

Some Lessons from Engaged Anthropology and Human Rights Activism

Marcus Colchester, Senior Policy Advisor, FPP
Talk to course on *The Promise and Practice of
Community Based Forestry*

Yale School of the Environment

15th April 2021



Forest
Peoples
Programme



Forests for Peoples : Peoples for Forests



Forest Peoples

- Forests are home to some 600 million indigenous and tribal people
- Also now home to as many more long term residents (+ migrants)
- Essential to livelihoods of 1.6 billion people
- Representing about half of the world's 'very poor'



Sum up forest governance history

- Where does the idea of a '**forest**' come from?
- What does international law say about the rights of indigenous and other peoples governed by **customary law**?
- Implications for **community forestry**?
- How does the collision between forestry laws and indigenous peoples' rights play out? **Example of Indonesia**
- How does this play out on the ground? **Example of the Toba Batak of Sumatra**

Origins of 'forests'

- Royal hunting reserves
- Assyria 700 BC
- Persian 'paradise'
- Ashoka 400 BC
- Alexander the Great
- *Foris* (Latin): that which is outside or beyond (foreign)
- Royal hunts: *forestis*
- The first forestry laws



**Emperor Charlemagne
CE 747-814**

Forests are jurisdictions

- England's first 'forest', the **New Forest**, was created by the Norman conquerors as a royal hunt.
- Some 3,000 peasants were **torched out** of their houses to clear the 'New Forest'
- By Henry II (C13th) 30% of England classed as 'forest'.
- 1216 Forest Charter recognised customary rights in forests
- **In history, 'forests' are not vegetation types, they are royal jurisdictions.**



Medieval Forest not all wooded



'Scientific Forestry'

- 'Scientific forestry' developed in the C18th
- Forest reserves were established to reserve forests for strategic State industries and **restrict popular use**
- Young Karl Marx was radicalised by his MA study of the impact of forestry law on the rural poor in Germany
- 'The poor man's overcoat'



Colonial Forestry

- European-style forestry was imposed on the tropics in the colonial era
- Native people were evicted
- The forests were allocated to logging companies
- Logging soon became enmeshed in corruption
- After independence logging typically became a means of elite enrichment and for party political campaigns
- 'Sustainable Forest Management' is rarely achieved.
- Forest peoples are excluded



State forests

Colonial forestry policies reinforced by independent national governments and development agencies:

- 22% India
- 30% Cameroon
- 40% Thailand
- 55% Philippines
- **70% Indonesia**



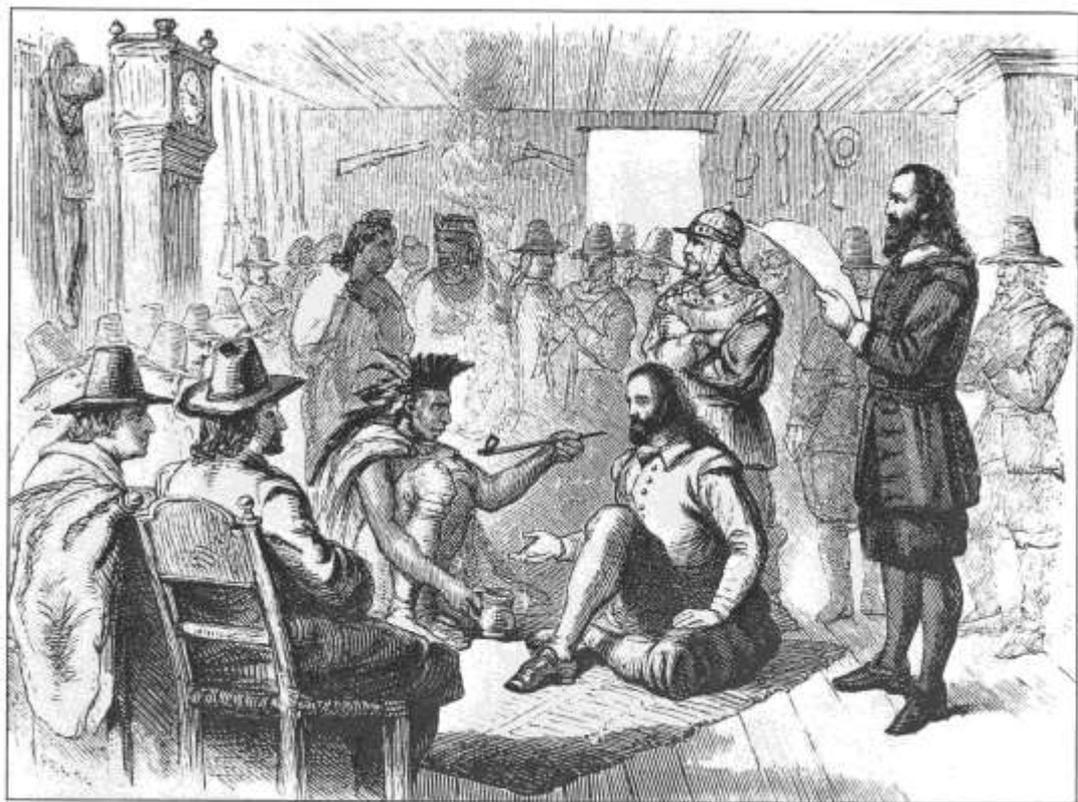
Intergovernmental agreements

- The need to assure forest peoples of secure tenure has been recognised by inter alia:
 - Inter-Governmental Panel on Forests,
 - Inter-Governmental Forum on Forests,
 - UN Forum on Forests;
 - FAO Voluntary Guidelines on the Good Governance of Tenure of Lands, Fisheries & Forests
 - UNREDD and CIFOR;
 - World Bank and PROFOR;
 - Recent establishment of the **Land Tenure Facility**.

The Chartered Companies

Lockean social contracts and native peoples

From 17th Century 'Royal Charters' authorised private companies to trade with foreign nations and set up their 'factories' but they could only take over lands with the 'the consent of native princes'. 'Treaty rights' ensued



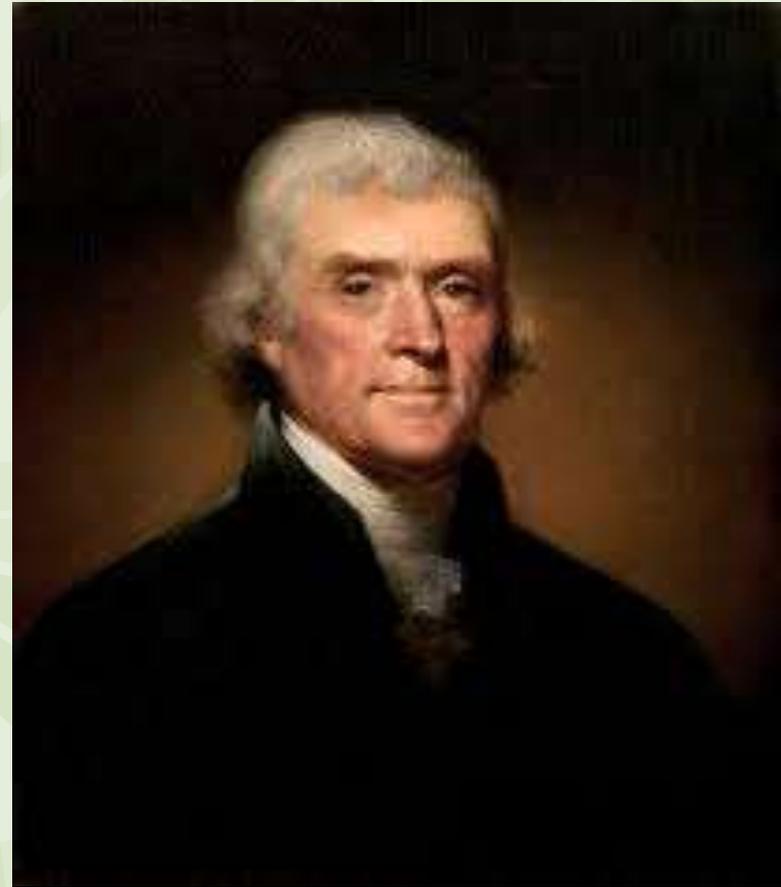
The Royal Proclamation of George III 1763 secured the hunting grounds of indigenous Americans beyond the Alleghenies.



'The consent of the governed'

Declaration of Independence 1776

*We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from **the consent of the governed**, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Gov't*



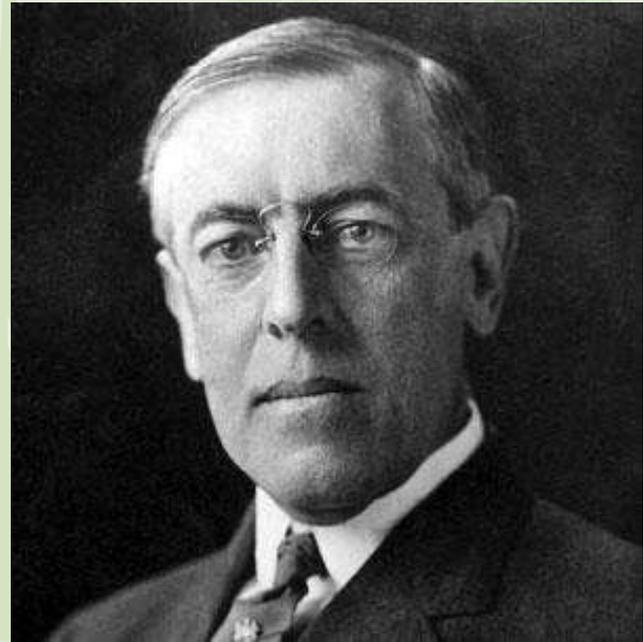
Thomas Jefferson

'The consent of the governed' and the end of imperialism

'The American flag stands for the rights of mankind, no matter where they may be, no matter their antecedents, no matter what the race involved; it stands for the absolute right to political liberty and free self-government...'

'No peace can last, or ought to last, which does not recognize the principle that governments derive all their just powers from **the consent of the governed...**'

'We believe that every people has the right to choose the sovereignty under which they shall live... The small states of the world shall enjoy the same respect for their sovereignty and for their territorial integrity'



Common Article 1 of the two Covenants

(1) *All peoples have the right to self-determination, by virtue of that right they freely determine their **political** status and freely pursue their **economic, social and cultural development.***

(2) *All peoples may, for their own ends, freely dispose of their natural wealth and resources.... **In no case may a people be deprived of its own means of subsistence.***

International human rights law and indigenous peoples

- 1977 IPs approach UN in
- By 2007 UN passed **Declaration on the Rights of Indigenous Peoples**
- *Rights to own the Lands Territories and Resources they have traditionally owned, occupied and otherwise used*
- *Customary law*
- ***Self-determination***



*Indigenous representatives at the
United Nations, 2004*

What is self-determination?

Ted Moses, Grand Chief, Grand Council of the Cree

When I think of self-determination, I think also of hunting, fishing and trapping. I think of the land, of the water, the trees, and the animals. I think of the land we have lost. I think of all the land stolen from our people. I think of hunger and people destroying the land. I think of the dispossession of our peoples of their land. ... The end result is too often identical: we indigenous peoples are being denied our own means of subsistence. ... We cannot give up our right to our own means of subsistence or to the necessities of life itself. ... In particular, our right to self-determination contains the essentials of life – the resources of the earth and the freedom to continue to develop and interact as societies and peoples.

T. Moses, *The Right to Self-Determination and its Significance to the Survival of Indigenous Peoples*. In: P. Aikio and M. Scheinin (eds.), *Operationalizing the Right of Indigenous Peoples to Self-Determination*. Turku: Institute for Human Rights, Abo Akademi University, (2000), p. 155-78, at 162-4.

Forestry and mining concessions challenged in international courts

- The Inter-American Court of Human Rights
- Suriname claims rights over all the interior
- Court said they Govt must recognise 'Maroon' and 'indigenous peoples' rights to their territories and to FPIC



Geographer Peter Poole explaining maps showing ancestral lands to Inter-American Court of Human Rights

Customary land tenure system and community forestry



Land use

Timber, water, NTFPs, game

Hill Rice

NTFPs

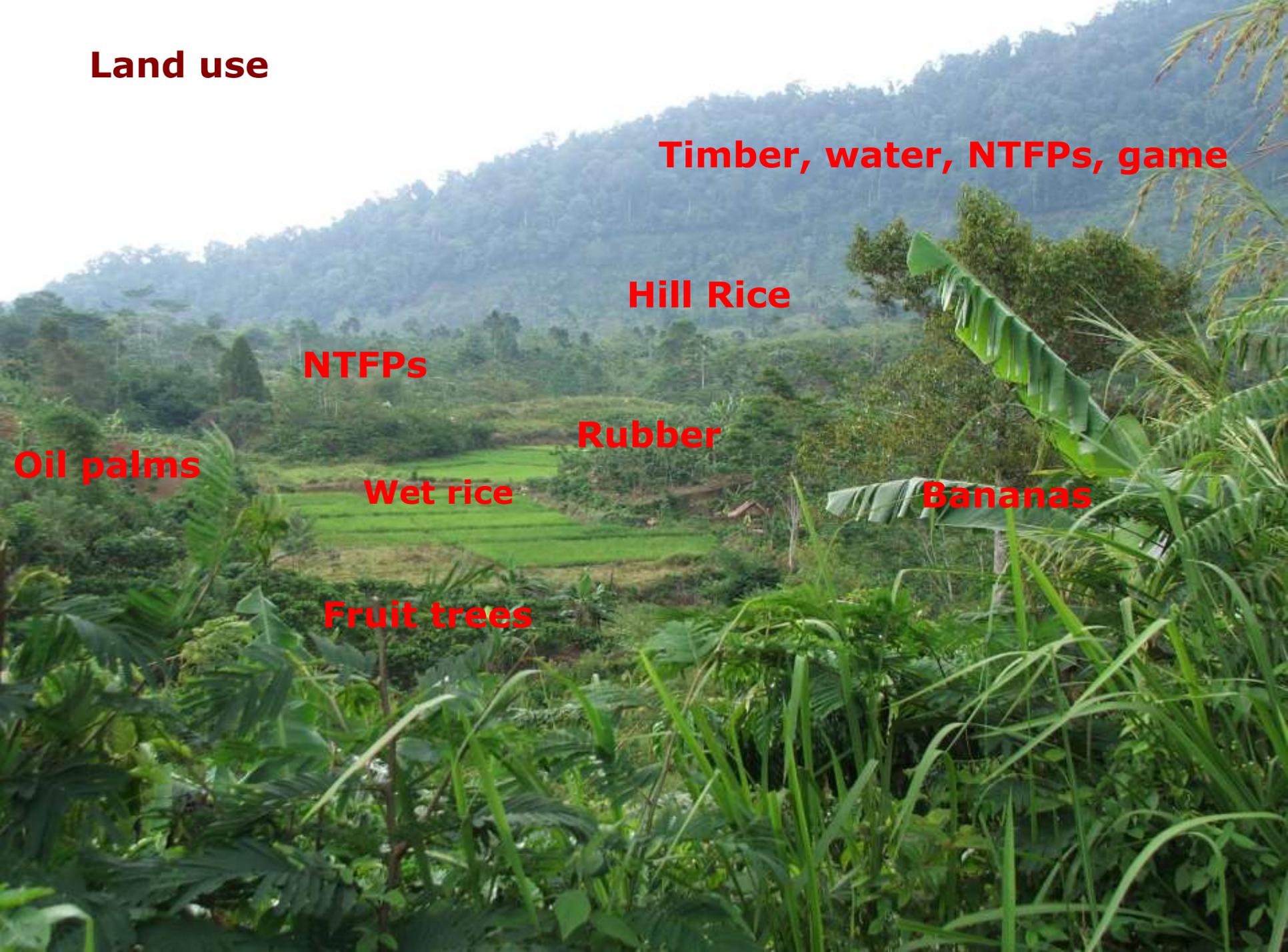
Rubber

Oil palms

Wet rice

Bananas

Fruit trees



Nested Rights

Collective village territory (commons)

Family owned rotational farms

Individual, permanent (untitled) fields



Cultural Dimensions of Territory

- Customary Land Care
- Sustainable Customary Use Article 10c CBD
- High Conservation Values: critical to 'basic needs' HCV5 & 'cultural identity' HCV 6

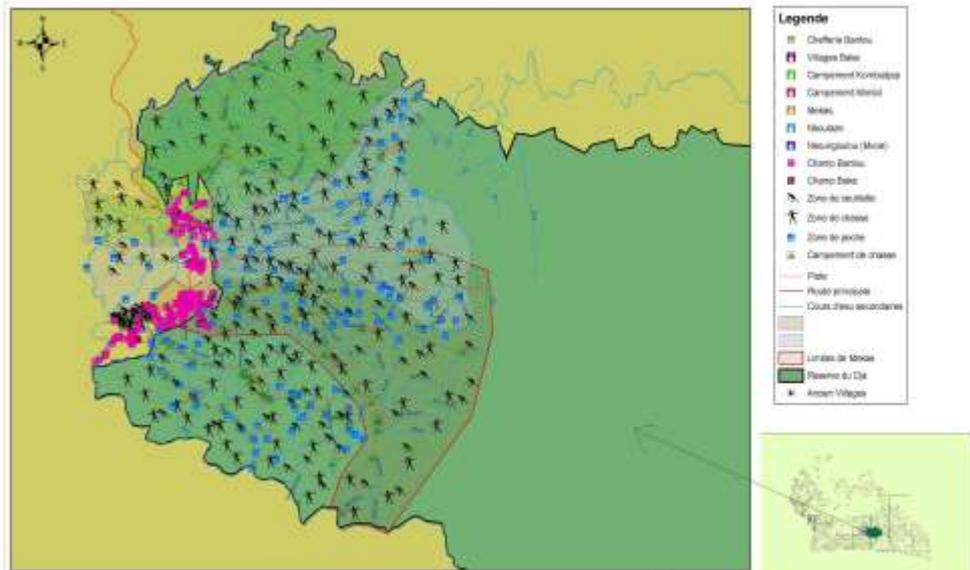


Community mapping

- Maps can show not just the boundaries of use but also
- Land use zones
- Local names
- Customary rights areas
- Sacred sites
- Historical areas
- Community land use plans



Carte d'utilisation des ressources forestières des Baka et Bantou de Nkolmbembe, Mimbil, Mekas et Nkougoulou

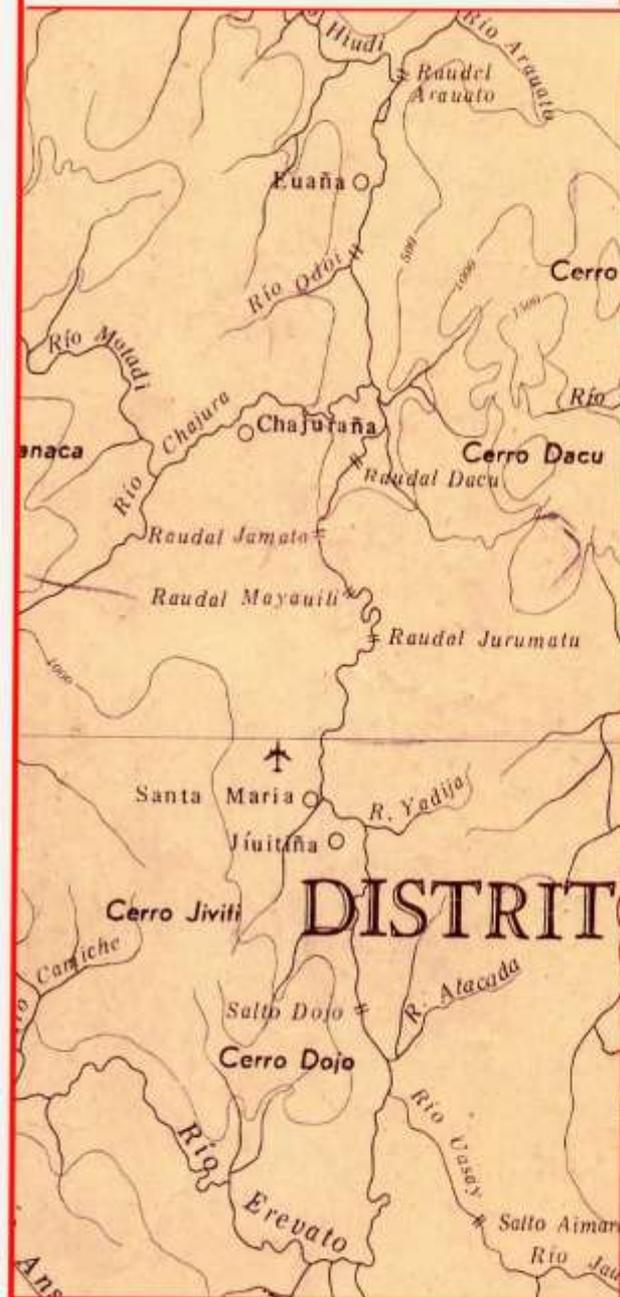


Cartographes locaux: Mokomo Dieudonne(Baka); Atyi Jean-Marie(Bantou);
Djala Luc (Baka)/Megolo Bonaventure (Bantou); Djampene Pierre (Baka);
Assing Didier Claver(Bantou); Onanas Thomas(Baka); Megata Francois(Bantou)
Appui logistique: Tamo Jerome; Tohenang William. Réalisation: Georges Thierry Handja

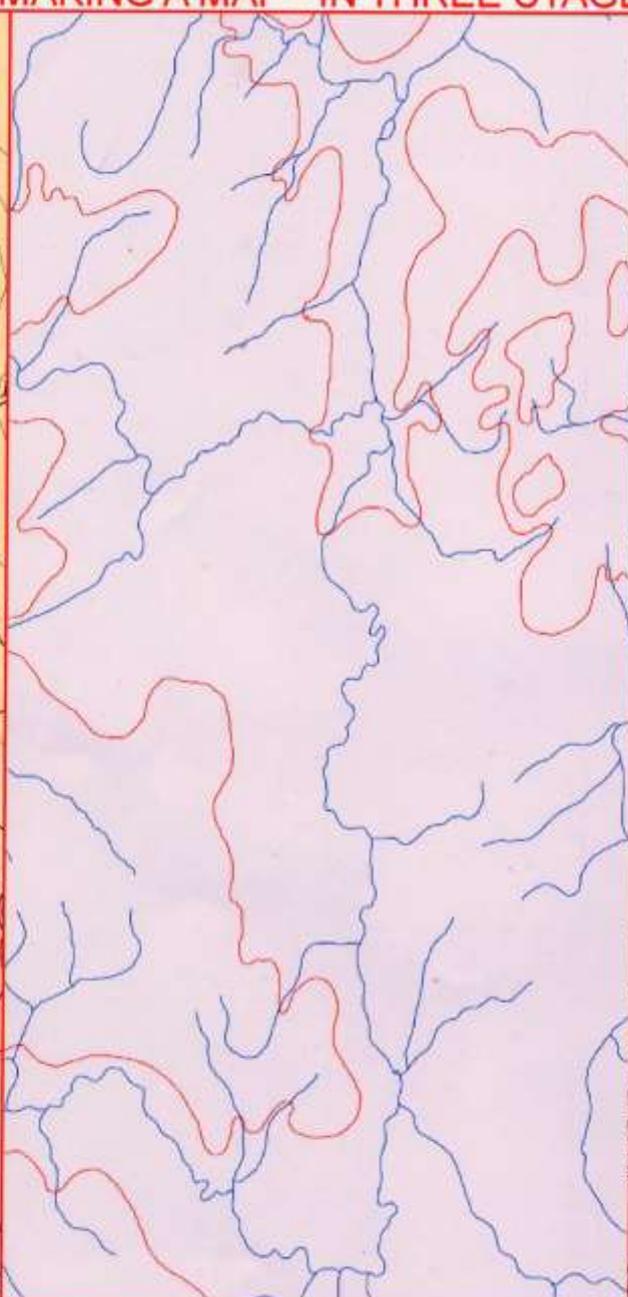
Forêt
Peuple
Projet

0 5 10 Kilomètres

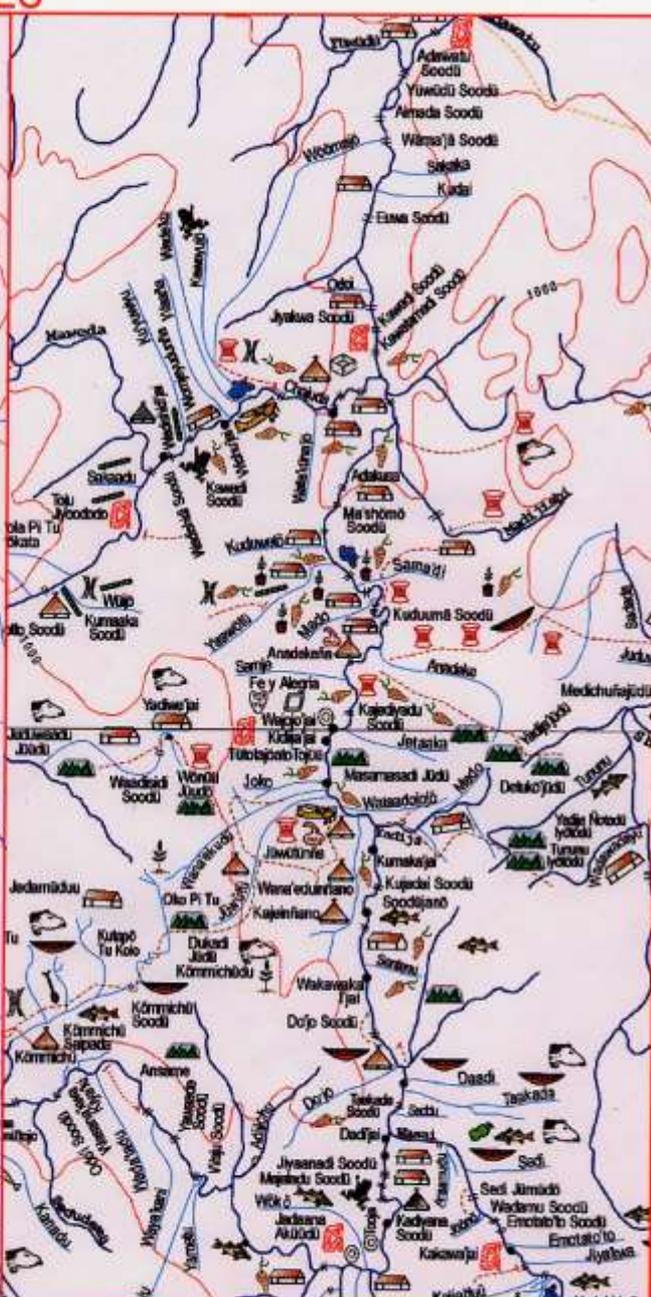
MAKING A MAP - IN THREE STAGES



OFFICIAL MAP



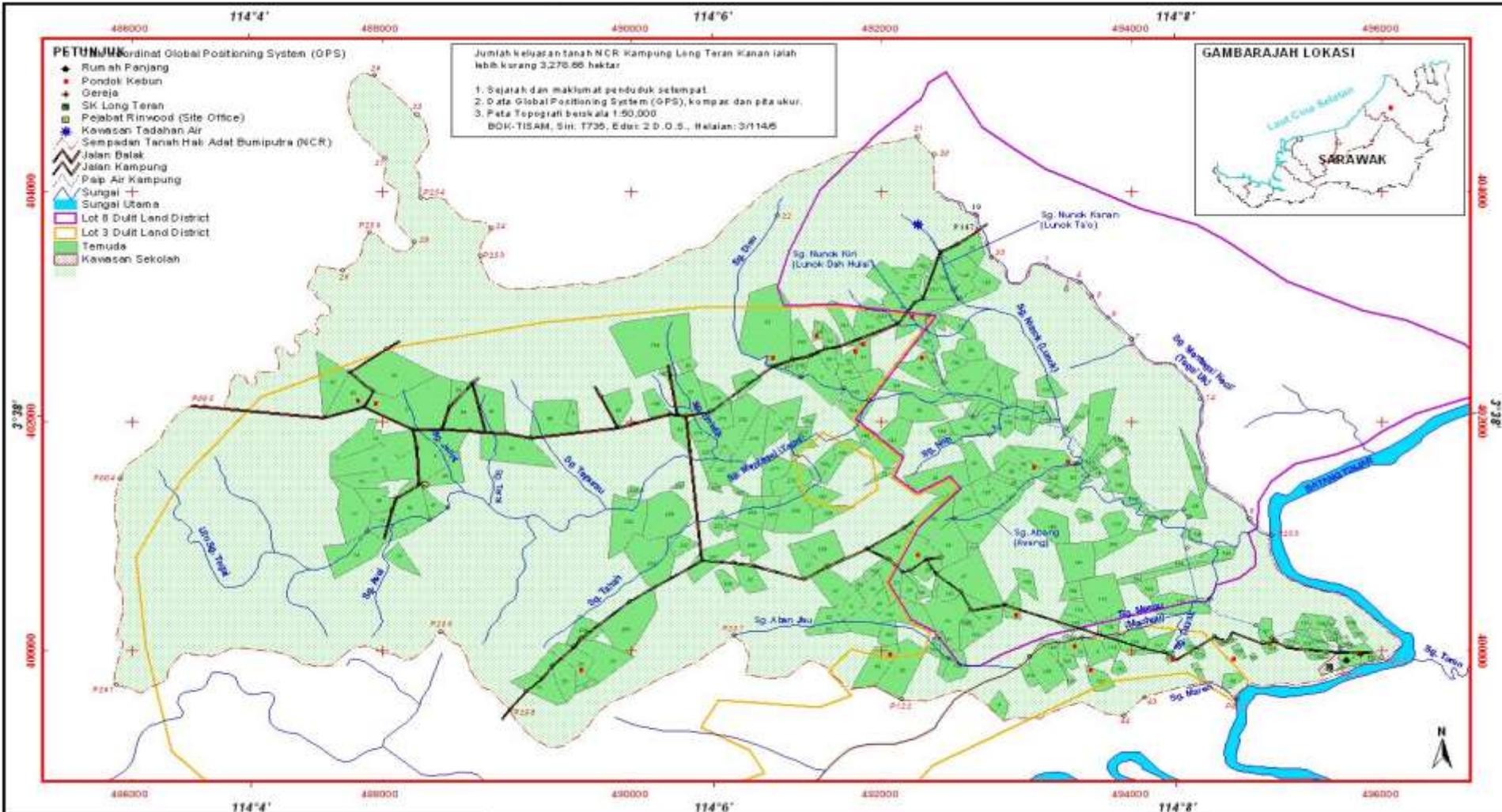
NO-NAME MAP



YE'KUANA-SANEMA MAP

Mapping land claims

PETA MENUNJUKKAN SEMPADAN KAWASAN TANAH HAK ADAT BUMIPUTRA (NCR) PENDUDUK KAMPUNG LONG TERAN KANAN, SUNGAI TINJAR, BARAM, DAERAH MARUDI, BAHAGIAN MIRI, SARAWAK



Indonesia: Forests and State lands

- 70% of national territory is defined as 'forest'
- 120 m. ha. of forests
- Forests assumed to be 'State forest areas'
- Defined as '*areas with no rights attached*'
- 33,000 villages overlap 'forests'
- 60-90 million people
- Hundreds of land conflicts



Forestry Concessions

- Forestry Department acts as if all 'Forests' are **owned** by State
- Most forests handed out for logging (HPH): 600 concessions = 62 m. ha.
- Degraded forests can be converted to plantations (HTI): 10 m ha.
- Forestry laws said customary rights must give way to forestry projects



Customary rights and the 'State'



'Under colonialism Indonesia was colonised but the communities had their freedom. Under independence the country got its freedom but has colonised the communities. 'Reformasi' must mean giving freedom to the customary law communities if it is not to be a continuation of the oligarchy'

Pak Nazarius, Indonesia

Constitutional Court Ruling 2012

- **Constitution** recognises rights of customary law communities
- **Forestry law** said 'customary forests' are part of State forests
- National Indigenous Peoples Alliance (AMAN) challenged this
- Court ruling: where IP **territories** overlap forests these are 'customary forests' and not part of State forests

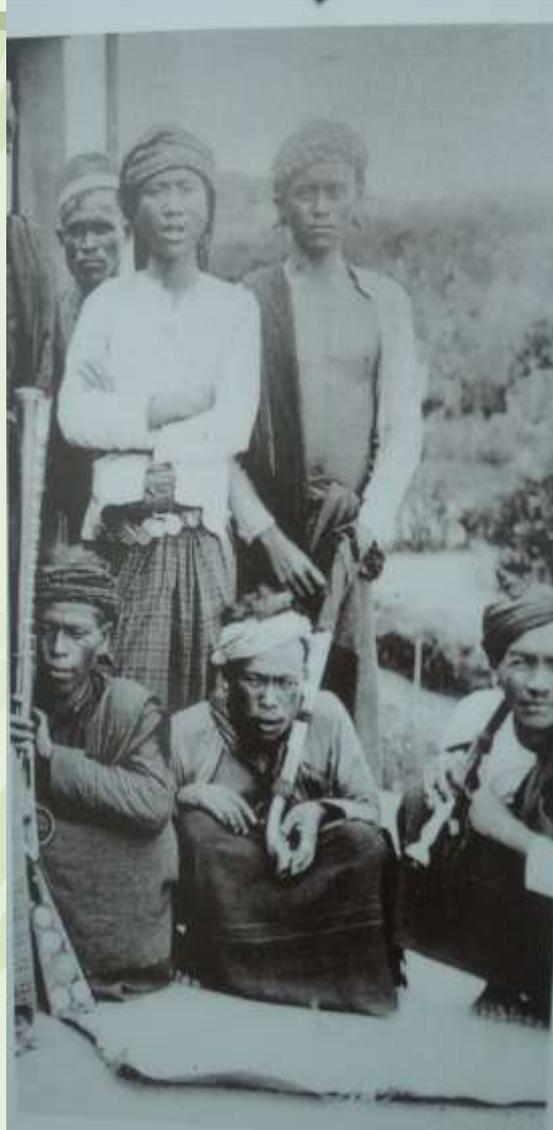


Aliansi Masyarakat Adat Nusantara



Toba Batak of North Sumatra

- Independent highland people conquered by Dutch 1911
- 2000 year old trade in frankincense from managed forests
- Rights to lands and forests not recognised by government
- Customary territories handed out as forestry concessions





Mixed economy based
on forest products,
handicrafts, farming
and fishing



Toba Pulp Lestari

- Raja Garuda Mas Group
- 180,000 ha. concessions
- *Eucalyptus* plantations
- Native forests and farmlands cleared
- Frankincense-based livelihood destroyed



Appeal to the International Labour Organisation

Community of Ompu Ronggur appeals to ILO via Convention 111 alleging discrimination for non recognition of their ownership rights to their lands and destruction of their 'traditional occupations'





www.forestpeoples.org

Thank you

