FPIC over what?

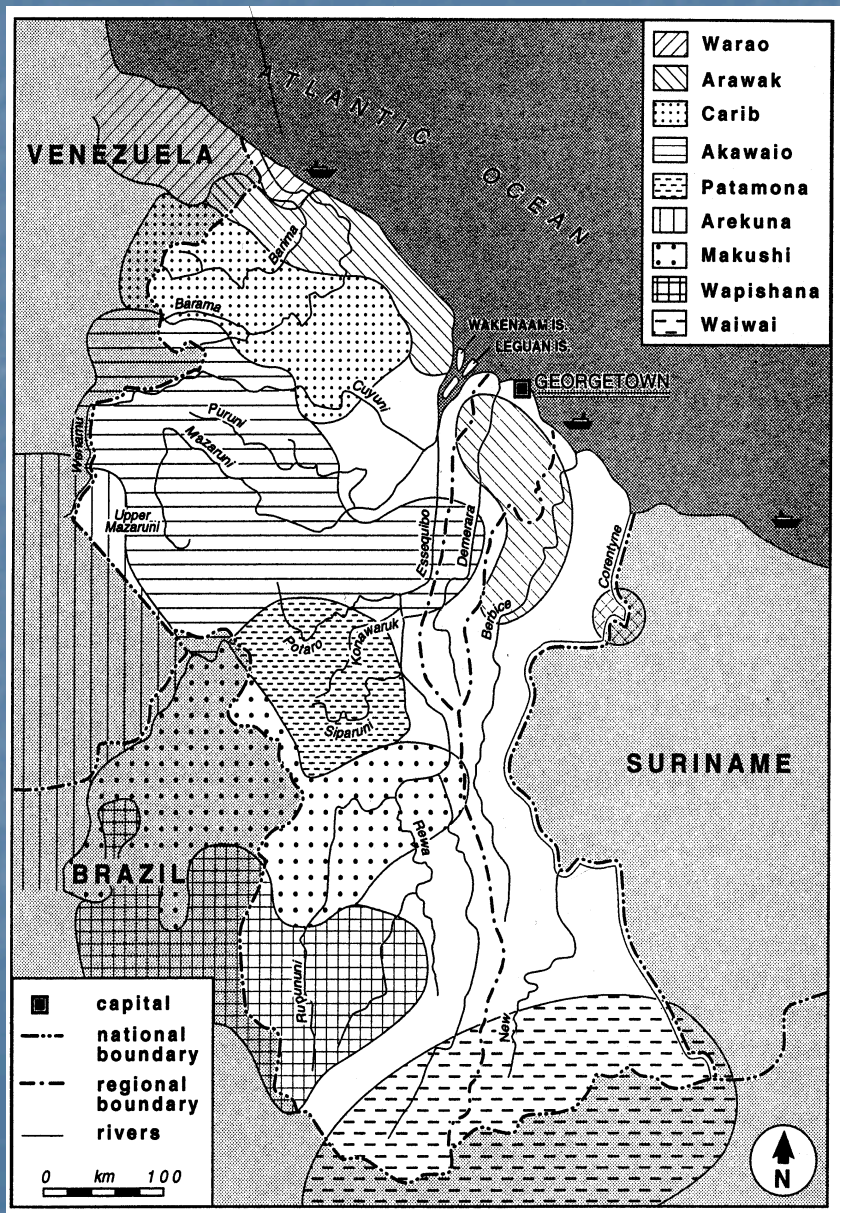
- The law gives IPs the right to consent on decision that will effect them, which is more than land
- Laws
- Policies
- Intellectual property
- Cultural heritage
- Changes to institutions

UNDRIP Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Which land?

N
Amerindian Land
GUYANA
0 25 50 100 Kilometers
Venezuela
Brazil
Suriname
Brazil
Roads
Main Rivers
Amerindian Land
Border
Administrative Regions
A product of EPA GIS Unit
- Base map provided by Guyana Integrated Natural Resource Information System (GINRIS)
- Amerindian Land data provided by CI (Guyana)

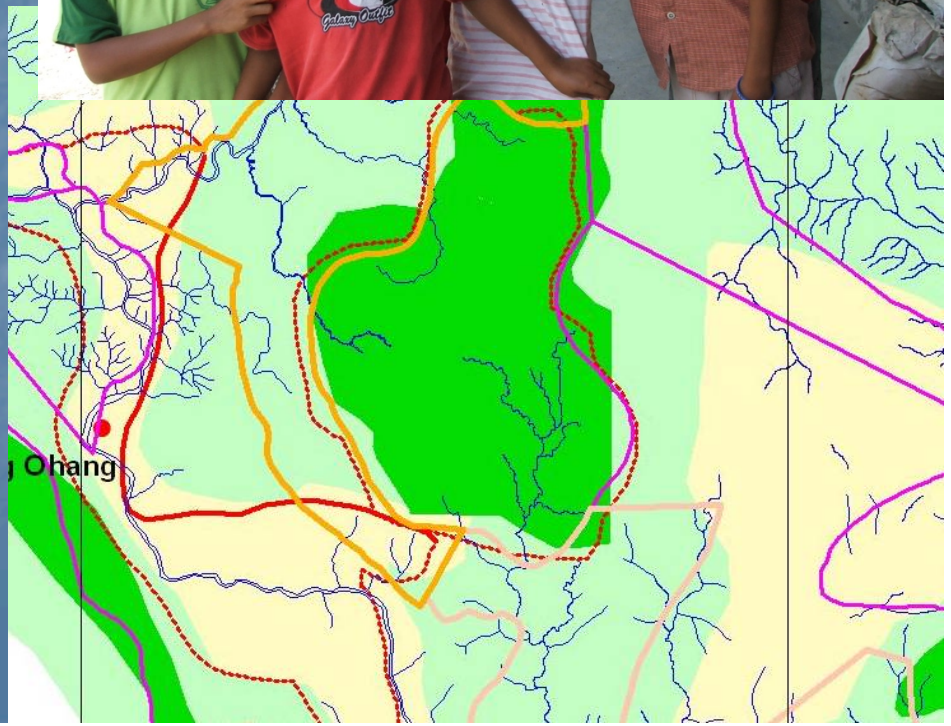

Warao
Arawak
Carib
Akawaio
Patamona
Arekuna
Makushi
Wapishana
Waiwai
ATLANTIC OCEAN
VENEZUELA
Barama
WAKENAAM IS.
LEGUAN IS.
GEORGETOWN
Cuyuni
Puruni
Mazaruni
Upper Mazaruni
Essequibo
Demerara
Berbice
Corentyne
Potaro
Kotawaruk
Siparuni
Rupununi
Rewa
New
SURINAME
BRAZIL
capital
national boundary
regional boundary
rivers
0 km 100
N

Customary rights and state law

- **Customary rights:** Patterns of long standing community land and resource usage in accordance with indigenous peoples' customary laws, values, customs and traditions, including seasonal or cyclical use, rather than formal legal title to land and resources issued by the State. (From World Bank Operational Policy 4.10).
- International law recognises custom as a source of rights. These rights obtain independent of whether the State has recognised these areas or not.

Forests and State lands in Indonesia

- 70% of national territory is defined as 'State forest area'
- 122 m. ha. of forests
- 60-90 million forest people
- Forests assumed to be 'State forest lands'
- Actually only 12% of these 'forests' have been gazetted, mostly PAs
- Meaning not clear if rest are State forests, 'private forests' ('lands with rights attached') or should be excised for farming etc.

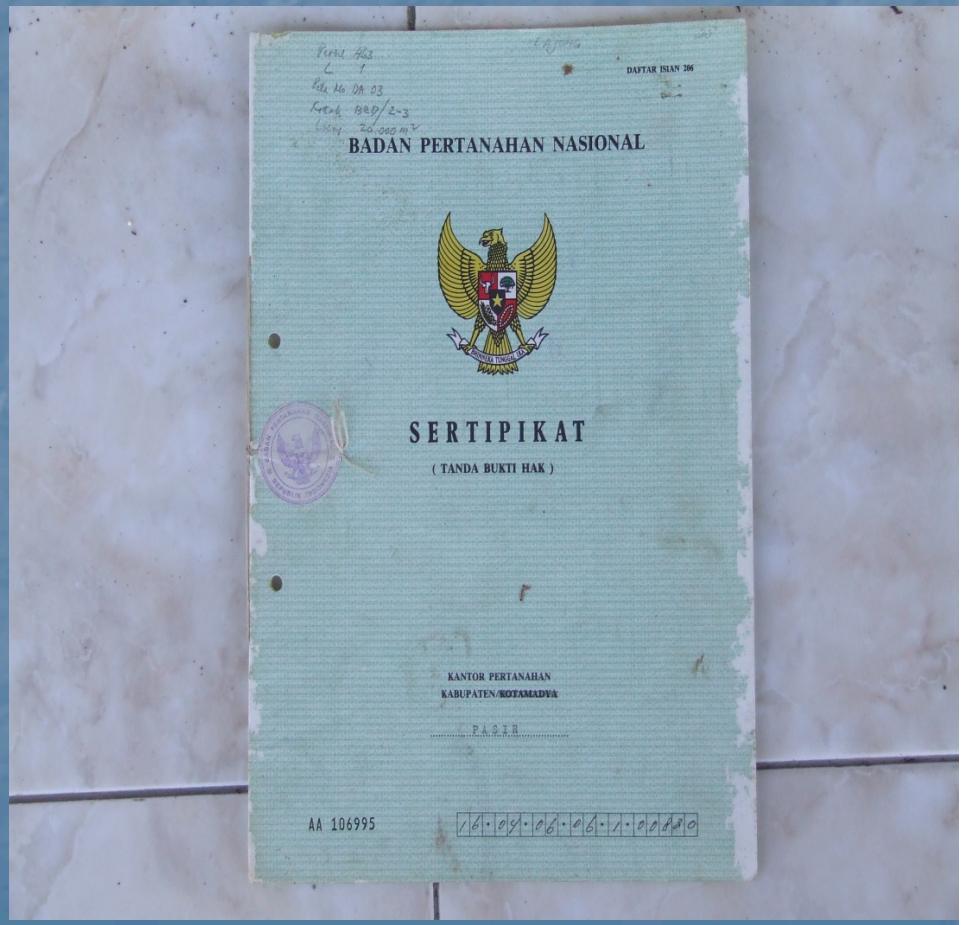


Customary rights

- '*Adat*' used by Dutch to regulate 'native' affairs
- *Adat* communities recognised by Constitution
- But land rights only weakly recognised in 1960 Basic Agrarian Law
- Affirmed in UN treaties and UN Declaration on Rights of IPs

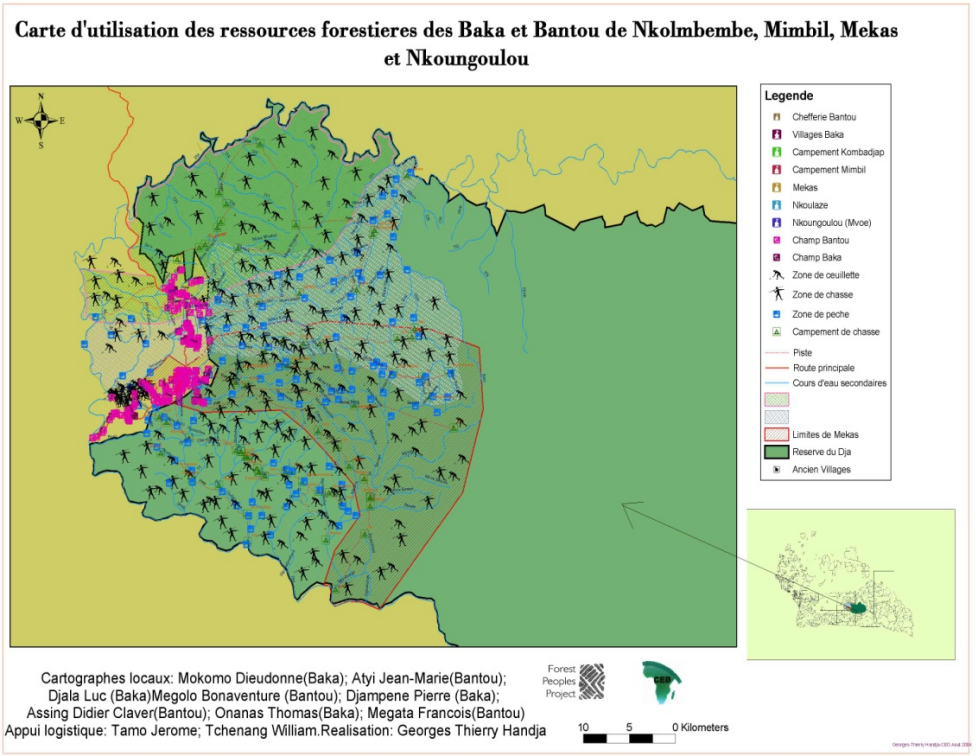
Weak or Absent Tenures

- Less than 40% of all properties in Indonesia have been titled (WB)
- %age is declining as holdings being created faster than BPN can register
- Extremely few *ulayat* (*collective* tenures) registered
- Some recognised through local legislative acts but not mapped or recorded
- Procedures for *ulayat* recognition are absent or not well known
- Rural people esp MA v. vulnerable (3,500 land conflicts over oil palm)



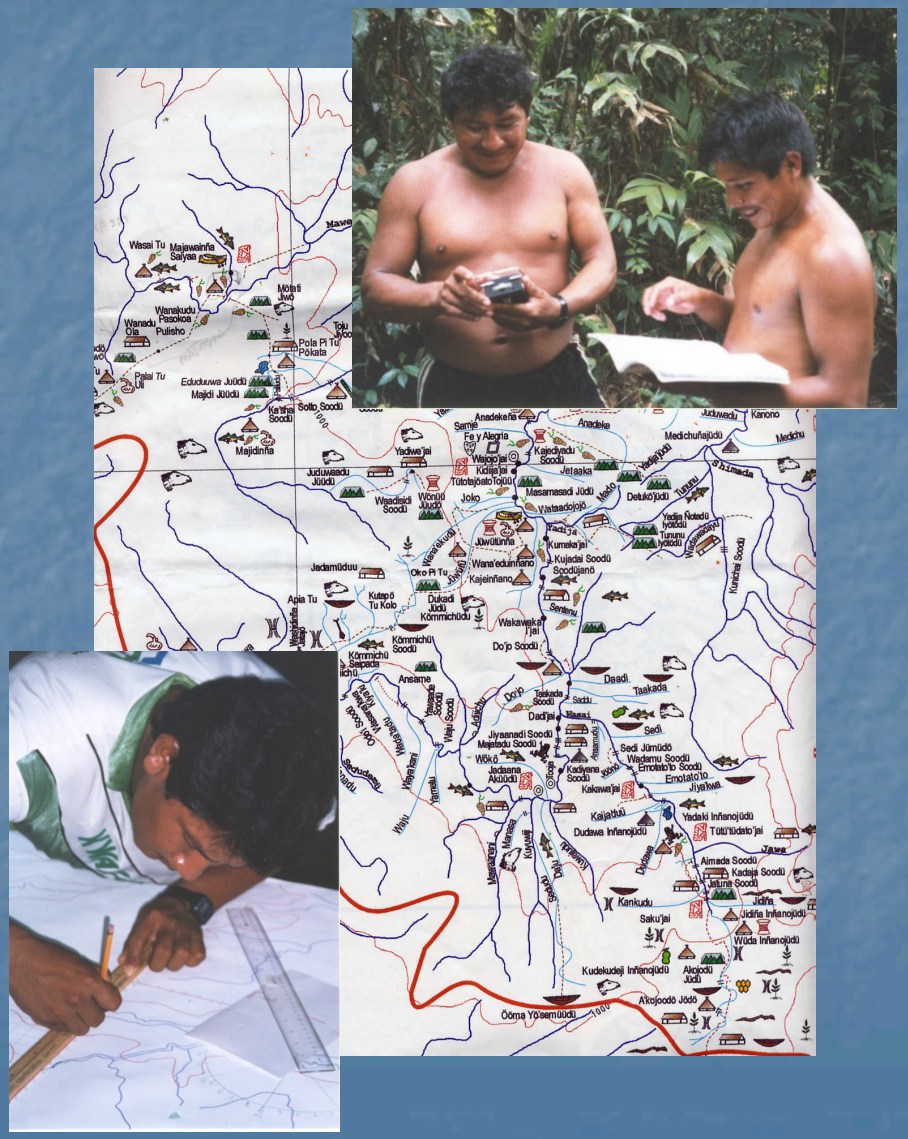
Community mapping

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

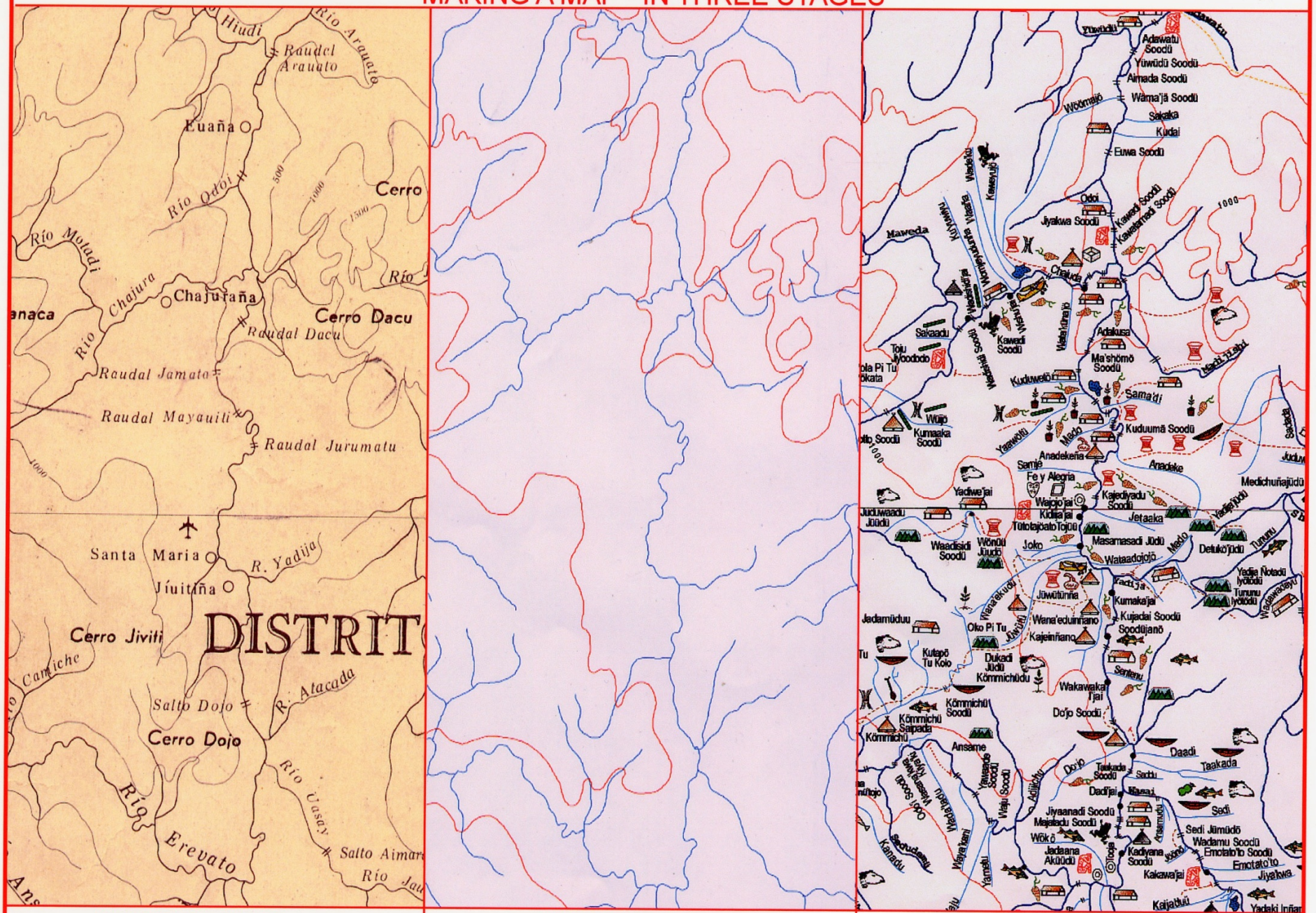


Mapping ancestral territories

- Participatory maps help communities' show their customary systems and histories of land use
- Such maps are powerful tools in FPIC processes to explain customary rights to governments and companies



MAKING A MAP - IN THREE STAGES



OFFICIAL MAP

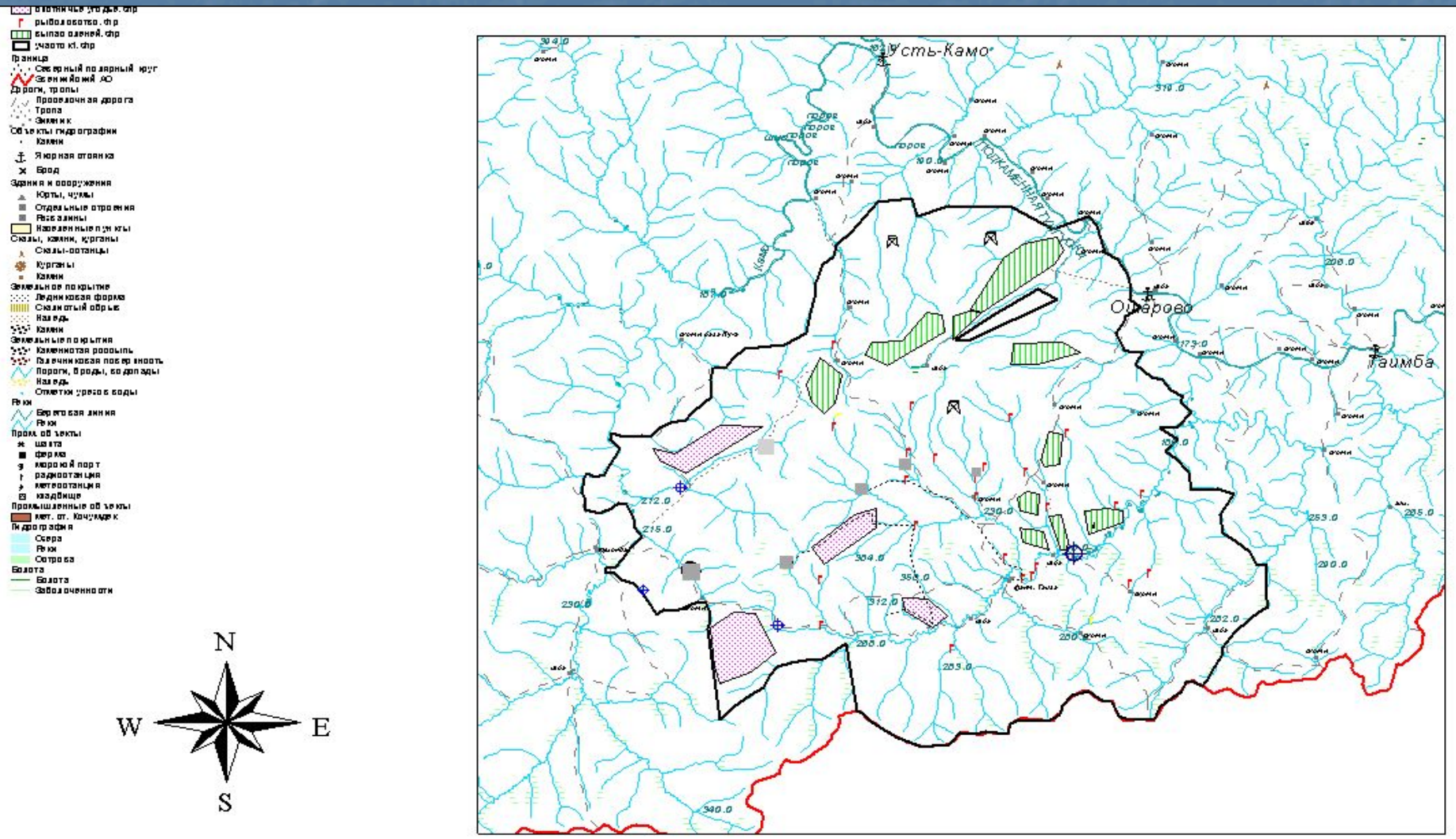
NO-NAME MAP

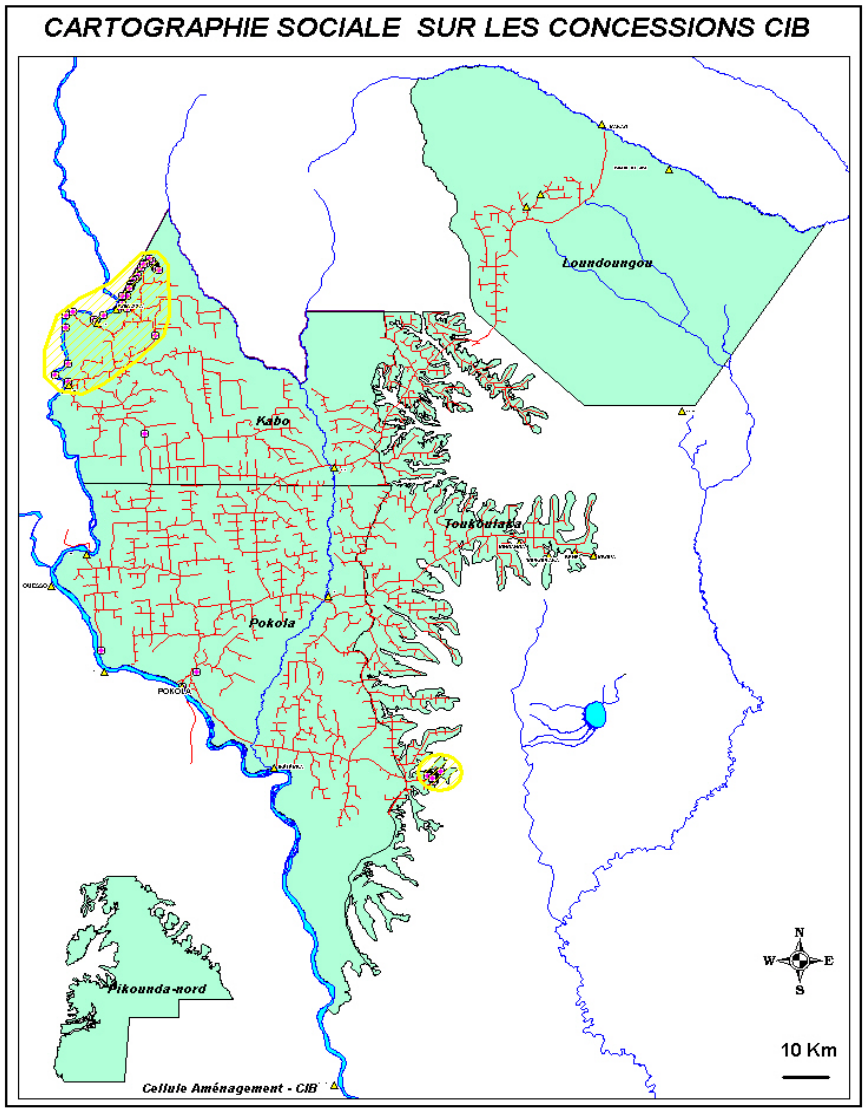
YE'KUANA-SANEMA MAP

Which rights? Use rights or land rights?

Access to winter browse

Maps as negotiation tools



Local negotiation: iterative processes

- Working with Pygmy people in Rep. Congo in CIB logging concession
- Step by step negotiation in cutting zones
- Negotiation over which cutting blocks should be left out as crucial to livelihoods
- Which species should be left because they are valued