no exaggeration to say that the salmon spawning river was a common property for each village. In fact, many people living along the Ōkawa River today recall that: “In the old days, the proceeds from the salmon fishery were nearly sufficient to cover the village’s self-governing expenses.” It is possible to say that the salmon fishery on the Ōkawa River constituted a commons with a high degree of perfection in the sense that it involved not only community-based management of the fishing grounds, but also

the recycling of part of the proceeds from the salmon fishery for use by the community. These features of the Ōkawa River as a commons, including its joint management by the communities concerned and the transfer of the proceeds from the salmon fishery to the communities' funds, have not been passed down for generations as a matter of course; on the contrary, they have been brought into effect primarily by the valley's inhabitants through their efforts to adapt themselves to a changing social, political, and economic situation. These efforts to sustain the commons have been going on for more than three centuries.

The Emergence of Commons in Early Modern Japan

Salmon fishing was already being practiced on the Ōkawa River at the beginning of the 17th century.⁵ The lord of the local domain investigated the actual situation of the salmon fishery on the river and imposed a tax based on his findings. He also ordered that the Ōkawa River be made *iriai* for all the villages in the valley, and held them all collectively responsible for paying tax. It is not clear whether the lord's order concerning the *iriai* was recognition of an already existing customary arrangement, or whether it was issued as a completely new policy. Nonetheless, it is clear that *iriai* as an arrangement for the use of a common-pool resource was in existence in the Ōkawa valley by the early 17th century at the latest. It should be noted, however, that unlike the present form of *iriai*, which is organized in each village in the valley, the system in its early form was organized for application to the entire region, or the federation of individual villages in the region, as a single unit.

In the early modern period, villages or village communities were the basic foundation of the livelihoods of people living in the countryside. An individual village, with clearly defined borders, functioned as a basic administrative unit in its relation to the domain lord, in the sense that it was held collectively responsible for paying taxes, enforcing law and order, investigating the productivity of land plots, and performing other functions. From the standpoint of the ruler, a village was a unit for administering peasants, while from the standpoint of the peasants, it was a unit of self-government indispensable for sustaining their livelihoods. The present-day hamlets in the Okawa valley have the same boundaries as the old, natural villages of early-modern times. In each village, representatives of the peasants were appointed as officers to take charge of administering and managing the village at the ruler's behest.

Each village was linked to a larger unit called a *kumi*, a regional union encompassing all the villages in a certain region. In addition to transmitting the ruler's control to each member village and performing administrative functions complementary to those of individual villages, such as the collection of tribute and *corvée* labor, the *kumi* also had the capacity to mediate and solve problems that arose in the region. The *kumi* leader mediated and settled inter-village disputes and relayed domain policy to the villages within the region.

In 1717, the local lord issued an order for the tax on the salmon fishery to be paid on a community basis.⁶ This marked a very important milestone in the development of the Ōkawa River as a commons, because the management of the salmon fishery and the fishing grounds was significantly affected by the manner of tax payment that prevailed at each point in time. Following the switch from the old tax payment arrangement (which held the entire region collectively responsible for the tax payment) to the new one (which held individual villages responsible for paying their respective taxes on their own), people in each village began to show a greater interest in demarcating the boundaries of their village's fishing grounds. In other words, the change in the method of tax payment induced people to look at the fishing grounds under their village's control as a common resource belonging to the village. Insofar as a community's right to continue practicing the salmon fishery was guaranteed by its concrete relationship with the ruler through the payment of the tax, the introduction of the new system that collected the tax from each village served as a guarantee that the villages were now able to manage their grounds on a community basis. Consequently, people from each village began to identify the village's fishing grounds in the salmon spawning river as belonging to their own village, and showed a growing interest in exclusively demarcating the village's fishing grounds. This change in villagers' perceptions of the river and its salmon resource can be corroborated by the fact that there were many inter-village conflicts over the fishing grounds beginning in the middle of the 18th century.

Three major disputes over the salmon fishery took place in the valley during pre-modern times. The first was the "River Dispute of the Enkyō Era," which occurred in 1745 between Horinouchi and Ōtanizawa villages. The dispute erupted when members of Horinouchi village infringed on the fishing grounds under the control of neighboring Ōtanizawa village. The government office in charge of the region ordered influential leaders of the neighboring villages to mediate and settle the disputes

“privately,” without making it public and without forcing authorities to conduct formal litigation over the case. In the following year, the mediating leaders and the leaders of the two villages made an on-the-scene investigation, and talked about ways to resolve the dispute. Ultimately, the two villages agreed to respect the boundary between them exactly as defined by “precedent,” built a “boundary mound” as a marker and signed an agreement stating that the “boundary mound” would henceforth be duly respected. The dispute was brought to an end by the intermediation of influential leaders of the neighboring villages, and discussions between the leaders of the two parties.⁷

The second dispute was the “River Dispute of the Tenmei Era,” which took place in 1782, again between Horinouchi and Ōtanizawa villages. This time, villagers from Horinouchi village stormed into Ōtanizawa village in great numbers, accusing the villagers there of having infringed on their fishing grounds, and proceeded to destroy all the *kodo* in that village and confiscate their fishing gear. Since there were so many people on each side, it was feared that they might come to blows.

Ōtanizawa village immediately asked influential leaders from neighboring villages to take steps to bring an end to the outrageous behavior of Horinouchi village. The leaders advised the two to go back to “precedent,” but Horinouchi village found the advice unacceptable. Unable to settle the dispute at a local level, Ōtanizawa village had no choice but to take it to the regional office of the domain government.⁸

The third dispute was the “River Dispute of the Kansei Era” that took place in 1796. Unlike the first two, in which two neighboring villages fought over fishing grounds, this conflict was between upstream and downstream communities. Iwasaki village and Fuyachō village, located close to the river’s mouth, began to practice drift-net fishing, defying the 1765 rule that banned this method, and irresponsibly caught most of the salmon before they could swim upstream. The upstream villagers got together and went to visit the two villages in large numbers, demanding direct negotiations. On this particular occasion, members of Horinouchi and Ōtanizawa villages, who had until then been on bad terms due to past feuds, united for this common cause.

Although Fuyachō village accepted the force of the complaint and promised to abide by the existing rule, Iwasaki village stubbornly refused to concede. The dispute was ultimately brought to the regional government office for a formal decision. In the course of the litigation, the upstream villages meticulously examined old documents and records that

had been kept in each village, and found some that attested to the fact that the taxes on drift-net fishing had been paid jointly by all the villages along the river. In other words, these documents established the historical fact that drift-net fishing had been jointly managed by all the villages in the valley and thus could not be carried out unilaterally by individual downstream villages. The upstream villages submitted these documents as evidence in support of their claim. The ruling upheld this claim, and settled the dispute in accordance with “precedent.”⁹

These “river disputes” reveal the eagerness with which, during pre-modern times, each village in the Ōkawa valley tried to establish its legitimacy to exploit the portion of the river within its own boundaries exclusively for the benefit of its own members. The “river disputes” of the Enkyō and Tenmei eras, which erupted over fishing ground boundaries, unquestionably show that by the mid-18th century, people living in the Ōkawa valley had come to perceive the salmon-spawning river as part of the territory of their respective villages, with each village having exclusive rights to exploit the benefits from its own grounds. The “River Dispute of the Kansei Era” further reveals that each village’s claim to control its own river grounds had to be socially recognized not simply by its immediate neighbors, but also by all the other villages in the valley. The salmon fishing grounds of the river are characterized not simply as commons under the control of individual villages, but also as ones that take the form of multiple layers of nested commons for the entire valley.

The most effective, rational, and convincing reason for a village in the Ōkawa valley in pre-modern times to legitimize its exclusive right to use the salmon fishing grounds in its territory was the relationship it had with the ruler. And the most convincing proof of that relationship was the payment of the tax imposed on the salmon fishery. It is no exaggeration to say that the village’s exclusive right to use its fishing grounds in the river was granted by the ruler in return for payment of tax on salmon fishing activities. This is evident from a number of documents concerning disputes over fishing grounds, in which various villages frequently referred to their tax payment records in explaining why they should have precedence over others in managing their respective fishing grounds.

For each village, maintaining its salmon fishing grounds constituted both a right and an obligation, which derived from the structure of pre-modern governance with its arrangement for the salmon fishery tax to be paid on a community basis. The salmon fishery was not an economic

activity individually pursued by villagers, but one for which the entire village was held responsible. In other words, the village's duty to pay the tax had the effect of making its villagers more conscious of the need to demarcate and protect their own fishing territory so as to meet the tax liability. Thus, the system of commons established on the Ōkawa River should not be seen as a social arrangement that was devised and legitimized primarily by the voluntary ingenuity of the valley inhabitants, but rather as one that was given legitimacy and strengthened by the relationship between the villages and the ruler.

The very simple and straightforward act of paying the tax imposed by the ruler was important primarily because it ensured an individual village the right to exercise control over its fishing grounds as deemed legitimate by the external authority governing the regional society. However, this was not necessarily a sufficient reason for an individual village to claim legitimacy within regional society. In addition to the legitimacy conferred by the external authority, an individual village's claim over its salmon fishing grounds had to be ascertained through the "private" or informal mechanism of settling disputes at the regional level, i.e. the regional litigation mechanism. In establishing such legitimacy within the regional society, individual villages often called attention to "precedents," which literally meant "time-honored practices." In the "River Dispute of the Enkyō Era," Ōtanizawa and Horinouchi villages finally agreed to respect the boundary between the two fishing grounds as defined by "precedent." In the "River Dispute of the Tenmei Era," a team of influential regional leaders advised Horinouchi village to return to what was defined as its territory according to "precedent," although the advice proved ineffective. In the "River Dispute of the Kansei Era," people living in the upstream villages made strenuous efforts, meticulously investigating old documents and legends and exploring the origins and history of the present practices, and succeeded in settling the dispute by going back to "precedent." "Precedent" seems to have been important in safeguarding the legitimacy of individual villages to manage their respective salmon fishing grounds and seems to explain why a set of rules on the salmon fishery compiled in 1765 describes at great length the origins and history of how, since as early as the beginning of the 17th century, more than a century earlier, the villages in the valley had been managing the fishing grounds. The entire history of the salmon fishery on the Ōkawa River, as manifested in "precedent," continued to exert an authority that was too influential to be ignored.

The Transformation of the Commons in the Modern Era

After the Meiji Restoration of 1868, the new government implemented a number of institutional reforms in rapid succession. The new policies put into effect by the new government brought about many changes and confusion to fisheries around the country. In 1875, the government declared that all coastal seas, rivers, lakes, and ponds in the country would be placed under its own direct control. It also abolished the taxes that had been in existence under the shogunate and the domain system, invalidated the communal vested interests concerning the management of fishing grounds which communities across the country had been granted in return for the payment of taxes to their respective feudal lords, and brought the waters within the country under the direct control of the national government. Consequent upon the implementation of this policy, many people thought that the order that had existed under the old customary practice and arrangements was not functional. This perception, coupled with the profound confusion caused by institutional deficiencies in the early Meiji years, gave rise to many disputes in the fishing sector all over the country. During pre-modern times, fisheries had been controlled by the customary laws of each locality and by communal regulations, but once these time-honored arrangements had been abruptly discarded, people must have been inspired to increase their individual gains. As evident from the river disputes over the Ōkawa River during pre-modern times, it must have been extremely difficult to unify such rational individuals, who pursued their own interests in an orderly way. Some of those who had been denied access to the fishing grounds under the time-honored customary practices must have been tempted to seek fresh entry, while those with vested interests took steps to expand their reach still further. In panic at the pace at which the decontrolled fishing grounds had begun to deteriorate, the government withdrew this policy the following year.

The Meiji Restoration brought an end to the feudal lord's control over the villages in the Ōkawa valley, and also marked the end of the pre-modern system of commons that had existed on the Ōkawa River. As pointed out above, the commons in the pre-modern period had been deemed legitimate insofar as the community in charge of it paid the required tax. With the disappearance of the pre-modern arrangement for the payment of the tax imposed on the commons, individual villages lost the ability to claim legitimacy over their respective commons. Another

important factor was the collapse of the regional dispute settlement mechanism that had been at work in pre-modern times, under which disputes over the salmon fishery were supposed to be settled privately or informally within the valley, before a final and official decision was sought from the office of the regional government. Deprived of this locally based dispute settlement system, people in the Ōkawa valley faced the need to rebuild their commons by securing legitimacy over the commons afresh from the new government.

In 1878, at a time when the new fisheries regime was not yet in place following the overthrow of the shogunate and domain system, the villages in the Ōkawa valley jointly petitioned the local government of Niigata Prefecture to allow them to continue practicing the salmon fishery as previously, while at the same time they stipulated a new protocol specifying the rules for the management of the salmon fishery, for the first time since the previous rules had been compiled in the 18th century, more than 110 years before. Titled the “*Sakegawa Gijō*,” or the “*Salmon River Protocol*,”¹⁰ it laid out rules, especially on the way tax was to be shared by the villages, the fishing gear and methods allowed, and the management of the fishing grounds.

The new protocol made few changes to the existing arrangement that had been carried out on a community-by-community basis. For example, on the question of the payment of the tax for the salmon fishery, the new protocol stipulated that it should be paid on a community basis as in pre-modern times. Villages were also held individually responsible for maintaining the good condition of the fishing grounds in their respective territories. In light of these facts, it is safe to say that the new protocol upheld the pre-modern arrangement for the management of the commons in the Ōkawa River. It also envisioned managing the commons in the form of multiple layers of nested commons, consisting of both those at the village level, namely those concerned with the management of the fishing grounds on a community basis, on the one hand, and those on a region-wide basis that would control the village-level commons, on the other. At the same time, however, it should not be overlooked that the “*Salmon River Protocol*” made use of one new expression, or a new concept underlying it, that was not used in pre-modern days. That term is *kōeki* (public good).

Under the “*Salmon River Protocol*,” the villages in the Ōkawa valley agreed to share the cost of maintaining the salmon fishery, in addition to sharing the tax. The protocol, moreover, laid down a very interesting rule

concerning the way the funds collected for this purpose would actually be used. Approximately 66 percent of the funds collected from the villages, ostensibly to pay for the cost of maintaining the salmon fishery, was actually earmarked for paying the cost incurred in building and running a new primary school in the valley.¹¹

Following the promulgation of the Education Act of 1872 by the Meiji government that called for compulsory primary education, the villages in the Ōkawa valley jointly opened a primary school for the region the following year, and decided to use a portion of the income earned from the salmon fishery to pay its expenses. The villages had to appropriate a portion of the proceeds from the salmon fishery for the costs because of the way in which the new government, after the Meiji Restoration, proceeded with the task of establishing the new local administrative system. When, for example, it set about establishing a new modern school system in line with the Education Act, it was unable to allocate significant funds for this effort. It tapped various sources to finance the costs of building and running local schools around the country, trying to collect donations from the general public, tuition fees from the parents of schoolchildren and special surcharges from the residents of each school district at large, but none of these proved sufficient. Consequently, the government encouraged local communities across the country to establish tracts of commonly owned land, such as school forests or paddy fields, to pay the cost of running community schools.¹² The idea of using common-pool resources such as school forests and school paddy fields as a means of raising funds translated, in the case of the Ōkawa valley, into the idea of tapping the salmon fishery as a source to support the local school. Thus, the process of social reform that unfolded in the early Meiji years led to a close linking of the salmon fishery in the Ōkawa River with the local public administration.

The word *kōeki* (public good) occurs with an abnormally high frequency in the text of the “Salmon River Protocol.” The word itself had existed in Japan for centuries, but it was only at the beginning of the modern period that it came into wide circulation. In this respect, it can be regarded as having been imported by the modern Japanese state from the West as a new keyword to characterize its modernization policy. It should be kept in mind, however, that the word connoted a somewhat different meaning in early Meiji years from what we understand today. Ryūji Komatsu points out that when the concept first came into use at this time, it had the sense of extending a helping hand, or service, from

above to those in need of help. With the passage of time, though, it was used more narrowly to imply contributions made to local communities with one's own money.¹³

The word *kōeki* sometimes evoked the image of another, similar-sounding word, *kokueki* (national interest or prosperity of the country), and sometimes implied direct connections with the state. This term had been coined in the 18th century and, cultivated within the various domains, served as a key concept in the economic policies that began to emerge in those domains in the course of the 19th century. Under the centralized feudalism of the Tokugawa Shogunate, which remained the highest governing institution, each domain lord (*daimyo*) was able to establish a system of governance in his own domain that was autonomous to a certain degree, and each domain was perceived by the people as its own *kuni* (nation). The idea of the domain as “nation” was the first step in the development of the concept of the nation-state in modern Japan and played an important role in the establishment and development of Japan as a nation following the Meiji Restoration.¹⁴

It was then that the concept of “national interest” was transferred to the nation-state of “Japan,” which had dissolved and absorbed the various domains. The word *kōeki* should be thought of as a mixture of this idea of *kokueki* that had emerged from the historical development of the Japanese nation-state and concepts borrowed from the Western world. It occurs *passim* in Japanese translations of Western law books published in the early Meiji years. An example is *Taisei Kokuhō-ron*,¹⁵ the first theoretical treatise on modern law in the West published in Japan. It was compiled by the jurist Tsuda Mamichi on the basis of lectures by Simon Vissering, his mentor during his stay at Leiden University in the Netherlands, while on a study tour of Europe between 1863 and 1868. Throughout the book, which had a major impact on the design of the modern state structure of Japan, the word *kōeki* appears with surprising frequency. What is also striking is that it is used mostly in combination with words or phrases implying “state” or “country” as in “*kōeki* of the entire nation,” “*kōeki* of all the countries around the world” and “*kōeki* of the state.” Clearly, at that time, *kōeki* meant not “the interests of non-specific and multiple actors within society,” but rather “the interests of the state.”

A close examination of the contexts in which the word occurs reveals that it is often used in an argument which tries to emphasize that it is sometimes imperative to limit the exercise of “private” rights, while

recognizing the importance of respecting those rights as a general principle. For example, a passage in Chapter 21 of Tsuda's book reads as follows: "The state sometimes forces residents to abandon their possessions or rights for the sake of promoting the *kōeki* of the state. This is called relinquishing private ownership in favor of *kōeki*."¹⁶ The idea of restricting private rights of ownership discussed here later found its way into the Constitution of the Empire of Japan promulgated in 1889, and the word *kōeki* came to be used by the state as constituting the ideal basis for the people's moral sense in the modern state. This was followed by the promulgation the following year of the Imperial Rescript on Education in the name of the Meiji Emperor, which, in laying out the basic principles of national education, admonished people to "advance the public good and promote common interests," and identified this as one of the dozen important "virtues" expected of Japanese nationals. There is no denying that the word *kōeki* was charged with a sense of obligation to the "public" or the state as a desirable value with which people should be imbued. Furthermore, the state also made active use of this term as an important keyword for assessing fisheries practiced in various parts of the country, and in designing national policy when Japan was in the early stage of its transformation into a modern nation. As a matter of fact, the word *kōeki* was used as a buzzword at the First Fisheries Exhibition, which was held as part of the national effort to promote the development of the fisheries industry.¹⁷

To return to the "Salmon River Protocol," its preamble states that the villages in the Ōkawa valley, through mutual discussion, agreed to bring the tax payments and fishing methods under their joint control and to give priority to the *kōeki* of the villages in the entire valley. The protocol's main body stipulates that each village should uphold *kōeki* as the top priority, and that both individuals and individual villages should refrain from acting egoistically and disharmoniously—namely, that *kōeki* should always take priority over individuals or individual villages.¹⁸ Here, *kōeki* is given a place above individuals and individual communities. The protocol concludes by confirming that when it is replaced by a new protocol upon the expiration of its term, *koeki* should remain the guiding principle for the new protocol as well. Thus, the concept of *kōeki* was adopted as the dominant principle dictating the rules for the salmon fishery on the Ōkawa River.¹⁹

We can state that at that point in time, the salmon fishery ceased being a mere economic activity and was given the mission of serving the

interest of the “public” and promoting the welfare of society at large. In present-day parlance, the word *kōeki* translates into “public good,” meaning the interests of an unspecified large number of people in society. It is, however, hard to imagine that the people of the Ōkawa valley began to use it voluntarily and spontaneously. It is simply impossible to imagine that these people, who were accustomed to operating the salmon fishery in a very rational manner and as an important economic activity for sustaining their livelihoods in pre-modern times, suddenly woke up at this particular juncture to a sense of public duty and redefined the fishery as an activity in the service of public good. Rather, the adoption of the new value by the villagers reveals the influence the new public authority began to wield on the inhabitants of the valley.

Thus, there is no denying that the word *kōeki* as used in the Ōkawa valley in the early Meiji years was not coined spontaneously by the people of the valley to express the concept of common interest they had arrived at through the communal use of the river, but was imported by the state from the West along with underlying values and concepts of Western origin. Even though it is not clear to what extent people of the Ōkawa valley were aware of the word’s connotation when they used it, they seem to have sensitively understood that the value of the “public” implicit in the word could serve as a new source of legitimacy for the continuation of the salmon fishery. In this regard, it seems possible to characterize the “Salmon River Protocol” as a means for attaining the dual objectives of reshaping the institutional arrangement of the existing salmon fishery to make it better suited to the new political system, and also gaining legitimacy for the continued salmon fishery.

A Shift from *Kōeki* (Public Good) to *Kyōeki* (Common Interests)

In 1880, the local government of Niigata Prefecture issued a notice to the communities practicing riverine salmon fisheries within the prefecture informing them of a new policy on the regulation of salmon fisheries, which would henceforth accord importance to the “protection of spawning salmon,” the “protection of eggs after spawning” and the “protection of fry after hatching.” The salmon fishing communities were thus required to accept the new trend that placed a high priority on the “conservation of resources.” In an effort to adapt to the new prefectural policy, the villagers of the Ōkawa valley worked out a resource conservation plan.

In 1881, following joint deliberations, the villages in the valley started to boost the reproduction of salmon by establishing no-fishing zones in the river to facilitate the natural spawning and hatching of salmon. In the report on the establishment of the no-fishing zones which they submitted to the prefectural government, the villagers pledged that with the establishment of these zones, they would continue to give due consideration to *kōeki* “forever and ceaselessly.”²⁰ Establishing no-fishing zones to boost the reproduction of salmon was also deemed to help promote *kōeki*.

At this juncture, it comes to our attention that, in addition to adopting this buzzword of the new era, *kōeki*, people in the Ōkawa valley also adopted new words and concepts such as “aquatic resource protection” and “reproduction” in order to legitimize their joint management of the river. The concepts of “aquatic resource protection” and “reproduction,” which were indispensable ingredients of the imperative of “resource conservation,” began to be cited as authoritative and incontrovertible grounds for legitimizing the continuation of the communal salmon fishery. In fact, the concept of “resource conservation” was perceived throughout the country as indispensable in promoting *kōeki* for the nation as a whole.

Let us look, for example, at the case of Akita Prefecture, which adopted a new policy for the conservation of salmon resources in 1880, the same year that Niigata Prefecture issued its new policy on the regulation of fisheries. Akita Prefecture introduced a system that banned salmon fishing in designated zones, and also banned certain fishing gear and fishing methods, such as the gill-net and drift-net fishing methods, which were detrimental to the reproduction of salmon. The implementation of these measures gave rise to a serious problem: the inhabitants of Aisome Shinden village were deprived of their right to practice salmon fishery in the river running in front of their houses, and so suffered hardship. The village petitioned the prefectural government to allow villagers to continue practicing the salmon fishery, but the prefecture flatly denied the request, saying that the granting of a continuation would make it impossible to pay due respect to the *kōeki* of the public at large.²¹ The word *kōeki* made its appearance here again, in an assertion that fishing gear and methods that ran counter to the logic of *kōeki* should be abolished, along with the social systems employing them. Such was the extent of the social influence carried by the word *kōeki* in Japan at that time. It was against this social background that the word *kōeki* came into

circulation in the Ōkawa valley, forcing people to rack their brains to work out plans to make the salmon fishery conform to its implications.

In 1885, the Ministry of Agriculture and Commerce issued an order obliging people involved in fisheries to organize a new fisheries association in each region and establish statutes for it. In response, the fishers in the Ōkawa valley organized the Ōkawa Fisheries Association. This government-led institutional reform brought into the Ōkawa valley a new organizational setup for managing and administering the salmon fishery on the river. Approximately a decade later, in 1894, a new development threatened to upend the existing practice of the salmon fishery in the river with its history of more than two centuries. In other words, there developed a new trend toward redefining the inviolable customary rights to use the fishing grounds, which had once been defined on a community-by-community basis, as fishing rights for the entire valley as a single unit.

The Niigata prefectural government triggered this change when it revised its “Rule on the Regulation of Fisheries” in an attempt to secure “resource conservation” by limiting the number of *kodo* that could be built in the Ōkawa River. The salmon fishers there discussed how to cope with this change, and signed an agreement entitled “Sake gyogyō keiyakusho” (Contract on the Salmon Fishery),²² in which they resolved to adopt a new arrangement called “gōdō gyogyō” (joint fishery) as set forth in the agreement. Under the new arrangement, the demarcations among fishing spots under the control of individual villages would be abolished, and the Fisheries Association would take charge of redefining the fishing spots and reallocating them to individual fishers on the basis of competitive bids. The agreement, however, did not reject the autonomy of the individual villages with regard to the distribution of the profits from the fishery. The proceeds from the bidding were distributed to the villages in proportion to the number of households in each.

As pointed out above, bidding is still being held by each village today to allocate the fishing spots in its territory. In fact, however, the practice of distributing the proceeds from bidding to individual villages, which constitutes one feature of the customary use of the fishing grounds, can be traced back only to this period, using existing historical records. Needless to say, the Ōkawa River already had the characteristic of common property for the various villages in pre-modern times, but it is not possible to infer from existing documents as to how and why the

practice of distributing the profits from the salmon fishery to the individual villages came to take a two-tiered structure, namely distribution of direct profits earned by catching salmon (i.e. profits earned by individual salmon fishers), on the one hand, and distribution of indirect profits earned by allowing fishers access to the fishing grounds (i.e. proceeds from the bidding and other revenues accruing to individual communities), on the other. During pre-modern times, villages seem to have derived only the first type of benefits from the salmon fishery, but no historical records are available to show that the proceeds from the bidding were being distributed to the villages during pre-modern times.

In light of the foregoing observations, it can be easily inferred that putting the bidding system, with its mechanism for indirectly distributing the proceeds of bidding to the individual villages, into a clear written form was an epochal moment when considering the social significance of the salmon fishery. More specifically, with the introduction of the bidding system, which expressed the right to exploit the fishing grounds in monetary terms and collected from the salmon fishers portions of the profits they earned from the salmon fishery and distributed them to the individual villages, the salmon fishery on the Ōkawa River was transformed into a system that worked for the benefit of the entire valley. It became a system that would transform and elevate portions of the profits drawn by individual actors from the river, characterized as a common space or a stock of resources for common use, into profits for use by the larger society. The fact that the community gained the ability to access the indirect profits from the salmon fishery—or the fact that a portion of the direct profits made by the fishers was collected for collective use by the entire community—elevated the common or social significance of the river. As pointed out earlier, until the late 1970s, the proceeds earned from the salmon fishery bidding had been used in part to finance the common expenses of each community and had been equally distributed in part to each household in the community. In addition, the salmon fishery on the Ōkawa River took on a social characteristic in that it served the *kyōeki* (common interest) of all the members of the community, in addition to being characterized as a collection of endeavors individually undertaken by fishers for their own personal benefit.

It seems likely that the system of distributing a portion of the profits earned by the salmon fishery to the entire community was put down in writing in the mid-Meiji era under stimulus from the aforementioned

government effort to propagate the idea of *kōeki* throughout the country. If this were actually the case, it would mean that people mistook what the government meant by the word *kōeki* (the public good, in the sense of the latent national interest). Apparently, the idea of using the earnings of the salmon fishery partly for financing the expenses of the villages, and partly for equal distribution among the households in the community, seems to have been acquired by the people who were involved in the movement to heighten village-based activities into *kōeki* for the entire state, and were struggling hard to gain legitimacy for their own efforts. Apparently, when these people acquired this idea, they seem to have done so—consciously or unconsciously—by deviating from the context in which the state originally planned to present it. It can be pointed out here that the ideology of the new state, with its emphasis on *kōeki*, strongly affected the course of development of the commons in the countryside, where they were often regarded as independent and autonomous.

The arrangement for “joint fishery” based on the “Contract on the Salmon Fishery” was eventually dissolved, and a system of multi-layered control, consisting of the institutional control of the salmon fishery in the hands of the Fisheries Association and the control of fishing grounds by individual villages, was brought into operation again. Subsequently, the fishing grounds seem to have come under increasingly tight control by the individual villages. During the Taisho era (1912–26), the involvement of individual villages in the salmon fishery became even more pronounced. In a certain village during the 1920s, for instance, bidding for the salmon fishery was conducted under the direction of a village leader, and the proceeds from the bidding were used not only to pay the cost of the village’s annual festival, but also for distribution to all the registered households of the village. A village regulation from 1928, titled “The Regulation of the Village and Participation in It” stipulated that: “Those households which have fulfilled the obligations for participation in the village shall be allowed to take part in the salmon fishery.” In other words, all households that were regarded as full-fledged members of the village were given equal rights to participate in the salmon fishery.²³

However, this state of affairs, in which a common-pool resource served the interests of the community as a whole, was unacceptable and had to be denied from a “formal” or “official” standpoint. It was condemned as illegal. When the government official in charge of the supervision and regulation of fisheries inspected the salmon fishery in the

Ōkawa River in 1929, he made the charge that the management of the salmon fishery on a community basis and the practice of distributing the fishery's earnings to the villages were in violation of the Fisheries Law. "It is a clear violation of the law," the government official asserted, "to follow the customary practice of putting the river's fishing grounds to tender, allowing the successful bidders to carry out the fishing, and allocating the proceeds to pay for the self-governing expenses of the villages."²⁴ In the early Showa era (1926–89), the practice of distributing the proceeds from the salmon fishery to villages was condemned as illegal and unwarrantable, and was no longer considered legitimate in the eyes of the outside world.

On that occasion, the people of the Ōkawa valley submitted a written apology to the authority pledging no further use of the practice of which they had been accused, and begging for lenience in the handling of the case. However, this pledge seems to have been a formal one, addressed primarily to the government authorities and the outside world. In fact, the very practice that had been condemned was continuously observed in all the villages of the Ōkawa valley until the 1970s. Throughout the history of Japan's modernization, beginning with the Meiji Restoration, the people of the Ōkawa valley were often buffeted by changing demands and by the changing orders of the modernizing state, and jointly worked out ways of coping with each turnaround in government policy. However, this does not mean that they always meekly followed the government's orders. Sometimes, they behaved stubbornly and obstinately enough to dodge the government's high-handed policies by faking obedience. On such occasions, the Ōkawa River as a common property of the villages in the valley constituted a very precious resource that had to be protected by all means, even at the cost of acting against the external authority of the government.

Conclusion

In the foregoing observations, I have presented an overview of the transformations of the Ōkawa River as a commons. During the early-modern period, the practice of putting the river's fishing grounds under exclusive joint management of the valley villages was legitimized by the fact that in return for paying the tax imposed on the salmon fishery, the practice was tacitly sanctioned by the domain government, as well as by the historical "precedents" concerning the management of the river. The Meiji

Restoration made it imperative for the villages in the valley to win a new legitimacy for this practice of joint management and exploitation of the river's resources. The people of the valley found this new legitimacy in the word *kōeki* and the related concept of "resource conservation." It is undeniable that the communities came across this new legitimacy through their interaction with the state, a powerful new external actor. What is important to note here is the very high likelihood that the adoption of the new concepts of *kōeki* and "resource conservation" seems to have produced a far-reaching impact on the internal arrangement of the commons—namely, the arrangement for the distribution of the proceeds from the salmon fishery to the villages. This has very important implications: traditional commons in Japan are often understood to have been autonomously formed by the communities. It seems, however, that it was the external pressure from rulers and government organs that was actually instrumental in shaping and transforming the commons.

As is clear from many cases of destruction of *iriai*, the modern Japanese state that came into being in the Meiji era was not sympathetic to the collective management of resources by communities or other entities. With a firm conviction that resources within the country should be placed under centralized state management, rather than under collective management by local communities and other autonomous entities, the modern state eagerly tried to place as many resources as possible under its own control. As revealed by the foregoing case study on the salmon fishery in the Ōkawa River, however, the government's policy to weaken or transform the community-based system of collective resource management was not necessarily able to achieve its intended objectives. On the contrary, this policy often ended up allowing collective resource management to grow stronger, and to become more refined.

When examining the commons still in existence in various parts of Japan, we should not commit the error of taking them as typical manifestations of the rich communal ties of the pre-modern period or as a preservation of unchangeable, defining features in Japanese-type commons. It is imperative that we realize, rather, that the commons in Japan, including the exclusive rights of a local fishing community to exploit the resources of collectively-managed fishing grounds in the sea, and *iriai* that are established in forests and wildernesses, are what Nicholas Thomas calls "entangled objects"²⁵ that took shape during the course of Japan's modernization from the Meiji period, incorporating modern and pre-modern elements.

Notes

1. Garret Hardin, "The Tragedy of the Commons," *Science* 162 (1968): 1243–8.
2. Kenneth Ruddle and Tomoya Akimichi, eds., *Maritime Institutions in the Western Pacific* (Suita: National Museum of Ethnology, 1984); Fikret Berkes et al., "The Benefits of the Commons," *Nature* 340 (1989): 91–3; Margaret McKean, "Management of Traditional Common Lands (*Iriaichi*) in Japan," in *Making the Commons Work*, ed. Daniel W. Bromley (San Francisco, CA: International Center for Self-Governance, 1992), pp. 63–98; Margaret McKean, "Common-Pool Resources in the Context of Japanese History," *World Wide Business Review* 5, 1 (2003): 132–59.
3. Torigoe Hiroyuki, "Komonzu no riyōken o kyōu suru mono" [Those Who Enjoy the Right to Use Commons], *Kankyō shakaigaku kenkyū* 3 (1997): 5–13; Kada Yukiko, "Seikatsu jissen kara tsumugidasareru jūshōteki shoyūkan" [A View of Multi-Layered Ownership Derived from the Experience of Everyday Life], *Kankyō shakaigaku kenkyū* 3 (1997): 72–83; Murota Takeshi and Mitsumata Gaku, *Iriai rinya to komonzu: jizoku kanō na kyōyū no mori* [Iriai Forests and Commons: Commonly-Owned Sustainable Forests] (Tokyo: Nihon Hyōronsha, 2004).
4. Charlotte Hess and Elinor Ostrom, eds., *Understanding Knowledge as Commons: From Theory to Practice* (Cambridge, MA: MIT Press, 2007), p. 4.
5. Sanpokuchōshi hensan iinkai, ed., *Sanpokuchōshi: Shiryō-hen* [The History of Sanpoku Town: Documents] (Niigata: Sanpokuchō, 1987), pp. 335–7.
6. *Ibid.*, p. 336.
7. *Ibid.*, pp. 334–5.
8. *Ibid.*, pp. 338–9.
9. *Ibid.*, pp. 339–43.
10. *Ibid.*, pp. 399–401.
11. *Ibid.*, p. 400.
12. Takemoto Tarō, "Meijiki ni okeru gakkōrin no secchi" [The Establishment of School Forests during the Meiji Period], *Tōkyō daigaku nōgakubu enshūrin hōkoku* 111 (2004): 109–77.
13. Ryūji Komatsu, *Kōeki towa nanika* [What is the Public Good?] (Tokyo: Ronso-sha, 2004), p. 93.
14. Luke S. Roberts, *Mercantilism in a Japanese Domain: The Merchant Origins of Economic Nationalism in 18th-Century Tosa* (Cambridge: Cambridge University Press, 1998).
15. Mamichi Tsuda, *Taisei Kokuho-ron* [National Laws of the West] (Tokyo: Toyosha, 1878).
16. *Ibid.*, p. 112.
17. The Ministry of Agriculture and Commerce, which was in charge of the administration of fisheries during the Meiji period, planned to hold a nationwide fisheries exhibition as a means to promote the country's fisheries sector. Designed as part of an effort to boost the ongoing national policy for the promotion of

industry, the First Fisheries Exhibition was held in Ueno, Tokyo in 1883 (Meiji 16). As many as 10,557 exhibitors participated in the competition, submitting a total of 14,581 exhibits. Among these exhibits, technologies for the breeding and propagation of aquatic resources were highly appraised as being suitable for advancing *kōeki* and were honored by prizes. See Yutaka Suga, *Kawa wa dare no mono ka* [Who Owns the Rivers?] (Tokyo: Yoshikawa kobunkankōbunkan, 2006).

18. Sanpokuchōshi hensan iinkai, ed., *Sanpokuchōshi: Shiryō-hen*, pp. 399–401.
19. *Ibid.*, p. 401.
20. *Tonoshita kuyū monjo* [Document in the Possession of Tonoshita Hamlet], n.p.
21. Takahashi Yoshitaka, “Kinsei ni okeru ‘gyosei’ no tenkai to shigen hozen” [The Unfolding of a ‘Fisheries Policy’ and Resource Conservation in Early Modern Japan], *Nihonshi kenkyū* 501 (2004): 127–44.
22. Sanpokuchōshi hensan iinkai ed., *Sanpokuchōshi: Shiryō-hen*, pp. 405–6.
23. *Tonoshita kuyū monjo*, n.p.
24. Sanpokuchōshi hensan iinkai ed., *Sanpokuchōshi: Shiryō-hen*, p. 491.
25. Nicholas Thomas, *Entangled Objects* (Cambridge, MA: Harvard University Press, 1991).