Demarcation of indigenous and maroon lands in Suriname

Final report, submitted May 2009

Report commissioned by the Gordon and Betty Moore Foundation and Amazon Conservation Team Suriname
Paramaribo, Suriname
Acknowledgements

Conducting this study would not have been possible without the support and collaboration of many people in and outside of Suriname.

I wish to thank numerous indigenous and maroon traditional leaders and villagers for sharing their time, knowledge, and perspectives about their lives, their village and their tribal area. A special word of thank is reserved for the granmans, kapiteins, and other formal representatives of the Saramaka, Ndyuka, Aluku, and Wayana for communicating their knowledge of the past, opinion of the present, and visions for the future. I also am grateful for the valuable information provided by many national government experts, such as the sub-director of Interior Affairs at the Ministry of Regional Development, the District Commissioners (DCs) of Sipaliwini and Marowijne, and various District Secretaries and bestuursopzichters (BO; government supervisor).

Outside of Suriname, staff members of government agencies and non governmental institutions dealing with indigenous or aboriginal affairs provided written and visual materials that helped me understand the particularities of land demarcation and titling issues in their country. I thank you all!

This study was commissioned by the Amazon Conservation team-Suriname, as part of the ACT project for ‘Protected area creation and effective management in South Suriname/Northern Brazil’. Funding for this project has been provided by the Gordon and Betty Moore Foundation within its Andes-Amazon Initiative, with the purpose to: ‘... support the Surinamese Government in its efforts to implement land rights and demarcate indigenous lands in Suriname’ (http://www.moore.org/pa-grants-awarded.aspx?pa=34). I like to thank my various ACT colleagues for sharing their contacts and information, and helping with logistic arrangements.

Opinions expressed in this report are those of the author and do not necessarily reflect the views of the Gordon and Betty Moore Foundation, ACT Suriname, or other institutions the author is affiliated with. The author is responsible for all errors in translation and interpretation.

Marieke Heemskerk
Summary

This report provides guidelines for the demarcation of indigenous and maroon traditional homelands in Suriname, South America. It provides a general assessment of the meaning and significance of demarcation; a review of the current status of tribal demarcation in Suriname; and lessons learned from demarcation processes in other countries. In the context of Suriname, the main purpose for the demarcation of indigenous and maroon lands is negotiation of land title and rights.

Demarcation is the ‘setting or marking of boundaries or limits’. These boundaries are defined by both visible (e.g. houses) and invisible markers, such as now-overgrown burial sites and places named in myths. As a discussion-tool, maps provide evidence of land occupancy and use and help outsiders understand the indigenous way of life. In addition, mapping exercises may strengthen community cohesion and local cultural and historical knowledge. At present, six organizations are or have been making ethnographic land use and occupancy maps in Suriname.

Suriname is a former Dutch colony. In the 18th century, the Dutch shared the territory with both indigenous societies and maroon bands, with whom they closed peace treaties. These peace treaties included rough descriptions of where the various groups were allowed to live and use resources. Lawyers disagree about the modern legal significance of these treaties.

Today indigenous and maroons tribal groups live both in the interior and on the coastal plains. These groups differ in their views on territorial boundaries. Southern (Trio and Wayana) and lowland indigenous peoples (Kaliña and Lokono) generally do not draw fixed boundaries between their respective areas. Members of the different groups travel, live, and use resources in one another’s area. Maroons attach more value to territorial borders and are more likely to engage in conflicts about tenure rights. At the confluence of the Lawa, Tapanahoni, and Marowijne Rivers, for example, customary land ownership is contested as the Ndyuka are have built settlements in places claimed by the Paramaka and Aluku maroons. Similar tensions were not observed among the Central Suriname maroons (Kwinti, Matawai, and Saramaka). Tenure conflicts that involved these groups have mostly been fought against outside logging and mining companies rather than against other maroons. Land use conflicts between maroons and indigenous groups are virtually absent in south Suriname but do surface in the coastal area.

Within the various maroon groups, membership of a certain clan (lo/lö), village, or a combination of the two dictates where one can or cannot use particular natural resources. Indigenous communities do not have strong inner-tribal territorial divides, though among some groups kin-based land allocations determine where one can cut agricultural fields.

The case studies describe four cases from the Central and South American continents (Brazil, Nicaragua, Colombia, Guyana) and three cases from Western countries (U.S., Canada, Australia). In Brazil, the 1988 constitution acknowledges the pre-existing rights of indigenous peoples to ancestral lands. The constitution also orders the demarcation of these lands through anthropological research and subsequent registration. After demarcation, all non-indigenous peoples would have to leave the area. Since 1996, presidential decree 1776 has weakened the status and rights of indigenous peoples by allowing third parties to challenge all demarcated yet unregistered territories. Today, almost half of indigenous lands are not yet demarcated. The undefined nature of land rights regularly creates...
conflicts over land between indigenous peoples. One case in question is the indigenous territory of Raposa Serra do Sol, which is described in more detail.

The case of Nicaragua—like the case of Brazil—demonstrates that general legal acknowledgement of indigenous rights to traditional lands in either the constitution or national laws is no guarantee for protection without the precise demarcation and titling of these lands. In fact, even formal titling does not prevent the superimposition of private mining or logging rights on top of indigenous territorial rights. This situation characterizes the case of the Indigenous Community of Awas Tingni. In 1995, this community prosecuted the Nicaraguan state before the Inter-American Court on Human Rights for its failure to respect and protect their use of, and customary rights to, ancestral lands. The Awas Tingni won the case, obliging Nicaragua to demarcate and title their communal lands. Nevertheless, to date, this indigenous group remains without formal title to their lands.

Colombia’s 1991 Constitution and its amendment Law 70 (1993) recognize the rights of indigenous and black rural communities to communal lands. Since colonial times, indigenous peoples have obtained rights to resguardas; communal lands managed by community councils. The demarcation and registration of black lands started in 1993, and has focused on Colombia’s Pacific coast region. In order to enter the process of Collective Titling of Black Community Lands, the communities need to prove their historic and present communal and traditional use of the land; develop a sustainable use and management plan; and form a Community Council for administrative purposes. Since the process started, more than 4.5 million ha of Black Community Territories have been titled. Unfortunately, armed conflict and political unrest jeopardize the security and value of these property titles by driving people from their lands and preventing national authorities from protecting their rights.

Guyana’s indigenous peoples have for long been striving for their rights to land and resources. Through the implementation of the Amerindian Act in 1976, several indigenous communities received land titles but many lands were never demarcated. In 1995, the Guyana Government started to demarcate indigenous lands and by 2006, (portions of) the ancestral lands of the majority of 74 legally recognized communities (out of more than 150) had been surveyed and demarcated. There is no formal policy on demarcation and titling though, and Indigenous peoples complain that the process has not been participatory. They also find that the titles hardly correspond to the real ancestral lands and current land use practices of the communities. Moreover, land titles may be revoked, forfeited or modified for numerous reasons, thus eliminating any sense of security.

In the United States, relations between the various indigenous groups and the US government have become formalized in treaties, statutes, and case law. Because each one of these legal instruments is different there is no consistent policy of demarcation and titling of indigenous territories. Generally protection of indigenous lands is minimal and conflicts over territoriality regularly arise. But one example is presented by the Western Shoshone. According to the US government, the Western Shoshone abdicated their rights to ancestral lands when the Federal Government purchased it. Because the indigenous group had refused to sell the land and take the money, the Government paid to the Secretary of the Interior, that is, itself. Being landless, Western Shoshone hunters have been incarcerated and fined, and farmers’ livestock has been seized. Meanwhile the U.S. government has permitted non-indigenous citizens and mining and energy companies to occupy Western Shoshone
lands. Today, nuclear waste storage, military testing, open pit gold mining, and other industrial activities occur on these lands without information or consent of the Western Shoshone.

Canadian indigenous peoples consist of First nations, Inuit, and Métis. Colonial settlers in the east signed many treaties with these peoples. In West Canada, by contrast, few treaties were closed and aboriginal title was not recognized. This situation changed in the 1970s and ‘80s, due to a series of court cases, new policies, and constitutional changes that affirmed indigenous rights to land, resources, and information and consultation. In response, modern treaties were negotiated with various indigenous groups, such as the Nisga’a First Nation. In order to have their lands demarcated and titled, indigenous groups need to submit evidence of indigenous ancestry and of historic and present occupation and use of the land for traditional livelihood activities. A special procedure was developed to deal with overlapping territorial claims. Even though these conditions provide far reaching protection of customary land rights, indigenous peoples feel that by being limited to traditional practices, Canada is hindering their options to commercially exploit the land.

After centuries of denial of Aboriginal peoples’ rights to an own identity and ancestral lands, Australia has implemented a Native title Act and a land registration system that legalize customary rights to traditional homelands. A figurehead in the struggle for native land rights was an Aboriginal man named Mabo, who played a central role in two court cases against the State (1988 and 1992). Since then, formal Aboriginal land demarcation and titling have been neither rapid nor consistent. Each Aboriginal group has to prepare and lodge its own land claim, which subsequently is considered in court. As part of these claims, maps delineating the native area and accompanying descriptions need to be submitted. In the case of the Eastern Kuku Yalanji, a 13-year long process was recently rewarded with far reaching property, user, and management rights to a ancestral homelands.

Chapter six summarizes guidelines for the demarcation process in Suriname, based on lessons learned from the various cases. This final chapter starts by restating the importance of demarcation of indigenous and maroon lands to avert tenure conflicts. Such conflicts impede national economic development, discourage local conservation and entrepreneurship, and cost the state a lot of money. The author forewarns that demarcation and titling are not a guarantee for protection of ancestral lands. Powerful political and economic interests, political violence, and other factors may lead to intrusion and expropriation of these lands. To support demarcation and titling, the GOS must create a special political body to deal with indigenous and maroon issues; implement legal changes that enable the titling of communal lands; and provide a formal description of demarcation and titling procedures. Among its tasks is also to prepare citizens for a lengthy process, to anticipate and avert local tenure conflicts, and to avoid creating expectations that may not be met.

In terms of methods, it is important that the demarcation process is truly participatory and portrays differing views of the various community members. To be sustainable, the demarcation process also must be able to count on the dedication and full support of the Suriname government. NGOs can play a supporting role by initiating ethnographic mapping exercises with groups they have established long-term working relationships with.

In conclusion, the author hopes that this report will provide useful examples and lessons to guide the government of Suriname in its design of a land demarcation and registration strategy that suits the political climate, economic resources, natural resource base, and cultural environment in Suriname.
# Table of Contents

Acknowledgements  
Summary  
Table of Contents  

1. Introduction .......................................................................................................................... 1  
2. What is demarcation and why should we do it? .................................................................. 4  
   2.1. Defining demarcation ....................................................................................................... 4  
   2.2. WHY demarcation .......................................................................................................... 4  
   2.3. WHAT is demarcated? ...................................................................................................... 5  
   2.4. Till WHEN do we go back in recording? ......................................................................... 6  
   2.5. Lessons for the demarcation of indigenous lands in Suriname ..................................... 7  
3. Demarcation in Suriname: How far are we? ....................................................................... 8  
   3.1. Demarcation of tribal lands in historic treaties ............................................................... 8  
   3.2. Inter-tribal customary territorial boundaries ................................................................... 9  
      3.2.1. Southern indigenous groups ....................................................................................... 10  
      3.2.3 Northern Indigenous groups ....................................................................................... 10  
      3.2.3 Eastern Maroons ........................................................................................................... 11  
      3.2.4 Central Suriname Maroons .......................................................................................... 14  
      3.2.5 Maroons and Indigenous Peoples ................................................................................ 16  
   3.3. Existing maps .................................................................................................................. 17  
   3.4. Inner-tribal customary boundaries .................................................................................. 18  
   3.5. Lessons learned from Suriname .................................................................................... 19  
4. Cases of demarcation I: Latin America ............................................................................... 21  
   4.1 Brazil ................................................................................................................................ 21  
      4.1.1 Introduction ................................................................................................................... 21  
      4.1.2 Indigenous rights to land in Brazil .............................................................................. 21  
      5.3.4. Raposa Serra do Sol ................................................................................................... 23  
      4.1.4. Demarcation of Raposa Serra do Sol ......................................................................... 23  
      4.1.5. Lessons learned from Brazil ....................................................................................... 25  
   4.2 Nicaragua .......................................................................................................................... 26  
      4.2.1. Introduction ................................................................................................................ 26  
      4.2.2. Indigenous rights to land in Nicaragua ...................................................................... 26
4.2.2. Indigenous rights to land in Nicaragua ................................................................. 26
4.2.3. The Awas Tingni ................................................................................................. 26
4.2.4. Demarcation of Awas Tingni Lands ................................................................. 28
4.3.1. Lessons learned from Nicaragua ................................................................. 28
4.3. Colombia ............................................................................................................. 30
4.3.1. Introduction .................................................................................................. 30
4.3.2. Indigenous and black community rights to land in Colombia ..................... 30
4.3.3. Black rural communities in el Pacífico ......................................................... 31
4.3.4. Demarcation of black communities ............................................................. 32
4.3.5. Lessons learned from Colombia ................................................................. 34
4.4. Guyana ................................................................................................................ 35
4.4.1. Introduction ................................................................................................. 35
4.4.2. Indigenous rights to land in Guyana ............................................................ 35
4.4.3. Demarcation of indigenous lands in Guyana ............................................. 36
4.4.4. Lessons learned from Guyana ................................................................. 38
5. Cases of demarcation II: Western States ............................................................. 39
5.1 United States ....................................................................................................... 39
5.1.1. Introduction ................................................................................................. 39
5.1.2. Indigenous rights to land in the United States ........................................... 39
5.3.4. The Western Shoshone .................................................................................. 41
5.1.4. Demarcation of Western Shoshone lands .................................................... 42
5.1.5. Lessons learned from the United States .................................................... 44
5.2 Canada ................................................................................................................. 45
5.2.1. Introduction ................................................................................................. 45
5.2.2. First nations, Inuit, and Métis rights to land in Canada ................................ 45
5.2.3. Demarcation of First Nations lands in Canada ........................................... 47
5.2.5. The Nisga’a First nation ............................................................................. 48
5.2.5. Demarcation of the Nisga’a territory .......................................................... 49
5.2.6 Lessons learned from Canada .................................................................... 50
5.3 Australia .............................................................................................................. 51
5.3.1. Introduction ................................................................................................. 51
5.3.2. Indigenous rights to land in Australia ......................................................... 51
5.3.3. The Eastern Kuku Yalanji People ................................................................. 53
5.3.5. Lessons learned from Australia

6. Guidelines for demarcation in Suriname
   6.1. An urgent need for demarcation
   6.2. The meaning of demarcation
   6.3. Government procedures in the demarcation process
   6.4. Mapping and demarcation methods
   6.5. Conflicting stakeholder interests
   6.6. To conclude...

References
1. Introduction

_for those who look on the forest as a habitat, the Amazonian indigenous territories are viewed very positively. For those of an opposite view, who have always seen the Amazon as an expendable supply of raw materials, the indigenous territories are seen as a hindrance and a headache._

Pedro García Hierro, in: Indigenous Affairs 4/04: 8

In the past two decades, the world has witnessed a great mobilization of tribal peoples to secure their rights to land; the foundation for their culture and livelihoods. Good maps are essential in the process towards the recognition of indigenous territories. Good maps are well-defined, well referenced, and indicate possible overlaps with other land claims and tenure regimes. Good maps also take a lot of effort, dedication, and resources to make. This report provides guidelines for the process of making maps and demarcation of indigenous and maroon lands in the small South American country of Suriname. It provides a general assessment of the meaning and significance of demarcation; a review of the current status of tribal demarcation in Suriname; and lessons learned from demarcation processes in other countries.

Suriname is situated on the Northern tip of the South American continent. Its small population (492,829) primarily lives in the coastal zone, mostly in the capital city of Paramaribo. Outside of the capital city, a significant number of traditional indigenous and maroon communities are situated on the coastal plains. The southern 80 percent of the country, named the interior, is covered with dense tropical rainforest. This forest provides a home and livelihood to various indigenous and maroon ethnic groups. Today approximately 8,000 Indigenous peoples and 54,000 Maroons live in the Suriname interior (Table 1). A map of the approximate living areas of indigenous peoples and maroons in Suriname appears in figure 1.1. Both coastal and interior tribal groups largely live a traditional life, depending on subsistence agriculture, hunting, and fishing. For cash income, they depend on informal resource-based activities such as the collection of non-timer forest products, small-scale gold mining, and wildlife trade.

This report starts from the premise that ‘demarcation’ goes beyond delineating a certain area. Territorial boundaries are intrinsically linked to customary and/or formal rules about what may or may not happen within these boundaries. Customary land use regulations typically recognize multiple user areas where different rules apply about what types of resources may be used, by whom, and how. Demarcation, then, also is related to questions such as: How stringent or flexible are territorial boundaries? In who rests the power to decide about land use and management? And where and when is a formal demarcation process most likely to create conflict? This report will address these questions.

---

1 Maroons are the descendents of runaway African slaves who established independent communities in the rainforest in the 17th and 18th centuries.
Table 1. Estimated numbers of indigenous and maroon peoples living in tribal communities in Suriname

<table>
<thead>
<tr>
<th>Indigenous peoples</th>
<th>Maroons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kaliña (Carib)</td>
<td>Ndyuka (Aukaners)</td>
</tr>
<tr>
<td>2,500</td>
<td>20,000</td>
</tr>
<tr>
<td>Lokono (Arowak)</td>
<td>Saramaka</td>
</tr>
<tr>
<td>3,500</td>
<td>25,000</td>
</tr>
<tr>
<td>Trio</td>
<td>Paramaka</td>
</tr>
<tr>
<td>1500</td>
<td>4,000</td>
</tr>
<tr>
<td>Wayana</td>
<td>Matawai</td>
</tr>
<tr>
<td>500</td>
<td>3,000</td>
</tr>
<tr>
<td></td>
<td>Aluku (Boni)</td>
</tr>
<tr>
<td></td>
<td>1,500</td>
</tr>
<tr>
<td></td>
<td>Kwinti</td>
</tr>
<tr>
<td></td>
<td>500</td>
</tr>
<tr>
<td>Total</td>
<td>Total</td>
</tr>
<tr>
<td>8,000</td>
<td>54,000</td>
</tr>
</tbody>
</table>

Sources: IDB 2004; ACT 2007a; ACT 2007b; CLIM 2006

We consciously speak about a demarcation process because, as will be clear from the case studies, demarcation is seldom a one-time and definitive event. It often takes many years if not decades before decisions about territorial boundaries are put on paper and registered. Even after registration, these boundaries and related rules of access and use are subject to change under political, social, and economic pressures.

If demarcation is such a costly and lengthy process, which in the end will not solve all present conflicts over land use and rights, is it worth starting this process? We believe it is. As long as demarcation and subsequent titling are unfinished business, uncertainty over and disagreement about the ownership of thousands of hectares of land impedes both the development of interior communities and national economic growth. On the community level, those who do not know whether the land they live on will be theirs in the years to come are less likely to conserve natural resources and take good care of their lands. Uncertainty about land ownership also prevents local people from planning for the future and investing in long-term projects. On the national level, confusion about (customary) resource rights and prospects of conflicts with local area inhabitants are discouraging international companies from investing in the country. Meanwhile protests by indigenous and maroon groups about violations of their rights to (undefined) ancestral lands are costing the state a lot of resources that could be more usefully applied.

In the following pages, we will first define demarcation and discuss reasons to do it. In this chapter we will also discuss practical and methodological issues to take into account when entering a process of demarcation of tribal lands. Chapter 3 focuses on the existence, meaning, and application of territorial boundaries between and within indigenous and maroon groups in Suriname. Next we move to Latin America, to discuss the cases of Brazil, Nicaragua, Colombia, and Guyana. The cases of Brazil and Colombia are particularly interesting because in these countries, both indigenous groups and rural peoples of African descent have been receiving collective land titles based on their long-term physical and cultural connection to the land. It is worthwhile to note that legal recognition of communal rights to ancestral land for communities of African descent is also in process in Panama, Nicaragua, Honduras, and Belize (Offen 2003).

Chapter 5 takes us to three Western states: the US, Canada, Australia. These cases make clear that even with many resources to one’s disposal, demarcation and titling of indigenous and aboriginal lands is a lengthy and ongoing process, which is never completely finished. Even in places with far-
fetching legal protection of indigenous rights in both the constitution and national laws, indigenous groups continue to suffer from violations of their rights to land. We conclude the report with a summary of the main lessons learned.

We hope that this report will provide useful examples and lessons to guide the government of Suriname in its design of a land demarcation and registration strategy that suits the political climate, economic resources, natural resource base, and cultural environment in Suriname.

Figure 1.1. Map of Suriname with the approximate living areas of the various indigenous and maroon groups.

Note: This map depicts the areas where people live, not the user areas or ancestral territories. Map drawn by the author. Sources: Suriname planatlas 1988; ACT map of southwest Suriname 2001.
2. What is demarcation and why should we do it?

...the final shape of an indigenous territory is more a response to a bargaining game than true territorial design.

Pedro García Hierro, in: Indigenous Affairs 4/04: 8

2.1. Defining demarcation

Demarcation is the ‘setting or marking of boundaries or limits’². We are concerned with the marking of boundaries of the traditional homeland of indigenous and maroon groups in Suriname. In Chief Kerry’s Moose guidebook to land use and occupancy mapping, research design and data collection (2000), Terry Tobias explains how such territorial boundaries may be defined by members of a certain native ethnic group:

*In the pursuit of the resources that continue to be the foundation of their cultures, people leave traces over the landscape, evidence that they have been there. Many of their activities leave no visible evidence, however. Instead, they etch themselves in the minds of those who travel their homeland in search of physical and spiritual sustenance* (2000:1)

In other words, the boundaries of what a certain group considers to be its homeland are not merely marked by settlements, old plots, or other visual markers of human occupancy. Instead, these boundaries are partly drawn along invisible sites, such as the spot where a (mythical) ancestor fought against a supernatural or human enemy, or a hilltop where people go periodically for worship. It is the task of map-makers to detect and mark both observable features of human occupancy as well as part of homelands that are carried in people’s minds.

Because a significant share of mapping information is carried in people’s heads, mapping requires – in addition to marking places where people plant, fish, hunt, live and used to live – the recording of oral histories and the study of myths and tales. Before one gets to the recording of oral histories and collection of GPS way-points, three important questions need to be answered: WHY, WHAT, and WHEN

2.2. WHY demarcation

In the context of this report and the Suriname situation, the main purpose for the demarcation of indigenous lands is negotiation or litigation of title and rights. In such a process maps are a discussion tool in ultimately defining borders of indigenous territories. They provide visual evidence of the historic and present occupation and use of certain areas, and of self-perceived territorial boundaries.

² From The Free Dictionary web site. URL: http://www.thefreedictionary.com/demarcation
In addition, they help negotiators on the other side of the table understand indigenous peoples’ way of life, and the size and type of area that these peoples need access to in order to sustain that life.

Maps also may be used as tools to negotiate strategies for co-management, inspection, and protection of vulnerable areas near or overlapping with places where indigenous peoples live. This process is already ongoing in Suriname, as Trio and Wayana indigenous peoples are being trained as state-licensed park guards. In addition, the Suriname army has expressed interest in the training of indigenous peoples as military servants on location, to assist in the protection and vigilance of (contested) border areas. In both cases, ethnographic land use and occupancy maps are an important tool in deciding where and with whom such programs might take place.

Land use and occupancy maps also may be used for economic purposes. For example, for the development of a tourism project it may be interesting to know the location of existing trails or rare ecological resources (e.g. nesting area of the Cock-of-the-Rock). Meanwhile the development of an income generation project based on the production of Brazil nuts requires knowing where stands of these trees may be found and how accessible these stands are.

An additional effect of mapping and demarcation is that the people themselves become more aware of the area they live in and are connected to for sustenance of their daily livelihoods. Also, by being a joint effort of the entire community, where the traditional knowledge of elders (e.g. oral histories) is at least as important as the technical knowledge of youngsters (e.g. use of GPS), the process of making maps may strengthen community cohesion and create a stronger feeling of self-esteem.

### 2.3. WHAT is demarcated?

In proceeding with the demarcation of indigenous lands, it is important to make a distinction between land occupancy and land use (Tobias 2000: 3). Use areas are places where people harvest and collect traditional resources. They include:

- Places where animals are harvested for food, clothing, medicines, tools, and other purposes
- Places where plant materials are harvested for food, clothing, medicine, tools, shelter, fuel, musical instruments, and beauty products
- Places where people have their agricultural fields
- Places where rock, minerals, and soils are collected for making tools, conducting ceremonies, and other purposes
- Travel routes between villages and trails to fields and harvest sites
- Ecological knowledge of habitats and sites critical to the survival of important animal populations

A list of natural resources used by the Trio is provided in the Trio Baseline Study (ACT 2007)

Land occupancy refers to an area to which the group claims customary rights on the basis of ‘continuing use, habitation, naming, knowledge, and control.’ Maps of occupancy may display:

---

3 This distinction was first made by Dr. P. Usher, a pioneer in land use and occupancy methodology
• Locations named in oral histories and myths, e.g. *Samuwaka*, the place where Trio first assembled as a larger group, or Kumaku, the first place where Saramakan people build a settlement after running away

• Habitation sites such abandoned and current villages, *kampus*, and burial sites.

• Places with a special religious or spiritual meaning such as the Tëpu top; and places about which the group has specific ecological knowledge.

• Spiritual or sacred places such as ceremony sites, rock paintings, areas inhabited by non-human or supernatural beings, and birth and death sites. An example is *Werephei*, a site with pre-historic indigenous rock paintings near the Trio village of Kwamalasamutu.

• Boundaries between different groups

Many of the above mentioned items of both types of maps have already been marked on existing ethnographic land use and occupancy maps in Suriname.

Geographic areas of use and occupancy will have some overlap but are not the same. Use areas are typically larger, and more likely to change over time as certain harvest places become exhausted and new sites or resources are discovered. It is important to make this distinction clear to all stakeholders because mapping land use and occupancy areas may bring tension. Conflicts not only may arise between different indigenous and maroon groups who believe that their neighbors want to take-in part of their lands, but also between peoples living in tribal societies and outsiders. The land use area of the Trio indigenous group, for example, is huge, even though their occupancy areas consist of small islands in a sea of green. In discussing land rights, urban citizens and government officials may not take the maps seriously, as they believe that particular ethnic groups, which use extensive areas, consider the entire interior of Suriname as theirs.

Clearly, defining WHY a map is being made also determines WHAT is on the map. Clearly defining the purpose of demarcation should help one resist the temptation to just ‘map everything’. A map defining the areas where indigenous peoples might assist in the co-management of wildlife resources will look different from a map of historic human settlement and movements. Likewise, a map designed to enter negotiations with the government about indigenous land titling and rights should display only those items relevant for that purpose. Such maps should depict boundaries between indigenous territories that are known by the all members of the community and neighboring communities.

Finally, we must acknowledge that territory that will be ultimately demarcated will not be a copy of the territory the group uses or considers to be its homeland. Interests of third parties –government, business, non-indigenous settlers, and other indigenous groups- will be at least as important in drawing the boundaries as records of actual use and occupancy.

### 2.4. Till WHEN do we go back in recording?

Answering the WHY question also is linked to the question of WHEN: how far should a map go back in its documentation? Are places where people hunted twenty years ago but now rarely visit still relevant? Should ancient settlements be on the map and if so; how ancient? And what about the places where previously nomadic peoples, such as the Akurio, used to track?
We give the example of the Aluku Maroons, who traditionally consisted of three bands of runaways who had escaped from Suriname plantations in the first half of the 18th century. Trying to avoid encounters with Dutch and French colonial military troops, these different groups lived at various locations on the East and West side of the Marowijne and Lawa Rivers. They joined forces in the late 18th century, as they were driven further Southward under military pressure. It was only in the late 19th century that the Aluku settled in the area that they currently consider theirs. For a map trying to understand Aluku history and their relations with other peoples they encountered on their ways, these historic settlements are relevant; For the purpose of negotiation about territorial rights, however, these historic tracks and settlements are not relevant. Moreover, in this case virtually all the places where Aluku lived during their travels are currently occupied by Ndyuka Maroons, Paramaka Maroons, and Wayana indigenous peoples.

2.5. Lessons for the demarcation of indigenous lands in Suriname

- Areas that indigenous groups consider as their home lands do not only consist of visible markers such as human structures (homes, shrines) and geophysical markers (e.g. mountain). They also are defined based on invisible elements, such as a now overgrown place where people first settled or a site where a mythical event took place. Oral histories and traditional stories may reveal these places.

- It is essential to clearly define the purpose of the demarcation project, and map accordingly those biological, human, socio-cultural, and geo-physical resources that directly relate to this objective. Land use, occupancy, and territorial demarcation maps will look different from one another. WHY and WHAT are intrinsically related.

- Due to historic human movements, political events (such as in Suriname a period of civil conflict), resource scarcities, and changing patterns of resource use, past and current settlement and occupancy areas differ. In mapping occupancy areas, people may want to include historic places of settlement and worship, even though other groups are living there at present. As a result, the development of land use and occupancy maps will raise questions of customary ownership and rights, and may create conflict between the different maroon and indigenous groups.
Demarcation in Suriname: How far are we?

3.1. Demarcation of tribal lands in historic treaties

When Europeans set foot on land in the Guianas by the mid-17th century, an estimated 60,000 to 70,000 indigenous people were living in the area that covers current Suriname. The colonists developed a plantation economy based on the forced, free labor of thousands of African slaves. As soon as these slaves arrived in Suriname, they started running off into the dense tropical forest, where they formed maroon communities. Thus, in the early 18th century, the Dutch shared the territory with both indigenous societies and maroon bands. The Maroons formed several larger and more stable societies by the 1700s.

Throughout the colonial period, indigenous and maroon groups fiercely fought for their right to live in freedom on, and use a part of, the land. The Kaliña, who had initially collaborated with the newcomers, started a guerilla against the colonial rulers in the coastal zone of former Dutch Guiana in the late 17th century, allowing more slaves to flee the plantations. Meanwhile the maroons, once organized, built well-defended enclaves in the forest. Their continuous attacks on plantations remained a source of fear and frustration. Unable to subdue them, the Dutch closed peace agreements with both indigenous and maroon groups, allowing the various groups to inhabit and use parts of the country that were not deemed interesting for plantations or European settlement (Buddingh’ 1995).

Reconciliation efforts with the Kaliña of the Corantijn and the Marowijne Rivers resulted in peace treaties with these two groups in 1680. Six years later, following more aggressive military attacks against the Kaliña in the Saramacca, Coppename, and Suriname River basins, the Dutch closed peace deals with the remaining indigenous groups. While it remains unclear whether these peace treaties were oral or written ordeals, they were taken seriously and considered binding for both parties. It is worth noting that peace treaties were never closed with the Trio and Wayana indigenous peoples of South Suriname. It was only in the 18th century that these groups migrated from Brazil across the Tumucumaque Mountains into Suriname. First contact with colonists did not occur until the 19th century and was inspired by curiosity (explorers) and missionary zeal rather than conquest.

The treaties with the coastal indigenous groups recognized indigenous societies as sovereign nations with the freedom to settle where they wanted and live according to their traditional customs. They mostly confirmed arrangements in earlier legal documents, such as the Capitulation treaty.
(Capitulatieverdrag, 1667) between the British and the Dutch and the Governmental Order of 1629 (Ordre van Regieringe), which explicitly recognized and guaranteed legal property rights for Indigenous Peoples. Because no written treaties have been found, we do not know whether any territorial boundaries were defined in these documents.

Almost a century later, peace treaties were signed with different Maroon societies, starting with the Ndyuka (or Aukaners), Saramaka, and Matawai Maroons in the 1760s. These peace treaties were renewed in 1830, and in 1860 the government signed a peace treaty with the Boni or Aluku. Peace treaties were never signed with the Kwinti and Paramaka. The Kwinti were too small in number to be a real nuisance, hence reducing the necessity to start negotiations with them. The Paramaka only became a formal group in the 19th century. Both the Paramaka and the Kwinti were recognized by the colonial government as independent maroon groups in the 1880s.

The first treaty with the Ndyuka (1760) states that these maroons could continue to live where they were living or elsewhere in the interior, as long as they would stay at least 10 hours of travel away from the plantation zone. The treaty also specified Ndyuka rights to use and sell forest products and wares made of them (e.g. boats). Treaties with the Saramaka (1762) and Matawai (1769) contained similar regulations on land occupancy and use. The renewed treaties (1830-1838) stated that each Maroon group had to stay where they are, and defined the territory for each one of the groups. These areas were:

- For the Saramaka: the Upper-Suriname River on a distance of at least two days boat travel from post Victoria
- For the Ndyuka: the village of Auka on the Suriname River, and
- For the Matawai, the Upper Saramacca River on at least two days boat travel from post Saron

The territory of the Kwinti’s was mapped and demarcated in 1894 (Kambel and MacKay 2003).

In their legal analysis of the rights of indigenous peoples and maroons in Suriname, Kambel and MacKay state that the dominant opinion –though not shared by the maroons- is that the peace treaties do not provide rights to the land, but rather tolerated their presence in the area where they were living at the time. Based on the fact that the various territories were defined and considering the wording in the treaties, the mentioned lawyers disagree with this view.

### 3.2. Inter-tribal customary territorial boundaries

Discussions about customary territorial boundaries with traditional authorities and community members suggest that indigenous groups view territorial demarcation differently from maroons. Historic forms of geopolitical organization and current pressure on available land explain many of these differences.

---

4 The demarcation was defined in a report of the land register W.L. Loth of 5 November 1894, included in the CAP Resolutie no. 8100, 24 November 1894 (see Schooltens 1994: 170 n147)
### 3.2.1. Southern indigenous groups

To southern indigenous peoples, territorial boundary is a rather fluid concept. Their perception on territory has likely developed from a history of living in small, (semi-)nomadic groups on abundant land. Before contact with colonists and missionaries, Amazonian indigenous groups lived in family-based bands, which regularly split up following internal conflicts or converged when this was favorable for warfare, hunting, or other reasons (ACT 2007). In this context of continuously changing living and user spaces, the Trio and Wayana of South Suriname did not develop a strong attachment to fixed territorial boundaries. Why should they, if the entire Amazon rainforest was theirs?

This sense of fluid boundaries is still noticeable among the Trio and Wayana. In a discussion with Wayana granman Nowahé and other community leaders, the traditional authorities conveyed that there is no real border between themselves and the Trio. Where the Wayana have old camps is generally considered Wayana area, but there is no closed frontier. A closed border would create problems, they argue, as members of the different indigenous groups travel, live, and use resources in one another’s area. Indeed, most southern indigenous villages have both Wayana and Trio inhabitants, in addition to families belonging to other groups, such as Apalai and Brazilian indigenous.

Wayana Kapitein A. illustrates this point with a story about his travel to St. Laurent (French Guiana) to cut stems for fishing poles. The border police stopped him, tied his boat, and asked him what side of the border he was coming from. Kapitein A. answered: ‘I am Wayana. Wayana do not have borders. Wayana do not have papers. Everywhere where I want to go, I go. We live like the peccaries that are roaming feely; do peccaries have documents?’ Then the border police told his fellows that they could loosen his boat and let him go. (Kapitein A., Apetina, February 3, 2009)

This is not to say that territory is not important to the Trio and Wayana. In the past decade, in response to increasing outside industrial interests in Trio lands, Granman Asongo Alalaparu has been encouraging his people to disperse again over a larger area. In order to mark the borders of the Trio territory, he has sent several of his kapiteins with their extended families from Kwamalasamutu to strategically located villages that mark the boundaries of the Trio territory: to Wanapan (1998) - also named Arapahtë pata after its kapitein and main family head-, Alalapadu (1999), Sipaliwini (2000), Kuruni (+ 2001-2), Kasuelen (Guyana; + 2002), Amotopo (2003), and Lucie (2004). Some of these places, such as Alalapadu, are old Trio settlements that either had been abandoned or had only a few people left. Others, such as Wanapan and Kuruni, are places where the Dutch colonial government was present in the 1960’s and ’70’s (ACT 2007).

### 3.2.3 Northern Indigenous groups

The Kaliña (also: Carib) and Lokono (also: Arowak) Indigenous peoples populate Suriname’s coastal plains. Like the southern Indigenous groups, these lowland indigenous groups do not seem to draw fixed boundaries between their respective areas. The Kaliña in Marowijne district were historically more likely to establish their communities along the sea coast, while the Lokono lived further land inward (CLIM 2006). Especially the Wanekreek watershed used to be an important settlement site for the Lokono. In the 1930’s, most Lokono left this creek and settled in the current Alfonsdorp and Marijkedorp. Nowadays, the two groups share one traditional living and user area in northeast
Suriname. This area is delineated by the Atlantic Ocean (north), the Armina falls (south), the Marowijne River (east; if only considering Suriname villages), and an imaginary line from the Armina falls to the fishing camp Waldi-kampu (west).

A similar situation exists in the central and western coastal area. In the coastal area between the Corantijn River (west) and the district of Para (east), the Lokono and Kaliña both have their villages, with the Lokono dominating in the west and the Kaliña being more numerous in the district of Saramacca (Wayambo and tibiti Rivers). Particularly in the district of Para, we also find maroon communities intermingled with the indigenous villages. We have not heard about conflicts about territorial boundaries in these areas.

3.2.3 Eastern Maroons

As compared to Suriname’s indigenous groups, the maroons attribute much more value to territorial borders. Their vision on territoriality may partly be attributed to their African heritage. In the slavery period, a vast number of smaller and larger centralized states had formed in West Africa. These states competed for better parts of the limited fertile lands, natural resources, and –later on- human slaves for trading. In this setting, territorial expansion and occupation was much more important than in Amazonia. For another part, the stronger emphasis on fixed frontiers may be a result of the larger population density in the areas where Maroons live today.

This sense of territoriality is most noticeable in the area where the Lawa, Tapanahoni, and Marowijne Rivers meet (Figure 3.1). Both the Paramaka and the Aluku complain that the Ndyuka, who originally lived primarily at the Tapanahoni River, are encroaching onto their territories and claiming parts of what they perceive to be their ancestral lands.

The Aluku, for example, claim that the traditional border between the Ndyuka and the Aluku is the confluence of the Lawa and the Tapanahoni rivers. In their view, the entire Lawa river –locally named Aluku liba (Aluku river)– is theirs, starting from the Pulugudu falls up to where the Wayana indigenous peoples live. The traditional system to demarcate one’s area is to establish camps along the borders, yet because the Aluku do not have many people they have not been able to do so. The Ndyuka, contrariwise, are with so many that they are slowly taking in more and more of the traditional Aluku territory. Hence in today’s understanding, Stoelmanseiland and Gonini mofo are Ndyuka territory.

The Ndyuka, on their turn, argue that the Aluku never occupied the lower Lawa River. In the mid-1900s, Ndyuka from the lower Tapanahony river (belo) started establishing agricultural camps along the Lawa river in agreement with the Aluku. Aluku Granman Defu († 1967), for example, gave the Ndyuka of the village of Tabiki⁵ permission to clear land for agriculture along the Gonini Creek. During the interior war (1986-1992), many belo-Ndyuka made these camps to their permanent homes. As French integration policies intensified and it became economically more attractive to be

⁵ Here I refer to the Ndyuka village of Tabiki along the lower Tapanahony river (see map 1). There also is an Aluku village bij the name of Tabiki across from the village of Cottica, in French Guiana, and a Suriname Aluku village by the name of Lawa Tabiki
French, there was little incentive for them to return to their villages in Suriname, where much infrastructure had been destroyed. Despite their permanent settlement along the Lawa River, current Aluku granman Adoichini is very clear about the status of the Ndyuka:

We lent the land to the Ndyuka so that they can eat, but we never sold it to them. The ancestors gave the Ndyuka permission to plant there, but now they are claiming everything; they are greedy .... The Ndyuka argue to us that the Lawa is their backyard (*baka goon*), saying that where you are is your property. ... [But] we will not sit down with the Ndyuka to divide the river. At the Lawa river they do not have their (traditional) hunting grounds. They have their own river; they are from the Tapanahoni. (Granman Adoichini, Maripasoela, 10 February 2009)

**Figure 3.1. Confluence of the Tapanahoni, Lawa, and Marowijne Rivers**

![Figure 3.1. Confluence of the Tapanahoni, Lawa, and Marowijne Rivers](image)

Source: adapted from the Suriname Plan Atlas 1988
Legend: 4=Ndyuka village or kampu; 5=Paramaka village or kampu; W=Wayana village or kampu

It must be noted that even though some Ndyuka settlements along the Lawa have grown very large (up to about 2,000 people in Grand Santi), these places never became ‘real’ villages. That is, they do not have a *faaga-tiki* (litt: flag stick; ancestral worship place) or a funeral home (*dede-oso*) – which are the two characteristics of real traditional villages. Because there is no close contact with their ancestors at the Lawa, the Ndyuka living here often return to their ancestral villages at the Tapanahoni River for important ceremonial events, such as burials, the *aiti-dei* (mourning period eight days after a death), and *puu-baaka* (formal ending of a mourning period). For the same reason,
the Lawa Ndyuka have not established many burial places along the Lawa River. The Ndyuka living at Grand Santi (FG) may bury their death at a local cemetery, but according to the Aluku this place is an ancient Aluku burial place. There is a burial place used by the Ndyuka near Gonini mofo, but only small children are buried here.

Elderly Ndyuka confirm that the area was originally Aluku territory. Yet youngsters, many of whom were born at the Lawa, feel that the Lawa River up to the village of Dagoe-ede is Ndyuka land. The fact that the French Government placed a border sign just upriver from Dagoe-ede at the Abunanu creek to delineate the border between the Commune of Grand Santi (a main Ndyuka settlement) and the Commune de Papaichton (a main Aluku village), only affirms their vision.

On the Marowijne River similar tension exists between the Ndyuka and the Paramaka. Like the Aluku, the Paramaka claim that the dividing line between the Ndyuka and themselves is Pulugudu falls (Figure 3.1). According to their ancient stories, the Paramaccans used to live at Pulugudu, but through time went further downriver. Because the Ndyuka are more numerous, they have been moving further and further down the Marowijne River. According to both groups, an oral agreement was made between the former granmans of the Ndyuka and Paramaka, allowing the Ndyuka to settle along the Marowijne river. It was clear though, that the area was given in lease and would not become Ndyuka property. Today Ndyuka are numerous at the upper-Marowijne river, primarily at Ampomatapu and surroundings. The Pedrusungu sula just downstream of the last Ndyuka settlement of Moisanti is today the practical border between the living areas of the respective tribal groups.

According to the Ndyuka, there is no proof that the Paramaka ever lived so far up the Marowijne River. They argue instead that the Paramaka Maroons currently live in an area that was ‘given’ to them by the Ndyuka, when the former were leaving their original settlements along the Paramaka Creek. Nevertheless, also along this river the Ndyuka do not establish ‘real villages’ with a faaga tiki. The Ndyuka do have about six burial grounds along the Marowijne but these are only used in special cases. Two of them are especially for small children, one for people that are somehow considered evil, and the remaining ones for people who for some reason cannot be buried at the Tapanahoni. Generally the contesting territorial claims are not a problem. For example, both Paramakans and Ndyuka can hunt and fish in the area between the Pedrosungo and Pulugudu sulas - though Paramaka will seldom go there. Ndyuka also are mining for gold in this area without paying to Paramaka, which they would do if they felt that the Paramaka had a strong claim to the area.

From time to time, the slumbering tensions between the Eastern Maroon groups surface. This occurred recently at the Grankreek, at the border of the Paramaka and Ndyuka settlement areas. This creek, which is rich in gold, has two side branches; one of which runs through the area claimed by the Ndyuka. Both Ndyuka and Paramakans are mining for gold here. Problems arose when a Ndyuka company Brothers Goldmining N.V. was granted a legal gold mining concession in the Grankreek watershed. Their application, which was signed by the District Secretary and the District

---

6 The Commune is a French geo-political region comparable to the Suriname resort

7 Even though Grand Santi is mainly inhabited by Ndyuka – in addition to some French, Brazilians, and others-, the Aluku maroons claim that the land on which this community was settled belongs to them.
Commissioner, stated that the area belongs to the Ndyuka and that the operation was endorsed by Ndyuka Granman Gazon. With their legal documents in hand, Brothers Goldmining N.V. now started to ask the Paramaka working on their concession for payment. The Paramaka refused, reasoning that the area belongs to the Paramaka people. In the end, the Ndyuka have recognized Paramaka rights to the area. The concession permit had to be withdrawn and the issue is still being discussed between Paramaka kapiteins and Brothers Goldmining N.V..

3.2.4 Central Suriname Maroons

Between the remaining Maroon groups – Matawai, Kwinti, and Saramaka- tensions as described above are rare or non-existing. This is not to say that these groups do not have a strong sense of customary territorial rights. In 2007, the Saramaka Maroons from the Upper Suriname River filed a case with the Inter-American Court of Human Rights to protest the violation of their traditional rights to ancestral lands (Box 1).

Box 1. Saramakan people to the Inter-American Court for Human Rights

In the mid 1990s, the twelve Saramaka clans filed a complaint with the Inter-American Commission on Human Rights against the violation of their customary rights. In their court case, the Saramakans protested the absence of rights to and protection of their ancestral lands in the Upper Suriname River region, which they still use for subsistence. A concrete threat to their livelihoods was the issuance of logging concessions to two Chinese companies to their lands belonging. Agricultural fields and shelters were destroyed by the Ji Shen and Tacoba firms without any proper compensation.

In November 2007, the Inter-American Court for Human Rights ruled in favor of the Saramaka people against the government of Suriname. In its landmark decision, the Court stated that ‘The State shall delimit, demarcate, and grant collective title over the territory of the members of the Saramaka people, in accordance with their customary laws.’ This title would include rights to decide about the exploitation of natural resources such as timber and gold within that territory. In addition, they were granted compensation from the government for damages caused by the Chinese logging companies, to be paid into a special development fund managed by Saramaka. To date, however, no such payments have been made.

Source: http://www.corteidh.or.cr/docs/casos/articulos/seriec_172_ing.pdf

Also the Saramaka (and Ndyuka) people living north of the hydropower lake have protested the granting of concessions to lands that they are using for their survival. Particularly the inhabitants of Brownsweg (Saramaka) and Koffiekamp (Ndyuka, but situated on Saramaka lands) are discontent with the way that the large-scale gold mining company Rosebel Gold Mines\(^8\) is obstructing local

\(^8\) Rosebel Gold Mines is a daughter company of the mining giant Iam Gold. The same concession was earlier in hands of Cambiar, and before that of Golden Star

14
people in their traditional livelihood and income generating activities. Violent protests have broken out more than once in the past decade between local small-scale gold miners associations (N.V. Gwotuman '94 of Brownsweg and Makamboa of Koffiekamp) versus Rosebel Gold Mines. At the moment (February 2009) independent facilitators are negotiating with both parties about how to make the situation livable. In the meantime NV Gwotuman '94 has filed a lawsuit against the large-scale mining company demanding compensation of destroyed property.

Also part of the Matawai traditional territory overlaps with the Rosebel concession. At the time of granting the concession, this created a lot of upheaval. Today a rather peaceful status quo has been reached between the company and the Matawai. The share of the lam gold concession that overlaps with Matawai lands is being supervised by a neighboring mining concession holder, named Sarafina (also known as Ms. Tony). The villagers are allowed to work the alluvial gold or close deals with others (i.e. Brazilians) to mine this gold against a fee. These fees are being deposited on the bank account of a village Foundation and used for village development projects or emergencies.

On part of the Matawai there is still much discontent about the fact that a large logging concession has been granted on their lands. Problematic is that former Granman Oscar Laflanti signed off on the deal in name of his people without proper consultation. The Matawai are angry that it was very easy for this large company to obtain a concession, while they have to go through a lengthy bureaucratic process to obtain and exploit a small-scale community logging license, the so-called HoutKap Vergunning (HKV). To date, only the village of Nieuw Jacobkondre has such a HKV and with the presence of the large logging concession, there is little room for other villages to obtain one.

With neighboring Maroon groups, conflicts over land are rare. Several Ndyuka communities are situated along the Sarakreek, on lands that are generally considered part of the Saramaka territory9. In the 1950’s, former Saramaka granman Aboikoni brought the matter to the attention of Ndyuka granman Gazon, and the two agreed that these village would fall under jurisdiction of the Saramaka granman. Some Ndyuka are of the opinion that the Sarakreek is actually Ndyuka land, because the Ndyuka moved from that area to their current living area. Long ago, when the Ndyuka settled along the Sarakreek, no-one was living there, they say. Despite these conflicting views, we have not heard of tenure conflicts between the Saramaka and the Sarakreek Ndyuka. Members of the latter group are typically just considered as a special group of locals.

Also between the Saramaka and the neighboring Matawai relations are good. The border between these two groups is formed by the division of the watersheds of the Saramacca River (Matawai) and the Suriname River (Saramaka). Saramakans will not easily make a fuss when a Matawai hunts in their territory, and vice versa. There is still a lot of wildlife for few people. Occasionally there have been complaints when people from Pokigron and surroundings (Saramaka) come to the Kleine Saramacca River (Matawai area) to hunt, but generally problems do not arise. The Matawai accept that the Saramaka people are more numerous and may need to occasionally enter their lands to find food.

---

9 Some argue the villages of Boslanti, Tapuripa, Companiekreek, Lebidoti, en koffiekamp were established along the Sarakreek in the early 20th century; others believe it was much earlier, around the end of the 18th century, that the Ndyuka settled in these places.
In the middle of the nineteenth century, the Kwinti people also lived for a while along the Saramacca River, near the Matawai villages. They were formally being governed by the Matawai granman. Most of them eventually left this area and after a period of wandering settled along the Coppename River, where they now live in the villages of Witagron and Kaimanstion. Being with few people and having no close neighbors, territorial conflicts with other groups are not an issue. The group has voiced protest against establishment of the Central Suriname Nature Reserve, which overlaps with the lands they traditionally use for subsistence.

3.2.5 Maroons and Indigenous Peoples

Conflicting interests about land between Maroons and Indigenous groups are virtually non-existent in South Suriname but do surface in the coastal area.

In the South, the Wayana living areas border those of the Aluku of the Lawa, and the Ndyuka of the Tapanahoni. Aluku Granman Adoichini explains about this relation: ‘We (Aluku) and the Indigenous people understand one another well. Neither one of us can claim that the river is exclusively ours; it is of both of us.’ (Granman Adoichini, Maripasoela, 10 February 2009). Occasionally there are tensions with small-scale gold miners going up the Lawa river to work in Wayana territory. Typically though, these cases are peacefully resolved.

The Wayana living on the Tapanahoni argue that they lived along the Tapanahoni River before the Maroons settled here, but indicate that they do not have any problems with their Ndyuka neighbors downriver. Typical is Wayana Granman Nowahé’s memory of his discussion with Ndyuka Granman Gazon about the borders between their territories. According to Nowahé, it was Ndyuka Granman Gazon who decided that the border should be at the Doemasingi sula (falls). From these falls upriver belongs to the indigenous peoples and the Ndyuka will not establish their camps beyond Doemasingi sula. Granman Gazon also decided that the Pimba creek, a Ndyuka ancestral place near the Wayana settlement of Tutu kampu, should be accessible to both groups. Wayana granman Nowahé apparently never questioned the authority of the Ndyuka granman in deciding upon these matters.

Yet, the Wayana do not attribute much importance to a fix frontier with the Ndyuka. There also is little need to do so as in practice, Ndyuka will not easily travel this far upriver to cut ground. Meanwhile the Wayana can go hunt and fish in Ndyuka area freely. They would not be able to have an agricultural plot there but there is also little reason to do so as land is abundant.

At the coast, especially in Marowijne district where land is less abundant territorial boundaries are more contested. At the time of colonization, the current district of Marowijne was inhabited by Kaliña, Lokono and Warou indigenous peoples (SOFRECO and NIKOS 2007). In the 18th century, bands of runaway slaves were hiding out and attacking plantations from the Cottica River region. These bands, which later formed part of the Ndyuka maroons, settled here by the mid-18th century. Today Ndyuka dominate the population in the district and consider the Cottica region as part of their ancestral lands.

The mingling of indigenous and maroon peoples in the area usually does not constitute a problem, as the various ethnic groups are used to living alongside one another. In mapping and talking about
rights to land, however, relations may become tense. One example is the current discussion about execution of the Moiwana court ruling (Box II). In this case, the Inter-American Court determined that the Moiwana community should obtain property rights to the traditional territories from which they were expelled. Indigenous inhabitants of the area, however, argue that the territories from which the inhabitants of Moiwana were expelled were never part the traditional Ndyuka territory but are Indigenous lands. The Lokono had given the Ndyuka permission to settle here and feel it is unjust that the Maroons are granted rights to the Wanekreek area while they are not. Even members of the Ndyuka community confirm that technically, the Wanekreek watershed is indigenous territory.

Box II: The Moiwana Case

On November 29, 1986, members of the armed forces of Suriname attacked the Ndyuka Maroon village of Moiwana. Militaries allegedly massacred over 40 men, women and children, and burned the village. Those who escaped the attack fled into the surrounding forest, and then into exile or internal displacement. In 1997, a petition was filed with the Inter-American Commission for Human Rights. As the government of Suriname neglected Inter-American Commission requests for investigation and compensation, a court case against the State of Suriname was filed with the Inter-American Court of Human Rights (IACHR) in 2002.

In June 2005, the IACHR ruled in the Case of Moiwana village, among others, that the State of Suriname must investigate the case, offer a public excuse, build a memorial for the victims, pay compensation for moral damages, and establish a community development fund. The Court also ordered that: ‘The State shall adopt such legislative, administrative, and other measures as are necessary to ensure the property rights of the members of the Moiwana community in relation to the traditional territories from which they were expelled, and provide for the members’ use and enjoyment of those territories. These measures shall include the creation of an effective mechanism for the delimitation, demarcation and titling of said traditional territories,’ [my emphasis]


3.3. Existing maps

There are currently 6 organizations that are or have been making (participatory) land use and occupancy maps indigenous and maroon territories, namely: Amazon Conservation Team-Suriname (ACT-Suriname), Pater Albrinck Stichting (PAS), Vereniging van Inheemse Dorpshoofden Suriname (VIDS), Vereniging van Saramakaanse Gezagsdragers (VSG), Tropenbos Suriname, en Conservation international. Table 3.1 provides an overview of these organizations, the peoples and areas they have mapped, year of production, and availability of the maps.
Recently (February 2009), ACT-Suriname has started to work with the various interior peoples living in tribal societies to produce living and user maps of all Indigenous and Maroon groups in Suriname. This work is part of a consultation assignment from the Ministry of Regional Development of the Government of Suriname, entitled ‘Collective Rights’, which in turn is one element of the broader project ‘Support for Sustainable Development of the Interior’. The different maps, as well as a map covering entire Suriname, are expected to be completed by September 2009.

Table 3.1. Existing living and user maps of indigenous and maroon communities in Suriname

<table>
<thead>
<tr>
<th>Organisation</th>
<th>People</th>
<th>Area/Communities</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACT-Suriname</td>
<td>Trio</td>
<td>Southwest Suriname; Corantijn River, Lucie River, Kuruni River, and Sipaliwini River watersheds</td>
</tr>
<tr>
<td>ACT-Suriname</td>
<td>Trio and Wayana</td>
<td>South-Central Suriname; Upper-Tapanahoni River watershed</td>
</tr>
<tr>
<td>ACT-Suriname</td>
<td>Wayana</td>
<td>Upper Lawa River watershed</td>
</tr>
<tr>
<td>PAS</td>
<td>Ndyuka</td>
<td>Marowijne district: Cottica River area</td>
</tr>
<tr>
<td>CI</td>
<td>Saramaka</td>
<td>Central Suriname Nature Reserve; [Pikin-lō/Gran-lō?]</td>
</tr>
<tr>
<td>VIDS</td>
<td>Lokono</td>
<td>North-West Suriname</td>
</tr>
<tr>
<td>VIDS</td>
<td>Kariña and Lokono</td>
<td>Lower Marowijne, incl. Wanekreek watershed</td>
</tr>
<tr>
<td>VSG</td>
<td>Saramaka</td>
<td>Upper Suriname River, Pikin lō, Gran lō</td>
</tr>
</tbody>
</table>

3.4. Inner-tribal customary boundaries

The tribal areas of the various maroon groups are subdivided in smaller segments. These subdivisions are based on membership of a certain lo (Saramaka: lō)- a matrilineal descent group or matriclan-, a village, or a combination of the two. The exact definition of lo differs slightly from tribe to tribe. Among the Ndyuka, it generally refers to the descendants of small groups of runaways from the same plantation (De Groot 1977). Among the Saramaka, the lō is a group of relatives who are descendants of an apical ancestress. In both cases, lō/łō typically derive their names from the plantation from where the people had runaway, or its owner. Among the Matawai, inner-tribal territorial boundaries are based on village membership, not the lo.

Clan and village land boundaries are usually based on natural markers such as watersheds, and dictate where one can or cannot cut agricultural land and use other resources. Rights to this land are inherited through the female lineage, though among some groups the father-line also may provide certain resource rights. In order to cut a tree to make a boat, search roof material for a camp, or to cut a field on the land of another lo, one needs to formally ask permission from the kapitein of that lo or village. Clan land, in turn, is parcelled out to its constituent family groups or bee.

While some lo or villages may be rather flexible in allowing other tribal members to hunt or collect forest products in their area, in other cases these dividing lines are more strictly applied. The latter is especially the case in the coastal area, where land is less abundant and competition for resources stronger. Recently in the Cottica Ndyuka area, for example, a kapitein of one village confiscated the
bundle of kumbu (palm fruit) that had been gathered by a boy from the neighboring village in his area. In yet another case, the kapitein of a Cottica village confiscated the agouti that had been shot by a young man; the kapitein and the hunter were from the same lo, but not from the same village.

Indigenous communities do not have such strong inner-tribal territorial divides. According to the Wayana authorities of Apetina, the Wayana area is not subdivided in clan or family areas. They conveyed that any Wayana can go where he wants to cut agricultural land. It does not depend on where your family cut before, nor does one need to ask permission from the traditional authorities. Only if someone from outside would come, he or she needs to ask.

The Trio, by contrast, do allocate land according to a family-based system, which determines where one can plant, collect roof material, or cut a tree to make a boat. These areas tend to be not as precisely demarcated as among the various maroon groups though. The kapitein of Têpu explained that village people living in different sections of town will plant in different areas around the village. These land-allocations are transferred though the female lineage. Also in Kwamalasamutu, family-based land allocations determine where one can cut an agricultural field. Likewise the newer satellite villages, such as Wanapan and Sipaliwini, are composed of kin groups. To take a pineapple, sugar cane, or cassava root from someone else’s land would be impolite. However, if you cannot find the resource you need on your own land, you can ask the other family to take it from their land. Hunting and fishing can be done throughout the area.

Among the Kaliña and Lokono of the Lower Marwowijne river, each village has an own hunting zone behind the village and each hunter knows the boundaries of this area (CLIM 2006). These village-based hunting zones are based on informal agreements and in principle indigenous people can hunt where they want. In practice, hunters generally do not traverse the hunting zone of another village because distances are long and they could get lost in an area they are not familiar with. Also for practical reasons, agricultural lands are typically located close to the villages.

3.5. Lessons learned from Suriname

- The boundaries of the various indigenous and maroon territories have never been properly demarcated or defined by national authorities. The colonial treaties do speak about maroon living areas but these areas are not clearly defined and do not reflect current living and user areas.

- Indigenous peoples—particularly those from south Suriname- and maroons have very different perspectives on territoriality, whereby the maroons attribute much more importance to fixed borders than indigenous peoples do. These differences must be taken into account in any demarcation exercise in the Suriname interior.

- The various maroon groups have a very clear vision of the borders of their respective territories, and are adamant about their customary rights to these areas. Unauthorized infringement upon their territories by members of other maroon groups and industrial interests has led to conflicts and violent protests.
Highland indigenous groups do recognize and actively mark the borders between their areas as opposed to those of non-indigenous peoples (maroons, government, industry). Between themselves, however, they prefer open borders that allow people from the different indigenous groups to live, plant, and hunt in the village areas pertaining to other indigenous groups.

To date, traditional authorities and customary rules remain effective in averting land and resource conflicts and in resolving such conflicts if they do occur.

Demarcation of lands and clarity about the rights and obligations of local people within those territories will many problems between traditional societies and concession holders that are now plaguing the Brokopondo area. It also will deter indigenous and maroon groups from filing cases against the state of Suriname with the Inter American Court of Human Rights. Such court cases cost the state of Suriname a lot of resources and damage its international reputation.
4. Cases of demarcation I: Latin America

4.1 Brazil

4.1.1 Introduction
A significant 11.13 percent of Brazilian territory is indigenous land (94,701,113 ha), and Brazil's Constitution of 1988 provides far-fetching protection for its indigenous peoples. Still, about 45 percent of these indigenous lands are not yet demarcated and vulnerable to both intrusion and expropriation. The undefined nature of land rights regularly creates conflicts over land between indigenous peoples, typically supported by NGOs, and the agrarian sector, which oftentimes may count on the support of the local and regional government (Van der Mark 2006). Farmers and other non-indigenous inhabitants of states where many indigenous peoples reside (e.g. Amazonian states) generally find that too much land is reserved for a few indigenous folks who do not develop their land nor contribute to the Brazilian economy. Meanwhile farmers, in their vision, work hard to feed the Brazilian population and promote development. Encounters between different stakeholders have repetitively become violent and taken lives. 

The long-term conflict involving the Terra Indígena (indigenous territory, TI) of Raposa Serra do Sol (the Land of the Fox and Mountain of the Sun), home to five different indigenous groups, is but one example of the precarious legal status of TIs, and the complications that arise in their demarcation and titling. Even though the National Foundation of Indigenous Peoples (Fundação Nacional do Índio, FUNAI), in 2005, formally legitimized the status of Raposa Serra do Sol as an indigenous reserve, protests by farmers and regional government officials have opened the case for re-discussion of the reserve boundaries. The Brazilian High Court is expected to take its final decision about the legality of Raposa Serra do Sol in December of 2008.

4.1.2 Indigenous rights to land in Brazil
Indigenous peoples in Brazil may count about 180,000-350,000 people, divided over some 200 different ethnic groups. While the largest groups, such as the Yanomami and Guarani, count several tens of thousands of people, almost three quarters of groups have less than 1000 members left.

In Brazil’s Civil Code, indigenous peoples do not qualify for full citizenship but rather have been classified as having ‘relative legal capacity’ (Hutchinson 2005:9). In order to ‘protect them from harm’, indigenous individuals are not allowed to travel abroad, obtain a passport, enter contracts, or start a business without permission of the Funai, under whose guardianship they have been placed. Because of their special status as civil minors and their formal ‘inability to be part of modern society’ (ibid: 16), Indigenous people retain exclusive rights to their traditional territories. Indigenous individuals who opt for gaining full citizenship are no longer limited by the various restrictions placed on civil minors, but thereby also lose rights to ancestral lands.

10 ISA 2008
In 1988, Brazil adopted a new constitution, which acknowledges in article 231 the pre-existing rights of indigenous peoples to ‘lands, traditionally occupied by them and permanently inhabited, which are used by them for their productive activities, and which are indispensable to the preservation of natural resources that are necessary for their well-being and for their physical and cultural proliferation, according to their customs and traditions’\textsuperscript{11}. The land remains vested in the state (hence no property), but indigenous peoples have exclusive usufruct rights to the land and ‘riches of the soil, the rivers and the lakes existing therein’ (Art. 231.2). The Brazilian state obliged itself to ‘demarcate, protect, and guarantee respect for’ these lands and other material and immaterial resources pertaining to indigenous peoples. The rights to the mentioned lands are inalienable, exclusive, and imprescriptible. The state maintains its right to ‘authorize, in indigenous territories, the exploration and use of hydraulic resources, and the search and exploitation of mineral resources’ (Rep. Fed. do Brasil 1988, Art. 49) – though in these cases special conditions will be considered (Ibid, Art 176).

A special legal act related to the Constitution further declares in Article 67 that: ‘The Union shall conclude the demarcation of the Indigenous lands within five years of the promulgation of the constitution’\textsuperscript{12}. More than 15 years later, however, about 45 percent of indigenous territories had not yet been demarcated\textsuperscript{13} (Figure 4.1).

Figure 4.1 Status of indigenous territories in Brazil as of 2004

The demarcation and registration of indigenous lands formally has to start with the definition and declaration of indigenous territories. The second step is demarcation. Once this is completed, lands

\textsuperscript{11} Constituição da República Federativa do Brasil 1988, Art 231.1

\textsuperscript{12} Ato das disposições constitucionais transitórias (1988)

\textsuperscript{13} Hutchinson 2005
are homologated (approved by the president) and registered at a title registry office. Demarcation, or defining the size and boundaries of traditional homelands, occurs through anthropological research. After a consultation round FUNAI will draft a legal proposal, which has to be ratified by the president. The 1988 constitution prescribes that after official recognition of the boundaries, all non-indigenous peoples need to leave the territory. The rights of these third parties to indigenous lands are automatically annulled (Art. 231) and compensation only provided for improvements made in ‘good faith’, that is, without prior knowledge of indigenous interests in the area (Hutchinson 2005:19).

In 1995, a cattle farmer brought a case to court in defense of his property rights to lands that were claimed by indigenous peoples. The Cardoso government considered that to automatically annul the rights of third right parties was indeed unconstitutional and, in 1996, signed Presidential decree 1776/96. This Decree 1776 declares that all demarcated territories that have not yet been registered in the land registry may be challenged by third parties who have interests in that land. Shortly after the decree was issued, about 800 appeals were received, of which half were considered. Eight territories had their demarcation altered or removed altogether (Hutchinson 2005:14). In addition to making indigenous land rights less certain, Decree 1776 has increased the cost of demarcation and slowed down the registration of demarcated indigenous territories.

### 4.1.3. Raposa Serra do Sol

Raposa Serra do Sol contains an area of 1.7 mln ha in the state of Roraima, along the borders with Venezuela and Guyana. About 18,000 indigenous persons of the Macuxi, Wapichana, Patamona, Ingaricó and Taurepang ethnic groups live in the reserve, along with non-indigenous inhabitants. The latter includes a group of large rice farmers and their employees, who live in separate villages. The struggle for land in this area has been ongoing for more than 30 years, during which the indigenous population fought (physically and administratively) against garimpeiros (small-scale gold miners), large-scale cattle holders, rice farmers, and related community members.

In the past years, large rice farmers have been the main opponent of the Indigenous Reserve. They demanded that the boundaries of the in 2005 officially recognized TI would be redrawn in order to create smaller ‘demarcation islands’ rather than one continuous indigenous territory. Fazendas (large-scale agricultural enterprises) and tourist attractions could hence be excluded from the reserve and accessible to non-indigenous people. They were supported by the governor of Roraima, who perceived the establishment of such a huge reserve a barrier to sound regional economic development.

### 4.1.4. Demarcation of Raposa Serra do Sol

Efforts to demarcate the indigenous lands of Raposa-Serra do Sol date back to 1919, when the Department for the protection of indigenous peoples (Serviço de Proteção ao Índio -SPI) starts the physical demarcation of the area between the Surumu and Cotingo rivers, which had earlier been recognized as being the customary lands of the Macuxi and Jaricuna indigenous peoples. This project remains uncompleted.
Almost 50 years later, FUNAI installs an inter-ministerial working group (Grupo de Trabalho-GT) to identify the limits of the *Terra Indígena (TI)*. This group does not come to a conclusive decision. Two years later, in 1979, another GT is created and, without anthropological or historical studies, proposes the provisional demarcation of 1,34 mln ha. Yet another GT for demarcation follows in 1985. This group identifies five contingent areas (Xununuetam, Surumu, Raposa, Maturucu and Serra do Sol), totaling 1,57 mln ha. In 1988, a next inter-ministerial GT completes the territorial and cartographic surveys without reaching a conclusion about connecting the different areas (ISA 2008). In 1993 Funai formally establishes the TI as a continuous Indigenous Territory of 1,67 mln ha. It provides a description of the area and geographic coordinates of the proposed perimeter for demarcation.

The process towards final registration is interrupted in 1996, when President Cardoso signs Presidential decree nº 1775, allowing third parties to contest demarcated TIs. Immediately after, non-indigenous inhabitants of the area and the government of Roraima submit together 46 claims, contesting the TI Raposa-Serra do Sol. The Minister of Justice rejects these contesting claims, but proposed a reduction of about 300,000 ha, which would exclude old miners’ villages, roads, and *fazendas* (large-scale farms) that have formal title. This decision would divide the area in five parts. In 1998, this decision is again overruled by a new Minister of Justice, who declares the TI Raposa-Serra do Sol the permanent property of indigenous peoples, in one continuous area.

In response, the governor of Roraima takes the case to the High Court of Justice, where his request to reconsider the demarcation is rejected, in 2002. In order to secure title, the indigenous support group *Coordenação das Organizações Indígenas da Amazônia Brasileira* (Coiab) launches a campaign for homologation of Raposa-Serra do Sol (2003). This action sparks a counter action by other indigenous organizations, who find that the titling of this TI as one continuous area is not in the interest of all indigenous peoples in the area. In early 2004, the protests of rice farmers and indigenous groups become intimidating and violent. Meanwhile Funai files a formal complaint with the Supreme Federal Tribunal against two communities that have been established in the area after demarcation.

The struggle continues the next year primarily on a juridical level, and is ultimately decided in favor of the Indigenous groups of Raposa-Serra do Sol. In April 2005, President Lula homologates the demarcation of the TI. The decree secures also support from the armed forces and the federal police for the maintenance of public order and protection of the constitutional rights of the indigenous groups. The decision is not taken well by the counter-parties, which again react with protests and violent actions such as hostage taking, road blockades, the armed invasion of an indigenous community, and arson (2005/6). In order to entice the farmers to leave, a progressive compensation package is assembled, which gives farmers rights to, among others, a compensatory piece of land. The majority of farmers accept the offer and leaves. A small group of about 10 *fazenderos* and their employees and followers refuses to leave.

In 2006, the conflict is again taken to the juridical level, as the lawyer of the contesting parties questions the anthropological work that informed demarcation; two rice cultivators file a case with the Federal Court to maintain their presence in the TI; and the governor of Roraima asks the Federal Supreme Court to withhold the expulsion of non-indigenous inhabitants until the legitimacy of the
demarcation is decided upon in Court. The latter request is denied. In the following years, the federal police is sent in on different occasions to remove the settlers. The contesting party, in turn, takes these actions to Court as being unconstitutional. The armed forces refuses to support the expulsion.

At last on March 19 2009, after more than 30 years of struggle, the Brazilian Federal Supreme Court recognizes the constitutional legality of the demarcation of Raposa-Serra do Sol as one continuous area. The Court establishes in its historic judgment that the indigenous peoples have the exclusive, imprescriptible and unalienable right to occupy and use the land in the territory\(^{14}\). It summarizes the ruling in nineteen conditions that will serve as a guide for ongoing and future demarcation processes and disputes\(^{15}\). These conditions define, among others, what the indigenous title rights do and do not entail; procedures for land management; and arrangements for non-indigenous visitors to the area. They include certain restrictions on land and resource rights, which continue to be subordinated to the public and national security interests, and exclude rights to certain resources (e.g. hydropower potentials) and defined activities (e.g. small-scale gold mining). On the other hand, the Court secures far reaching protection of indigenous rights by prohibiting non-tribal peoples to hunt, fish, collect fruits, or practice agricultural activities in the reserve area. By May 2009, most rice growers and cattle ranchers have started to leave and a few families have been given a ten extra days to harvest their rice.

**4.1.5. Lessons learned from Brazil**

- General legal acknowledgement of indigenous rights to traditional lands in either the constitution or national laws is no guarantee for adequate protection, without the precise demarcation and titling of these lands.

- Even demarcation and even titling of indigenous lands may not provide adequate protection against intrusion and expropriation if powerful political and economic interests are at stake.

- Indigenous protected lands do not need to be confined to one indigenous group, but could host different groups.

- The demarcation and titling process needs to include measures to deal with non-indigenous peoples who reside or have interests in (parts of) the indigenous territory. Such measures may include continued residence in the indigenous territory or compensatory measures.

- Particularly in areas with multiple contested interests, land demarcation is likely to create conflict and will be extremely time consuming and costly.

---


\(^{15}\) See for these conditions : [http://www.amazonia.org.br/noticias/noticia.cfm?id=304370](http://www.amazonia.org.br/noticias/noticia.cfm?id=304370)
4.2 Nicaragua

4.2.1. Introduction

The case of the Mayangna (Sumo) Indigenous Community of Awas Tingni of Nicaragua has gained fame as the first case brought before the Inter-American Court on Human Rights to address the property rights afforded to indigenous populations in the Americas. The Awas Tingni community prosecuted the Nigerian state for its failure to respect and protect their use of, and customary rights to, their communal lands. The Awas Tingni won the case, and the government of Nigeria was summoned to demarcate and title their lands. Even though, due to lingering on side of the government, the communal lands of the Awas Tingni are still not defined or registered, we include this case because it explains (1) how the Inter-American Court may assist indigenous groups in the process towards demarcation and legal recognition of indigenous lands, and (2) what the meaning and consequences are of a court ruling. In Suriname, the Saramaka maroons of the Upper-Suriname River en the Ndyuka maroons of Moiwana filed and won cases that were brought to the Inter-American Court, and various indigenous groups are considering doing the same.

4.2.2. Indigenous rights to land in Nicaragua

Indigenous customary forms of property are recognized explicitly and unconditionally by the Political Constitution of Nicaragua. The Nicaraguan constitution ‘recognizes the existence of the indigenous peoples that enjoy the rights, duties and guarantees allocated in the Constitution . . . [and] the communal forms of property over the lands of the Communities of the Atlantic Coast. Equally, [the state] recognizes the possession, use, and enjoyment of the waters and forests of its community lands.’ Nicaragua ensures to these communities the enjoyment of its natural resources, the effectiveness of its forms of community property, and the free choice of its authorities and representatives.

The Nicaraguan Statute of Autonomy for the Regions of the Atlantic Coast of Nicaragua (Statute of Autonomy), based on these articles of the constitution, defines community property as ‘the lands, waters and forests that have belonged traditionally to the communities of the Atlantic Coast.’ Through the Nicaraguan constitution and the Statute of Autonomy, the Nicaraguan legal framework incorporates the notion of property ownership based on the customary system of land use and possession that has historically or traditionally existed among the indigenous communities of the Atlantic Coast.

4.2.3. The Awas Tingni

The Awas Tingni, an indigenous community of approximately 630 individuals, have occupied land on the Atlantic coast of Nicaragua for many generations. Since the 1950s, the tribe has requested that the Nicaraguan government demarcate the lands belonging to the country’s indigenous populations, which never occurred.
In May 1996, the Nicaraguan government granted a Korean company a nearly 62,000 hectares timber-cutting license in tropical forests belonging to the Awas Tingni community. The indigenous tribe was not consulted prior to the negotiation of the timber contract. Opposing the intervention in their land, the Awas Tingni community twice filed a complaint to the Nicaraguan Supreme Court (November 1996 and May 2007). While the first complaint was rejected without explanation, the second writ was ruled in favor of the Awas Tingni, and the Nicaraguan Supreme Court declared the timber license void. Although the government was required by Nicaraguan law to comply with the Supreme Court’s decision within 24 hours, it did not take any measures to end the Korean logging operations until one year later (March 1998).

The Awas Tingni brought their case to the Inter-American Commission of Human Rights in October 1995, when the Nicaraguan government was beginning to negotiate the timber license with the Korean company. The Commission concluded that Nicaragua had violated the American Convention on Human Rights, a treaty Nicaragua ratified in 1979. Nicaragua was then granted a period of time to comply with the recommendations of the Commission, which included the demarcating the lands belonging to indigenous populations and the registration of these lands. Because Nicaragua did not comply with these recommendations, the Commission brought the case before the Inter-American Court of Human Rights (June 1998).

The main complaint before the Court was that Nicaragua failed to define the communal lands of the Awas Tingni, or the lands of other indigenous communities in Nicaragua. The government also failed to take effective measures to ensure the property rights of the Awas Tingni in their ancestral lands. These actions and omissions by the Nicaraguan government constitute violations of Nicaragua’s Constitution as well as of various Articles of the American Convention. On August 31, 2001, the Inter-American Court issued its judgment in the case of the Mayagna Awas Tingni Community v. Nicaragua, stating that 1) the Awas Tingni Indian community in Nicaragua has collective rights to their traditional lands, natural resources, and environment; 2) the government of Nicaragua must demarcate and title Awas Tingni lands and provide a process for the demarcation of all indigenous lands in Nicaragua within 15 months, 3) Nicaragua invests, within 12 months, $50,000 in works or services for the benefit of the community, to be carried out within 20 month of time, and 4) the Government pays the legal costs incurred by the community, within six months.

Upon passing of the deadline for the implementation of the Awas Tingni judgment on December 17, 2002, the Indigenous Community of Awas Tingni filed suit in a Nicaraguan appeals court to force the government of Nicaragua to follow through with the Court’s ruling. After more international pressure, among others by the Inter-American Commission of Human Rights, the UN Special Rapporteur on the Situation of the Human Rights and Fundamental Freedoms of Indigenous Peoples, and the UN Committee on the Elimination of Racial Discrimination, the government of Nicaragua has started to take measures towards the demarcation and registration of indigenous lands. Still even in June of 2008, the community had still not received title to its land and brought the government of Nicaragua once again to court for failure to execute the ruling. In the mean time, the community itself had demarcated its lands.
4.2.4. Demarcation of Awas Tingni Lands

Upon the judgment by the Inter American Court, the Government met with representatives of Awas Tingni to set up two commissions to carry out the decision. The first was to carry out all works and services ordered to be undertaken. The second was concerned with carrying out the process of demarcation and transfer of title.

Before any demarcation activities could take place, the Awas Tingni community had to settle an overlap claim by a block of three neighboring Miskito Communities. The Awas Tingni initially rejected the decision by the intersectoral commission on competing title claims. To resolve the dispute, the Government submitted the case to the autonomous Regional Council of the North Atlantic Region for adjudication, which issued a decision on February 2007, ratifying the decision of the federal commission, clarifying the overlapping claims.

Following the termination of the conflict resolution stage by the February 2007, a previously insignificant and unsubstantiated land claim was asserted by a second block of neighboring Miskito communities, the Diez Comunidades. Nicaragua’s Land Administration Project’s (PRODEP) insisted that Awas Tingni and neighboring Diez Comunidades initiate a new conflict resolution stage to address this claim. Even though several government officials, including those within the Regional Development Council, expressed that they did see no basis for the Diez Comunidades claim, the February 2007 Resolution could still not be carried forward.

In that same year, the Awas Tingni Community was able to get support for its land demarcation efforts from the Regional Development Council of the Caribbean Coast. This institution carried out the first stage of boundary-marking, which was completed on July 18, 2007. In that same month, the process of demarcation was started on part of the intersectoral commission. In February 2008, 12 markers had been placed and 23 were still to be placed. The final stage of boundary-marking, however, leading to actual land titling, never took place. Since then, Awas Tingni has been told that its land title was scheduled to be issued in October 2007, November 2007, and then December 2007. Yet to date Awas Tingni remains without title to its lands.

4.3.1. Lessons learned from Nicaragua

- General legal acknowledgement of indigenous rights to traditional lands in either the constitution or national laws is no guarantee for protection, without the precise demarcation and titling of these lands (See also Brazil).

- Even formal titling does not prevent the legal or allowed superimposition of private mining or logging rights on top of indigenous territorial rights.

- Filing a complaint with the Inter American Commission for Human Right may be an effective way to enforce the government to take action. One has to take into account, however, that the process is lengthy and that the government cannot be forced to submit to the ruling.
• Indigenous peoples do not have to await their government in order to make land use and occupation maps, marking the boundaries of their territories. Doing their homework by producing maps may speed up the process. Various international institutions may help therein by providing funding and practical expertise.

• One of the first steps in demarcation should be to identify and settle overlapping land claims through a mediation process. Potentially conflicting boundaries should be researched in every place where the territories of two indigenous groups border one another, or where these groups have mingled. Examples in Suriname would be the lower Marowijne river (Ndyuka and Carib), the Lawa river (Aluke and Wayana), and the area around the Brokopondo lake (Ndyuka and Saramaka).
4.3 Colombia

4.3.1. Introduction

This section focuses on Colombia, which in its 1991 Constitution and an amendment known as Law 70 (1993), recognizes the rights of indigenous peoples and black rural communities to communal lands. These legal documents not only changed the law, but also symbolize a changing attitude towards indigenous and Afro-Colombian communities. Instead of portraying Colombia as a place of mestizaje, where different cultures have mingled to become one, the country now emphasizes its multiethnic and multicultural character and subsequent differences in civil rights. This attitudinal change provides an interesting model in the context of Suriname, where one still hears urban residents comment that the government must treat all Suriname citizens equally. Hence, is the argument, if land is to be ‘given away’ to indigenous and maroon tribal groups, also Hindustani, Creole, Javanese, and other ethnic groups should receive land allotments.

Colombia also provides an interesting model because it, like Brazil, legitimizes ancestral and communal rights to land for both indigenous and African-decent communities. Unlike in Suriname and Brazil, however, Colombia does not require a maroon heritage to be considered a ‘traditional community’ with ancestral and cultural ties to the land. Rather it suffices to share a common culture, history, customs, identity, and collective ownership of land.

4.3.2. Indigenous and black community rights to land in Colombia

About 600,000 Colombians are indigenous. Already by the end of the sixteenth century, the Spanish colonial government administered limited rights to lands to the various indigenous groups it encountered in the form of resguardas. Through resguardas, the government organized and maintained its patronage relationship with indigenous groups, who were allowed to use the land but could not sell it. In 1890, indigenous peoples were formally given the right to possess collective property and elect tribal councils (cabildos) for its management.

As land pressures increased in the 20th century, encroachment of large land holders onto resguardo lands accelerated, without much opposition from the government. In response to national and international pressure, the 1991 Constitution and related legal measures formalized protection of the inhabitants of resguardas, stating that:

The establishment of indigenous territories shall be subject to conditions set in the Organic Law of Territorial Legislation, and its demarcation shall be executed by the National Government, with participation of representatives from the indigenous communities, following the concept of the Commission for Territorial Legislation (Art. 329).

It also declared that the resguarda lands are collective property and inalienable. Colombian legislation guarantees indigenous communities right to the usufruct of renewable natural resources found in their territories, as long as these resources are used without harm to their cultural, social, and economic integrity. Such use is supervised by indigenous inspectors of the natural resources, which have been functioning since 1987. Subsoil resources remain property of the State, though
consultation with the indigenous peoples must be carried out before any exploitation of those resources takes place. Government of the resguardas was placed in the hands of councils established according to traditional customs.

The National Commission on Indigenous Territories (under the Ministry of Agriculture and Rural Development) was created in 1996 to ‘coordinate the programming of the annual actions of constituting, expanding, restructuring, and securing clear title to resguardos.’ In that same year, the Government of Colombia installed the Commission on Human Rights of the Indigenous Peoples (under the Ministry of Interior) with broad representation of State agencies and indigenous organizations. In 1993, there were 302 resguardos, totaling 26 million hectares and providing a home to 310,000 indigenous persons. In 2003, the number of resguardos had increased to 1,072, hosting 83 indigenous groups and covering 24% of the national territory. There are also 19 reservas indígenas, which house and provide subsistence to 1,535 families.

Today indigenous peoples, who represent 2 percent of the national population, have received titles to territories corresponding to about one third of the national territory (Jensen 2005). Some 30 million hectares of indigenous lands have been recognized, and another 5 million hectares are in the process of being claimed by indigenous communities.

Even though referred to in the 1991 Constitution, the process of demarcating and registering black lands did not get moving before 1993. In that year, the Government of Colombia adopted Law 70, which makes Art. 55 of Colombia’s political constitution better applicable. The objective of Law 70 is:

‘... to recognize the right of the Black Communities that have been living on barren lands in rural areas along the rivers of the Pacific Basin, in accordance with their traditional production practices, to their collective property as specified and instructed in the articles that follow. Similarly, the purpose of the Law is to establish mechanisms for protecting the cultural identity and rights of the Black Communities of Colombia as an ethnic group and to foster their economic and social development, in order to guarantee that these communities have real equal opportunities before the rest of the Colombian society.’ (Art. 1, in Jackson and Jackson 2007)

While Article 1 specifically refers to the Pacific basin, the law might also apply to black communities ‘that have traditional practices of production in other areas of the country and abide by the requirements established by this law’ (Art. 1, ibid).

4.3.3. Black rural communities in el Pacífico

Colombia’s Pacific coast region stretches from the border with Panama in the South, to the Ecuadorian border in the north. The region is marginalized in terms of poverty, malnutrition, illiteracy, and maternal and child health. On the other hand, this tropical area is extremely rich in biological and cultural diversity. About 95 percent of the population exists of various groups of indigenous peoples and Afro-Colombians.
In addition to descendants from runaway slaves (cimarrones) in palenques or maroon communities, the inhabitants of Afro-Colombian communities also trace their ancestry to libres or free blacks who had purchased their freedom or where manumitted during slavery, and to former slaves that established communities after the abolition of slavery (Offen 2003). Throughout the colonial period and afterwards, social and partnership relationships between these different groups of blacks were common. Hence the black communities in the Pacific region, to whom the law explicitly applies, do not base their land claims on their maroon tribal heritage (As in Brazil and Suriname), but rather on a long-term cultural and physical connection to the land.

In addition to being among the poorest communities, black communities in the Pacific region have for more than a decade years suffered from the civil war. The violent and bloody dispute over land, which is fought between the state, the guerillas and paramilitaries, has led to the displacement of both individuals and entire communities.

### 4.3.4. Demarcation of black communities

Colombia’s Law 70, which regulates the registration of Afro-Colombian communal territories, states among its requirements that the community:

‘...possesses its own culture, shares a common history and has its own traditions and customs within a rural-urban setting and which reveals and preserves a consciousness of identity that distinguishes it from other ethnic groups.’ (Art 2, ibid)

Afro-Colombian communities aspiring to obtain land title have to prove that the lands in question are ancestral habitat, historically held in common, and currently used for traditional livelihood activities. For legal purposes, these lands include forests and grounds but exclude areas reserved for public works and defense, urban areas, protected indigenous territories, private property, subsoil resources, and areas pertaining to the national-parks system. For use of forest resources, the communities need to develop a sustainable management and use strategy.

In order to enter the process of *Titulación Colectiva de Tierras a Comunidades Negras* (Collective Titling of Black Community Lands), the communities need to form a Community Council for administrative purposes and to ensure the proper use and management of the lands. The Council is responsible for ensuring the protection of common property regimes, traditional culture, and natural resources, and serves as a mediator in local conflicts over land. In order to start the land adjudicating process, the community Council needs to present its request to the *Instituto Colombiano de la Reforma Agraria* (Colombian Institute of Agrarian Reform; INCORA) of the Ministry of Agriculture and Development. The Black Community land designated for collective use is ‘non-transferable, imprescriptible, and non-mortgageable’. (Art. 7).

The actual mapping of black territories has been a participatory process. A key part of this process consists of ‘social-cartographic forums’ (Offen 2003: 60) in communities after the community council has filed a territorial claim. These community meetings are held under the auspices of the Colombian institute for Agricultural reform (INCORA) and the Geographic Institute Augustin Codazzi (IGAC), and involve the entire community. For specific types of information, the mapping exercise relies on key
knowledge bearers - hunters, traditional healers, elderly, young people, etc- to explain from their own perspective the past, current, and future importance of certain natural resources and places. The recording of oral histories and narratives; documentation of cultural and economic practices; and detailing of social relations within the group and with neighboring ethnic groups has led to the production of social maps of the various territories, including maps for the future and the past. These maps have been the basis for the final step of legal recognition and titling.

In addition to safeguarding communal rights to land, the demarcation process has led to increased social cohesion and interest in the traditional culture. On the other hand, the process of placing boundaries and titling has pitted legally defined ethnic groups against one another.

Figure 4.2  Demarcated and titled indigenous and black community territories in the Colombian Pacific in 1991 and in 2003, following constitutional reform. Source: Offen 2003

The efforts of black communities, sparked by the implementation of Law 70, have caused a radical growth in the number of recognized Afro-Colombian communal territories. Whereas none such concept existed in 1991, more than 4.5 million ha had been titled ‘Black Community Territories’ in 2003, representing 122 different areas (Figure 4.2). Ultimately, it is foreseen that these black territories will be redefined as Afro-Colombian Territorial Entities (ETA’s), giving them the same political, administrative, and judicial powers enjoyed by indigenous resguardos.

These progressive changes do not mean that the struggle of Afro-Colombians and indigenous peoples for the protection of their rights to land is over. In the first place, the process recognition of indigenous lands is being hindered by State bureaucratic problems. Secondly, settlers and peasants have established themselves on Afro-Colombian and indigenous lands, or lands claimed by these groups, by de facto occupation or by titles that are forged or obtained by controversial means. Such
land conflicts are often linked to the activities of paramilitary groups that seek to appropriate the mentioned lands.

And, third, both claims in process and recognized Afro-Colombian and indigenous territories are hindered and opposed by large landowners, industrial developments, and public works. In numerous cases, actions against traditional land ownership involve threats, harassment, and violence. Such acts frequently are instigated by large landowners in cooperation with paramilitary groups and, in many cases, members or units of the Colombian State public security forces. In addition to private economic interests, also several planned infrastructural megaprojects may affect livelihoods by destroying the natural environment (Inter-American Commission on Human Rights 1999)

4.3.5. Lessons learned from Colombia

- Entering a demarcation and titling process requires the establishment of special governmental and independent advisory bodies to represent the juridical, social, economic, and cultural interests of indigenous peoples and maroons. In addition, as states often do not have the capacity to carry out the actual mapping work, the support of NGOs is indispensable.

- The process of demarcation is an excellent opportunity to start the development of indigenous and other local resource use and management plans. Such plans can be a prerequisite for the allocation of actual title. In this context, the use of Indigenous inspectors of the natural resources may be an interesting model for indigenous land management within demarcated areas.

- In Colombia, communal land rights of black communities are not based on their maroon tribal heritage, but rather on a long-term communal cultural and physical connection to the land. If this concept is transferred to the Suriname case, some of the Creole communities living on the former plantations would also be eligible for rights to land.

- The process of demarcation and titling may enhance the cultural cohesion and awareness of ethnic minority groups, and strengthen efforts to learn about oral history and traditional culture.

- On the other hand, territorial mapping can cause an escalation of slumbering tensions between ethnic groups that have conflicting views on the ownership of a certain territory.

- Armed conflict and political unrest jeopardize the security and value of property titles, even if they are formally registered by law. These conflicts both drive people from their lands and prevent national authorities from adequately protecting indigenous peoples from infringement upon their lands.
4.4. Guyana

4.4.1 Introduction

Guyana is home to nine indigenous groups; the Arawak, Akawaio, Arekuna, Macushi, Warrau, Wapishana, Wai Wai, Patamona and Carib. These indigenous groups comprise approximately 49,293 persons or 6.8% of Guyana’s total population (1991 data, James 2003). The largest share of them lives a subsistence-based life. In addition, they earn cash money with various extractive activities, the most lucrative of which may be wildlife trade.

As elsewhere, Guyana’s indigenous peoples have for long been striving for their rights to land and resources. Even though a commitment to arrange for such rights was stated in the country’s 1966 declaration of independence, many indigenous communities are still seeking recognition of their land rights, while logging and mining concessions continue to be granted for areas overlapping with ancestral lands, with and without title.

We did not find any detailed information about a specific Guyanese case, where it was clear how demarcation was performed in practice. For this reason this Guyana chapter does not contain a case study description.

4.4.2. Indigenous rights to land in Guyana

When Guyana achieved its independence from Great Britain in 1966, one of the conditions was that:

...the Amerindians be granted legal ownership or rights of occupancy over areas and reservations or parts thereof where any tribe or community of Amerindians is now ordinarily resident or settled and other legal rights, such as rights of passage, in respect of any other lands where they now by tradition or custom de facto enjoy freedoms and permissions corresponding to rights of that nature. In this context it is intended that legal ownership shall comprise all rights normally attaching to such ownership. (Report of the British Guiana Independence Conference, 1965, in : James 2003)

In order to comply with this legal obligation, the new independent government installed, in that same year, an Amerindian Lands Commission (ALC). The tasks of the ALC were to (1) determine the areas of Amerindian residency at the time of independence and (2) submit recommendations regarding the rights of tenure to be given to Amerindian communities. In its 1969 report, the ALC stated that Indigenous peoples claimed 43,000 square miles. The Commission rejected most of these claims, however, as ‘excessive and beyond the ability of residents to develop and administer’ (James 2003). It ultimately recommended that 128 communities receive communal freehold title to 24,000 square miles, including mineral rights to a depth of 50 feet. A number of communities were not considered in the report because the ALC did not visit all areas of Guyana occupied by the Indigenous peoples (James 2003).

Not much was done with the recommendations of the report until 1976, when the government of Guyana enacted the Amerindian Act, which transferred land titles to Amerindian communities listed
and described in the schedule to the Act. Sixty-two communities and two districts obtained ownership rights to approximately 4,500 square miles of land. Fifteen years later, in 1991, ten other communities in the Upper Mazaruni mining area were granted title to approximately 1,500 square miles and added to the schedule.

The Amerindian Act continues to be the main law dealing with Amerindians today. Indigenous peoples, however, consider the Amerindian Act ‘extremely paternalistic, offensive in many respects, [and] discriminatory, [while it] ...provides almost no protection for our rights’ (APA 1998). The Amerindian Peoples Association of Guyana (APA) complains that the titles hardly correspond to the land use practices of the communities and only give legal ownership to a portion of the ancestral lands (James 2003). Moreover, land titles may be revoked, forfeited or modified for the following reasons:

a) in the(undefined) public interest;
b) for the state to resume occupation of lands up to ten miles from an international border in the interest of defense, public safety or public order - with no compensation;
c) if Amerindians sell or otherwise transfer rights to their titles lands or parts thereof; and
d) if at least two members of a community have shown themselves to be disloyal or disaffected to the state or have done any voluntary act, which is incompatible with their loyalty to the state - with no compensation.

In fact, under section 3 of the Act, the Minister may create, modify or abolish Amerindian Districts, Areas or Villages for any reason or no reason at all (James 2003).

Between 2002 and 2004, a government committee comprised of representatives of the Ministry, Amerindian communities, the legal sector, and NGOs worked on revision of the Amerindian Act. Also the revised draft Act, however, was deemed unacceptable by a joint indigenous NGO coalition. This coalition stated in a press release that their ‘rights to lands, territories, and resources and to self-determination are neither adequately recognised nor protected’ in this new Act (MacKay 2005b).

4.4.3. Demarcation of indigenous lands in Guyana

Many indigenous communities in Guyana were granted land rights in 1976 and 1991. However, these lands were never surveyed and, as a result, boundaries have not been clearly defined. This situation has created problems, since more than one community may be claiming the same area of land. Moreover, in the absence of clear legal boundaries, communities cannot enforce their legal rights to a certain section of land, which has resulted in encroachment by miners, loggers and others (MacKay 2005a).

---

16 In 1991, all Amerindian communities listed in the Schedule to the Amerindian Act were given land titles known as Presidential grants. The titles apply to all of the lands described (i.e. not demarcated) in the act but exclude mineral rights. The Government however, failed to expressly legislate that the State Lands titles would be solely applicable to the communities. As a result there is uncertainty as to which title takes precedence, the Amerindian Act titles or the State Lands Act titles (James 2003).
In 1995, the Guyana Government started a process to physically demarcate indigenous lands. By 2006, portions of the ancestral lands of the majority of 74 legally recognized communities (out of more than 150 total) had been surveyed and demarcated. These lands present about 13 percent of Guyana’s land mass (GINA 2006). When all land issues are resolved, indigenous lands may compromise about 20% of Guyana’s total land mass (GINA 2006).

The main strategy followed in demarcation is to determine the exact boundaries of the lands as described in the Amerindian Act. Later extensions of lands belonging to those communities will be considered, according to the government. Communities that had not yet been titled will be demarcated from scratch and, as a result, typically receive larger stretches of land. Eleven communities that were titles in 2006, for example, received the equivalent to what was there for the 74 communities before. Other communities have been extended.

While some of the communities are satisfied with the titles granted and demarcated, many are seeking further recognition of their lands to enable them to carry out their traditional activities and protect sites of cultural significance. Meanwhile communities that do not have legal titles to their lands continue to seek legal recognition of their traditional lands.

The demarcation process has been difficult. Firstly, conflicts have arisen in cases of overlapping boundaries. Secondly, several communities that had agreed to demarcation reversed their decision. One main problem is that demarcation does not seem to occur through a truly participatory process. Hence, once the boundaries are being drawn, many communities find that the land that they have been allotted is insufficient. Moreover, the description of indigenous land in the schedule of the Amerindian Act bears little relation to what is on the ground. For example, some communities are located totally out of the legally recognized areas. In other cases, the names of land markers such as creeks are listed wrongly. Another complicating factor is that some individuals are requesting individual titles while others opt for communal ownership.

Finally, the Amerindian Act restricts what may be demarcated and be part of the titles. For example, the titles do not include: rivers and river banks up to 66 feet inland, minerals or rights to mine, landing strips or future landing strips and pre-1976 state owned buildings and installations including the land upon which they are situated (James 2003)

There are no formal guidelines or policy on demarcation and titling, and hence for each community or region the process develops in a slightly different way. There are signs that the process is becoming more participatory and inclusive. At present, for example, the government is working with the Guyana Lands and Surveys Commission (GL&SC) to train local community surveyors to do the demarcation along with others contracted by the government. In a recent (2004) case of titling and demarcation of untitled communities in Region Ten (Upper Demerara/Upper Berbice), the GL&SC and the communities first conducted a situational analysis with a specific focus on land use. Subsequently the areas have been mapped and other stakeholders, such as mining and logging concessionaires, have been identified and included in the stakeholder discussions.
4.4.4. Lessons learned from Guyana

- Land title has little meaning as long as there is no adequate protection of such title against outside-government or private-interests

- Land title also has little meaning as long as it remains unclear to what area that title applies. In other words, demarcation must be a prerequisite for granting title.

- Demarcation must be a truly participatory process. A demarcation process that does not sufficiently involve local knowledge and perspectives will lead to the depiction of indigenous areas that are neither sufficient in size nor geographically correct. It also will be useful to define the process of demarcation by law to prevent arbitrary processes and the application of different rules and methods in different regions.

- Demarcation has to be as specific as possible to prevent later confusion. Mere descriptions based on physical markers (e.g. a watershed or a creek) may not be specific enough once the exact boundaries become important, for example when a third party asks for a concession on indigenous lands.

- Indigenous peoples are not one, and different individuals within the group have varying possibilities and interests. For example, some individuals prefer individual titles while others opt for communal ownership.

- Physical marking of territorial boundaries may create conflict between communities with overlapping areas where there was no conflict before.
5 Cases of demarcation II: Western States

5.1 United States

It’s disgraceful how the United States makes international statements about human rights and then commits this kind of assault in our own backyard. It destroys their credibility and moral authority.

Carrie Dann, a Western Shoshone elder, Oct 16, 2002

5.1.1. Introduction

The persistent struggle for indigenous rights of the Western Shoshone sisters Dann has drawn the world’s attention to the vulnerability of indigenous territories in the United States. Even though traditional title to indigenous land was recognized in Early British imperial policy in North America, the various treaties and agreements between the colonial government and indigenous peoples only provide minimal protection of these lands. Mining, (nuclear) energy, military and other activities that take place on traditional homelands and violate ancient sacred sites repetitively cause tension. The conflict between the US government and the Western Shoshone about grazing and other user rights on indigenous territories outside of formal reservation lands is but one example of the complications that may arise when demarcation and legal status remain poorly defined.

5.1.2. Indigenous rights to land in the United States

United States Indian Law is largely based on what is historically known as the Doctrine of Discovery. The basic principle of this doctrine holds that the United Kingdom took title to the lands which constituted the United States when the British discovered them. The tribes that occupied the land were, at the moment of discovery, no longer completely sovereign and had no property rights. They merely held a right of occupancy. Further, indigenous peoples could not sell the land to private citizens. Only the discovering nation or its successor could take possession of the land from the natives by conquest or purchase (Newcomb 1992).

Treaties made with Indian nations did not recognize Indian nations as free of U.S. control. According to the U.S. government, Indian nations were ‘domestic dependent nations’ subject to the federal government’s absolute legislative authority - known in the law as ‘plenary power’. This way the U.S. Constitution allows for governmental authority over Indian nations and their lands (ibid). This situation classifies American indigenous peoples under the U.S. Indian law system as ‘wards’ of the United States government.

Through history, relations between the various indigenous groups and the US government have taken shape and become formalized in treaties, statutes, and case law. Because each one of these
treaties and agreements is different, providing for different degrees of user and occupancy rights, there is no consistent policy of demarcation and subsequent titling of indigenous territories.

Determination of the boundaries of Indian reserve lands typically begins with the definition and geo-marking of native or original territory. However, not all Indian communities held territory as political entities. Small (semi)nomadic groups or bands that used to hunt and gather in small nuclear areas can be identified with ecological units that, at a later date under U. S. administration, came to be acknowledged as territories. Sutton (1993) describes the process in determining indigenous land boundaries as such:

‘Once the land system was superimposed upon Indian communities, the reservation became the dominant land institution, even if at times called reserve, colony, rancheria or some other designation. Reservation conferred federal trustee responsibilities over the land either reserved by tribes or set aside for them out of the public domain. Reservations represent the survival of, in most but not all cases, a part of original territory [...] based usually on treaties. Two kinds of land title now generally prevail owing to the foregoing events: original and recognized. Original title acknowledges tribal territoriality prior to and at contact, and is the more difficult [...] to establish, for it requires reconstruction often by ethnologists and others, who turn to Indian informants, diaries, field journals of military and others such as religious personnel, etc. The recognized title can be readily sustained, even if some controversy prevails over the specifics of mapping native territory. Recognized title literally grows out of recognition through treaties of land cession, statutes and other forms of negotiation between tribes and the US government. That is, it is part of the legal record.’

Through time, indigenous land tenure has modified as a result of non-indigenous infringement on indigenous land and political land allocation, as depicted in Figure 5.1. The starting point is one of aboriginal territoriality (area within orange line). After conquest, this situation is followed by the ceding of a certain area to the colonial state—though treaty rights may establish some degree of indigenous rights to the area (dark green boundary). The ceded or treaty area typically is bordered by natural features such as rivers and mountains. The actual reservation area (red lines) is typically much smaller, and may be fractured by land allotted to different indigenous and non-indigenous parties (blue and yellow blocks). It also is possible that (part of) the indigenous group is relocated to lands outside the original living area (light green line). The only tenurial situation not displayed is termination, which would mean the non-existence of trust land.

Indigenous land tenure is sustained via the trusteeship established for tribes, as based on constitutional provisions that mandate Indian administration to the federal government. Conflicts over territoriality regularly arise because of differing interpretations of treaties and other legal instruments defining indigenous land rights. States, civil divisions and citizens often contest federal Indian law or the protection of sacred places that lie within the public domain or within private land holdings. In yet other cases, tribal utilization of lands within reservations comes under challenge, such as in the case of the development of hazardous waste disposal sites by an indigenous group (Sutton 1993).
Conflicts also arise as tribal groups feel that the government or private investors infringe upon their lands. In the past two decades, an exceeding number of Indigenous protests and court cases have been fought against such intrusions. One example is presented by the Western Shoshone people, who have seen the expropriation of their lands; state prohibitions to use traditional homelands for livelihood activities (e.g. hunting, cattle ranching); large-scale mining activities; and nuclear waste storage on their lands.

*Figure 5.1: Possible land tenure changes and conditions*


5.3.4. The Western Shoshone

Western Shoshone Indigenous peoples are the descendants of an ancient widespread people whose name is ‘Newe’ meaning ‘The People’. The traditional Western Shoshone territory covered southern Idaho, the central part of Nevada, portions of northwestern Utah, and the Death Valley region of southern California. This vast land of mountains, valleys, deserts, rivers, and lakes offered an abundance of wildlife and plants for the Shoshone to hunt, fish, and gather.

Prior to contact with white culture, the Newe divided themselves into small extended family groups, which confined themselves to specific areas for hunting and gathering. White settlers renamed the
Newe ‘Shoshone’ during the 1820’s. The first contacts of the Newe people with whites were with fur trappers and emigrants attracted to the gold mines of California; many of whom settled throughout the Newe region.

At the beginning of the 20th century there was but a single Western Shoshone reservation, located in Duck Valley along the Nevada-Idaho border. The Bureau of Indian Affairs (BIA) planned to coerce all the Shoshones of the Great Basin region to move there. Ultimately, less than one-third of them agreed to this arrangement. Others were encouraged to live in various smaller ‘colonies’ (in California), along with other indigenous groups. For many modern-day Western Shoshone bands, cattle ranching has served as the main source of income during the 20th century.

5.1.4. Demarcation of Western Shoshone lands

In modern territorial disputes, anthropologists, historians, and legal experts are typically consulted to determine the boundaries of traditional homelands. Ancient treaties typically relied on tribal memory and some influences of the US military forces that signed the treaty. In the case of the Shoshone, the Treaty of Peace and Friendship made at Ruby Valley of October 1, 1863 reads:

‘It is understood that the boundaries of the country claimed and occupied by said bands are defined and described by them as follows: On the north by Wong-goga-da Mountains and Shoshonee River Valley; on the west by Su-non-to-yah Mountains or Smith Creek Mountains; on the south by Wi-co-bah and the Colorado Desert; on the east by Po-ho-no-be Valley or Steptoe Valley and Great Salt Lake Valley.’ (Art. 5, United States Treaty with the Western Shoshoni, 1863)

This treaty does not speak of exclusive or inalienable rights. In the contrary, the United States government assured that non-indigenous travelers, emigrant trains, the mail, and telegraph lines would be able to safely cross the territory; that military posts could be established along said routes; and that:

‘...the shoshonee country may be explored and prospected for gold and silver, or other minerals; and when mines are discovered, they may be worked, and mining and agricultural settlements formed, and ranches established whenever they may be required. Mills may be erected and timber taken for their use, as also for building and other purposes in any part of the country claimed by said bands.’ (Art. 4, United States Treaty with the Western Shoshoni, 1863)

Despite these limitations to their rights, and despite the fact that the Shoshone were forced under military threat to sign, the fact that the treaty speaks in terms of ‘Shoshonee country’, causes today’s Shoshone to consider the treaty a ‘mutual recognition by the nations of one another’ on the basis of equality (Yowell, council chief, 1993). The treaty describes the boundaries of the land ‘claimed and occupied by said bands’, which is still considered as their traditional home land. Raymond Yowell, Western Shoshone National Council Chief, explains that the Shoshone consider the land as theirs as their

17 A historic map of these lands is available at: http://www.h-o-m-e.org/Shoshone/index.htm
‘we certainly never ceded it to them [US government], we never abandoned it, and so far we haven’t sold it to them.’ (ibid)

The US government does not share this opinion. It paid the Secretary of the Interior $26 million for 24 million acres of Western Shoshone lands, because the Western Shoshone people have steadfastly refused to sell the land and refused to accept the money. The federal government now claims that paying itself on behalf of the Western Shoshone has extinguished the Western Shoshone’s title to their lands. This is an example of so-called ‘federal trusteeship’ and ‘plenary power’ over Indian affairs, which the U.S. Supreme Court upheld in United States v. Dann, 470 U.S. 39 (1985), stating that ‘the Shoshone’s aboriginal title has been extinguished’ because the U.S. accepted the money from itself on behalf of the Western Shoshone.

The case United States v. Dann, better known as the case of the Dann sisters, exemplifies the struggle of many United States indigenous peoples to uphold rights to their traditional homelands. As described in a document by Amnesty International (2003)

‘In 1974, the United States government sued Mary and Carrie Dann for trespassing. The United States government accused the two Western Shoshone elders of grazing cattle on U.S. public land without having obtained a federal permit. The Dann’s response was that they were grazing their cattle on Western Shoshone land as recognized in the Treaty of Ruby Valley. In 1984, the dispute ultimately ended up before the U.S. Supreme Court. And in 1985 the Court handed down its decision in U.S. v. Dann. The Court held that the Western Shoshone had been paid because the government had placed funds into a trust account in the name of the Western Shoshone, and that such payment barred the Dann sisters from raising Western Shoshone title as a defense against the federal government’s trespass charges.’

The Western Shoshone grandmothers, Carrie Dann and her sister -the recently deceased Mary Dann, for long refused to submit to the permit system imposed by the United States for grazing cattle on Western Shoshone traditional lands. Faced with efforts by the U.S. government to forcibly stop the Dann sisters from grazing cattle and horses without a permit and impose substantial fines on them for doing so, the Dann sisters consistently argued that the permit system contravenes Western Shoshone treaty-protected land rights. The United States has conceded that the land in question is Western Shoshone ancestral land, but it has maintained that Western Shoshone rights in the land were ‘extinguished’ under U.S. law as a result of proceedings involving the Indian Claims Commission and Court of Claims. The Dann sisters' case made it all the way to the U.S. Supreme Court, which sided with the federal government (IPLP 2008).

Not only the Dann Sisters have been hindered in their use of ancestral lands. The United States has persistently denied other Western Shoshone people their rights to traditional lands, among others by incarcerating and imposing fines on Western Shoshone hunters and by seizing livestock of farmers. On the other hand, the U.S. government has permitted non-indigenous individuals and mining and energy companies to use and occupy Western Shoshone lands. Meanwhile it fails to protect Western Shoshone people from environmental damage caused by nuclear waste storage, military testing, open pit cyanide heap leach gold mining, and other industrial activities on their lands. (IPLP 2008)
After the Supreme Court decision referenced above, the Indian Law Resource Center of the University of Arizona submitted a petition on behalf of the Dann sisters to the Inter-American Commission on Human Rights. The Inter-American Commission issued a report in which it condemned the United States for violating the Dann sisters' human rights. Rejecting the United States' argument that its denial of continuing Western Shoshone rights was in accordance with U.S. law, it indicated that where United States law is contrary to international human rights law, U.S. law must be reformed. The United States registered its disagreement with the Commission and suggested that it would continue its course of action contrary to that decision. In March of 2006, the United Nations (UN) Committee on the Elimination of Racial Discrimination (CERD) issued a decision under its Early Warning and Urgent Action Procedures urging the United States to ‘freeze’, ‘desist from’, and ‘stop’ actions being taken or threatened to be taken against the Western Shoshone peoples. Since then, the CERD has sent repetitive communications to the United States requesting information on implementation efforts and encouraging compliance.

The United States continues to ignore these urgent demands from the Inter-American Commission and the Committee on the Elimination of Racial Discrimination, as well as pressure from a number of non-governmental organizations (e.g. International Foundation for the Protection of Human Rights Defenders, Oxfam America, Earthworks, Amnesty International). Meanwhile the Western Shoshone continue their struggle for secure occupancy and usufruct rights to their ancestral lands.

### 5.1.5. Lessons learned from the United States

- Boundaries and rights described in historic treaties are often too little specific too guarantee strong protection of indigenous lands.

- While international organizations and courts may exert pressure to demarcate and recognize indigenous lands, it is ultimately the national government who takes a decision about these issues. Hence working with the government, and convincing both public officials and civil society of the value (humanitarian, ecological) of indigenous rights to land is important.

- The presence of valuable mineral resources on indigenous lands may be a barrier to the submission of title to these lands to its original inhabitants. In such cases, private and state interests may consider indigenous title a hindrance to their economic activities and, if compensations are to be paid, a factor raising their costs.
5.2 Canada

5.2.1. Introduction
Canada has a long history of treaty making with indigenous groups, which trace their ancestry to three different types of ethnic groups: First nations, Inuit, and Métis. First Nations is the preferred name of the indigenous and first people of Canada to describe what are sometimes referred to as 'bands' or 'tribes'. There are over 600 First Nations across Canada. Inuit are the indigenous peoples who reside in the eastern Arctic and Arctic Ocean regions of Nunavut, the Northwest Territories, Northern Quebec and Labrador. The Métis are mixed-heritage indigenous peoples that came into existence in West Canada in the 18th and 19th centuries. Born of a mixture of French and Scottish fur traders and Cree, Ojibwa, Saulteaux, and Assiniboine women, the Métis in the north-west developed as a people distinct from either Indian or European.

Reserves have only been created for the First Nations (or Indian Bands); there are no lands officially set aside for Métis and Inuit (Pers. Com. June 2008; Marton, B.).

5.2.2. First nations, Inuit, and Métis rights to land in Canada
When the Europeans first began to settle in the eastern part of North America, Britain recognized that those people who were already living here had some sort of title to land. The Royal Proclamation of 1763 declared that only the British Crown could acquire lands from First Nations, and only by treaty. The first treaties in Canada, settled between 1725 and 1779, emphasized peace and friendship. A second group of treaties, known as the pre-Confederation land cession treaties, was concluded between 1764 and 1862 in accordance with principles set by the British Crown. After Confederation a third group of land cession treaties was concluded (between 1867 and 1923). By then a total of 60 treaties had been signed, which posed a range of mutual obligations on signatory parties (Indian and Northern Affairs Canada 2008). In most of these treaties aboriginal people gave up their customary title in exchange for land reserves and for the right to hunt and fish on the land they had given up.

In the West of Canada, a different approach was taken. Very few treaties were ever negotiated in Canada’s western province of British Columbia. On Vancouver Island, the Hudson’s Bay Company obtained right to trade and purchase First Nations lands on behalf of the British Crown. In total 14 of such Douglas treaties were made, named after the company’s chief factor James Douglas. What happened afterwards is described in a document produced by the BC treaty commission, entitled Why Treaties? A Legal perspective: 18

Although no more treaties were made, under Douglas individual aboriginal people who wanted to take up farming could acquire Crown land on the same terms as the settlers. However, soon after Douglas retired the colonial government took away from aboriginal people the right to acquire Crown land, reduced the size of their reserves, denied that

they had ever owned the land, and paid no compensation for the loss of traditional
lands and resources. So when the time arrived for the colony of British Columbia to join
Confederation in 1871, the new province’s policy was set: British Columbia did not
recognize aboriginal title, so there was no need for treaties to extinguish it.

In subsequent years, Indigenous peoples in West Canada wrote many letters and petitions, and
brought cases before the highest court of Canada to protest the absence of treaties. These protests,
however, were largely ignored by both the Federal and National Governments.

The design of modern treaties was sparked by three legal-political events. The first of these was a
series of court cases addressing the question of indigenous rights. In 1973 Canada’s Supreme Court
issued the *Calder decision*, confirming that ‘aboriginal title is “a legal right derived from the Indians’
historic... possession of their tribal lands” ... [which exists] whether governments recognized it or not’
(BC Treaty Commission 2008). Since the Calder decision, at least five other court decisions affirmed
indigenous peoples’ rights to land, resources, and information and consultation\(^\text{19}\). Such rights are
explicitly limited to traditional activities and do not include commercial logging (Marshall and
Bernard decision, 2005).

A second motor of change was the comprehensive claims policy issued by the federal government,
named *In All Fairness*. The purpose of this policy was to change undefined indigenous land rights into
concrete rights and benefits. The third important event was a 1982 constitutional amendment,
stating that indigenous rights and treaty rights, both existing and those that may be acquired, are
recognized and affirmed - whether or not there is a treaty (Constitution Act 1982, Section 35(1)).

These various political and legal changes together convey that in the case of Canada:

- Aboriginal rights exist in law;
- Aboriginal rights are distinct and different from the rights of other Canadians;
- They include aboriginal title, which is a unique communally held property right;
- Aboriginal rights take priority over the rights of others, subject only to the needs of
  conservation;
- The scope of aboriginal title and rights depends on specific facts relating to the aboriginal
  group and its historical relationship to the land in question;
- The legal and constitutional status of aboriginal people derives not from their race but from
  the fact they are the descendants of the peoples and governing societies that were resident
  in North America long before settlers arrived;
- Aboriginal rights and title cannot be extinguished by simple legislation because they are
  protected by the Constitution Act, 1982;
- Government has a duty to consult and possibly accommodate aboriginal interests even
  where title has not been proven; and
- Government has continuing duty to consult, and perhaps accommodate, where treaty rights
  might be adversely affected

\(^{19}\) These were the Sparrow decision (1990), the Delgamuukw decision (1997), and the Haida and Taku Decisions
(2004), and Mikisew Cree decision (2005)
It is important to understand that even though it is now confirmed that indigenous (in Canada named ‘aboriginal’) title still exists in British Columbia (and Canada as a whole), the law does not indicate where it exists and how. Indeed, indigenous rights and treaty rights are different. Indigenous rights are not clearly defined, and must be established through the courts on a case-by-case basis. Treaty rights are negotiated and in modern treaties rights can be exhaustively set out and described in detail.

To define and register indigenous rights, the governments and First Nations have two options: either negotiate land, resource, governance and jurisdiction issues through the treaty process or go to court and have aboriginal rights and title decided on a case-by-case, right-by-right basis (BC Treaty Commission 2008). These processes may be lengthy, and include the drafting of an Agreement-in-Principle (AIP), which sets out objectives and the elements to be included in a final agreement, and a final agreement, which concludes comprehensive land claims negotiations, and recognizes Aboriginal rights and interests to traditional territory. Since 1973, 13 modern treaties have been concluded; among which the treaty with the Nisga’a.

5.2.3. Demarcation of First Nations lands in Canada

Today, 579 bands are formally recognized under the Indian Act as First nations groups. A total number of 2892 active reserves have been titled, representing a surface of 3.3 million ha (3,331,677 Ha) (Pers. Com. June 2008; Marton, B.). Very few people actually live on such demarcated reserve lands though. Using results of the 2006 Census, 288,670 Registered Indians; 90 Inuit; and 2,305 Métis lived on communities considered to be legally On-Reserve20.

Various criteria have been used in court decisions legal processes to obtain proof of indigenous title, and determine what lands and resources fall within the customary rights. These criteria include:

- There must be a historical relationship of the group to the land in question.
- The group must provide evidence of exclusive and regular occupation and use of the land at the time of sovereignty
- The group must prove continued regular use of land for hunting, fishing or resource exploitation. Seasonal hunting and fishing in a particular area amount to hunting or fishing rights only, not aboriginal title. On the other hand, the court has not ruled out the possibility that nomadic and semi-nomadic peoples can prove aboriginal title.

20 The numbers were taken from INAC’s 2006 Census Core Table 1A, and are based on self-reporting by individuals in May of 2006 living on or off reserve. Registered Indian represents those individuals who selected ‘Yes, Treaty Indian or Registered Indian’ as their response to Question 21 (Q21) ‘Is this person a Treaty Indian or a Registered Indian as defined by the Indian Act of Canada?’ The figures of On Reserve populations are somewhat under represented because 22 Indian reserves and settlements opted not to participate in the 2006 Census. (pers. com. June 2008. McGregor, Socio-Economic and Demographic Statistics Section, Strategic Research and Analysis Directorate)
The group must provide proof that land use practices are traditional activities, or modern activities that are logical extensions of traditional practices. It is considered the task of the court to consider any proper limitations on the modern exercise of those rights.

Evidence of continuity between the persons asserting the modern right and a pre-sovereignty group (i.e. proof of ancestral relationship)

In judging all of these criteria, both common law (i.e. Canadian) and indigenous perspectives on subjective terms such as ‘occupation’ and ‘exclusive’ must be taken into account.

In the case that traditional land and/or resource claims overlap or intersect, the different First nations involved may negotiate an overlap or boundary agreement. Such agreements may set out provisions relating to matters including the exercise of harvesting rights, delineation of shared use and claims areas, consultation and shared decision-making. In this way, a boundary is established between the relevant territories, while the rights of each party are respected. Overlap agreements generally provide that affected land claims agreements be consistent with the terms of the overlap agreement. Overlap agreements are legally binding.

Groups that find their claim rejected for negotiation may turn to the Indian Claims Commission (ICC), which was established in 1991 by the Canadian Federal Government in consultation with Aboriginal organizations. It was created as an interim independent advisory body with the authority to conduct public enquiries into specific claims which have been rejected for negotiation by the government and to issue non-binding decisions.

5.2.5. The Nisga’a First nation
The Nisga’a live in a fairly remote area of northwestern British Colombia (BC), Canada. Approximately 2500 of the 5500 Nisga’a live in the Nass Valley, their traditional homeland, which they share with about 100 non-indigenous residents. Forestry is the dominant economic activity in the Nass Valley, but fishing, eco-tourism, pine mushroom harvesting and service industries are also important (Indian and Northern Affairs Canada 2008).

Canada’s Nisga’a Nation is represented by Nisga’a Government – a modern, democratically-elected administration based on traditional culture and values. It is comprised of Nisga’a Lisims Government (NLG) and four Nisga’a Village Governments, representing the four Nisga’a clans: Killer Whale, Raven, Wolf and Eagle. The Nisga’a Government contributes to the costs of health, education, social and other services on the reserve in two ways, namely (1) through payment of income and sales taxes; and, (2) by contributing a share of its revenues. Its contribution is only increasing as a result of the treaty, and hence reducing federal and provincial transfers over time. The mentioned programs and services –including the Health Board, School District and the Wilp Wilxo’oskwhl post-secondary organization-- typically incorporate both traditional and modern elements.
5.2.5. Demarcation of the Nisga’a territory

More than hundred years ago (1887), Nisga’a chiefs went to the state capital of Victoria (British Columbia) to seek recognition of aboriginal title and to negotiate other rights, including self-government. They returned without success, and three years later established their first Land Committee. In 1913, after exhaustion of local venues, the Committee sent a petition to the Privy Council in England seeking to resolve the question; again unsuccessfully. (INAC 2008)

In subsequent years, through the 1950s, efforts to secure land claims of the Nisga’a and other indigenous groups were frustrated by legislation which outlawed traditional practices and prohibited indigenous peoples from raising money to advance land claims. The repeal of this law in 1955 motivated the Nisga’a to establish a Nisga’a Land Commission and Tribal Council.

After the Supreme Court issued the Calder decision (see above), the federal government began comprehensive claims negotiations with the Nisga’a in 1976, and the B.C. government joined the two parties at the table in 1990. These negotiations led, in 2008, to the signing of the Nisga’a Treaty. The Nisga’a Treaty sets out the land and resources that form part of the agreement between Canada, B.C. and the Nisga’a Nation. It also affirms the Nisga’a’s right to self-government, and the authority to manage lands and resources. Together, the Treaty and related agreements provide the Nisga’a with:

- $196.1 million dollars (in 1999 dollars);
- 2,019 square kilometers of land;
- an average yearly allocation of 44,588 sockeye salmon, 11,797 coho salmon, 6,330 chum salmon, 6,524 chinook salmon, and 4,430 pink salmon, protected by the Treaty;
- a commercial yearly allocation averaging 28, 913 sockeye and 88,526 pink salmon under an agreement which is not part of the Treaty;
- limited allocations of moose, grizzly bear and goats, for domestic purposes;
- $11.8 million to increase participation in the general commercial fishery;
- $10.3 million in Canada’s contribution to the Lisims Fisheries Conservation Trust (to which the Nisga’a provide $3.1 million);
- transition, training and one-time funding of $40.6 million;
- a water reservation for domestic, agricultural and industrial purposes;
- authority to operate their own government, and the ability to make certain laws; and,
- funding to help deliver health, education, and social services to their members and other area residents.

(source: Indian and Northern Affairs Canada, 2008)

Demarcation of Nisga’a land rested in the same criteria or ‘proof’ as stated above for the acknowledgement of indigenous title throughout Canada. Among the requirements was for the claimants to establish evidence of exclusive occupation of the land claimed at sovereignty. They also had to proof that access to the land and resources was integral to their distinctive culture. Furthermore the rights only applied to specific traditional activities, such as hunting and fishing. The actual boundaries of the Nisga’a lands follow watersheds.
5.2.6 Lessons learned from Canada

- Even though the Canadian legal system has confirmed that indigenous (in Canada named ‘aboriginal’) title still exists, the law does not indicate where it exists and how. Without demarcation of indigenous areas and the granting of specific rights, these undefined titles provide little protection of ancestral lands.

- Negotiating territorial boundaries, land and resource rights, and issues of self-government may take decades. In the Nisga’a case, it took about 30 years before a final agreement, satisfactory to both parties, was reached.

- In order to deal with overlapping tribal user areas, Canada has negotiated overlap of boundary agreements with relevant tribal groups. These agreements have been effective in minimizing territorial conflicts between indigenous peoples.

- By limiting indigenous rights to traditional practices or modern versions of those practices, Canada is limiting options for indigenous peoples to commercially exploit the land.
5.3. Australia

5.3.1. Introduction

After centuries of denial of Aboriginal peoples’ rights to an own identity and intrinsically linked ancestral lands, Australia has implemented a Native title Act and a land registration system that legalize customary rights to traditional homelands. A figurehead in the struggle for native land rights was an Aboriginal man named Mabo, who played a central role in two court cases that ultimately overturned the legal fiction of *terra nullius* in Australian law. Since then, formal Aboriginal land demarcation and titling have been neither rapid nor consistent. Each Aboriginal group has to prepare and lodge its own land claim, which subsequently is considered in court; a process that can take a decade or more. Maps delineating the native area and accompanying descriptions, both of which need to be part of the claim, play a key role in decisions on titling. In the case of the Eastern Kuku Yalanji, a 13-year long process was recently rewarded with far reaching property, user, and management rights to ancestral homelands.

5.3.2. Indigenous rights to land in Australia

Unlike some other common law countries, the relation between indigenous peoples and the Australian state was never based on treaties, but rather on a series of law cases and legal acts. Australia’s legal system was long based on the *terra nullius* doctrine; claiming that the Europeans encountered a no-man’s-land. Customary Aboriginal law, which regulated and continues to shape the lives of Aboriginals and Torres Strait Islanders, was not legally recognized and superimposed by English-derived legal system.

A sign that the public and legal opinion of Aboriginal title was changing came in 1988, in the court case of Mabo v Queensland (No 1). In this dispute, the Meriam people (of the Murray Islands in the Torres Strait), among whom Eddie Mabo, questioned the legality of the Queensland Coast Islands Declaratory Act, which was intended to retrospectively abolish any native title rights. In its Judgment of December 8, 1988, the High Court of Australia found that the named Act was not valid according to the Racial Discrimination Act 1975. Rejecting the *terra nullius* concept, the Justices argued that native title rights, if they did exist, should really be treated as part of a broader human right to own and inherit property (Wikipedia 2008).

In 1992, the struggle by Aboriginal people to have their lands recognized under Australian law took a new course with a related and even more influential case of Mabo v. Queensland 2. In this case, Eddie Mabo sought to establish his legal ownership of family lands, which he had inherited based on customary laws of his people. In its judgment of Mabo 2, the High Court held that the Australian common law recognized the pre-existing property interests of Indigenous peoples in the form of native title (Pue 2005).

The High Court’s decision concerning Mabo vs State of Queensland (no 2) instigated the development and implementation of the Native Title Act 1993 (Brazenor et al. 1999). This act legitimizes customary Native title in Australian law, as being Indigenous Australians’ rights and interests in land and waters according to their own traditional laws and customs (ATNS 2008). The Native Act simultaneously established a National Native Title Tribunal (NNTT) to assist people to resolve native title issues, among others through administrative support in native title applications.
Unlike freehold titles or leases, native title is not a grant or a right that is created by governments. Native title may be recognized in places where indigenous people continue to follow their traditional laws and customs and have maintained a link with their traditional country. Give a variety of customary laws and traditions, native titles vary between different groups as well as from place to place and may include the possession, use and occupation of traditional country (ibid).

Native title may also vary depending on the rights of other people in the same area. For example, where people have leases, licences or a right of public access, native title may coexist alongside these other rights. Native title is not valid where government has built roads or other public works, and cannot take away anyone else’s valid rights to land, including owning a home, holding a pastoral lease or having a mining license. In these cases, native title is partly extinguished by Australian law. There are also cases in which native title is wholly extinguished, meaning there can be no native title claim on the land or waters. In general, full native title resembling anything like ownership will only be available over some unallocated Crown land, certain Aboriginal reserves and some pastoral leases held by native title holders (ibid).

The Australian legal system of today provides a particularly interesting model for the demarcation and recognition of indigenous lands, in explicitly recognizing that Aboriginal peoples have both a spiritual and material connection to land (Brazenor et al. 1999). The spiritual connection to the land is apparent in traditions and customs, and may be expressed in paintings, song, dance, symbolic totems and oral traditions. In proclaiming Aboriginal interests in land primarily ‘a spiritual affair’ (Behrendt 2007), the Australian High Court faces the challenge of translating spiritual expressions into physical markers and legal terms. This is oftentimes problematic because the spiritual connection to land is difficult to quantify. Measuring, marking, and quantifying the material or resource relationship with land are more straightforward, and may largely be based on the location of resources (Brazenor et al. 1999).

Indigenous Australians may only make a native title claimant application in areas where it has not been extinguished (removed). People who hold native title have a particular right to continue to practice their law and custom over traditional lands and waters. This may include a variety of rights and interests, such as living, hunting, gathering, fishing, holding ceremonies, rights of access, use and occupation, and visiting to protect important places. It may also include the right to be consulted about decisions or activities that could affect the enjoyment of native title rights and interests.

Despite far fetching legal protection for aboriginal title, critics are discontent with the slow process for settling native title claims the small percentage of claims that have been resolved (Behrendt 2007). A main problem remains determining what is ‘traditional’ and, ultimately, it is the Court who determines the level of traditional knowledge and customs that is sufficient to substantiate a claim. This process is unjust and subjective in the eyes of those who argue that ‘laws and customs’, ‘acknowledge and observe’, and ‘traditional’ –which are key concepts in legitimizing boundaries and rights- ought to be understood from the stand-point of Aboriginal people rather than white judges.

The common law dealing with native title is still evolving. The decisions made by the Federal and High Courts in native title cases will continue to clarify the extent to which native title rights and interests can be recognized and protected by common law. These decisions depend in an interplay of politics and law, which is complex, multi-leveled, and unpredictable (Pue 2005).
5.3.3. The Eastern Kuku Yalanji People

The Eastern Kuku Yalanji are part of the Kuku Yalanji native group, living east of the range associated with the rainforest environment in the Daintree area of Queensland. The larger nation consists of smaller, geographically bound clans with specific ownership and use rights of lands and resources between them.

Since times immemorial, the Daintree area has provided the Kuku Yalanji with a wide variety of natural resources in and on islands, beaches, creek mouths, backing dunes, lowland rainforest, reefs and the sea. The beaches and forests also are crucial sites for camping as people harvest seasonal resources. The Kuku Yalanji made and still make use of a complex network of Aboriginal walking tracks, based around two major tracks along the coast and further inland. The network of trails connects (temporary) habitats, places of cultural importance and resource use.

Following colonial conquest and the establishment of permanent European settlements, the Kuku Yalanji were forced into Missions. From then on traditional lifestyles were irreversibly changed as the Kuku yalanji were subjected to various Government policies which ranged from 'dispersal' to 'assimilation' to the current 'self-determination' policy. Despite all of this, the Kuku Yalanji have managed to maintain many important aspects of their cultural identity and most predominantly their use, association and connection to Kuku Yalanji Country. Amongst the Kuku Yalanji there is extensive knowledge of boundaries, family connection, place names, bush medicine and other detailed cultural information. Records of this knowledge have been an important source of information in demarcation.

5.3.4. Demarcation of Kuku Yalanji aboritional lands

An integral element of Australia's Native title process is the requirement that a map and a worded description of the claim area be supplied as part of the initial application. The standards that these maps need to comply with broad guidelines have been described in the National Native Title Tribunal Procedures and Guidelines:

These guidelines provide representing bodies with details concerning the custodians of land based information, the appropriate land based information details that should be supplied, the appropriate scales of maps and the tenure details required for the native title application. The advantage for these broad guidelines is that they acknowledge the diversity within and between Aboriginal communities where there are no pre-existing claims to provide precedent. The disadvantage ... [is] that boundaries and claim areas are being prepared from various source maps with differing scales and features. (Brazenor et al. 1999)

Mapping of traditional Aboriginal land used to occur almost exclusively on the basis of ethnographic and historical research. More recently, land surveyors have become more involved in the delineation of claim areas. The Central Land Council, for example, is now using digital land based data for Aboriginal lands management through geographic information systems (GIS). Past cases have
highlighted the need for accurate and unambiguous boundary delineation and determination of traditional Aboriginal lands. Native title has been extinguished in cases where maps were confusing and believed unjust (e.g. Yorta Yorta case, 1998). On the other hand, groups such as North Queensland’s Eastern kuku Yalanji people, who have convincingly proven their connection to clearly defined lands, recently gained, 13 years after lodging their claim, Native title rights over 126,900 ha in Queensland (Kormendy 2007) (December 2007).

The 2007 Native title rights give the Eastern Kuku Yalanji a significant management role in Queensland’s pristine World Heritage Daintree area. As native title holders the Kuku Yalanji will have the right to exclusively possess, occupy and use 30,300 ha of Unallocated State Land. They will also have recognition of their non-exclusive rights over 96,600 ha, including the right to access the area to camp, hunt, gather natural resources for personal needs and conduct ceremonies. They will have non-exclusive rights to the water, to hunt, fish and gather and to use it for personal needs.

The recognition of native title was achieved through negotiation and agreement between the native title claimants, state and local governments, Wet Tropics Management Authority and others. The determination was the culmination of negotiations over a complex range of land tenure issues in the World Heritage area, which have been resolved though registration of 15 separate indigenous land use agreements (ILUAs). The Indigenous Land Use Agreement (ILUA) is a voluntary agreement between a native title group and others about the use and management of land and waters. These ILUAs arranged, among others, a greater management role of the Eastern Kuku Yalanji in parks and some reserves; ownership of 16,500 ha of Aboriginal freehold for residential and economic development; an enlargement of the national park estate; and the preservation of environmental and cultural values.

5.3.5. Lessons learned from Australia

- The Australian Native Title Act may be among the most far-reaching legal structures in guaranteeing appropriate demarcation of traditional home lands, in explicitly recognizing that drawing the boundaries of a native territory requires consideration of both the spiritual and the material connection to the land.

- While demarcation of resource use areas or the material connection to the land is rather straightforward, defining and marking the spiritual territorial connection is much more difficult and subjective.

- In the process towards the demarcation and titling of indigenous lands, accurate and unambiguous boundary delineation is crucial. For example, the indigenous territory to be demarcated may contain different areas to which people have exclusive and non-exclusive rights.

- Once a legal system for the legitimization and registration of indigenous titles is in place, it is useful to establish a supportive political body to help local people with advice and in administrative procedures related to title claims.
Once obtaining indigenous land title becomes possible, it is important to clearly describe the procedure to do so. An integral element of Australia’s Native title process, for example, is the requirement that a map and a worded description of the claim area be supplied as part of the initial application.

(Legal) guidelines need to be established for the creation of land use, occupation, and boundary maps. Such guidelines may or may not include the map scale; geographic coordination system; type/source of base map; and what features must be minimally depicted and how.
6. Guidelines for demarcation in Suriname

In the previous pages, we approached the issue of demarcation from different angles and geographical locations. We started by defining demarcation, discussing its significance, and providing methodological pointers in carrying out a demarcation project. Next we zoomed in on Suriname. We analyzed perceptions of territorial boundaries among the various indigenous and maroon groups and identified both benefits of demarcation and possible sources of conflict it might generate in this small Latin American country.

In Chapters 4 and 5 we drew lessons from demarcation and titling processes in surrounding countries and Western states. The cases of Colombia and Brazil were included because in these countries, both indigenous and African-descent communities have been eligible for land titling. The cases of Canada and Australia are relevant because they show that even in wealthy countries with far-fetching legal protection of indigenous or aboriginal land rights, certain tribal groups are denied rights to ancestral lands. The cases of the US and Nicaragua show that international organizations such as the OAS and the UN can urge signatory States to delineate and recognize territorial boundaries of indigenous groups. They cannot, however, force States to do so and in the end it remains up to the governments of the countries in question to demarcate, title, and protect indigenous lands.

This final chapter provides guidelines and points of attention for the demarcation process in Suriname, based on lessons learned from the various cases. We discuss the reasons for of demarcation, its actual -legal and practical- meaning, guidelines for government actions, methodological issues, and conflicting stakeholder interests. This report ends with a brief concluding statement.

6.1. An urgent need for demarcation

Throughout the Americas, growing recognition of indigenous rights, as well as practical economic and socio-political concerns, are motivating states to demarcate and title indigenous and tribal lands. Also in Suriname, the Government of Suriname (GOS), Non Governmental Organizations (NGOs), and indigenous peoples and maroons are increasingly calling for the mapping and demarcation of ancestral lands. Accurate boundary delineation is seen as a crucial first step towards land titling.

Ambiguity about the borders of ancestral lands, and about the (customary) rights and obligations of local peoples within those territories, is creating social problems and impedes economic development. Suriname’s Brokopondo area, for example, is repetitively plagued by violent clashes between maroon communities and a large-scale mining concession holder. Meanwhile the Saramaka maroons of the Upper Suriname filed and won a court case against the state of Suriname, obliging the state to demarcate and title their lands and pay the communities compensations for lost property and court expenses. At a local level, uncertainty about title deters local people from protecting and investing in their lands. Clarity about the boundaries of indigenous and maroon lands and the allocation of titles to these lands could prevent many of the mentioned problems.
6.2. The meaning of demarcation

The various case studies demonstrate that without demarcation, legal acknowledgement of indigenous rights to traditional lands in the constitution and national laws is no guarantee for adequate protection of such rights (e.g. Colombia, Brazil, Nicaragua, Canada and Australia). In the past three decades, several countries have de facto and by law recognized indigenous and tribal rights to ancestral lands. Yet in none of these states do all indigenous peoples have land. Nor are all self-proclaimed indigenous territories legally demarcated.

Also in Suriname, indigenous and maroon ethnic groups are increasingly mapping their territories with the help of Non Governmental Organizations. The resulting ethnographic maps have been used in discussions with the Suriname government about land rights and as supporting evidence in appeals to international organizations. The current GOS Ministry of Regional Development project Collective Rights\textsuperscript{21}, which is being executed by ACT-Suriname, will ensure that all indigenous and maroon peoples of Suriname will possess their own land use maps by the end of 2009.

Ethnographic maps like the ones that are being fabricated in Suriname are important tools in the process towards the titling of indigenous lands. One should not see these maps as definitive records and evidence of property, but rather as works in progress that are subject to change. Indeed, demarcation and even titling of indigenous lands may not provide adequate protection against intrusion and expropriation if powerful political and economic interests are at stake (e.g. Colombia, Brazil). The legal or allowed superimposition of private mining or logging rights on top of indigenous territorial rights, for example, remains a problem throughout the American continent.

6.3. Government procedures in the demarcation process

There are various actions the Government of Suriname (GOS) can take to facilitate the demarcation and titling of indigenous and maroon lands. In the first place; all countries with a sizable population of indigenous and tribal peoples have (a) special political body(s) to address their issues. While these political bodies differ in their power, tasks, and relations with the peoples involved, they usually offer a place to file complaints against the violation of indigenous rights. In Suriname there is no such office. There is no public office where indigenous and maroon communities can go to protest the intrusion of ancestral lands, to seek advice in the case of local tenure disputes, or to find legal support in the case of violations of their rights. As a result, indigenous and maroon peoples often are sent to different offices in different Ministries, while these government offices react haphazardly and arbitrarily in the case of problems affecting these tribal groups.

Secondly, the process of demarcation and titling of indigenous lands should be accompanied by legal changes that enable the titling of communally owned or managed lands. In Suriname, obtaining communal land tenure is not possible. The closest to communal rights to land may be the alodial property titles which, until 1937, were issued to several former plantations in the district of Para.

\textsuperscript{21} This project is part of a broader IDB-supported development program for the interior of Suriname, named
Another communal title, the *Houtkapvergunning* (HKV) is a community logging license. In practice, this title is issued to the village kapitein and not truly communal.

Third, once obtaining indigenous or maroon land title becomes possible, it is important to clearly describe the procedure to do so. An integral element of Australia’s Native title process, for example, is the requirement that a map and a worded description of the claim area be supplied as part of the application. In Colombia, a management plan needs to be submitted and a responsible indigenous political body must be appointed to be considered for communal land title. Similarly, if maps are to be used in indigenous and maroon land tenure applications, (legal) guidelines need to be established for the creation of these maps. Such guidelines may or may not include the map scale; geographic coordination system; and what features must be minimally depicted and how. Fourth, once a legal system for the legitimization and registration of indigenous titles is in place, it is useful to establish a supportive political body to help local people with advice and in administrative procedures related to title claims.

And, finally, we cannot expect the processes of demarcation and titling for all ten indigenous and maroon groups in different parts of Suriname to be resolved within one government term (5 years). We have not heard of any one nation where the demarcation and registration of indigenous lands have been executed all at once. Instead, the delineation of indigenous and tribal lands and the subsequent issuance of title tend to occur on a case by case basis. International examples suggest that such a process may take at least 20 to 30 years. It is a task of the government to prepare its citizens for this lengthy process and to avoid creating expectations that will not be met.

### 6.4. Mapping and demarcation methods

Indigenous peoples do not have to await their government in order to make maps marking the boundaries of their territories. Doing their homework by producing maps may speed up the process. Various international institutions may help therein by providing funding and practical expertise.

Mapping participants need to consider that indigenous home lands do not only consist of visible markers such as human structures (e.g. homes) and geophysical markers (e.g. mountain). They also are defined based on invisible and spiritual elements, such as now overgrown ancient worship places. Geographic markers that define this spiritual connection may be collected from traditional myths, stories, and cultural expressions. Judgment of how important this connection continues to be for the group remains subjective.

In order to produce a map that accurately depicts the indigenous or maroon area boundaries, demarcation must be a truly participatory process. The various organizations that are involved in mapping in Suriname (ACT, VIDS, PAS) are using such a participatory approach, combining community forums and actual geographic fieldwork by indigenous and maroon individuals. These exercises must take into account that indigenous peoples and maroons have very different perspectives on territoriality, whereby the maroons attribute much more importance to fixed borders than indigenous peoples do. Not only between but also within groups there may be different interests and perspectives. It is the task of the communities and mapping facilitators to most
accurately portray these various views. If done well, the demarcation process may actually lead to increased social cohesion and interest in the traditional culture.

The various international cases suggest that demarcation has to be as specific as possible to prevent later confusion. Mere descriptions based on physical markers (e.g. a watershed) may not be specific enough once the exact boundaries become important, for example when a third party asks for a concession on indigenous lands.

While international organizations and courts may exert pressure to demarcate and recognize indigenous lands, it is ultimately the national government who takes a decision about these issues. A ruling from the Inter American Court for Human Right, for example, may summon the government to respect customary indigenous rights but cannot force the state to take action. Hence working with the government, and convincing both public officials and civil society of the value (humanitarian, ecological, etc.) of indigenous rights to land is important.

### 6.5. Conflicting stakeholder interests

Maps depicting tribal boundaries are seldom acceptable to all stakeholders, such as the various indigenous and tribal groups, different government offices, local citizens, and NGOs. When ideas of customary ownership and rights from one group challenge those of others, demarcation exercises may intensify old tensions and incite new conflicts.

In many cases, demarcation creates friction between different indigenous and tribal groups who claim the same areas as part of their ancestral lands. The identification and settlement of such overlapping land claims should be part of any demarcation process. In Suriname, (potentially) conflicting boundaries exist, among others, at the upper Marowijne River area (Paramaka and Ndyuka), at the lower Lawa River (Aluku and Ndyuka), and in Marowijne district (Ndyuka maroons and indigenous groups). Traditional authorities must play a key role in resolving land and resource conflicts during a demarcation process.

In south Suriname and along the coast, indigenous communities peacefully intermingle in the same general area. Demarcation of the lands of the Kaliña and Lokono in the north, and the Trio and Wayana in the south may best occur without drawing dividing lines between these groups. Shared areas have the added benefit of forming larger ecological zones for the conservation of wildlife and other resources.

Stakeholder conflicts also may arise due to the presence of private and state interest in valuable mineral resources on indigenous lands. These outside parties may see indigenous title as a hindrance to their economic activities and, if compensations are to be paid, a factor raising their costs. Demarcation and titling processes need to include measures to deal with non-indigenous peoples who reside or have interests in (parts of) the indigenous territory. Such measures may include continued residence in the indigenous territory or compensatory measures. In Suriname, this situation is particularly relevant in the coastal areas, and the districts of Para and Brokopondo.
6.6. **To conclude...**

To conclude, we content that the demarcation of indigenous and other tribal lands is an oftentimes difficult, lengthy, and expensive process. This process is never completely finished, as new political developments, migratory movements, economic interests, and environmental processes may affect the places where people live and change the ways in which they use their resources. Planning maps depicting expected or desired human movements and resource use can help anticipate such changes and be used to develop better demarcation maps.

Even though territorial boundaries are subject to changes over time, the fabrication of occupancy, use, and demarcation maps is an indispensible step in the process towards the recognition of indigenous and maroon land titles in Suriname. We hope that the information and guidelines in this report can help the government of Suriname and supporting NGOs in this process.
References

ACT
2007a  Wayana baseline study

ACT
2007b  Trio Baseline Study

Amnesty International

Amnesty International USA
2003  Western Shoshone. In: Just Earth!
http://www.amnestyusa.org/justearth/indigenous_people/western_shoshone.html

Agreements, Treaties, and Negotiated Settlements Project (ATNS)

APA

BC Treaty Commission
2008  Why Treaties? A Legal perspective

Behrendt, Jason

Beveridge,
2001  Amerindian communities in Guyana are Mapping their Future. News Letter from Oxfam Canada. URL

Brazenor , Clare, Cliff Ogleby, and Ian Williamson

Buddingh’, Hans
Commissie landrechten Inheemsen Beneden-Marowijne (CLIM)

De Groot, Silvia

Field, Candace

Government Information Agency of Guyana (GINA)

Jackson, Norma Lozano, and Peter Jackson

James, Tony

Hutchison, Meredith, Sue Nichols, Marcelo Santos, Hazel Onsrud, Silvane Paixao

Indian and Northern Affairs Canada


Instituto Socioambiental (ISA)
2008  O caso da demarcação da Raposa-Serra do Sol
URL: http://www.socioambiental.org/inst/esp/raposa/

Inter-American Court of Human Rights.
http://www.forestpeoples.org/documents/law_hr/suriname_iachr_moiwana_judg_jun05_eng.pdf

Indigenous Peoples Law and Policy Program (IPLP)
2008  Western Shoshone. The University of Arizona, James E. Rogers College of Law
http://www.law.arizona.edu/depts/iplp/advocacy/shoshone/index.cfm?page=advoc

Inter-American Commission on Human Rights
1999  Third Report on the Situation of Human Rights in Colombia. Chapter X. The Rights of

Inter-American Development Bank
Country Division 6. Report by Gary Brana-Shute et. al. IDB: Paramaribo, Suriname

Jensen, Marianne Wiben

Kormendy, Nicolette
2007  Native title recognised in Daintree. Press release for the National Native tribal tribunal,
Australia

MacKay, Fergus
2005a  Five Amerindian communities get land titles -Orealla's area extended. Press release of the
Forest Peoples Programme. Friday, September 23rd 2005. URL:

MacKay 2005b
14, 2005. On News blog of the Caribbean Amerindian Center Link. URL:

Mark, Merel van der
2008  Beslissing over indianen gebied weer uitgesteld. Web dossier
%20Sol.htm

Miller, Robert J.
Nadir
2002 Mision de Observacion a la Situación de las Comunidades Afrodescendientes en Colombia: Desplazamiento forzado interno, Violaciones al Derecho Internacional Humanitario y Situación de Personas Afrocolombianas en las Carceles: Anexo 1Casos específicos sobre actos de violación a los DD HH e infracción al DIH en territorios de comunidades negras. Caso 2. DEPARTAMENTO DEL CHOCÓ.

Newcomb, Steve
URL: http://ili.nativeweb.org/sdrm_art.html

SOFRECO and NIKOS

Tobias, Terry N.
2000 Chief Kerry’s Moose. A guidebook to land use and occupancy mapping, research design, and data collection. Union of BC Indian Chiefs and Ecotrust Canada: Vancouver, Canada

Pue, Wesley W.

República Federativa do Brasil
1988 Constituição da República Federativa do Brasil

Sutton, Imre

UNOG-OHCHR Committee on the Elimination of Racial Discrimination
2008 Letter to the Inter American Commission of Human Rights, in Response to Report of Nicaragua (June 21, 2007) on behalf of the Indigenous Community of Awas Tingni (Nicaragua) URL: http://www2.ohchr.org/english/bodies/cedh/docs/ngos/AwasTingni.pdf.

Yowell, Ramond
1993 Ramond Yowell, Western Shoshone National Council Chief, speaks about the treaty of Ruby Valley, Fort Ruby, NV [Camera: Paul Nellen 1993©]

Personal Communication
• Marton, B. Land Registration and Systems Officer, Lands and Trust Services, Indian Lands Registry, Department of Indian & Northern Affairs, Canada. E-mail conversation, June 2008
• McGregor, Socio-Economic and Demographic Statistics Section, Strategic Research and Analysis Directorate, Federal Government of Canada. E-mail Conversation, June 2008