



# 64

## RECOGNISING AND SUPPORTING TERRITORIES AND AREAS CONSERVED BY INDIGENOUS PEOPLES AND LOCAL COMMUNITIES

Global overview and  
national case studies



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# Recognizing and Supporting Territories and Areas Conserved by Indigenous and Local Communities

## Global Overview and National Case Studies



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## FOREWORD

Indigenous peoples and local communities have managed and protected a variety of natural environments and species for a variety of reasons, cultural, spiritual and aesthetic, as well as socio-economic. Today, there are many thousands of indigenous territories and other areas conserved by indigenous peoples and local communities across the world.

Indigenous peoples' and local communities' conserved territories and areas (ICCAs) are natural and/or modified ecosystems containing significant biodiversity values, ecological services and cultural values, voluntarily conserved by indigenous peoples and local communities, both sedentary and mobile, through customary laws or other effective means. They help maintain genetic diversity, conserve threatened species, and provide corridors for species' movements. The cultural and economic livelihoods of millions of people depend on them for securing resources such as energy, food, water, fodder, shelter, clothing, and for providing income. ICCAs contribute to global food security by conserving important crop wild relatives, and traditional and threatened landraces. ICCAs play a critical role in ensuring access and respecting rights to customary sustainable use of biodiversity and also provide a fertile classroom for the passing on of inter-generational environmental knowledge, innovations and practices.



ICCAs cover hundreds of millions of hectares of various kinds of ecosystems; one estimate suggests that they may cover as much area as is currently covered by formally designated protected areas. For example, an estimated 3.7 million square kilometres of the total forest area in Latin America, Africa, East and South Asia fall under community conservation. By 2010, the World Database on Protected Areas included some 700 ICCAs covering over 1.1 million square kilometres with studies indicating that this represents only a fraction of the total area of these sites.

ICCAs can be the living embodiment of Articles 8(j) and 10(c) of the Convention. Parties have recognized their importance in the CBD Programme of Work on Protected Areas (PoWPA) and in recent decisions of the Conference of the Parties. Specifically, decisions X/31 and IX/18 call for their recognition and support to be provided.

Since ICCAs are often an effective mechanism for conservation, there is a need to recognize their crucial role in implementing the Strategic Plan for Biodiversity 2011-2020 and, in particular, in achieving Aichi Targets 11 (on protected areas), 13 (on food security), 16 (on the Nagoya Protocol on Access and Benefit Sharing), and 18 (on traditional knowledge and customary sustainable use).

This volume of the CBD Technical Series has been prepared in response to decision X/31, by which the COP requested the Executive Secretary to provide additional technical support through the development of toolkits, best practices, and guidelines on themes of the programme of work on protected areas in collaboration with Parties, partners and international organizations.

It is our hope that this volume will help to bring to light the practical aspects and the potential benefits from formally recognizing ICCAs and thereby foster fruitful discussion on the topic. This volume highlights the values and benefits of ICCAs, stressing that formal recognition of ICCAs should be appropriate to the local situation and adequate to local requirements, and needs to occur in ways that the relevant local peoples or communities themselves seek, or that they find mutually acceptable.

I would like to thank the authors and editors that have contributed to this volume of the CBD Technical Series, the ICCA Consortium, Kalpavriksh and Natural Justice for conducting the studies and collation that went into this volume, and IUCN's TILCEPA for providing background support. I express my gratitude to the European Union for making available the resources for publishing this brochure in time for the eleventh meeting of the Conference of the Parties. I am confident that this volume will aid Parties and other stakeholders to achieve enhanced, more effective, and more equitable conservation for implementing the Strategic Plan for Biodiversity 2011-2020 and achieving the Aichi Targets.

A handwritten signature in black ink, appearing to read 'B. Ferreira de Souza Dias'.

Braulio Ferreira de Souza Dias  
Executive Secretary  
Convention on Biological Diversity



## LIST OF ACRONYMS AND ABBREVIATIONS

BCP	Biocultural Community Protocol
CADT	Certificate of Ancestral Domain Title
CBCRM	Community-Based Coastal and Marine Resources Management
CBD	Convention on Biological Diversity
CBFM	Community-Based Forest Management
CBO	Community-Based Organization
CCA	Community Conserved Areas
CD	Compact Disc
CEESP	Commission on Environmental, Economic and Social Policy
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CKGR	Central Kalahari Game Reserve
CMPA	Co-Managed Protected Area
CONADI	<i>Corporación Nacional de Desarrollo Indígena</i> (National Corporation for Indigenous Development)
CONANP	National Commission of Protected Areas
COP	Conference of the Parties
CP	Common Property
CSO	Civil Society Organization
EMRIP	Expert Mechanism on the Rights of Indigenous Peoples
EU	European Union
FAO	The Food and Agriculture Organization of the United Nations
FLMMA	Federation of Locally Managed Marine Areas
FPIC	Free, Prior and Informed Consent
FRA	Forest Rights Act
GEF	Global Environment Facility
GELOSE	<i>Gestion Locale Sécurisée</i> (Secured Local Management)
GIAHS	Globally Important Agricultural Heritage Systems
GIS	Geographic Information System
ICC	Indigenous Cultural Community
ICCA	Indigenous Peoples' and Local Communities' Conserved Territories and Areas
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
IP	Indigenous People
IPA	Indigenous Protected Area
IPO	Indigenous Peoples Organization
IPRA	Indigenous People Rights Act
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture
IUCN	International Union for Conservation of Nature
JFMS	Joint Forest Management Scheme
LC	Local Community
LGEEPA	National Law on Ecological Equilibrium and Environmental Protection
LMMA	Locally Managed Marine Area
LMO	Living Modified Organism
MAB	Man and Biosphere program
MoEF	Ministry of Environment and Forests
MoTA	Ministry of Tribal Affairs
MPA	Marine Protected Area

NGO	Non Governmental Organization
OHCHR	Office of the High Commissioner for Human Rights
PA	Protected Area
PES	Payment for Environmental Services
PESA	<i>Panchayat</i> (Extension to Scheduled Areas) Act
PNG	Papua New Guinea
PoW	Programme of Work
PoWPA	Programme of Work on Protected Areas (of the CBD)
PPA	Private Protected Area
REDD	Reducing Emissions from Deforestation and Forest Degradation
RNC	<i>Réserve Naturelle Communautaire</i> (Communal Natural Reserve)
SCA	Supreme Court of Appeal
SGP	Small Grant Programme
SGPA	Shared Governance Protected Area
SNS	Sacred Natural Site
SPA	Small Protected Area
SSSI	Site of Specific Scientific Interest
TCO	<i>Tierra Comunitaria de Origen</i> (Communal Land)
TGER	Theme on Governance, Equity and Rights
TIOC	<i>Territorio Indígena Originario Campesino</i> (Peasant / Indigenous Territory)
TILCEPA	Theme on Indigenous Peoples, Local Communities, Equity and Protected Areas
TTUN	Territory of Traditional Use of Nature
UK	United Kingdom
UN	United Nations
UNCCD	United Nations Convention to Combat Desertification
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
UNHRC	United Nations Human Rights Council
UNPFII	United Nations Permanent Forum on Indigenous Issues
UNTS	United Nations Treaty Series
VCA	Voluntary Conserved Area
WCMC	World Conservation Monitoring Centre
WCPA	World Commission on Protected Areas
WDPA	World Database on Protected Areas
WPC	World Parks Congress

## EXECUTIVE SUMMARY

**Introduction** [Chapter 1]: There is increasing recognition that the territories and areas governed or managed by indigenous peoples and local communities contain significant levels of biodiversity (and related cultural diversity), and that the knowledge and practices of these people have contributed to conservation of ecosystem, species, and genetic diversity. This publication responds to the need for greater understanding on *how to recognize and support* the phenomenon of Indigenous Peoples' and Local Communities' Conserved Territories and Areas (ICCAs). Such a need has been voiced by those who work on conservation, indigenous and human rights, local communities, natural resource-based livelihoods and cultural issues. It also arises from the commitment of countries to recognize and support ICCAs, and the peoples and communities that govern them, as part of international conservation and human rights agreements.

This publication is based on a range of past studies on ICCAs conducted in several regions of the world in the last two decades, and, most recently, on 19 country level case studies. The latter were commissioned as part of a project on ICCA Recognition and Support, undertaken by the ICCA Consortium, coordinated by Kalpavriksh. It also incorporates some key findings of a parallel project on ICCA Legislation, also undertaken by the ICCA Consortium, and coordinated by Natural Justice.

The publication intends to:

- provide a glimpse of the range, diversity, coverage, and values of ICCAs, and the socio-cultural, economic and political contexts important for them;
- provide an understanding of the status and processes of recognizing and supporting ICCAs, at both international and national levels, and suggestions on how appropriate recognition and support could be given to them;
- help Parties to the CBD implement their commitments under the Programme of Work on Protected Areas or other programmes and action plans of the CBD, and achieve relevant Aichi Targets of the Strategic Plan for Biodiversity 2011-2020;
- help Parties to the CBD and other countries implement their commitments under other relevant international agreements including the United Nations Declaration on the Rights of Indigenous Peoples;
- strengthen the efforts of civil society organizations, including those of indigenous peoples and local communities, in obtaining appropriate recognition and support for ICCAs.

**The ICCA Phenomenon** [Chapter 2]: ICCAs are “*natural and/or modified ecosystems, containing significant biodiversity values, ecological benefits and cultural values, voluntarily conserved by indigenous peoples and local communities, through customary laws or other effective means*”. Known by myriad different local names, they cover a vast diversity of ecological, cultural, economic and political situations, and may spread over as much area as formally designated protected areas. They harbour crucial ecosystems and species diversity, including several threatened species, and provide important ecological functions such as hydrological stability and landscape or seascape connectivity. They also represent a vast array of institutional mechanisms of governance including those that excel in adaptive management.

Yet they face serious threats of various kinds, including damaging ‘development’ and commercial projects, imposition of inappropriate land-uses, pollution and climate change, demographic and cultural changes, and economic or political inequities. These are greatly exacerbated because ICCAs lack public and official recognition.

**International Recognition and Support of ICCAs** [Chapter 3]: In the last decade or so ICCAs have gained significant recognition at international levels. A prominent role in this has been played by the IUCN through publications, workshops, and public platforms related to ICCAs, and advocacy in intergovernmental forums. The Convention on Biological Diversity has provided for explicit recognition of ICCAs through its Programme of Work on Protected Areas; a number of its other processes are also relevant. Indirectly, a range of international human rights, agricul-

tural, development, and other instruments and processes are also important in providing indigenous peoples and local communities with the recognition and support they need to govern and strengthen their ICCAs.

***National Level Recognition and Support of ICCAs [Chapters 4&5]:*** At a national level, too, ICCA recognition and support has started gaining ground. In some cases this precedes the above-mentioned international instruments, in others it is an outcome of such instruments. In some countries, this takes the form of constitutional provisions and laws that provide for indigenous peoples' or local communities' rights, or for decentralised governance, which in turn form the basis for continuation or strengthening of ICCAs. In other countries, ICCAs may be explicitly recognized in law (by their various local names), and some even include them in their official protected area systems. Apart from legal and policy recognition, governments or civil society organizations provide help in documentation and research, social and administrative recognition (such as awards, or a place in governmental planning processes), facilitation in building capacity, technical and financial support, or aid in carrying out advocacy and networking. The organizations and networks of indigenous peoples or local communities themselves are often crucial in these processes. Also active in many situations are international donor, research, or networking organizations.

Despite the very visible progress in recognizing and supporting ICCAs there remain huge weaknesses and gaps. Most countries have no or very inadequate legal and policy mechanisms to respect indigenous peoples and local communities (especially with regard to territorial, collective, and tenurial rights), and in many the existing policy environment may actually be against their interests. In a number of countries where ICCAs are recognized, this is through top-down legal or administrative mechanisms, imposing inappropriate institutional mechanisms, rules, or conditions that undermine the local initiative. Research and documentation still do not cover the vast majority of ICCAs, and sometimes, when done without adequate involvement of the relevant people or community, can be exploitative. Financial support can often be inadequate, or inappropriately channelled leading to local elite capture. There are very big gaps in facilitating secure livelihoods, especially for younger generations, linked to the conservation initiative.

***Recommendations for Recognising and Supporting ICCAs [Chapter 6]:*** Given this situation, where ICCAs are getting increasing recognition and support and yet face huge challenges in ensuring that these are both *adequate* and *appropriate*, there are number of steps that governments, civil society, donor organizations, and private sector could take. These include:

- Legal and policy measures, most crucially towards recognizing indigenous peoples' and local communities' rights as legal subjects, rights to territory, natural resources, and collective governance, respect of customary knowledge and practices, and other such conditions relevant for secure ICCAs; and towards recognizing ICCAs as valid conservation initiatives including, where appropriate, in protected area systems;
- Administrative measures, such as inclusion of ICCAs in conservation, poverty, livelihood, and other action plans, providing platforms for indigenous peoples or local communities voices in planning and decision-making;
- Documentation and research on specific ICCAs and ICCA systems, and their incorporation into relevant databases, through participatory and community-based mechanisms;
- Social recognition of conservation, cultural, and livelihood values of ICCAs, through public exposure, awards, media coverage, and other such actions;
- Technical, financial, capacity, and other kinds of support, towards strengthening the governance and management mechanisms of ICCAs;
- Facilitation for advocacy and networking, both among indigenous peoples and local communities governing ICCAs as also with and among support groups.

In all the above, a number of dos and don'ts need to be kept in mind (as spelt out in this document); particularly important is that measures for recognition and support are done by, through, or with the consent of the relevant indigenous people or local community, and in ways that empower their own diverse, locally relevant institutions.

## CHAPTER 1: INTRODUCTION

### 1.1 Background

This technical report emerged from a widespread need for greater understanding on how to recognize and support conservation of territories and areas by indigenous peoples and local communities. Such a need has been felt and voiced by government agencies, civil society organizations, donors, and others who work on conservation, indigenous and human rights, local communities, natural resource-based livelihoods and cultures.

This report is an indirect outcome of the increasing documentation of such practices around the world, and of the realization that their recognition and support would greatly enhance biodiversity conservation, livelihoods and food security, and help implement goals of international instruments such as the Convention on Biological Diversity (CBD). Specifically, the Programme of Work on Protected Areas (PoWPA) of the CBD mandates Parties to identify, recognize, and support ‘indigenous and community conserved areas (ICCAs),’<sup>1</sup> and agencies in many countries have sought inputs on how precisely this is to be done. Pursuant to this the Conference of Parties to the CBD at its tenth meeting also requested the CBD Executive Secretary to “provide additional technical support through the development of toolkits, best practices, and guidelines on themes of the programme of work on protected areas in collaboration with Parties partners and international organizations, in particular ... implementing element 2 of the programme of work on protected areas.”<sup>2</sup>

Finally, this report stemmed from the realization that while the recognition and support of such practices is indeed increasing in many countries, it is lagging in many others; and even where it is increasing, it may not necessarily be appropriate to the diverse needs that ICCAs have. For this reason the report focuses not only on how to achieve *adequate* recognition and support, but also on how this should be *appropriate*.



Community guards at Sendenyu village biodiversity reserve, Nagaland, India. © Ashish Kothari

<sup>1</sup> Pl. see Chapter 1 for a description of the terms used for these practices.

<sup>2</sup> <http://www.cbd.int/doc/decisions/COP-10/cop-10-dec-31-en.pdf>, Para 7(b).

## 1.2 Objectives

With the above context in mind, this publication is intended to:

- provide a glimpse of the range, diversity, coverage, and values of ICCAs around the world, and of the threats they face;
- provide an understanding of the status and processes of recognizing and supporting ICCAs, at both international and national levels, and suggestions on how appropriate recognition and support could be given to them;
- provide an understanding of the socio-cultural, economic and political contexts that are crucial to the emergence, sustenance, and strengthening of ICCAs;
- help Parties to the CBD implement their commitments under the PoWPA or other programmes and action plans of the CBD, and achieve relevant Aichi Targets of the Strategic Plan for Biodiversity 2011-2020;
- help these and other countries implement their commitments under other relevant international agreements including the United Nations Declaration on the Rights of Indigenous Peoples;
- strengthen the efforts of civil society organizations, including those of Indigenous peoples and local communities, in obtaining appropriate recognition and support for ICCAs.

Given the above objectives, the publication is aimed at organizations and individuals working on conservation, human rights, cultural issues and development.

## 1.3 Methodology

Briefly, this report has been put together in the following way:

- i. A core team from the ICCA Consortium,<sup>3</sup> coordinated by its member Kalpavriksh,<sup>4</sup> initiated a concept note and methodology, and generated funding for the process. It also contacted the CBD Secretariat, which readily agreed to consider this as part of its Technical Series.
- ii. 19 country-level case studies (listed in Box 1.1 below, and shown in Map 1) on ICCAs recognition and support were commissioned, broadly representing all the continents with a roughly equal number of countries. Each author was requested to follow a format to generate and write the country report. Each was also requested to solicit inputs from other experts and experienced people and groups. The core team edited and facilitated the finalization of these case studies, including sending them out for further review where necessary.
- iii. The overview report was compiled from these country-level case studies, studies conducted earlier by or through the ICCA Consortium and other organizations, documentation put together by IUCN's networks, and other relevant publications and reports that were readily available.<sup>5</sup> This overview was also sent out for review to several experts and experienced persons.
- iv. Relevant information being generated in a parallel study of the ICCA Consortium (coordinated by the civil society group Natural Justice and focusing more tightly on legal aspects) was also used to the extent available (and in turn this study fed into that one).
- v. Based on comments and feedback received from organizations and individual experts, the core team finalized the study for publication.

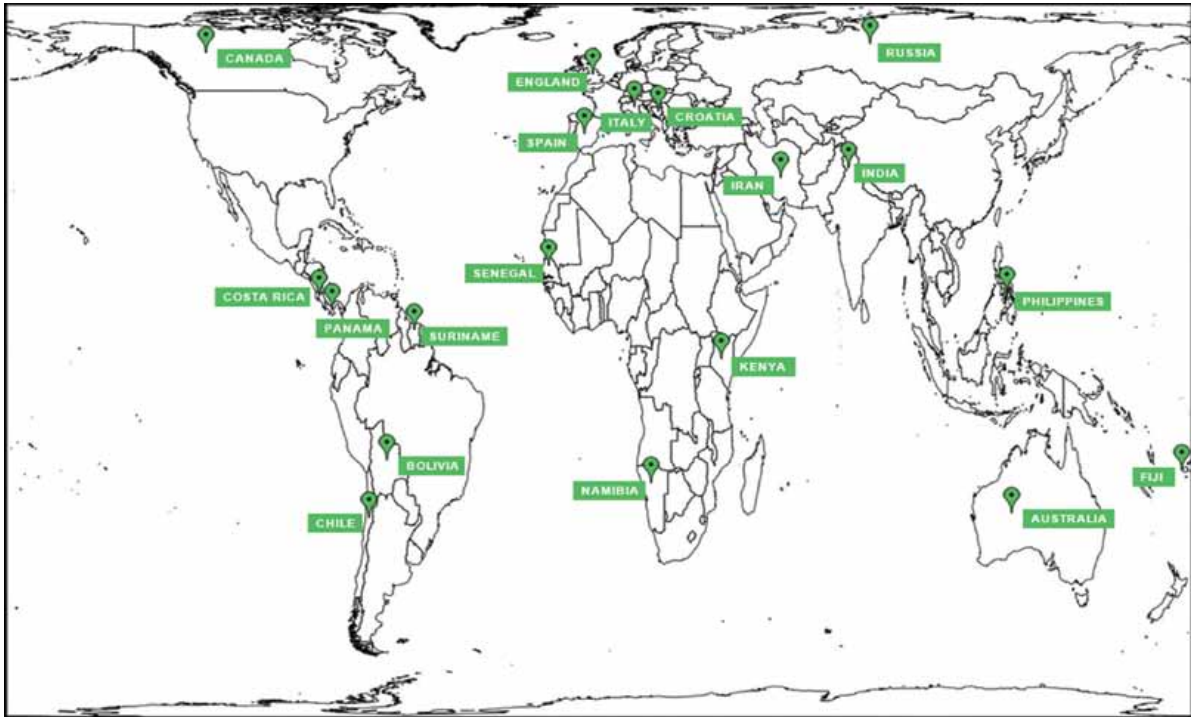
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<sup>3</sup> Pl. see Chapter 3 for a brief description of this network; see also [www.iccaconsortium.org](http://www.iccaconsortium.org).

<sup>4</sup> An Indian civil society organization that has been working on ICCAs for three decades, see [www.kalpavriksh.org](http://www.kalpavriksh.org).

<sup>5</sup> This included a IUCN Best Practice volume on co-management and ICCAs (Borrini-Feyerabend et al 2004a), a preliminary survey of laws and policies from 28 countries (Kothari and Menon 2010), some regional studies on ICCAs ([http://www.iccaforum.org/index.php?option=com\\_content&view=article&id=82&Itemid=98](http://www.iccaforum.org/index.php?option=com_content&view=article&id=82&Itemid=98)), and a number of briefing notes on ICCAs by IUCN's TILCEPA/TGER and the ICCA Consortium (see Annexure 4 also for a list of such resources).

**Map 1. Location of the 19 country-level case studies contained in this report.**



#### 1.4 Terms used

The following are the key terms used through this report (including the case studies), pertaining to the different kinds of recognition and support that ICCAs get or should get (see also Annexure 5 for explanation of other terms):

*Legal and policy recognition:* Identity, functions, powers, and/or rights given to ICCAs in national level laws and policies.

*Documentation, research and database:* Facilitation of communities in carrying out studies and documentation of their ICCAs, and putting these into public or limited forums and databases in ways that further help in their efforts.

*Social recognition:* Appropriate public exposure, official or civil society awards, providing platforms for community members to make their initiatives publicly known, media exposure, and so on.

*Administrative / technical / developmental help:* In-kind support from official administration and development agencies, or civil society groups, specifically meant to encourage/recognize ICCA initiatives, help build capacity, or provide related developmental inputs.

*Financial assistance:* Funding directly for ICCA initiatives or for related activities.

*Advocacy:* Lobbying with official agencies and others able to influence policies, laws, or other forms of recognition and support; facilitating communities in carrying out advocacy, reaching their voices to policy levels.

*Networking:* Facilitating networks/federations/forums of ICCAs; facilitating networking of ICCAs with other civil society organizations and processes.

#### 1.5 Report structure

This report is structured as follows:

Chapter 2 provides an introduction to the ICCA concept, a description of the kinds, range, and extent of ICCAs, and an analysis of the key threats they face.



Chapter 3 reviews the processes and instruments through which ICCAs have received recognition and support at international and global levels; which provides a context for the next chapter.

Chapter 4 reviews the means through which ICCAs are receiving legal and policy recognition at the national level, and the key strengths and shortcomings of such recognition.

Chapter 5 reviews the ways in which ICCAs are receiving other kinds of recognition and support (social, administrative, technical, financial, developmental, networking, and advocacy) at the national level, and the key strengths and shortcomings of these.

Chapter 6 provides broad and specific recommendations for governments, civil society, and others to move towards adequate and appropriate recognition and support to ICCAs.

This report also contains 19 country-level case studies; the full versions are provided within an enclosed CD, while only summaries appear as an annexure in the printed version.

Annexures also contain a table of summarized information on various forms of recognition and support in countries, background reference documents, and a glossary of terms.

### 1.6 An appeal

While every attempt has been made to present accurate and reliable information and robust analyses in this report, there is always scope for mistakes, gaps, and weaknesses. Additionally, the case studies and examples used here are by no means fully representative of the range of situations around the world. We urge the readers and users of this report to send in comments, corrections, and additional information and analyses, for further editions of this volume. We would also be happy to send the format used for the country case studies to anyone interested in developing such a study for the countries not covered in this volume.

#### Box 1.1: Country-Level Case Studies Commissioned for this Report (shown in Map 1)

##### *Africa*

Kenya  
Namibia  
Senegal

##### *South America*

Bolivia  
Chile  
Suriname

##### *North and Central America*

Canada  
Costa Rica  
Panama

##### *Asia*

India  
Iran  
The Philippines  
Russia

##### *Australia-Pacific*

Australia  
Fiji

##### *Europe*

Croatia  
Italy  
Spain  
United Kingdom (England)



Spring bluebells in the ancient, community-managed Bredhurst Wood, United Kingdom © Vanessa Jones/BWAG





Indigenous ranger rescuing marine turtle from fishing net, Mapoon, Queensland, Australia © Craig Wheeler, Mapoon Ranger



Akijo Ituru rapids in the Trio people's territory, Suriname  
© Ministry of Social Affairs, Sipaliwini Department

## CHAPTER 2: THE ICCA PHENOMENON

### 2.1 What are ICCAs?

#### 2.1.1 General description

Indigenous peoples and local communities<sup>1</sup> have governed, managed, and conserved land and marine territories for millennia. Societies based on hunting-gathering, agriculture, fishing, pastoralism, crafts, and other ecosystem-based economies and cultures have husbanded, used, and taken care of nature in every region of the earth. While such practices are as old as human history itself, and while the relevant peoples and communities have always valued their territories, it is only very recently that the ‘modern’ conservation movement has recognized their enormous contribution to the protection and maintenance of biodiversity (and associated cultural diversity). Even newer is the realization that such territories and areas need recognition and support if they are to survive the various forces that are threatening and eroding them.

According to one estimate, indigenous territories cover 22% of the earth’s terrestrial surface, and “coincide with areas that hold 80% of the planet’s biodiversity” (Sobrevila 2008). To this can be added areas that have been managed by non-indigenous local communities (peasant, fishing, pastoral, and others), for which no global estimate is available. As documentation of such territories and areas increases, there is greater realization that many of the world’s most important landscape and seascapes, natural and agricultural ecosystems, and populations of wildlife and domesticated biodiversity, are found in them. We shall return to the diversity, extent and values of these areas in the following sections.

Against a certain set of criteria (discussed below), many of these areas are now internationally known as Indigenous Peoples and Local Community Conserved Territories and Areas; or Indigenous and Community Conserved Areas (ICCAs) in CBD texts. It should however be stated at the outset that the term ‘ICCAs’ is only a convenient shortcut for a vast range of names that are used worldwide, much like the phrase ‘protected areas’ is a globally accepted term for dozens of names that countries and people give to areas conserved for wildlife.<sup>2</sup> This volume contains many names and terms for ICCAs, and these too are only a small subset: community reserves, indigenous reserves, indigenous protected areas, biocultural heritage sites, indigenous conservation territories, and many others.

Indeed, several Indigenous peoples have raised a legitimate concern about the term ‘ICCA’, stressing that their entire territories or areas could well fit into the concept, but should not thereby be straitjacketed into current, formal conservation frameworks that value them only for species and ecosystem conservation. Such territories and areas must first and foremost be seen as holistic biocultural or ecocultural landscapes and seascapes, which are inseparably connected to integrating socio-cultural, economic, political, spiritual and other aspects of the lives, identity and survival of the peoples or communities governing them. Categorizing such territories, or parts thereof, into currently mainstream conservation frameworks could in some cases be risky for Indigenous peoples and local communities, especially where recognition of their rights are weakly recognized.

#### 2.1.2. Definition and criteria

ICCAs have been defined by IUCN as *‘natural and/or modified ecosystems, containing significant biodiversity values, ecological benefits and cultural values, voluntarily conserved by indigenous peoples and local communities, through customary laws or other effective means’*. This definition is generic, as in all cases where a single definition of a vast

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<sup>1</sup> See Annexure 5 for an explanation of these terms.

<sup>2</sup> The application of the generic term ‘ICCA’ to the various territories and areas conserved by indigenous peoples and local communities has not gone through a Free, Prior and Informed Consent (FPIC) process, and as a matter of fact the term itself continues to evolve. It is used here only as a convenient communication tool rather than as a label set in stone. It may also be worth noting the history of the term, briefly: while the earliest usage was as CCAs (Community Conserved Areas), emerging from the term used by civil society in India, it soon was replaced by ICCAs (Indigenous and Community Conserved Areas), and then the current usage Indigenous Peoples and Community Conserved Territories and Areas (while retaining the acronym ICCA). This evolution reflects the recognition of the distinct identity of indigenous peoples, as well as of their concept of ‘territory’.

diversity of situations is attempted; it is also evolving as greater understanding of ICCAs across the world brings in new perspectives. The definition encompasses three crucial characteristics of ICCAs:

- A well-defined people or community (or peoples/communities) possesses a **close and profound relation** with an equally well-defined site (a territory, area or species' habitat; though, as we will discuss later, the boundaries may be flexible) and/or species; this is a relation rooted in culture, sense of identity and/or dependence for livelihood and well-being.
- The people or community is the major player in decision-making and implementation regarding the governance and management of the site and/or species, implying that local institutions have the **de facto and/or the de jure capacity to develop and enforce decisions**. Other rightholders and stakeholders may collaborate as partners—especially when the land is owned by the state—but the local decisions and management efforts are predominant.
- The people's or community's **management decisions and efforts lead to the conservation** of habitats, species, genetic diversity, ecological functions/benefits and associated cultural values, even when the conscious objectives of management are not conservation alone or *per se* (see below on key objectives or motivations for ICCAs).

### 2.1.3 Are ICCAs protected areas? And how are they different from other governance types of protected areas?

Many ICCAs will fit either or both 'protected area' definitions adopted by the CBD (in the PoWPA) and the IUCN;<sup>3</sup> several more will fit national-level definitions that may be different from those of the CBD and IUCN; yet others will fit into the category of 'other effective area-based conservation measures' contained in Aichi Target 11 of the Strategic Plan on Biodiversity 2011-2020. Indeed, many government protected areas overlap with Indigenous peoples' and local communities' territories and areas which have been and may still be considered as ICCAs (we will return to this later).

However, ICCAs do not have to be considered as protected areas (i.e. within the official protected area system) for their conservation achievements to be recognized. As described in Chapters 4 and 5, several countries have incorporated ICCAs into their protected areas system, but many more have granted them recognition through other means. This observation is of particular relevance for the achievement of the Aichi Target 11 of the Strategic Plan for Biodiversity 2011-2020, which provides for both 'protected areas' and 'other effective area-based conservation measures' to meet the goal of conserving 17% terrestrial and 10% marine areas.

The contention that ICCAs do not necessarily need to be recognized as part of the official protected area system is also essential considering the imperative of respecting the wish and consent of the relevant indigenous people or local community. They may not wish to be formalized as a protected area (the pros and cons of this recognition are described in Chapter 4), but in any case governments can recognise their relevance for conservation.

Nevertheless, a crucial breakthrough in conservation paradigms in the last decade or so has been the realization that protected areas or other sites significant for conservation need not be governed only by States. They can (and indeed are) also governed by Indigenous peoples, local communities, private individuals or organizations, religious institutions, and other such entities. They can also be governed through collaboration between two or more such parties. Drawing from this understanding, IUCN has proposed four basic governance types for protected areas (which could also apply to other natural resource management sites or regimes): those governed by the state (government), those governed by Indigenous peoples and/or local communities (ICCAs), those governed by private parties (PPAs), and those governed through sharing or collaboration (CMPAs or SGPAs). In 2008, combining this typology with its previous system of classification based on management objectives, IUCN designed a matrix where various combinations of management categories and governance types can be illustrated (see Table 2.1).

<sup>3</sup> CBD: "a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives". IUCN: "A clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values".

**Table 2.1: The IUCN protected area matrix: a classification system for protected areas comprising both management category and governance type**

Governance types	A. Governance by government			B. Shared governance			C. Private governance			D. Governance by Indigenous peoples & local communities	
	Federal or national ministry or agency in charge	Sub-national ministry or agency in charge	Government-delegated management (e.g. to an CSO)	Trans-boundary management	Collaborative management (various forms of pluralist influence) Joint management (pluralist management board)	Joint management (pluralist management board)	Declared and run by individual land-owner	...by non-profit organizations (CSOs, universities, co-operatives)	...by for profit organizations (e.g. individual or corporate land-owners)	Indigenous bio-cultural territories and areas- declared and run by Indigenous Peoples	Community conserved areas declared and run by local communities
Protected area management categories											
I a. Strict Nature Reserve											
Ib. Wilderness Area											
II. National Park											
III. Natural Monument											
IV. Habitat/ Species Management											
V. Protected Landscape/ Seascape											
VI. Managed Resource Protected Area											

Source: Dudley 2008

ICCAs therefore differ from other governance types from the standpoint of *who* is the predominant decision-maker. There are of course many situations in which the distinction may not be clear, especially in collaborative arrangements between indigenous peoples or local communities and others. The distinction between state-governed sites (where the main decision-making is by the State) and ICCAs is the clearest.



**Mandingalbay Yidinji Indigenous Protected Area, containing a diversity of governance regimes, in Queensland, Australia © Cairns Post**

Where ICCAs are or can be considered as protected areas, they may fit across the entire spectrum of IUCN’s management categories (Table 2.2 below; see also Kothari 2006a for examples of ICCAs fitting into each category).

**Table 2.2: ICCA types in each IUCN PA management category**

IUCN PA management category	ICCA type
Categories Ia and Ib Strict Nature Reserve and Wilderness Area	Sacred/forbidden or otherwise 'no-use' groves, lakes, springs, mountains, islands and so on with prohibition on any use except on very particular occasions, such as a once-a-year ceremony; a special case here may be the territories of un-contacted peoples (such as in the Amazon or India's Nicobar Islands); many Sacred Natural Sites (SNS) fall into this category
Category II National Park	Community declared wildlife sanctuaries (at times also for ecotourism use)
Category III Natural Monument	Natural monuments (caves, waterfalls, cliffs, rocks) that are protected by communities for religious, cultural or other reasons
Category IV Habitat/Species Management Area	Heronries and other village tanks with wildlife populations, sea turtle nesting sites, watershed forests above villages, community managed wildlife corridors and riparian vegetation areas
Category V Protected Landscape/Seascape	Territories and traditional grounds of indigenous peoples (including mobile peoples) and pastoral communities (including rangelands, wetlands, marine areas and forests), sacred and cultural landscapes and seascapes, collectively managed river basins, and landscapes with a mix of natural ecosystems and agrobiodiversity areas
Category VI Managed Resource Protected Area	Resource reserves (community forests, grasslands, waterways, coastal and marine stretches, including wildlife habitats) under regulated use and communal rules that assure sustainable harvesting through time

Source: Adapted from Kothari 2006b.

## 2.2 Range and diversity of ICCAs

Worldwide, there is a bewildering variety of ICCAs, differentiated on the basis of their ecological, socio-cultural, political, and economic features. Given below is a brief description of various elements of this diversity (for more details and examples, see the series of briefing notes, regional and national case studies, and other documents produced by IUCN TILCEPA and TGER, and the ICCA Consortium, available at [www.iccaconsortium.org](http://www.iccaconsortium.org)).

### 2.2.1 Kinds of ICCAs

A rough list of ICCA types, based on the kind of ecosystem/species being conserved and the kind of people or community governing them, is as follows. Examples given here are mostly from the country case studies included in this volume, unless otherwise referred to.

- *Indigenous peoples'* territories governed and managed as part of their history and life, encompassing sustainable use, cultural values, and/or, in more recent times, explicit conservation objectives, e.g. TCOs in Bolivia, indigenous territories with multiple villages in Suriname, Indigenous Protected Areas in Australia, Indigenous Reserves in Costa Rica, Indigenous 'Comarcas' in Panama.
- Territories (terrestrial or marine) over which *mobile or nomadic* communities have traditionally roamed, managing the resources through customary regulations and practices, e.g. customary rangelands of tribal confederacies in Iran, pastoral landscapes in Kenya and Ethiopia (Bassi 2006).
- *Sacred natural sites* or spaces, ranging from tiny forest groves and wetlands to entire landscapes and seascapes, often (but not necessarily) left completely or largely inviolate, e.g. sacred groves and landscapes of South Asia, sacred lakes and marine burial sites in the Philippines, sacred forests of Kenya, and many others spread through the world (see Wild and McLeod 2008, Verschuuren et al. 2007, Mallarach and Papayannis 2007, Mallarach 2008, Verschuuren et al 2010; see also <http://sacrednaturalsites.org/>).

- *Resource catchment* areas, from which communities make their essential livelihoods or from which key ecosystem benefits are derived, managed in such a way that these benefits are sustained over time, e.g. locally managed marine areas in the South Pacific and Madagascar, autonomous marine protected areas and Satoumi seascapes in Japan, marine areas for responsible fishing in Costa Rica, community forests in countries of South Asia, Tanzania and others (Bhatt et al 2012, Makino 2011, Yagi 2011).
- Areas conserved for optimising *productivity of related ecosystems*, e.g. ‘fisher forests’ or ‘fish-breeding forests’ in Japan (Tsujimoto 2011).
- Areas and species populations sustainably managed for *commercial* benefits, e.g. sites managed for ecotourism in Suriname and Kenya, and areas managed for sustainable hunting and ecotourism like Namibia’s Communal Conservancies.
- Nesting or roosting sites, other critical habitats of wild plants and animals, or wildlife populations spread over large territories, conserved for ethical or other reasons explicitly oriented towards protecting these *plants and animals*, e.g. dozens of bird nesting and roosting sites in India, sacred crocodile ponds of Gambia and Mali, certain tree species like arawone (*Tabebuia serratifolia*) in Suriname, marine turtle nesting sites in Chile, Costa Rica, Suriname, and several countries of South Asia (Bhatt et al 2012).
- Landscapes with mosaics of *natural and agricultural ecosystems*, containing considerable cultural and biodiversity value, managed by farming and pastoral communities or mixed rural-urban communities, e.g. Parque de la Papa in Peru (<http://www.parquedelapapa.org/>), some protected landscapes in Europe, and others (Amend et al 2008, Brown and Kothari 2011, MEQ 2011).
- Small to large *urban and rural spaces*, conserved for aesthetic and ecological reasons (e.g. many Greens, community woodlands and nature reserves in England, UK, community conserved gardens and/or orchards with high biodiversity in various cities of Europe).

Though they may occasionally contain private (individually owned) lands, ICCAs are mostly found on common or collectively owned/managed property, or on government lands that may have originally been the customary commons of indigenous peoples or local communities. There may also be private lands with common usage, such as in Europe.

It is also important to remember that not all ICCAs have permanently fixed boundaries, or are conserved through the year; there are widespread practices of temporary or transient protection given to ecosystems and species to help them recover, as also shifting boundaries depending on movements of the relevant species or human populations (e.g. in the case of nomadic pastoralists). Conventional protected area norms and practices often find this ‘shifting’ approach difficult to encompass, but they are nevertheless crucial ICCA practices that achieve conservation results (apart from socio-cultural and economic benefits).

### 2.2.2. Institutional arrangements

As diverse as the kinds of ICCAs, is the range of institutional arrangements (rules and regulations, governing and managing bodies, and so on) they display. These include the following:

- Indigenous peoples’ territories are mostly governed by a variety of *traditional institutions* through customary law: councils of elders, clan or tribe chiefs, confederacies and so on.
- In a number of indigenous territories, *modern institutions* have been created to deal with current conditions, such as associations of various communities that form part of a people, or specialized management bodies for specific conservation units within the territory.
- *Village assemblies* (all adults of the village), or representative village councils, govern ICCAs in many parts of the world, including in the case of non-indigenous local communities.
- *Specific user groups* that are most closely linked to the key resource being conserved, manage ICCAs in many situations, e.g. fisher cooperatives or associations in the case of community managed marine areas in the south Pacific, Japan, the Philippines, etc.





TOP, CLOCKWISE: Bañados del Parapetí in the Isoso TCO, with the *Bañados* and the Parapetí river in the horizon, Bolivia © Carmen E. Miranda L.; Skeena River and forests in Gixtsan First Nation territory, Canada © Francois Depey; Hiorla antelope on Ishaqbini conservancy, Garissa District, eastern Kenya © Kenneth Coe; High altitude pastures and forest of Magnifica Comunità di Fiemme Cavalese, Italy © Lanfranco Brugnoli ([www.flickr.com/photos/lanfranco](http://www.flickr.com/photos/lanfranco)).



- New institutions are often set up to manage a particular *resource* or *ecosystem*, such as forest protection or conservation *groups* in many community forestry initiatives, or community charitable trusts and ‘friends’ groups in England, UK.
- Community groups that are not necessarily set up to manage natural resources are often entrusted with this task, e.g. *youth groups and women’s committees* in parts of South Asia.
- *Commoners’ councils* or associations charged with the management of the commons.

While by definition an ICCA is one where the concerned people or community are the predominant decision-makers, it does not necessarily follow that the managing institution is composed solely of local people; at times there might be external members, or advisers, from state or civil society institutions. However, these would not have a decisive say in the decision-making. Also, in many ICCAs there is a combination of traditional and modern institutions, or a modification of the traditional institution to suit modern challenges and contexts.

Rules and regulations for governing and managing the ICCA also vary widely, from purely oral, having passed down the generations as customary law, to formally written up in the form of statutory law (or statutes), and various situations in between. The requirements of modern society are making many of the former turn increasingly into the latter, but it is not uncommon to find, even in the case of the most formalized and documented rules, the continued existence of oral customs that people adhere to. Increasingly common is a blend of traditional or customary norms and laws with modern or statutory laws, again, as in the case of blended institutions, an adaptive practice to suit current contexts.

## 2.3 Motivations and values

### 2.3.1 Motivations underlying ICCAs

Indigenous peoples and local communities are motivated by a diversity of interests and concerns while establishing ICCAs. In the case of traditionally governed territories or areas, the motivation is *life* itself, including all that goes with it: survival, livelihoods, culture and identity. But there may be more specific motivations, such as those below. For each ICCA, one or more of these may be primary.

- *To secure collective or community land tenure.* Communities seek to obtain legal or other forms of recognition of their customary rights to land and other natural resources on the land, and gain assurance from governments that the land will be protected and not subjected to a variety of forms of exploitation. All the country case studies in this volume bring out this crucial motivation.
- *To secure a sustainable provision of resources related to livelihoods.* Most ICCAs are likely to have as the main (or one of the main) motivating factors, the ability to secure a sustained source of products from forests, wetlands, pastures, or other ecosystems. This becomes especially crucial when people are faced with serious depletion of such resources. Community forests, grazing pastures, and locally managed marine areas in many countries of the world are examples of this.
- *A concern for the protection of wildlife.* This may especially relate to wildlife that is considered to be special in some way. Wetlands harbouring heronries (often including threatened species), beaches where sea turtles are nesting, populations of deer or antelope species, are examples of this.
- *To maintain crucial ecosystem functions from which they benefit.* Ecosystem functions that are critical to support human welfare include soil stabilisation and maintenance of hydrological cycles. Many community forests, e.g. in the Himalayan ranges, are conserved for their hydrological benefits.
- *To sustain links in the landscape or seascape.* Recognising that various ecosystems - natural and human-influenced - have crucial interlinkages, ICCAs are often conserved at a scale large enough to maintain such links. The potato-growing uplands of Peru, the rice terrace systems of South-East Asia, and other such landscapes are examples of the recognised links between agricultural biodiversity and wildlife that helps in pollination, gene transfer, etc (Amend et al 2008, Brown and Kothari 2011, MEQ 2011).
- *To sustain religious, identity or cultural needs.* Honouring the memories of ancestors or the deities, guarding burial sites and ritual places from external interference, and securing aesthetic values are common motivations





FROM TOP: Sacred bolon mangroves of Mitij, Kawawana ICCA, Senegal, a unique site for the reproduction of aquatic and terrestrial life © Christian Chatelain; Marine Responsible Fishing Area of artisanal fishers of CoopeTarcoles R.L., crucial for food and livelihood security, Costa Rica © CoopeSolidar R.L.; Youth in traditional attire, Suva, Fiji: ICCAs are forums to carry on community traditions © Stacy Jupiter; Enhancing community belonging: volunteers setting off to the woods for a clean up day, Bredhurst Wood, England © Vanessa Jones / BWAG





A biodiversity hotspot in the Shahsavan mobile indigenous people's territory, Iran © CENESTA

behind establishing ICCAs. Thousands of sacred natural sites across the world have been motivated by cultural values, and most indigenous territories continue to have strong cultural motivations, as is brought out by many country case studies in this volume. Several community forests and green spaces in the United Kingdom are secured for aesthetic enjoyment and contact with nature; this is also the case for United States (Brown et al 2006).

- *To provide security against emergencies.* Communities may establish ICCAs to obtain a physical assurance for their own security as well as the security of their properties and settlements. This may be associated with an expectation of invasion by enemies or harsh ecological conditions and disasters, such as droughts or floods. Examples include forests protected by pastoralists in Kenya and Ethiopia (Bassi 2006).
- *To generate revenues.* ICCAs can enable communities to secure a regular traditional source of revenue, e.g. non-timber forest or pastoral produce (e.g. from the community forests in several countries, or mobile nomadic peoples territories in central Asia), or generate new sources such as sustainable hunting and ecotourism (e.g. community conservancies in several African nations).

### 2.3.2 Values and benefits of ICCAs

There is a very inadequate documentation and understanding of the multiple and widespread values and benefits that ICCAs provide. Yet what is known is already indicative of their enormous importance. For instance, ICCAs:

- Provide the context and means for the socio-cultural, economic, political, spiritual, and physical *well-being* of thousands of indigenous peoples and local communities, involving hundreds of millions of people (see country case studies in this volume; see also UNDP 2012a&b). This applies not only for countries of the tropics but also for industrialised nations (see country case studies from Europe in this volume, and Brown et al 2006).
- Help conserve critical *ecosystems and threatened species* across a broad range of biogeographic regions of the world (see Box 2.1 below)
- Maintain essential *ecosystem functions*, such as water security, soil conservation, and maintenance of gene pools, e.g. community forests in India, Nepal, Mexico (Jana 2012, Jana and Paudel 2010, Martin et al 2010); this includes crucial carbon storage functions (Chhatre and Agarwal 2009, Porter-Bolland et al 2011).
- Provide *corridors* and linkages for species and genes movement, including often between two or more government protected areas, as illustrated by several examples in country case studies included in this volume (see also Brown et al 2006, Oviedo 2006, and Holden et al 2006).
- Provide secure and sustainable (though not necessarily adequate in all cases) *livelihoods* in a variety of occupations, both subsistence and revenue-generating, including forestry, fisheries, pastoralism, crafts, health, tourism, and others (all the country case studies in this volume describe such benefits).



### Box 2.1: Wildlife Values of ICCAs

Given their range, number and extent (see section 2.4 below), ICCAs are of crucial importance to the conservation of natural ecosystems and the wildlife they contain, though documentation of the specific values is as yet very inadequate. Some examples of the substantial wildlife value of ICCAs:

In Kenya, 65% of large mammals are on private and communal lands, outside of official protected areas; 10% of the remaining coastal forests are in sacred kayas groves established by local communities.

In the Philippines, 60-65% of the forests are estimated to be within indigenous lands registered or claimed as Ancestral Domains, all or most of which could be considered ICCAs.

In Namibia, Communal Conservancies now cover over 16% of the country's total land area, about the same as the formal government-managed protected area network; endangered species such as black rhino *Diceros bicornis* and cheetah *Acinonyx jubatus*, and the endemic Hartmann's mountain zebra *Equus zebra hartmannae*, are some of the species residing in these; black rhino numbers have increased considerably in Namibia's communal lands since the 1980s.

In Suriname, several marine or freshwater species including the West Indian manatee *Trichechus manatus*, the Guiana dolphin *Sotalia guianensis*, and sea turtles (several species), and many tree species benefit from community protection. Senegal too has some marine ICCAs conserving threatened species. In Costa Rica, marine areas for responsible fishing have helped revive species earlier in decline, such as shrimps.

In Mexico, most forests of Oaxaca (one of the country's most biodiverse regions) are conserved by communities, and are crucial for jaguar *Panthera onca*, puma *Puma concolor*, toucan species, and others.

In Iran, rangelands managed by mobile pastoral peoples contain some of the country's most important wetlands (including some notified as Ramsar sites), and several contain important cheetah populations.

In Ethiopia, a stable population of the world's most endangered canid, the Ethiopian wolf *Canis simensis*, is protected in the Guassa-Menz Community Conserved Area.

In India, a number of threatened species including the Blyth's tragopan *Tragopan blythii*, Spotbilled pelican *Pelecanus philippensis*, Greater adjutant stork *Leptoptilos dubius*, Olive ridley turtle *Lepidochelys olivacea*, Blackbuck *Antelope cervicapra*, and many more, are protected by communities.

In England, UK, community orchards are considered a priority conservation habitat, and over 40% of existing heathland is located within traditional commons.

Source: Country case studies included in this volume; for Mexico, Martin et al 2010; for Ethiopia, UNDP 2012a; see also Dudley and Stolton 2012.

- Help conserve a diversity of *agricultural ecosystems*, species/genes, and practices, as well as synergise links between agricultural biodiversity and wildlife, providing larger land/waterscape level integration (see Brown and Kothari 2011, and other articles in MEQ 2011).
- Offer crucial lessons for *participatory governance*, useful for every form of governance including government managed protected areas (see sections on governance in the country case studies included in this volume).
- Offer lessons in *integrating customary and statutory laws*, and formal and non-formal institutions, for more effective conservation (we describe this further in Chapter 4; see also sections on governance and recognition in country case studies included in this volume).
- Build on and validate sophisticated local *ecological knowledge systems*, elements of which have wider positive use (see country case studies in this volume).
- Aid in community *resistance to destructive development*, saving territories and habitats from mining, dams, logging, tourism, over-fishing, agricultural expansion by settler populations, and so on (see case studies on India, Australia, UK, in this volume; see also Nepstad 2006, Nelson and Chomitz 2011).

- Help communities in *empowering* themselves, especially to reclaim or securing territories, tenure, and rights to or control over resources they depend on or relate to (see case studies on the Philippines, Bolivia, Iran, India, in this volume).
- Aid communities to better define their *territories*, e.g. through mapping (see case studies on the Philippines, India, in this volume; see also Solís et al 2006).
- Help create a greater sense of *community identity and cohesiveness*, as also a renewed vitality and sense of pride in local cultures including amongst youth who are otherwise alienated from these by modern influences (see example of Kawawana ICCA in the Senegal case study).
- Create conditions for *other developmental inputs* to flow into the community (see for instance UNDP 2012a&b).
- Lead to *greater equity* within a community, and between the community and outside agencies (e.g. cases in India, see Pathak 2009).
- Conserve biodiversity at relatively *low financial cost* (though often high labour inputs), with costs of management often covered as part of normal livelihood or cultural activities, through existing systems and structures.
- Provide examples of relatively *simple administration and decision-making structures*, avoiding complex bureaucracies.

In many of these and other ways, ICCAs are eminently suited to helping meet the Millennium Development Goals, especially those related to eradicating poverty and ensuring environmental sustainability (see Pathak et al 2005); as well as several of the Aichi Targets of the Strategic Plan for Biodiversity 2011-2020 (<http://www.cbd.int/sp/targets>).



**Demoiselle cranes wintering at Kheechan village, India © Asad Rahmani; Markhor protected by Torgarh community, Pakistan © Tahir Rashid**

Importantly, community initiatives have often integrated the conservation of both wild and domesticated species and tend to look at them as part of a continuum from predominantly wild to semi-wild and semi-domesticated to predominantly domesticated. Indeed, their perception indicates that the conventional divide between ‘wild’ and ‘domesticated’ biodiversity is not as sharp as often made out. Several traditional practices of optimising this range of biodiversity (such as home gardens in Southern India and Sri Lanka) continue to exist, and many communities are trying out new ones (Amend et al 2008; Brown and Kothari 2011). In some Indian villages in the Himalayan belt, the farmers involved in forest conservation are also the ones reviving a range of agro-biodiverse practices (such as trials of several hundred traditional varieties of rice, beans, and other crops), making explicit connections between the two. In the Peruvian Andes, the Quechua Indigenous Peoples have established a ‘Potato Park’, as a biocultural heritage site where a mosaic of agricultural and natural ecosystems are sought to be conserved along with the revival of potato diversity in its place of origin ([www.parquedelapapa.org](http://www.parquedelapapa.org)).

The above is not to suggest that all indigenous peoples and local communities have successfully conserved biodiversity, or that all ICCAs are always effectively providing the above values, but there is sufficient evidence to show that these are very real values of ICCAs in general.

## 2.4 Number and extent of ICCAs

There is no global estimate of the number and extent of ICCAs. This is largely due to their neglect by formal conservation circles till recently, the prevalence of oral traditions rather than written documentation amongst indigenous peoples and local communities, and the fact that the concept and definition of ICCAs are themselves evolving. The lack of recognition is illustrated in the fact that national lists - and a United Nations list - of protected areas (with sites that have been officially declared or recognized by governments) exist, but such lists for ICCAs do not (although a first step to rectify this has been taken at the global level, see Chapter 3). Indeed in most countries, even the mere identification of ICCAs is at very early stages.



**Bearded vulture feeding on sheep's leg; extensive stockbreeding survival is important for conservation of the four European vulture species, Spain © José María Miranda**

In the absence of systematic identification and documentation, it is only possible to give figures and estimates from a few countries (see Table 2.3 below). It should be noted that this includes both those ICCAs that would fit the international or national definitions of protected areas, and those that do not fit such a definition but are nevertheless achieving conservation; in both cases, they would contribute toward achieving CBD Aichi Target 11 relating to 'protected areas' and 'other effective area-based conservation measures.'

Further indications of the extent of area under ICCAs come from estimates of the total area owned, controlled, or managed by indigenous peoples and local communities. Indigenous Territories encompass up to 22% of the world's land surface and coincide with areas that hold 80% of the planet's biodiversity (Sobrevila 2008; [www.iccaconsortium.org](http://www.iccaconsortium.org)). Forest area under indigenous peoples' or local communities' ownership or management is estimated at about 500 m.ha.; this has steadily increased as decentralised governance gains ground, from about 10% of the world's forests to about 15% in the last decade, though much of the increase has been concentrated in a few countries, especially in South America (Molnar et al 2004; White et al 2004, RRI 2012a&b). FAO has also reported a trend of increasing 'private' ownership of forests; of this, indigenous or community ownership is especially high in eastern and southern Africa, western and central Africa, and Central America.<sup>4</sup> Of course not all the area under indigenous or community ownership or management would fit into the ICCA definition, but a very substantial part would.

The precise extent of ICCAs in all such territories will become clear only over the next few years. But it is instructive to note that indigenous peoples and local community territories have been found to provide significant conservation benefits, including in comparison with official protected areas. One estimate of 80% of the planet Molnar et al (2004) assert that of the 420 m.ha. then under such ownership or management, about 370 m.ha. were under some level of conservation management, according to available evidence. The territories of indigenous peoples covering a fifth of the closed-canopy forests of the Brazilian Amazon are "currently the most important barrier to Amazon deforestation", partly due to active indigenous resistance to logging, agricultural expansion, and other threats (Nepstad et al 2006). A number of other reviews show that such territories and areas are, in general, effec-

<sup>4</sup> <http://www.fao.org/forestry/fra/69164/en/>. Note that the information of indigenous/community ownership does not cover all regions; notably missing is South America, where the Rights and Resources Initiative cited above, find a strong trend towards increasing indigenous or community ownership or control of forests.

**Table 2.3: Number and Extent of ICCAs in Selected Countries**

*The views expressed in this table do not necessarily represent those of the Secretariat of the Convention on Biological Diversity, or of the Parties to the Convention.*

Country	Number of ICCAs	Extent of ICCAs	Comment
<b>Australia</b>	50 Indigenous Protected Areas (IPAs), and another 34 in process; many more sites under 'Caring for Country' arrangements.	36 m.ha. under IPAs (~30% of terrestrial protected area extent).	A large part of Australia's 20% land surface under indigenous ownership / management could be ICCAs; however, not all IPAs are strictly ICCAs, some tending to be co-managed with government.
<b>Bolivia</b>	258 claims for "Territorios Indígenas Originarios Campesinos" (TIOCs), 190 recognized, 54 fit ICCA definition (others, in uplands, degraded)	40 m.ha. (20.7 m. ha. under recognized TIOCs; 12 m. ha. under TIOCs identifiable as ICCAs).	As further information is obtained, it is possible that most or all TIOCs will be identifiable as ICCAs.
<b>Canada</b>	30 coastal 'Conservancies' (technically co-managed, but some are de facto ICCAs); 3 'Tribal Parks'; 5 'Aboriginal PAs'	Coastal 'Conservancies' total 6.4 m.ha (28% of coastal area); Aboriginal PAs total 1.147 m.ha; Tribal Parks cover ~150,000 ha.	
<b>Chile</b>	No overall figure, two documented cases.	85,000 ha. in the two documented cases	As further documentation takes place, figure likely to go up manifold.
<b>Costa Rica</b>	22 Indigenous Reserves covering 24 indigenous territories.	334,400 ha. (5.9% of the country's terrestrial surface).	Government protected areas are much larger in coverage, at about 1.57 million ha. However the ICCA figure does not include many unrecognized sites, and many PAs overlap indigenous territories.
<b>Fiji</b>	150 (in 2011) Locally Managed Marine Areas (LMMAs); 14 terrestrial ICCAs.	1.77 m.ha. under LMMAs (>50% of inshore marine area, 10% of territorial waters). 38,000 ha. under terrestrial ICCAs.	LMMAs make up 100% of marine protected area extent; terrestrial ICCAs make up >75% of terrestrial protected area extent
<b>India</b>	>20,000 community forests in two states alone, thousands more in rest of India; 100,000 to 150,000 sacred natural sites; several hundred wetland, coastal/marine, grassland, mountain ICCAs.	No overall estimate, documented cases range from <1 ha. to 84,700 ha. Van Panchayat (village forest council) forests, 545,000 ha.	
<b>Iran</b>	Several hundred grassland, wetland, coastal/marine, forest ICCAs.	No overall estimate, documented cases range from few ha. to 2 m.ha.	Substantial areas of large rangelands under tribal confederacies are de facto ICCAs. Such rangelands extend to 32 m.ha. (a third of the country).
<b>Italy</b>	Self-administered Common Properties (CPs)	3 m.ha. of land under common use (10% of the country's surface); how much under CPs is not clear	
<b>Japan</b>	>1000 community protected or conserved marine areas (incl. 387 self-imposed, no-catch community Marine Protected Areas or MPAs); several Fish Conservation Forests.	Area of MPAs not available; 58,000 ha. of Fish Conservation Forests.	
<b>Kenya</b>	41 Conservancies; 70 Kayas (sacred forests).	1.58 m.ha. under Conservancies (including 402,141 under strict conservation zones). 6000 ha. under Kayas (10% of coastal forest).	There are several m.ha. under pastoral landscapes, much of which come under Group Ranches (collectively managed rangelands).
<b>Mexico</b>	126 community conserved areas (in Oaxaca state). 301 documented sites in country as a whole (likely to be small portion of total).	375,457 ha. under community conserved areas in Oaxaca (82% of its forests are owned/managed by peoples/communities) (Figure for Mexico as a whole not available)	In comparison, official protected areas in Oaxaca cover 327,977 ha.



Country	Number of ICCAs	Extent of ICCAs	Comment
<b>Namibia</b>	76 Conservancies; 13 Community Forests.	13.27 m.ha. under 59 Conservancies (for which data available) and 465,200 ha. under Community Forests (adding up to 16.3% of country's territory).	In comparison, official protected areas cover 16.6% of territory.
<b>Nepal</b>	18,000 Community Forest User Groups (CFUGs), several hundred of which may be ICCAs, including those in wildlife corridors, and practicing customary forest and rangeland management; Hundreds of Buffer Zone areas managed by communities as sacred natural sites, traditional pastures, CFs, etc; Kanchanjunga Conservation Area (KCA); hundreds of religious forest and sacred groves (example in Khumbu); hundreds of ponds and lakes.	More than 1.3 million ha. area under CFUGs (of this, ICCA area not known); 560,300 ha under Buffer Zones; 203,500 ha. under KCA; area under wetland, sacred sites, and other ICCAs not known	All CFUGs are not ICCAs, but in practice thousands of forests and other ecosystems are conserved by local people, therefore many of them may be ICCAs; both this and buffer zone areas under community management need intensive studies and analysis to determine ICCA spread; around 16% of total protected area coverage (23.23% of country's territory) under Buffer Zones
<b>Philippines</b>	156 approved Ancestral Domains.	4.25 m. ha. under approved Ancestral Domains, total claims could be 6 to 7 m.ha. (60-65% of country's forests under such claims/titles).	In comparison, official protected areas cover 3.18 m.ha. (of this, at least 1 m.ha. overlaps with Ancestral Domains). Ancestral Domains cover 65% of country's land area.
<b>Russia</b>	475 Territories of Traditional Use of Nature (TTUN).	No precise figures available; range from a few hectares to a several hundred thousand hectares.	
<b>Senegal</b>	33 recognized Communal Natural Reserves (CNR), several more unrecognized CNRs, and sacred sites.	758,880 ha. (CNRs), but possibly more in unrecognised sacred natural sites and heritage areas	In comparison, government protected areas total 7,135,617 ha. However, there may be considerable overlap between these and indigenous/ community territories.
<b>China</b>	60,000 Small Protected Areas (SPAs), some or many under community management. Several sacred sites in western/southern provinces, esp. Tibet .	1.5 m.ha. under SPAs (area community-managed not clear). Sacred sites range from 30 ha. to 240,000 ha.	Areas traditionally under indigenous peoples and local communities are vast, but autonomy of governance is uncertain, and information on ICCAs is very scanty.
<b>Madagascar</b>	16 Locally Managed Marine Areas (LMMAs); 1000 local management contracts under GELOSE law	394,000 ha. under 16 LMMAs, with varying sizes, upto 64,000 ha.; 500,000 ha. under GELOSE contracts for 500 sites for which information available).	
<b>Brazil</b>	Several indigenous reserves	Indigenous reserves cover one-fifth of Brazilian Amazon closed-canopy forests; 145 m.ha. of forests in country under indigenous ownership or for indigenous use	Indigenous reserves are 5 times the area currently (2006) under Parks, and twice the area proposed to be under Parks
<b>Tanzania</b>	1457 villages under Community Based Forest Management (CBFM), including 331 declared Village Land Forest Reserves (VLFR)	2.35 m.ha. under CBFM (11.6% of public land forests)	

Sources: Country case studies in this volume; for Japan, Yagi 2011, Makino 2011, and Shinichiro Kakuma pers comm. 2012; Mexico, Martin et al 2010; for Estonia, Valk and Kaasik 2007; for China, Li undated; for Madagascar, <http://blueventures.org/conservation/>, <http://velondriake.org/velondriake/velondriake-locally-managed-marine-area.htm>, Durbin 2006, Tafo Mihaavo 2012; for Brazil, Nepstad 2006 and RRI 2012; for India (other than country case study in this volume) FES 2003, and [www.icimod.org/resource/4170](http://www.icimod.org/resource/4170); for Tanzania, MNRT 2008; for Nepal, Jana and Poudel 2010, Rai 2011, [www.forestation.org](http://www.forestation.org), and K. Jailab Rai pers. comm. 2012.

tive in combating threats such as timber overharvesting, agricultural expansion by settlers, uncontrolled fire, and others (Nelson and Chomitz 2011, Chhatre and Agarwal 2009, Porter-Bolland et al 2011).

From available information and extrapolation, it appears that *ICCAs may number far more than the current officially designated protected areas (which number about 130,000, and are mostly governed by government agencies) and cover as much if not more than the area covered by them (nearly 13% of the earth's land surface)*, though no precise figures can be given as yet. This itself is a powerful reason for putting serious national and global effort into identifying, recognising, and supporting ICCAs. But this needs to be done in ways that are appropriate to their ecological, cultural, political, and economic situation, in respect of the rights and wishes of the peoples or communities governing them (further discussion on this is in Chapters 4 & 5).

## 2.5 Threats to ICCAs

ICCAs across the world face a number of threats to their continued existence, and many have already been destroyed or undermined. While each of the country case studies included in this volume provides details of such threats, given below are the key ones affecting many ICCAs. These can be broadly classified as threats originating from outside actors/phenomena versus those emanating from within the relevant people or community (though with the increasing integration of peoples and communities into national and global processes, this distinction often becomes hazy).

### 2.5.1 External threats

- *Lack of recognition* by the state and/or by civil society, in turn exposing the ICCA to the effects of other threats (such as assigning an unrecognized ICCA a land use status that is detrimental to conservation and local interests, such as mining). E.g. in Iran, despite the numerous nomadic peoples having conserved grazing lands for ages and their access rights being recognized on a case-to-case basis (grazing permits), for the most part there is no official recognition of their territories and natural resources management controls remain with the state. In India, most ICCAs are on government lands where the community has *de facto* management, and are thus subject to land use changes decided on by the state without consent from the community.
- *Lack of (or inadequate or unclear) security of tenure* over lands/waters and resources, including the rights of indigenous peoples or local communities to own, live in, use, govern, and manage those lands (and waters) and natural resources that they have traditionally or customarily related to. E.g. in Bolivia there is pressure from some peasant populations to allow settlement in indigenous territories as they feel the latter occupy too much land. In Costa Rica, while the Indigenous Act of 1977 recognizes indigenous territories, collective ownership does not appear in any of the country's laws (those territories being registered with individual members of the communities, causing problems for benefits sharing in such schemes as payment for ecosystem services). Across sub-Saharan Africa, customary land rights and common property natural resource governance regimes remain widely unrecognized, and communities are effectively tenants of the State across most of the continent (Alden Wily 2011). Marine fishery tenure of communities is particularly weak in most countries, exceptions being countries of the South Pacific.
- *Imposed development and resource exploitation processes*, including mining and fossil fuel extraction (particularly important as - even when indigenous peoples and local communities possess land rights - government usually reserve for themselves the use of subsoil resources), logging, tree plantation, industrial fishing, dredging, conversion to intensive grazing or monocultures (including agro-fuel plantations), dams and other water diversion and drainage works, urbanization and major infrastructure (roads, ports, airports, tourism). E.g. in Bolivia, even though the government is promoting more participation of the population in decision-making, there are also proposals or permits for mining, energy production, soybean cultivation, and other projects that threaten ICCAs. Referendums regarding development projects are carried out at the municipal and departmental levels, with inadequate role for indigenous peoples' when such projects are taking place within their territories. In many countries hydroelectric projects have resulted in or threaten ecological damage, population displacement, or conversion of mobile peoples into sedentary lifestyles; for instance, this is reported from





**Industrial scale agriculture threatens many ICCAs; expansion inside the TCO Isoso, Bolivia © Carmen E. Miranda L. Coal mining in central India: extractive industry is one of the biggest threats to ICCAs © Ashish Kothari**

Canada and India. In England, UK, housing construction is a major threat to local green spaces. Extractive industries appear to be a threat to ICCAs in most countries.

- State-led or corporate *expropriation of / superimposition over* peoples' territories or community land, through nationalization (particularly common in countries that have been colonized or have state-socialism), privatization (common in capitalist economies), and conservation initiatives (commonly through the creation of state governed protected areas, see Box 2.2). E.g. in Italy a recent national decree has allowed municipalities to sell off common ('civic uses') lands to reduce public debt, with serious consequences for ICCAs.
- *Increasing pressure on resources*, in particular related to the substitution of local subsistence and solidarity economies with the larger external *market economy*. E.g., in Australia, even though traditional land-owners have a veto right against mining on their lands, in practice they often cannot resist the royalties, employment and other benefits offered by the mining companies. Many ICCAs in India face over-exploitation and internal conflicts due to globalised market demands. In Spain traditional hunting in some areas has been replaced by intense commercial form that is unsustainable.
- *War*, violent conflicts and movements of refugees, e.g. in central Asia, and central/west Africa.
- *Territorial encroachment by / conflicts* with other communities and municipalities. E.g. in Namibia, as the government allows agricultural settlement on areas partially incorporated into conservancies and community forests, the damages caused by wildlife to livestock and crops might undermine local support for ICCAs. In the Kola Peninsula of Russia, salmon fishing has been reserved for international sport fishers, forcing Saami people to 'poach' fish in their own customary territories and then face blame for salmon populations' decline. In Ethiopia, state-sponsored settlement of peasant and other populations in nomadic pastoral landscapes (e.g. of the Borana people) has disrupted ancient sustainable management and conservation practices (Bassi 2006, Elias 2008); in the last few years there has been massive hand-over of common lands to companies and individuals from various countries, a phenomenon affecting several other African countries too (Anseeuw et al 2012).
- *Inappropriate forms of recognition*, in particular recognition that imposes top-down institutional arrangements and thereby devalues and de-motivates traditional governance institutions (see Chapter 4 and 5). E.g. in Chile, there is a tendency to mix indigenous conserved territories (such as Mapu Lahual or Quinquén) with private protected areas (such as the Huilo Huilo Reserve or the Tantauco Park), without acknowledging the differences in the land tenure situation, the use of natural resources, land-owners' investment capacities, and incentives for conservation between the two. In Panama, although a law is protecting the 'collective intellectual property of the indigenous peoples', it only applies to traditional knowledge concerning folklore, music, clothing, etc. with no mention of ecological knowledge. In England, UK, there is a conflict between traditional governance systems of the commons, and systems imposed under relevant legislation or in relation to protected areas.

### Box 2.2 ICCAs and Officially Designated Protected Areas: Conflict and Complementarity

There has been a rapid expansion of state governed protected areas across the world in the last few decades, spreading to nearly 13% of the earth's terrestrial surface. This is possibly the single largest land use and status change that has occurred in recent times. What is not often realized, however, is that a significant part of this process has taken place within or overlapping indigenous peoples' and local communities' territories and areas. No global figure for this overlap exists, but some figures below show a clear trend:

- In Chile, according to one estimate, 90% official PAs overlap with indigenous territories. Officially, it is accepted that 18 of the 94 PAs established as of 2000 were in such territories.
- In Australia, *all* PAs have been established in aboriginal clan estates (recognized or claimed).
- In the Philippines, 69 of 99 PAs overlap with ancestral domains, covering about 1 m.ha.
- In Namibia, several PAs have been established on indigenous territories.
- In India, almost all PAs (other than a few uninhabited islands or 'remote' Himalayan regions) include territories and lands under customary governance or use by *adivasi* (indigenous) or other local communities.
- In Suriname and Panama, several PAs have been established in indigenous territories.
- In Nepal, several Himalayan PAs encompass or are within the territories of peoples like the Sherpa.
- In Colombia, 26 of the 56 national parks overlap with indigenous reserves, or black community lands.

Consent has rarely been sought from the relevant peoples or communities when establishing protected areas on their territories, and in many the PA has resulted in displacement, dispossession, or other forms of alienation. Such experiences are increasingly being documented, though they remain unrecorded for perhaps the majority of cases (Brockington 2006, Dowie 2009). However, this is by no means always the case: for instance in Bolivia the rights of indigenous peoples continued to be respected even within state PAs; in Fiji communities have been recognized as managers of most PAs; and in Croatia pastoralists retained some management authority over parts of the Lonjsko Polje Nature Park. Increasingly, also, there is a move towards restitution of lands and/or rights, or formal recognition of customary rights, and in so doing towards co-management or ICCA-like arrangements (such as in Australia, South Africa, Canada, India) (we shall return to this issue in Chapter 4). In Panama there is a move at some sites to involve indigenous peoples where protected areas and Indigenous 'comarcas' (reserves) overlap.



Sources: Country case studies included in this volume; for Nepal, Stevens, *in press*; for South Africa, Holden et al 2006)

**Khumbu biocultural landscape of Sherpa community in Sagarmatha National Park, Nepal © Ashish Kothari**

- Inappropriate and active *acculturation* of communities (e.g. through education programmes disrespectful of local cultures, livelihoods and values, or evangelization programmes of different faiths). This is a serious concern with communities in many countries, reflected for example in the declining interest of the youth in carrying on ICCA-related traditions in countries like India, Italy, and Senegal.
- Other miscellaneous threats, such as imposition of *fiscal burdens* like unaffordable taxes, *divisions and conflicts fuelled by political parties* (often actively promoted from outside) or by sudden influx of funds strengthening or creating local inequities, *conflicts along ethnic lines*, or *poaching of animals*, and *unauthorized extraction* of timber and plant resources. For instance in Fiji, ICCAs have been affected by political and legal instability along ethnic lines (including 4 coup d'états and 2 abrogated constitutions since independence).
- Air and water *pollution* through discharge of waste residuals (e.g. via acid rain, chemical pollution from upstream mining or run-off of chemical inputs from agriculture) and the spread of *invasive / exotic species*.



**Excessive felling for timber threatens forests in many countries; logging truck in Russia © Andrey Laletin; Hunters in north-east India: overhunting that disrespects traditional regulations is a threat to several ICCAs © Ashish Kothari**

E.g. in Australia, many invasive weeds were introduced for cattle grazing improvement, as well as non-native animals (such as goats, foxes, cats, horses, donkeys, pigs, water buffaloes, wild dogs and camels) whose populations have spread and are now seriously damaging the fragile Australian environment including within Indigenous Protected Areas.

- *Extreme 'natural' events* and catastrophes, including droughts, floods, forest fires, hurricanes, earthquakes and tsunamis, some of which are related to human transformation of the landscape/seascape and climate. E.g. in Canada, climatic changes are introducing changes in the productivity of plant species, such as medicinal and aromatic plants like *Rhodiola rosea*, a traditional medicinal plant used by Inuits.

### 2.5.2 Internal threats

- Changing values, acculturation and *integration into dominant society*, leading to commoditization of nature and culture and, ultimately, to the loss of traditional knowledge, locally adapted management practices and governance institutions, and interest, *especially amongst the younger generations*. E.g. in England, UK, farmers are less active in traditional management of common lands, due both to cultural change and decreased economic value of livestock. In Iran, education programmes have tended to distance indigenous peoples from their traditions.
- Persistent or new *inequalities* between economic and social classes and gender groups within the community, leading to conflicts about management of natural resources and elite capture of conservation and use benefits. E.g. in India, communities are often highly stratified with many decisions made by the dominant sections of society (men, large landowners, 'upper' castes) without considering their impacts on the less privileged (women, landless, 'lower' castes).
- *Major demographic changes*, including depopulation through migration because of new economic opportunities, social conflicts and political pressures, or conversely, rapid population growth. E.g. in Croatia, due to the war in the 1990s, pastoralist communities have experienced severe depopulation, and extensive grazing and domestic breeds knowledge is being lost, with too few able to transfer it to younger people. Communities in Spain face a similar problem of loss of knowledge and institutions due to depopulation of rural areas. In Kenya, rapid population growth, high poverty, growing inequality in access to land, and the allocation of large areas for commercial use by the government, lead to increased pressure on forests and woodlands (including for charcoal production, the main source of household energy throughout East Africa).

As we will see in chapters below, and as is clear from the country case studies included in this volume, appropriate recognition and support of ICCAs are crucial to tackle the threats above.

## CHAPTER 3: INTERNATIONAL RECOGNITION AND SUPPORT OF ICCAS

While the phenomenon of community-based conservation has been recognized for over two decades in some countries, the first policy-level breakthroughs at a global level towards the recognition of ICCAs as a biocultural or ecocultural conservation phenomenon are only about a decade old. Since then, however such recognition has steadily gained ground. It also builds on earlier and ongoing development in the fields of human rights, indigenous rights, cultural heritage, participatory development, decentralised governance, and so on, noting that it is these socio-cultural, economic and political contexts that are crucial to the emergence, sustenance, and strengthening of ICCAs.

This chapter briefly describes the key processes, forums, and ways in which ICCA recognition has taken place at an international level.

### 3.1 Recognition and support by IUCN

In the late 1990s and early 2000s, discussions took place within IUCN's World Commission on Protected Areas (WCPA) on the need for looking at community conserved areas (CCAs) as a new approach to protected areas within IUCN's Protected Area categorisation system (Kothari 2003). Around the same time WCPA and the Commission on Social, Economic, and Environmental Policy (CEESP) set up a joint Task Force on Indigenous and Local Communities, Equity and Protected Areas (TILCEPA),<sup>1</sup> which later became a full Strategic Direction on Governance, Equity and Livelihoods in Relation to Protected Areas (but retaining the acronym). TILCEPA, along with CEESP's Theme on Governance, Equity and Rights (TGER)<sup>2</sup> played a major role in spreading awareness on CCAs across the IUCN system, and bringing a strong focus on them at the 5<sup>th</sup> World Parks Congress held in 2003. The Congress issued 32 recommendations related to protected areas, including several regarding CCAs.<sup>3</sup> Recommendation V.26 recognized that a considerable part of Earth's biodiversity survives in CCAs, and called for their recognition and promotion as a legitimate form of biodiversity conservation.

Since these initial years, IUCN has reiterated and nuanced its recognition and support to ICCAs,<sup>4</sup> including through discussions and resolutions at successive World Conservation Congresses, through its work on protected areas governance within the Protected Area Category guidelines (see Section 2.1.3), and through the continued work of TILCEPA and TGER (for further information, please see websites in footnotes below). It has also been proactive in promoting ICCAs (and protected area governance approaches in general) at meetings of the Convention on Biological Diversity, discussed below, and other international forums.

TILCEPA's 2009-2012 Strategic Direction includes actions involving ICCAs among many other important issues. It is clear from TILCEPA's range of key areas of work that ICCAs sit at the forefront of the relationship between the governance of protected areas and the empowerment of communities who manage significant areas of biodiversity.

Even before its explicit recognition of ICCAs, IUCN has extended recognition of and support to the context within which ICCAs can flourish. Since at least 1996, it has recognized the importance of land to indigenous peoples and acknowledged that indigenous peoples maintain biodiversity in the regions they inhabit. In resolutions and recommendations issued every four years since 1996, the IUCN has sought to promote participation of indige-

<sup>1</sup> TILCEPA's focus areas include: "governance (community management, co-management, various forms of participation, decision-making and consultation), human and civil rights, access to and rights in relation to natural resources and traditional territories in and bordering Protected Areas, integration of traditional biodiversity knowledge and values into Protected Areas Protected Areas management, fighting poverty and promoting sustainable livelihoods as well as ancillary yet important themes of voluntary use and maintenance of traditional knowledge, cultural systems, tangible and intangible heritage, spiritual practices and technical skills." ([http://www.iucn.org/about/union/commissions/ceesp/what\\_we\\_do/wg/tilcepa.cfm](http://www.iucn.org/about/union/commissions/ceesp/what_we_do/wg/tilcepa.cfm))

<sup>2</sup> TGER, emerging from the CEESP Collaborative Management Working Group (CMWG), has as its primary goal "to engage IUCN members and partners in better understanding and acting about governance of natural resources, equity and human rights ([http://www.iucn.org/about/union/commissions/ceesp/what\\_we\\_do/wg/tger.cfm#whatis](http://www.iucn.org/about/union/commissions/ceesp/what_we_do/wg/tger.cfm#whatis))

<sup>3</sup> Vth IUCN WPC Recommendations (24 March 2005), [http://www.iucn.org/about/work/programmes/pa/pa\\_event/wcpa\\_wpc/](http://www.iucn.org/about/work/programmes/pa/pa_event/wcpa_wpc/)

<sup>4</sup> For an explanation of the change in name from CCAs to ICCAs, see Ch. 1, footnote 2.



**Box 3.1 Key Suggested Activities of the CBD Programme of Work on Protected Areas, Relevant to ICCAs**

*(Note: these are suggested activities that explicitly mention ICCAs, or equivalent terms; several other parts of the PoWPA, especially in Element 2, are of relevance)*

**Suggested Activities of the Parties**

1.1.4. By 2006, conduct, with the full and effective participation of indigenous and local communities and relevant stakeholders, national-level reviews of existing and potential forms of conservation, and their suitability for achieving biodiversity conservation goals, including innovative types of governance for protected areas that need to be recognized and promoted through legal, policy, financial institutional and community mechanisms, such as protected areas run by Government agencies at various levels, co-managed protected areas, private protected areas, indigenous and local community conserved areas.

2.1.2. Recognize and promote a broad set of protected area governance types related to their potential for achieving biodiversity conservation goals in accordance with the Convention, which may include areas conserved by indigenous and local communities and private nature reserves. The promotion of these areas should be by legal and/or policy, financial and community mechanisms.

2.1.3. Establish policies and institutional mechanisms with full participation of indigenous and local communities, to facilitate the legal recognition and effective management of indigenous and local community conserved areas in a manner consistent with the goals of conserving both biodiversity and the knowledge, innovations and practices of indigenous and local communities.

2.2.4. Promote an enabling environment (legislation, policies, capacities, and resources) for the involvement of indigenous and local communities and relevant stakeholders in decision making, and the development of their capacities and opportunities to establish and manage protected areas, including community-conserved and private protected areas.

2.2.7. Promote, through the Clearing House Mechanism, technical publications and other means, the international sharing of experience on effective mechanisms for stakeholder involvement and governance types in conservation in particular with regard to co-managed protected areas, indigenous and local community conserved areas and private protected areas.

nous peoples in decisions that affect them and recognition for the rights of indigenous peoples over their lands territories, and natural resources. In 2008, the 4th World Conservation Congress called on IUCN's members to "acknowledge the conservation significance of Indigenous Conservation Territories and other Indigenous Peoples' and Community Conserved Areas - comprising conserved sites, territories, landscapes/seascapes and sacred places - governed and managed by indigenous peoples and local communities, including mobile peoples"<sup>5</sup>

While IUCN's decisions, resolutions, and guidance are not binding on countries, they nevertheless provide a crucial context for and guidance to inter-governmental processes and treaties, as also to national level laws, policies, and practices.

**3.2 ICCAs in the Convention on Biological Diversity**

The primary global agreement which has set the stage for legal recognition of ICCAs, is the Convention on Biological Diversity, a legally binding treaty established in 1992, now ratified by 192 countries and the European Union ([www.cbd.int](http://www.cbd.int)). ICCAs figure directly or indirectly in several of its provisions, and in subsequent decisions of the Conference of Parties including programmes of work.

<sup>5</sup> 2008 Resolutions and Recommendations, Resolution 4.049(1), [http://www.iucn.org/congress\\_08/assembly/policy/](http://www.iucn.org/congress_08/assembly/policy/).

### 3.2.1 CBD Programme of Work on Protected Areas

The CBD Programme of Work on Protected Areas (PoWPA) is one of the most comprehensive programmes under the CBD and the primary one to recognize ICCAs, in particular their relationship to protected areas. Framed and agreed to by Parties at the 7<sup>th</sup> Conference of Parties in 2004 (taking substantial cues from the resolutions and discussions at the 2003 World Parks Congress), the PoWPA has four major Elements, one of which (Element 2) is Governance, Participation, Equity and Benefit-sharing. Within this Element and other parts of the text, the PoWPA calls for the recognition of ICCAs as one governance type of protected areas. Key suggested activities for the Parties within the PoWPA relating to ICCAs are given in Box 3.1.

At subsequent meetings of the Conference of Parties (COP), Parties to the CBD have assessed implementation of the PoWPA, and taken decisions that include specific activities to strengthen implementation of Element 2, including recognition and support of ICCAs. At COP9, for instance, in decision IX/18 Parties are invited to “recognize the contribution of, where appropriate, co-managed protected areas, private protected areas and indigenous and local community conserved areas within the national protected area system through acknowledgement in national legislation or other effective means”. At COP10 the Parties added further decisions to this (see below, Box 3.2). Additionally, the CBD Secretariat has been conducting a series of capacity-building workshops for government agencies who manage protected areas, and other ‘stakeholders’; these workshops have included sessions on protected area governance, including greater awareness of ICCAs so they can be incorporated into national systems of protected areas where feasible, or recognized through other mechanisms by government and other entities.



International treaties recognise the value of ICCAs like the Kushk-e Zar (Namdan) Wetland in Qashqai Tribal Confederacy, Iran © CENESTA

### 3.2.2 Other Programmes and decisions

In addition to PoWPA, several thematic programmes and cross-cutting themes of the CBD have direct relevance to ICCAs. Table 3.1 sets out specific elements of these that are related to ICCAs (not including general provisions relating to protection and conservation).

In a number of decisions of the tenth meeting of the Conference of Parties to the CBD held in Nagoya, Japan, ICCAs or other conservation action by indigenous and local communities are mentioned and promoted in a number of decisions (see Box 3.2).

**Table 3.1: CBD Thematic Programmes and Cross-cutting Themes (Other than the PoWPA) with Relevance to ICCAs**

<b>Thematic Programmes</b>	<b>Relevance to ICCAs</b>
<b>Agricultural Biodiversity</b>	<ul style="list-style-type: none"> <li>PoW Element 2 on adaptive management of agricultural biodiversity</li> <li>PoW Element 3 on capacity building to manage agricultural biodiversity sustainably</li> <li>More generally, conservation and sustainable use of genetic resources (particularly indigenous breeds, crop varieties, etc.) for food and agriculture</li> </ul>
<b>Dry and Sub-Humid Lands Biodiversity</b>	<ul style="list-style-type: none"> <li>PoW Part I, Activity 6: Identification and dissemination of best management practices, including knowledge, innovation and practices of indigenous and local communities</li> <li>PoW Part II, Activity 1: Promotion of specific measures such as establishment of additional protected areas, water management, etc.</li> <li>PoW Part II, Activity 2: Promotion of responsible resource management, applying ecosystem approach</li> <li>PoW Part II, Activity 3: Support for sustainable livelihoods</li> </ul>
<b>Forest Biodiversity</b>	<ul style="list-style-type: none"> <li>PoW Element 1: Conservation, sustainable use, and benefit-sharing</li> </ul>
<b>Inland Waters Biodiversity</b>	<ul style="list-style-type: none"> <li>PoW Element 1: Conservation, sustainable use, and benefit-sharing</li> <li>Guiding principle C: To support indigenous and local communities to re-establish, develop and implement traditional approaches and/or adaptive management approaches to conserve and sustain the use of the biological diversity of inland water ecosystems</li> </ul>
<b>Island Biodiversity</b>	<ul style="list-style-type: none"> <li>PoW Focal Area 2: Promote sustainable use</li> <li>PoW Focal Area 4: Maintain good and services from biodiversity to support human well-being</li> <li>PoW Focal Area 5: Protect traditional knowledge and practices</li> </ul>
<b>Marine and Coastal Biodiversity</b>	<ul style="list-style-type: none"> <li>PoW Element 1: Integrated Marine and Coastal Management</li> </ul>
<b>Mountain Biodiversity</b>	<ul style="list-style-type: none"> <li>PoW Element 1: Direct actions for conservation, sustainable use, and benefit sharing (including prevention and mitigation of negative threats, protection and restoration, and equitable sharing of benefits)</li> <li>PoW Element 2: Means of implementation for conservation, sustainable use, and benefit sharing (including respecting, preserving and maintaining knowledge, practices, and innovations of indigenous and local communities in mountain regions)</li> </ul>
<b>Cross-cutting Themes</b>	<b>Relevance to ICCAs</b>
<b>Climate Change and Biodiversity</b>	<ul style="list-style-type: none"> <li>Community approaches to reducing emissions from deforestation and forest degradation</li> </ul>
<b>Ecosystem Approach</b>	<ul style="list-style-type: none"> <li>Principle 1: centrality of cultural and biological diversity</li> <li>Principle 2: decentralized management systems</li> <li>Principle 7: appropriate spatial and temporal scales defined by indigenous peoples and local communities</li> <li>Principle 9: use of adaptive management</li> <li>Principle 10: seek balance between conservation and use</li> <li>Principle 11: consider all forms of information, including indigenous and local knowledge</li> <li>Principle 12: include all relevant stakeholder and rights-holders</li> </ul>
<b>Gender and Biodiversity</b>	<ul style="list-style-type: none"> <li>Generally, the different roles of women and men in the conservation and sustainable use of biodiversity, in language and knowledge generation and transmission, and in community and cultural resilience</li> </ul>
<b>Global Strategy for Plant Conservation</b>	<ul style="list-style-type: none"> <li>Objective II: Plant diversity is urgently and effectively conserved, including in situ conservation and restoration, particularly:                             <ul style="list-style-type: none"> <li>Target 9: conservation of crop genetic diversity while respecting, preserving, and maintain indigenous and local knowledge</li> </ul> </li> <li>Objective III: Plant diversity is used in a sustainable and equitable manner, particularly:                             <ul style="list-style-type: none"> <li>Target 13: Indigenous and local knowledge, innovations and practices maintained or increased to support customary use, sustainable livelihoods, local food security, and health care</li> </ul> </li> </ul>
<b>Impact Assessments</b>	<ul style="list-style-type: none"> <li>Akwé: Kon voluntary guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities</li> </ul>

Cross-cutting Themes	Relevance to ICCAs
<b>Identification, Monitoring, Indicators and Assessments</b>	<ul style="list-style-type: none"> <li>• Role of indigenous and local knowledge, indicators, and forms of monitoring and assessment</li> </ul>
<b>Sustainable Use of Biodiversity</b>	<ul style="list-style-type: none"> <li>• CBD Article 10(c): Parties shall protect and encourage customary use of biological resources in accordance with traditional cultural practices</li> <li>• CBD Article 10(d): Parties shall support local populations to develop and implement remedial action in degraded areas</li> <li>• Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity</li> <li>• Principle 1: Local users should be sufficiently empowered and supported by rights</li> <li>• Principles 4: Adaptive management based on indigenous and local knowledge</li> <li>• Principle 9: Interdisciplinary, participatory approach applied at appropriate levels of governance and management</li> <li>• Principle 12: The need and contributions of indigenous and local communities should be reflected in the equitable distribution of benefits arising from the use of biological resources</li> </ul>
<b>Tourism and Biodiversity</b>	<ul style="list-style-type: none"> <li>• CBD Article 8(j): Respect, preserve, and maintain knowledge, innovations and practices of indigenous and local communities, promote their wider application, and encourage equitable sharing of benefits arising from their use</li> <li>• PoW Element 1: Participatory mechanisms for indigenous and local communities</li> <li>• PoW Element 2: Status and trends in relation to Article 8(j) and related provisions</li> <li>• PoW Element 3: Traditional cultural practices for conservation and sustainable use</li> <li>• PoW Element 4: Equitable sharing of benefits</li> <li>• Tkarihwaié:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities</li> </ul>
<b>Binding (subsidiary) instruments</b>	<b>Relevance to ICCAs</b>
<b>Nagoya Protocol on Access and Benefit-sharing</b>	<ul style="list-style-type: none"> <li>• Aims at sharing benefits arising from the utilization of genetic resources in a fair and equitable way; recognizes the importance of traditional knowledge to “indigenous and local communities,” and instructs Parties to ensure that the traditional knowledge of “indigenous and local communities” is accessed with their prior informed consent.</li> </ul>
<b>Cartagena Protocol on Biosafety</b>	<ul style="list-style-type: none"> <li>• Governs the movements of living modified organisms (LMOs) from one country to another; relevant provisions encourage Parties to take socio-economic conditions of indigenous and local communities into account when reaching decisions regarding LMOs.</li> </ul>

The CBD COP10 also produced the Strategic Plan for Biodiversity 2011-2020, with 20 targets (called the ‘Aichi Targets’). All these targets are in some way related to ICCAs, since ICCAs cut across the entire spectrum of issues on biodiversity. However, the following are of particular and direct relevance to ICCAs:

**Target 11:** By 2020, at least 17 per cent of terrestrial and inland water, and 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well connected systems of protected areas and other effective area-based conservation measures, and integrated into the wider landscapes and seascapes.

**Target 13:** By 2020, the genetic diversity of cultivated plants and farmed and domesticated animals and of wild relatives, including other socio-economically as well as culturally valuable species, is maintained, and strategies have been developed and implemented for minimizing genetic erosion and safeguarding their genetic diversity.

**Target 14:** By 2020, ecosystems that provide essential services, including services related to water, and contribute to health, livelihoods and well-being, are restored and safeguarded, taking into account the needs of women, indigenous and local communities, and the poor and vulnerable.

**Target 15:** By 2020, ecosystem resilience and the contribution of biodiversity to carbon stocks has been enhanced, through conservation and restoration, including restoration of at least 15 per cent of degraded ecosystems, thereby contributing to climate change mitigation and adaptation and to combating desertification.



**Box 3.2. COP10 Decisions on Various Programmes of Work Relevant to ICCAs**

*X/31. Protected areas*

9. *Programme element 2 on governance, participation, equity and benefit-sharing*

31. *Invites Parties to:*

(b) **Recognize the role of indigenous and local community conserved areas** and conserved areas of other stakeholders in biodiversity conservation, collaborative management and diversification of governance types;

32. *Recalling* paragraph 6 of decision IX/18 A, further invites Parties to:

(a) **Improve and, where necessary, diversify and strengthen protected-area governance types**, leading to or in accordance with appropriate national legislation including recognizing and taking into account, where appropriate, indigenous, local and other community-based organizations;

(b) **Recognize the contribution of**, where appropriate, co-managed protected areas, private protected areas and **indigenous and local community conserved areas within the national protected area system** through acknowledgement in national legislation or other effective means;

10. *Reporting*

33. *Invites Parties to:*

(c) **Consider voluntary in-depth reporting using standardized indexes and taxonomies including the proposed global registry of indigenous and community conserved areas**, where applicable;

*X/32. Sustainable use of biodiversity*

2. *Invites Parties and other Governments to:*

(f) Recognize the value of human-influenced natural environments, such as farmlands and secondary forests, **including those that have been created and maintained by indigenous and local communities**, and promote efforts in such areas that contribute to the achievement of all objectives of the Convention, in particular the sustainable use and conservation of biodiversity and traditional knowledge;

*Satoyama Initiative*

7. *Recognizes and supports* further discussion, analysis and understanding of the *Satoyama Initiative* to further disseminate knowledge, build capacity and promote projects and programmes for the sustainable use of biological resources, and promote synergy of the *Satoyama Initiative* with other initiatives or activities including the Man and the Biosphere Programme of the United Nations Educational, Scientific and Cultural Organization, the International Model Forest Network, **and other initiatives that include community-conserved areas that are developed and managed by local and indigenous communities** to advance understanding and implementation of customary use in accordance with Article 10(c) of the Convention on Biological Diversity;

*X/33. Biodiversity and climate change*

8. *Invites Parties and other Governments*, according to national circumstances and priorities, as well as relevant organizations and processes, to consider the guidance below on ways to conserve, sustainably use and restore biodiversity and ecosystem services while contributing to climate change mitigation and adaptation:

*Reducing the impacts of climate change on biodiversity and biodiversity-based livelihoods*

(i) **Recognize the role of indigenous and local community conserved areas in strengthening ecosystem connectivity and resilience** across the sea and landscape thereby maintaining essential ecosystem services and supporting biodiversity-based livelihoods in the face of climate change.

*X/29. Marine and coastal biodiversity*

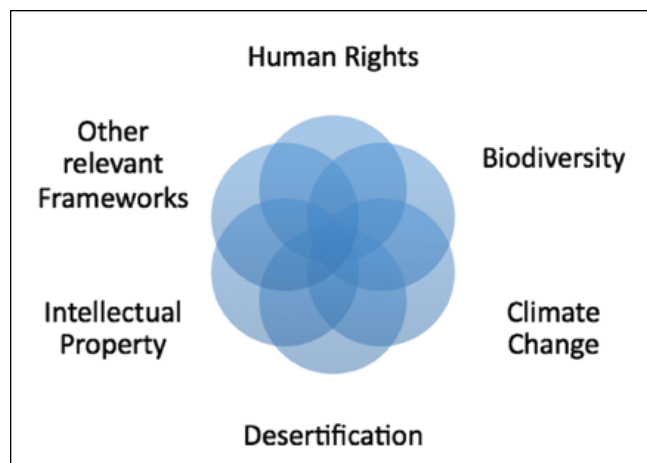
13. (b) Further efforts on **promoting full and effective participation of indigenous and local communities**, in line with programme element 2 of the programme of work on protected areas (decision VII/28), ensuring that the establishment and management of marine and coastal protected areas aims to make a direct contribution, where appropriate, to poverty alleviation (decision VII/5, annex I, paragraph 8).

Other relevant COP 10 decisions include the Consolidated update of the Global Strategy for Plant Conservation 2011-2020 (Decision X/17) and the Multi-year programme of work on the implementation of Article 8(j) and related provisions of the Convention on Biological Diversity (Decision X/43).

**Target 18:** By 2020, the traditional knowledge, innovations and practices of indigenous and local communities relevant for the conservation and sustainable use of biodiversity, and their customary use of biological resources, are respected, subject to national legislation and relevant international obligations, and fully integrated and reflected in the implementation of the Convention with the full and effective participation of indigenous and local communities, at all relevant levels.

### 3.3 Other International Instruments

Several specific provisions within a range of international instruments (other than the CBD) can be read to support ICCAs. As the diagram here shows, these instruments overlap. Together they make up a body of law related to ICCAs.



#### 3.3.1 Human Rights

Several international human rights frameworks, some dealing directly with indigenous peoples, and others dealing with peoples and communities in general, support ICCAs.

#### International Labour Organization (ILO)

##### Convention No. 169: The Indigenous and Tribal

Peoples Convention,<sup>6</sup> which came into force in 1991, is a critical instrument in the recognition and promotion of the rights of “indigenous and tribal peoples.” Part II of Convention No. 169 deals with land, and its provisions provide support for ICCAs, including Article 14(1), which requires the recognition of “[t]he rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy”), as well as provisions calling for protection of indigenous peoples’ natural resources, regulating removal of indigenous peoples from their land, and seeking respect for indigenous peoples’ procedure for alienation of land. Other provisions support ICCAs more generally, such as those supporting indigenous peoples’ rights to self-governance and to participate in decisions that affect them.

**United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP):** The UNDRIP,<sup>7</sup> adopted after a long history in 2007, is an international human rights instrument that sets out “the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.” Like Convention No. 169, the UNDRIP contains several provisions related directly to land, including Article 26(1), which provides indigenous peoples with a right “to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.” Other provisions supporting, among other rights, indigenous peoples’ right of self-determination, right to participate in decision making, right to freedom from discrimination, and right to maintain control of their cultural heritage, also support ICCAs.

Other international human rights instruments, including the **International Covenant on Civil and Political Rights** (1976),<sup>8</sup> the **International Covenant on Economic, Social and Cultural Rights** (1976),<sup>9</sup> and the **International Convention on the Elimination of All Forms of Racial Discrimination** (1969)<sup>10</sup> contain provisions generally supporting peoples’ right of self-determination and right to enjoy their culture.

Related to the subject matter of these instruments, three United Nations bodies also exist to monitor and promote the rights of indigenous peoples: (1) **The United Nations Permanent Forum on Indigenous Issues** (UNPFII)

<sup>6</sup> Geneva, 27 June 1989, in force 5 September 1991; UNTS I-28383 (Convention No. 169).

<sup>7</sup> New York, 13 September 2007; A/RES/61/295 (UNDRIP).

<sup>8</sup> New York, 16 December 1966, in force 23 March 1976; I-14668 (ICCPR).

<sup>9</sup> 16 December 1966, in force 3 January 1976; I-14531 (ICESCR). There are 175 parties to ICESCR.

<sup>10</sup> 21 December 1965, in force 4 January 1969) I-9464 (CERD).

was established in 2000 with a mandate to discuss indigenous issues related to economic and social development, culture, the environment, education, health and human rights (2) In 2007, the UN Human Rights Council (UNHRC) established the **Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)** “to provide the Council with thematic expertise on the rights of indigenous peoples in the manner and form requested by the Council.” (OHCHR 2012) and (3) The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples was established in 2001 to examine ways of protecting indigenous peoples’ human rights.

### 3.3.2 Sustainable Development

Instruments and frameworks relevant to ICCAs in the context of sustainable development include:

- i. **Agenda 21:** Drafted in Rio at the UN Earth Summit in 1992, Agenda 21 deals extensively with indigenous peoples and devotes a chapter to recognizing and strengthening the role of indigenous people and their communities;<sup>11</sup>
- ii. **Plan of Implementation of the World Summit on Sustainable Development (Johannesburg Plan):** Drafted in Johannesburg at the 2002 World Summit on Sustainable Development, the Johannesburg Plan contains provisions regarding recognizing the rights of “indigenous and local communities” and promoting their participation in decision-making.
- iii. **The outcome of the Rio+20 UN Conference on Sustainable Development, ‘The Future We Want’:** Agreed to in June 2012, this document commits countries to “recognize the importance of the United Nations Declaration on the Rights of Indigenous Peoples in the context of global, regional, national and sub-national implementation of sustainable development strategies”, and that “the traditional knowledge, innovations and practices of indigenous peoples and local communities make an important contribution to the conservation and sustainable use of biodiversity”.<sup>12</sup>



Amazon indigenous peoples at World Conference on Sustainable Development (Rio+20), Rio de Janeiro © Ashish Kothari

### 3.3.3 Agriculture

In so far as ICCAs are often mosaics or continuums of land/water use that includes ‘wild’ to ‘domesticated’, and they often contain significant amounts of agricultural or domesticated biodiversity and related cultural diversity, several international treaties or initiatives on agriculture are relevant to ICCAs.

**International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) 2001:** The ITPGRFA promotes conservation and sustainable use of plant genetic resources and the fair and equitable sharing of the benefits arising out of their use. It recognizes that “indigenous communities” contribute to conservation, calls for the protection of traditional knowledge relevant to plant genetic resources, and references “farmers rights”.<sup>13</sup>

**FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (FAO Voluntary Guidelines) 2012:** The purpose of the FAO Voluntary Guidelines is to improve the governance of tenure of land, fisheries and forests with the overarching goal of achieving food security for all. Section 9 deals with “indigenous peoples and other communities” and provides that consistent with legal obligations, States should provide appropriate recognition and protection of the legitimate tenure rights

<sup>11</sup> <http://www.un.org/esa/dsd/agenda21/>

<sup>12</sup> <http://www.un.org/en/sustainablefuture/>

<sup>13</sup> <http://www.planttreaty.org/>; for more on farmer’s rights, see [www.farmersrights.org](http://www.farmersrights.org)

of indigenous peoples and other communities with customary tenure systems.

**Globally Important Agricultural Heritage systems (GIAHS):** Since 2002, FAO has run an initiative to provide international recognition to, and help in dynamic conservation and adaptive management of, traditional agricultural landscapes that have outstanding biological and cultural values. The initiative aims to establish the basis for of Globally Important Agricultural Heritage Systems (GIAHS) and their agricultural biodiversity, knowledge systems, food and livelihood security and cultures throughout the world.<sup>14</sup>



**Podolian cattle, a critically endangered breed, on Gajna ICCA pasture, Croatia © BED**

### 3.3.4 Climate Change

The United Nations Framework Convention on Climate Change (1994)<sup>15</sup> (UNFCCC) is a framework for intergovernmental efforts to address climate change issues. The UNFCCC COP has called on developing country Parties to ensure effective participation of indigenous peoples and local communities when implementing national strategies regarding reducing emissions from deforestation and forest degradation (REDD) (UNFCCC 2010).

### 3.3.5 Desertification

The United Nations Convention to Combat Desertification<sup>16</sup> (UNCCD) seeks to link the environment and development to sustainable land management. The UNCCD does not use the term “indigenous.” Nevertheless, it calls for participation of “local populations and communities” in decision making and implementation of programs to combat desertification. The Report of the Conference of the Parties on its tenth session included a declaration by civil society organizations which demanded special attention and strong support of the UNCCD for ICCAs (UNCCD 2011).

### 3.3.6 Traditional Knowledge and Intellectual Property

A number of global treaties or initiatives aim to protect and promote indigenous/traditional knowledge and culture, which are crucial components of ICCAs.

**Knowledge heritage of indigenous peoples:** In 1995, the Special Rapporteur of the United Nations Working Group on Indigenous Populations produced Principles and Guidelines for the Protection of the Heritage of Indigenous Peoples (Daes 1995). Relevant to ICCAs, the Special Rapporteur set forth the Principle that indigenous peoples’ knowledge and cultures are inextricably connected with their traditional lands and territories and that control over traditional territories and resources is essential to the continued protection of indigenous peoples’ heritage. Since the creation of the Daes Report, stakeholders at all levels have continued to recognize that indigenous peoples’ heritage deserves recognition by and protection under intellectual property or other relevant law. The World Intellectual Property Organization is currently in the process of creating an international legal instrument to ensure the effective protection of traditional knowledge.

**UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Convention on Cultural Expressions):**<sup>17</sup> The Convention on Cultural Expressions recognizes the importance of indigenous peoples’ traditional knowledge, including that it contributes to sustainable development.

<sup>14</sup> <http://www.fao.org/nr/giahs/en/>

<sup>15</sup> Rio de Janeiro, 9 May 1992, in force 21 March 1994; I-30822 (UNFCCC).

<sup>16</sup> Paris 17 June 1994, in force 26 December 1996; A/AC.241/27 (UNCCD).

<sup>17</sup> Paris, adopted 20 October 2005, in force 18 March 2007; I-43977 (Convention on Cultural Expressions).





Petroglyphs at Werehpai caves, an ancient site of Trio Indigenous people still under protection and use, Suriname © Conservation International Suriname

**UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage** (Convention on Cultural Heritage):<sup>18</sup> The Convention on Cultural Heritage recognizes that “indigenous communities” play an important role in the production and safeguarding of cultural heritage.

### 3.3.7 States’ Obligations

Since the adoption of ILO Convention No. 169 in 1989, the international community has increasingly recognized the rights of indigenous peoples and local communities to govern and manage their lands, territories and waters, and to protect among other things their knowledge innovations and practices and cultural heritage. While there is academic debate about the exact legal weight of international instruments and the protocols and decisions that their Conferences of Parties agree—and thus the nature of corresponding legal obligations of states (Bruch 2006)—this section clearly indicates that there is a normative trend towards greater recognition of the legal and policy elements necessary for communities to freely govern and manage their ICCAs. As will be shown in Chapter 4, this is also increasingly translating into national policy and programmatic action.

### 3.4 The ICCA Consortium

Following the successful adoption of the ICCA concept and terminology into various significant conservation policies at the global and national levels, a growing number of movements, organizations, and institutions are becoming involved in the process of raising awareness for indigenous—and community-based contributions to conservation. There has been a felt need for organizing these various groups into a common entity as a way to capture their strengths and unite aims. The ICCA Consortium was created at a gathering during the 4th World Conservation Congress in Barcelona, Spain, in October 2008, as an international association of members dedi-

<sup>18</sup> Paris, 17 October 2003, in force 20 April 2006; MISC/2003/CLT/CH/14 (Convention on Cultural Heritage).



cated to promoting the appropriate recognition of and support to ICCAs in national, regional and global arenas. Members (numbering 33 by early 2012) include Indigenous People Organizations (IPOs) and Community-based Organizations (CBOs) as well as civil society organizations working with indigenous peoples and/or local communities. Honorary members (numbering 64 individuals by early 2012) also play an active role given their expertise relating to ICCAs. As a global institution, the Consortium collaborates with the CBD Secretariat, GEF SGP, UNEP-WCMC, IUCN, research and advocacy organizations, and UN mechanisms promoting human and indigenous peoples and local community rights. It became a legal association in 2010 (see [www.iccaconsortium.org](http://www.iccaconsortium.org)).

Since Barcelona, the Consortium has held a number of workshops and consultations during international gatherings and policy events, including meetings of the CBD Parties and UN gatherings (e.g., UNPFII and EMRIP). It has also helped organize national level meetings on ICCAs in several countries (e.g. the Philippines, Taiwan, Nepal, Indonesia), and provided resource persons for the sessions on protected area governance in the CBD Secretariat's 2011-2012 series of regional capacity-building workshops to support implementation of the PoWPA. It has initiated an 'alert mechanism' through which its members and other relevant organizations are informed about threats to specific ICCAs, and requested to take appropriate collective action to help the relevant people/community avert or deal with such threats. It is working on assessing and guiding national level legal, policy, and other forms of recognition and support. It has initiated and helped coordinate the present study on ICCA Recognition and Support, as also a parallel study on laws relevant for ICCAs, and contributed to an upcoming handbook on protected area governance which focuses on ICCAs amongst other governance types.

### 3.5 The Global ICCA Registry

The ICCA Registry (also called the Registry) is a global effort to assist with documentation of ICCAs and the recognition of community-based conservation in terms of biodiversity values, ecosystem services, livelihood support and poverty reduction. It is an effort to augment our current understanding of the size and number of protected areas, which is well underway through the World Database on Protected Areas (WDPA; see [www.wdpa.org](http://www.wdpa.org)) and its main communication portal, Protected Planet (see [www.protected-planet.net](http://www.protected-planet.net)). Because our understanding of the status and ecological benefits of ICCAs remains fragmented, uncoordinated and incomplete, the global ICCA Registry is the first collective international effort to build a base of information about this important conservation approach.



**Members of ICCA Consortium at Annual Meeting, Shirakawa, Japan**  
© Natural Justice

The concept for developing a global registry of ICCAs stemmed from conversations in the World Commission on Protected Areas in the late 1990s and early 2000s, as part of the idea of 'community conserved areas' as a distinct category of protected areas (Kothari 2003). The design of the ICCA Registry project developed during and in response to recent global meetings and is advised by the ICCA Consortium (see above). Because the UNEP-World Conservation Monitoring Centre manages and hosts the WDPA in partnership with IUCN, it was considered an appropriate host for the development of the ICCA Registry. Since 2009, the ICCA Registry has worked directly with communities as well as through established networks such as the UNDP-implemented GEF Small Grants Programme to build a trusted and needs-based platform for hosting case studies and registration details of diverse communities from around the world. Four pilot countries were included in the first phase of the Registry: Fiji, Kenya, Mexico, and the Philippines. Because the Registry adheres to UNDRIP and supports a free, prior informed consent (FPIC) process, each community has been made aware of the benefits and possible concerns about contributing information to the Registry.

**Box 3.3: Evidence of benefits from the ICCA Registry. An interview with Jose Ines Loria from the UMA (Unidad de Manejo Ambiental) community of San Crisanto, México.**

*“The publication of information and data will allow more people to know about our project. This will bring more interest and more visitors, and it is also a way to show the organizations that have supported us that we grew and we are still growing and their investment is benefiting both people and conservation. The publication on a website created by an important international organization helps raise the profile of our work and activities.*

*Furthermore, it allows us to share our experience with other communities, to learn from their experience and support them through our experience.”*

*Along with other stories of other ICCA it will also help show to those who are sceptical that community conservation and development is possible.”*

Many indigenous and local communities are eager to share information about their ICCAs for a number of reasons (see also Box 3.3), which include:

- Increasing international recognition of ICCAs;
- Building potential to attain or increase national and governmental support and/or fend off possible exploitation by investment and development;
- Sharing experiences and learning opportunities with other indigenous and local community groups, as well as those interested in ICCAs; and
- Contributing to the awareness of ICCAs and their values.

The Registry can support the mapping of ICCAs and definition of boundaries, where maps can be used as needed by indigenous and local communities.

There are however also possible negative impacts of international recognition through a process like the Registry which need to be addressed. These include bringing unwelcome attention to ICCAs and their peoples/communities from governments who may have other interests, or from tourism and other incursions that could be ecologically and culturally damaging. Data entered into the Registry could potentially also be subject to misuse by commercial interests. These are reasons that the Registry and its advisory committee have taken a very careful approach to include processes of FPIC, transparency, and data security, including the provision of different ‘levels of disclosure’ of information.

By early 2012, the Registry holds safeguarded records of about 70 registered communities representing 20 countries. Twenty case studies from nine countries are included on the Registry website ([www.iccaregistry.org](http://www.iccaregistry.org)), though not all of these are fully registered yet. In the development of the Registry, it was clear that some communities required extensive periods to consult internally prior to their consent for full registration. As a result, a two-staged approach has been developed. In the first stage, communities can create a case study using their publicly available information; in the second stage, they conclude the full registration process by completing a questionnaire with several standardized fields that match the WDPA. Nominations of ICCAs to the Registry may also be submitted for a civil society peer review assessment process at the national level to ensure the veracity of information submitted, as well as to guarantee the bona fide status of the ICCAs submitted by the concerned indigenous peoples and local communities. Details on the type of information contained in the global ICCA Registry can be found in Box 3.4.

### **3.6 Recognition by Donors and International Institutions**

Since the breakthroughs regarding ICCAs at the 2003 World Parks Congress and the 2004 CBD COP7, a number of international and global organizations and forums other than those mentioned above have begun to recognize and support them.

As part of its 4th Operational Phase (OP4) of funding from the GEF, 2007 to 2010, the UNDP-implemented Small Grants Programme (SGP), included an explicit outcome “to promote community protected area governance

**Box 3.4: Information on ICCAs in the ICCA Registry****1. ICCA Description and Identification:**

*These fields are the core information that will provide an understanding of ICCAs on a national scale and to ensure that the information is as robust and standardized as that collected for other protected areas. Examples include:*

- **Name** of the ICCA (in English and local language)
- **Location** by longitude and latitude
- **Designation** or name used to indicate the type of ICCA, such as ‘Indigenous Reserve’ or “sacred forest”
- **Total area** of the ICCA as documented in declaration, decrees, management plans, customary rules or spatial boundary (GIS) data
- **Habitat type(s)** within the ICCA

**2. History, Management and Governance:**

*These fields focus on gathering insights regarding the management and governance of ICCAs, as well as the legal and political aspects related to their existence. Examples include:*

- **Recognition of the ICCA**, such as by national, regional or municipal law, other law, civil society, commercial interests, customary law, etc.
- Classification of ICCA according to the **IUCN Management Category** system (I through VI)
- **Governance** of the ICCA in terms of decision-making structure, role of the community in the decision-making process, and other governance bodies and mechanisms
- **ICCA management rules** (describing the oral, written, statutory or customary rules)
- **Ownership type** of the ICCA, e.g. public, communal, joint, private

**3. Community and Socio-Economic Factors:**

*The information associated with these fields helps to understand the characteristics of the community and the socioeconomic elements of the ICCA.*

- **ICCA main purposes and objectives**, such as sustaining livelihoods, cultural preservation, biodiversity conservation, tenure security
- **Population** of the community governing the ICCA, and whether the community is within, close by or far from the ICCA
- Classification of the types of **resource use**, e.g. subsistence, tourism, cultural, etc.
- **Forms of support** so far provided to the ICCA, e.g., technical, financial, political, capacity building
- **Major threats** to the ICCA

*approaches (community-based and collaborative management arrangements) for protected areas (PAs), as well as to extend the recognition, strengthening and adoption of Community Conserved Areas (CCAs), including indigenous areas”. In this regard, GEF SGP has provided small grants up to US\$50,000 (averaging \$23,000) directly to national NGOs, community-based organizations, and indigenous peoples—often directly or indirectly supporting the growing national-level recognition and policy support to ICCAs. In addition, during the OP4 cycle, the GEF SGP sponsored the creation of the ICCA global Registry through UNEP WCMC (described above), assisted in the creation of the ICCA Consortium at the WCC in 2008 as an ‘honorary member’, and helped facilitate the General Assembly and 3-day workshop for the global ICCA Consortium in concurrence with the CBD COP10 in Japan in 2010.*

During the current 5th Operational Phase of the GEF SGP (OP5), running from 2011 to 2014, the programme has further prioritized support for ICCAs. This includes national level support to ICCAs through small grants (e.g. existing initiatives underway in Kenya, Nepal, and Sri Lanka); support to the ICCA Consortium members in different regions; co-produced various newsletter and publications distributed internationally and featured on the

on-line ICCA Forum and SGP website; and has also invited ICCA representatives to each of its five OP5 regional workshops of GEF SGP National Coordinators. As a result, significant progress has been made on the ground. For example, Kenya's GEF SGP national coordinator has formed a national network on ICCAs and is starting the process of working with national agencies to develop a national ICCA registry that builds upon and integrates with the global Registry. In Nepal, GEF SGP funding has gone into the initiation and strengthening of a national level federation of ICCAs.

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Numerous examples of national level GEF SGP support to ICCAs can be found throughout its global network of 14,500 small grants provided to civil society organizations, across 126 country programmes. Regional examples include grants provided to the network of Locally Managed Marine Areas LMMAs in the Pacific (i.e. Fiji, Micronesia, Papua New Guinea, and Samoa); clustering of SGP grants with indigenous peoples and local communities in and around World Heritage Sites (i.e. work with Mayan indigenous peoples ejidos around the Sian Ka'an WHS in Yucatan, Mexico);<sup>19</sup> as well as work with the Indigenous Peoples Climate Change Assessment Process (IPCCA) in Peru, Panama, Nicaragua and Honduras. Overall, approximately 15% of the portfolio of SGP projects at the global level are with indigenous peoples' organizations, including a number of projects using participatory video (PV) to allow for the submission of oral proposals for funding by the programme (i.e. Indonesia and Vanuatu).

The UNDP Environment & Energy Group (EEG) has also taken a serious interest in ICCAs. This includes (i) acting as an implementing agency for GEF medium size projects (MSPs) focusing on ICCAs (e.g. the Philippines and India); (ii) through the Equator Initiative which host 'community dialogue spaces' at numerous international meetings (including *inter alia* the IUCN WCC in 2008, MDG+10 Summit in 2010, CBD COP9 and COP10, as well as the Rio+20 Summit in June 2012);<sup>20</sup> as well as (iii) direct support provided to the ICCA Consortium, in particular with regard to the global alert and communication system on ICCAs, as part of the preparations for the CBD COP11 to be held in Hyderabad, India in October 2012.

<sup>19</sup> The Community Management of Protected Areas Conservation (COMPACT) programme, implemented by GEF SGP since 2000 with financial assistance from the UN Foundation UNF), seeks to demonstrate how community-based initiatives can significantly increase the effectiveness of biodiversity conservation in the co-management of globally significant protected areas by working to improve the livelihoods of local populations. See: [http://sgp.undp.org/index.php?option=com\\_content&view=article&id=103&Itemid=165](http://sgp.undp.org/index.php?option=com_content&view=article&id=103&Itemid=165)

<sup>20</sup> See the GEF SGP 20th Anniversary publication launched at the Rio+20 Summit in June 2012 [http://sgp.undp.org/index.php?option=com\\_content&view=article&id=272](http://sgp.undp.org/index.php?option=com_content&view=article&id=272)

## CHAPTER 4: NATIONAL LEVEL LEGAL RECOGNITION AND SUPPORT

### 4.1 Overview

A number of countries have begun to provide legal and policy recognition and support to ICCAs. This is both in response to domestic demand and realization of the importance of ICCAs, and to the need to meet obligations under international instruments (outlined in the previous chapter).

This chapter explores the various forms of legal recognition and support being given to ICCAs in a range of countries<sup>30</sup>, and analyses their adequacy and appropriateness. Towards exploring the nuances of these issues, it answers three questions relating to states' legal recognition of ICCAs:

- What are the key issues relating to the legal recognition of ICCAs?
- What are the ways in which states are currently recognizing and supporting, or undermining, ICCAs in law?
- What are the trajectories laws are taking and what are the persistent challenges and the effects on ICCAs?

The information provided in this chapter is summarized in tables at Annexures 1 and 2. Additionally, country case study summaries appear in Annex 3, and the full case studies are included in the CD accompanying this volume.

The analysis presented in this chapter leads to recommendations for legal and institutional reform at the national level, given in Section 6.2.

### 4.2 Overarching issues

Country case studies presented in this volume, the brief legal reviews of countries conducted for a previous study (referred to in Chapter 1), and several other sources, clearly show that there is an overriding threat to ICCAs posed by either a lack of legal recognition or their inappropriate recognition. This issue is captured by the Suriname report that states: "The most important threat [to ICCAs] is the non-recognition of indigenous peoples' land and resource rights and other rights in Suriname's legislation, and the danger that badly applied ICCA legislation would threaten the recognition of indigenous peoples' rights. This highlights a critical tension. On the one hand, the evidence suggests that ICCAs suffer from lack of legal support. Where they are not recognized, the indigenous peoples and local communities are more likely to suffer a range of adverse effects, including:

- Short-term land management decisions as communities are restricted from making long-term plans in accordance with their own visions and aspirations;
- Communities' customary laws, procedures and protocols are undermined or disregarded if the government at the same time issues exploitative concessions and other permits in indigenous territories or communities' lands without their involvement or free, prior and informed consent;
- Customary rules and traditions are overruled with force or court decisions if necessary; and
- Communities suffer from general legal uncertainty and marginalization - in the words of an indigenous resource user, "as if we simply do not count; the animals have more rights than us".

On the other hand, some forms of legal recognition are inappropriate, and actually lead to similar problems set out in the bullet points above. Thus the answer to the overarching question asked by this chapter is not black and white and requires a careful evaluation to assess what types of legal recognition are most appropriate and can be implemented within a range of unique local contexts. Before engaging in that analysis (set out in Section 4.3 below), there are four overarching issues that require discussion.

First, indigenous peoples and local communities are required to engage with a range of legal frameworks and claim a number of rights and responsibilities, in both statutory and customary laws. Thus when we talk of "legal recognition and support of ICCAs", we are looking far beyond any one law, or distinct type of law (such as environment, land or human rights) to evaluate all the laws that either *do* relate to ICCAs or *should* relate to ICCAs. While conservation is implicit within the term ICCAs, laws relating to Indigenous rights, land, human rights, agriculture, environment, forests, water, fisheries, and coasts are at least as important, and more important to certain commu-



nities, than protected areas and wildlife laws alone. Thus the following analysis tries to assess how a range of laws interact at the local level with a view to better understanding how national legislation as a whole impacts ICCAs.

The second point relates to the phrase “legal recognition of ICCAs”. We should be clear about whether we are asking if the lawmakers were *intending* to explicitly recognize or support ICCAs as defined by IUCN (see Ch. 2) when enacting certain laws, or instead if laws, not explicitly providing for ICCA recognition, effectively support ICCAs by providing an enabling context. Two slight variations on this theme are apparent in the country reports. There are countries such as Namibia, for example, that may be considered to “recognize ICCAs in law” but refer to the concept as “conservancies”. Similarly, there are countries that “do not recognize” ICCAs because they do not have such a dedicated law, but who have a range of other disconnected laws that can be used towards these ends (such as recognition of indigenous territorial rights). This issue makes it problematic to pronounce on the number of countries that “recognize ICCAs” as it becomes a matter of interpretation based on a close reading of local contexts.<sup>1</sup> Yet as the following analysis illustrates, it is possible to detail with a relative degree of accuracy: a) which states are moving towards increased recognition and support of ICCAs, b) which are not, and c) an evaluation of the trends towards ICCA recognition.

Third, and linked to the above two points, are the interlinked issues relating to conflict of laws, inappropriate recognition and implementation. A law that recognizes the conservation efforts of indigenous peoples and local communities can be severely undermined by other laws that, for example, deny land rights and preclude official recognition of traditional authorities and customary laws. Similarly, a law whose stated aim is to “recognize ICCAs” but does so inappropriately (e.g. by mandating uniform, top-down rules and institutional structures) may in fact do more harm than good at the local level. Implementation is also critically important and depends largely on the capacities and political will of the mandated government agencies. For example, a well-drafted law may be inadequately implemented, also resulting in marginal or negative impacts. Thus, while it may be possible to state that a country “recognizes ICCAs” with reference to one or more of its laws, only a full picture of the various legal, policy and institutional frameworks on the one hand, and their effect on the local level on the other, can determine whether, in fact, the recognition is adequate.

Finally, whether a range of laws adequately recognizes an ICCA is—in the final analysis—to be judged by each individual group seeking to self-identify, demarcate, and govern their ICCA. What might be appropriate legal recognition for one group might be antithetical to another group living in the same country. Thus, any legal analysis of recognition of ICCAs must be attentive to the needs of individual ICCAs and evaluate the laws in that context, not vice versa.

In this light, evaluating the level of legal recognition is in fact an exercise in assessing whether the laws of the nation in which particular indigenous peoples and local communities live, enshrine the rights and powers they require to steward and govern their territories and areas, and in doing so support local approaches to the conservation (including sustainable use) of biodiversity. The next four sub-sections begin to set out the issues inherent in this form of analysis.

### 4.3 Forms of national legal recognition

Drawing on what is set out above, this section evaluates the full spectrum of relevant legal frameworks from across a range of countries that impact upon ICCAs, both positively and negatively. One of the critical points that emerges from this review is that while it may make legislative sense to develop separate laws for wildlife, land law and protected areas, it makes less sense from a landscape perspective, especially if those laws are developed without an acute attention to their interrelationship at the local level. It is an irony, therefore, to evaluate them as separate bodies of laws. Nevertheless, considering the situation as it stands, this approach is the most systematic.

<sup>1</sup> A preliminary legal report on ICCAs (Kothari and Menon 2010) argues that of the 28 countries it reviews, the following countries “recognize ICCAs”: Australia, Bolivia, Brazil, Canada, Costa Rica, Federated States of Micronesia, Morocco, Guyana, India, Mauritania, Namibia, Nigeria, Papua New Guinea, Peru, Philippines, South Africa, and Vanuatu.

The section on recommendations (Chapter 6), suggests ways to move beyond this fragmented approach to ensure better support to ICCAs through an integrated socio-ecological approach to the law.<sup>2</sup>

#### 4.3.1 Constitutional provisions

The national constitution of a country provides a crucial context and setting for the legal and policy recognition of ICCAs. Several national constitutions recognize the rights of indigenous peoples or local communities, citizens' rights to decision-making forums and information, decentralised governance and management, or other provisions that enable a people or community to manage its territory or area (and therefore its ICCA) with varying degrees of security. Examples are given below of the constitutions of Mexico, Bolivia, Senegal, India, and others that have one or more such provisions. There are many other countries not reviewed here, in which where appropriate rights and governance provisions in the constitution are vital for the security of ICCAs.

There are ongoing revisions or framing of constitutions or processes of periodic review in a number of countries; as a future area of work, it will be important to assess whether the conditions under which ICCAs can flourish are being guaranteed in these.

#### 4.3.2 Laws on Human Rights and Indigenous People's Rights

As set out in Chapter 2, international instruments on human rights provide a range of rights relevant for the stewardship and governance of indigenous peoples' and local communities' territories and areas, and the natural resources therein. While progress to enshrine the various human rights standards in law at the national level has been faltered in many cases, there are also a number of examples that illustrate the correlation between strong human rights provisions on the one hand and good governance and management of lands, territories and natural resources on the other. Bolivia recognizes both *Tierras Comunitarias de Origen* (TCOs, "communal lands" in English)<sup>3</sup> and *Territorios Indígenas Originarios Campesinos* (TIOC, "peasant/indigenous territories"). TIOCs, for example, provide for the exercise of, among other things, autonomous administrative functions to indigenous peoples to manage and develop their territories and natural resources more efficiently. However, these freedoms are curtailed by state exercise of power and other statutes that are interpreted to contravene the spirit of the constitution, such as the Autonomy Framework Law (2010).

The integrity of Peasant Indigenous Territory is acknowledged, incorporating the right to the land, its exclusive use and exploitation of renewable natural resources following the conditions defined by law; the right to prior and informed consultation as well as the right to benefit economically from the exploitation of nonrenewable natural resources found within their territories; the power to apply their own rules administered by their own organizational structures and the right to define locally developed plans according to their cultural standards and principles of harmonious coexistence with nature. The Peasant Indigenous Territories may be constituted by communities. The territory includes native indigenous peasant production areas, harvesting areas, conservation of natural resources and places of reproductive, social, cultural and spiritual value.

Chile's Indigenous Law (Law N° 19.253) came into force in 1993 and establishes rules for protection, promotion and development of indigenous people in Chile, where indigenous rights and areas (not territories) are recognized. It also sets special provisions for the different ethnic groups existing in Chile and controls the formations of indigenous communities, under supervision of the National Corporation for Indigenous Development (CONADI). This has, among other things, provided the legal impetus for the Pewenche Quinquén Park, to be governed by the traditional chief (the *lonko*) through an Assembly and its board. The *lonko* holds a political and religious role, and in the Quinquéns' case, the chief also functions as the president of the community as formalized under CONADI. Chile has also recently approved Law No. 20249 (2008) that provides a new legal framework to support indigenous peoples' protection of their marine ecosystems.

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<sup>2</sup> Under the Convention on Biological Diversity, this is referred to as an 'ecosystem approach': <http://www.cbd.int/ecosystem/>

<sup>3</sup> Recognized since the Bolivian State Constitutional reform in 1994. Indigenous peoples have achieved recognition and certification of 190 indigenous territories or communal lands (TCO) with an area of 20.7 million hectares.



**Mt. Magulo, a sacred site, with 'royal house' for rituals, in the Ancestral Domain of the Blaan indigenous people, the Philippines © PAFID**

The rights of indigenous peoples are well established under Philippine laws. The 1987 Philippine Constitution mandates that “the State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development” (Article II, Sec. 22). The enactment of the Indigenous People Rights Act (IPRA) by the Philippine Government in 1997 enforces this constitutional mandate. The IPRA recognizes the “ownership” rights of indigenous peoples over their traditional territories as ancestral domains which include land, bodies of water and all other natural resources therein. It provides for a process of titling of lands through the issuance of Certificates of Ancestral Domain Titles (CADT). As of 30 September 2010, the National Commission on Indigenous Peoples has approved 156 Certificate of Ancestral Domain Titles (CADT) having a total area of 4,249,331.544 hectares of land and water. These areas are part of the 6 to 7 million hectares of land and water that the NCIP estimates could still be recovered as ancestral domains.<sup>4</sup> The law includes “Self Delineation” as the guiding principle in the identification of ancestral domain claims. This means that indigenous peoples are granted full authority to determine the extent and boundaries of their ancestral domains and to utilize and dispose of the resources therein. In addition to the indigenous peoples’ right to their ancestral domain, the IPRA recognizes their right to self-governance and empowerment which includes respect for their traditional resource management practices. Like other countries, however, these progressive laws may often not be enforced, especially in the context of large-scale mining, monoculture plantations, and other imposed ‘developments’ in ancestral domains.

The Mexican constitution establishes a legal basis for natural resource conservation by indigenous peoples and communities, setting out that they have the right to self-determination and autonomy to conserve and improve the habitat and to preserve the integrity of their lands according to the terms established by the constitution. It also establishes that they have preferential access to the natural resources existing on their lands, as long as pre-existing land tenure and third party rights are respected. Mexico legitimizes two types of community-based tenure

<sup>4</sup> <http://www.ncip.gov.ph/CentralOffice/AncestralDomainsOffice>

systems that give members the responsibility to allocate and enforce rights within the legally established boundaries of their community. The *comunidad* is a pre-existing corporate entity in which community members, mainly Indigenous People, can demonstrate long-standing communal use of land and resources. In contrast, the *ejidos*, created after the Mexican revolution, are collectives of peasant landholders who are granted access to land and resources on which they had no prior legal claim. They have functioned as long-standing communities with prior rights to land and resources. (Martin et al 2010)

The Russian Federation has probably the strongest potential law within the entire Arctic that relates to ICCAs, namely On Territories of Traditional Nature Use (Territories of Traditional Natural Resource Use) of Indigenous Numerically Small Peoples of the North, Siberia and the Far East of the Russian Federation (2001). Yet other laws and legal conditions largely disable its implementation (Ferguson and Viventsova 2007). Since then, there has been a draft law “On the protection of indigenous habitat, traditional way of life and traditional use of nature of the small indigenous peoples of the Russian Federation”. The Duma’s Committee on Natural Resources and Environment pointed out several concerns about the draft law, such as:

- The provisions for local indigenous communities to have preference in access to local water resources and forests conflict with the Water and Forest Codes, which guarantee water and forest access to all or many other potential users; and
- The Forest and Water Codes already protect the rights of indigenous peoples in these regards.

As a result, in September 2007, the Committee recommended against introduction of the new law for first reading until these and other issues are addressed.

In Colombia, where indigenous peoples possess common rights to land and natural resources as well as rights to autonomous governance and full respect for their cultures, their *resguardos* (reserves) cover 34 million hectares of land, or almost 30% of the national territory. Five million hectares have also been adjudicated as collective property to its Afro-Colombian communities, considered as deserving of similar attention and respect. Many ICCAs can thus exist and prosper in Colombia (Riascos de la Peña 2008; and Asatrizy and Riascos de la Peña 2008), including areas jointly conserved by different indigenous peoples .

In Iran, national legislation “absolutely forbids” the cutting and obstruction of migratory routes of mobile pastoralists, as well as any land use changes in such customary nomadic tribal territories. These laws, not widely respected, are nowadays being “re-discovered” by mobile indigenous peoples , conservation organizations and some government officials to secure customary rights and conservation-friendly land uses. The Supreme Council for the Environment of Iran has the legal faculty of assigning the governance of a protected area to any entity with legal personality. Since the approval of the PoWPA of CBD in 2004, officials have begun assigning to specific mobile tribes the management authority and responsibility over their migration territories and wetlands. Among the 700 tribal confederacies and independent tribes of mobile indigenous peoples in Iran, some have registered as civil society organizations with statutes based on their ancient customary laws. They are gradually regaining control over their traditional landscapes and territories that are being *de facto* recognized as ICCAs under their governance.

In India, explicit guarantees for the cultural, economic, and political well-being of its *adivasi* (original dweller) populations are provided for in the constitution; this has been followed up by legislation, the Panchayat (Extension to Scheduled Areas) Act 1996, with provisions for several kinds of rights and autonomy. However, as is discussed below in 4.3.6, enforcement of these guarantees has often been weak.

### **4.3.3 Laws on Land and Marine Rights**

The importance of land rights to the integrity of ICCAs cannot be understated. The country review of Kenya for this volume, states that: “As in many other African countries, the single most important issue in the future development of ICCAs in Kenya is the question of land tenure”. The same can be said for other countries and regions as well. Land laws, like other laws analysed below, have the potential to support or conversely severely undermine



Mobile peoples, Iran: gaining increasing recognition for their territories and traditions, © CENESTA

ICCAs. Notably, the laws detailed below are not considered to fall under the sub-section above on indigenous rights because they may also apply to communities considered not to be “indigenous” under national law.

Weaknesses in the status of most community lands in Kenya as ‘trust lands’ managed by district-level governments has led to widespread encroachment and alienation of such areas, a process which continues today. Land legislation passed in 1968 enables pastoralist communities to create and register Group Ranches. These are in effect privately titled collective rangelands used for communal livestock production. Since the 1990s however, abuse of leaders’ authority in land allocation and management decisions, among other reasons, has led to Group Ranches being converted into individual land holdings through a process of subdivision and allocation of individual parcels to the Group Ranch members (Mwangi 2007). This factor has led to widespread concerns about the future of both pastoralism, and the wildlife-tourism land uses that communally managed pastoralist rangelands in Kenya help to sustain. The new constitution (2010) in addition to the provisions that address indigenous peoples’ rights, also provides for critical reforms to the country’s land tenure framework, changes which are elaborated in a new land policy. These reforms call for the replacement of trust land—a historically weak tenure class managed on a trustee basis by County Councils that has been vulnerable to alienation and encroachment and which makes up the majority of land in Kenya—with a new tenure category of ‘community land’. This has the potential, if implemented effectively, to transform the historic weakness of communal and customary land rights in Kenya’s rural areas, which, as in many African nations, has been the greatest impediment to securing and sustaining traditional or newly established ICCAs.

The customary land tenure system in Fiji is well established in two pieces of legislation; namely, the *i* Taukei Lands Act (TLA) and the *i* Taukei Lands Trust Act (TLTA). The TLA plays a crucial role in preserving and maintaining customary communal ownership of native lands. Notably, *i* Taukei lands cannot be sold except to the State and any dealings with the land require the approval of the majority of the members of the *mataqali* (traditional land-owning clan) over the age of 21.



While most land is held under customary landownership, marine and freshwater tenure is vested in the State by virtue of the Crown/State Land Act and Rivers and Streams Act. This is a contradiction to traditional customary law where traditional fishing grounds '*i qoliqoli*' belonged to adjacent communities. The *i Taukei* Fisheries Commission established under the Fisheries Act maintains a record of the mapped and delineated boundary lines of the 385 marine and 25 freshwater *i qoliqoli* areas on which about 300,000 *i Taukei* villagers rely for their livelihood. Thus the Fisheries Act provides a means for communities to establish governance of coastal areas via registered fishing rights. Linked to this has been a phenomenal growth of Locally Managed Marine Areas (LMMAs) in Fiji in the past decade. LMMAs are areas of near-shore waters and coastal resources that are largely or wholly managed at a local level by the coastal communities, land-owning groups, partner organizations, and/or collaborative government representatives who reside or are based in the immediate area. By 2011, over 149 LMMAs managed by 400 communities cover half the area of Fiji's *qoliqoli*.

The governance framework for LMMAs in Kenya is provided by the Fisheries Act which allows for the creation of Beach Management Units (BMUs). BMUs are associations of fishermen, traders, and other fishery users and stakeholders located at coastal landing sites. BMUs are able to develop and enforce rules governing their fisheries, including demarcating boundaries and excluding non-members from outside the area, with the support and sanction of the Department of Fisheries.

The role of local people in governing and managing natural or semi-natural areas in England, in the form of common lands, is recognized in the Commons Act of 2006. This legislation aimed to rationalize the legislative framework for recognition and management of commons. The Act made provision for commoners, landowners and other stakeholders to apply voluntarily for the creation of commons councils to regulate agricultural activities, the management of vegetation and the exercise of common rights for each common. Commons Councils can only be formed if all legal stakeholders are supportive, and should be made up of representatives of the commoners, landowners and other actors; they thus correspond more closely to the IUCN category of collaborative manage-



Wayas Island coral reef; Fiji's Locally Managed Marine Areas contain valuable biodiversity © Stacy Jupiter

ment than to that of ICCAs, but also provide an opportunity to move towards ICCA-like situations where the local community is the predominant decision-maker.

A number of countries have enacted or are considering laws and policies for restitution of lands previously taken away by force or illegally from indigenous peoples or local communities. South Africa's Restitution of Land Rights Act 1994 has allowed the Makuleke community to make a successful claim over 20,000 hectares of the iconic Kruger National Park, which it is now managing as a protected area for the benefit of its members (Fabricius 2006). The Act provides for restitution to individuals as also groups/communities; in the latter case, a special land holding mechanism, called a Communal Property Association under an Act of the same name (Act 28 of 1996), is available to assist land restitution for beneficiary groups to hold land in common. Restitution of rights to lands in Australia, Canada, India and other countries, including in many cases within official protected areas, and in many cases an outcome of court judgements, are dealt with elsewhere in this chapter.

#### 4.3.4 Laws on Wildlife or Biodiversity Conservation and Protected Areas<sup>5</sup>

Most if not all countries have laws relating to wildlife and/or biodiversity conservation, and specifically to establish protected areas for wildlife. Most such laws have been heavily criticized by indigenous peoples and local communities for largely ignoring their historic and contemporary roles in conserving areas that are subsequently designated as protected areas, and for dispossessing and often criminalizing them. Many protected areas fully or partially overlap with indigenous and traditional peoples' territories and resources (see Box 2.2). In many cases, the designation of these protected areas has affected indigenous peoples' rights, interests and livelihoods, thus leading to recurring conflict. In the recent past, however, some protected areas laws have been (or are being) reformed to recognize peoples' rights and practices, and to better support ICCAs. In some countries this has been the case from the start; in Bolivia, for instance, the legal framework for the management of protected areas established in the 1992 Environmental Law explicitly recognizes indigenous peoples and local communities' rights in the protected areas management. Despite ongoing institutional and political instability in Bolivia, the management of the Protected Areas System (SNAP) has been consistent with these principles.

The Namibian Policy on Wildlife, Management, Utilisation and Tourism in Communal Areas (1995) makes provision for communal area residents to form common property resource management institutions called "conservancies". Its Nature Conservation Amendment Act 1996 provides legal rights over wildlife and tourism to communities that form such conservancies. Similarly, the Forest Act provides for the recognition of community forests. Conservancies and community forests are local institutions that are providing communities with increased opportunities to manage their own affairs. These institutions provide a major new form of (corporate) legal and social organization for communities on communal land covering a large part of Namibia. Conservancies can undertake land use planning and zoning of areas for wildlife and tourism. While the model has received due credit, it should be noted that conservancies do not receive land rights. This means that they do not have the power to enforce land use planning and zoning decisions, particularly with regard to people moving in from outside the conservancy. Another drawback is the tendency of conservancy game guards to implement and enforce national wildlife laws rather than customary rules and regulations.<sup>6</sup>

For the last 20 years, Kenya has also supported the establishment of locally-protected areas, often termed community conservancies or sanctuaries. These areas set aside land explicitly for wildlife, often on the basis of tourism investments made by outside companies that enter into contractual agreements with the local community. Interestingly, while the outcomes support biodiversity and community well-being, and rely largely on tourism for funding, the measures to establish community conservancies or sanctuaries are enacted through land laws.

<sup>5</sup> The first law review states that the following countries' PA systems recognize ICCAs: Australia, Brazil, Canada, Micronesia, India, Papua New Guinea, Solomon Islands, South Africa and Vanuatu.

<sup>6</sup> While the legislation does not specifically provide for local conservancy rules or by-laws to be developed, it does not prevent this from happening.

Conservancies have been created in Canada by provincial and territorial governments to recognize the cultural, social and ceremonial uses by First Nations. Tribal Parks are also emerging, aiming to balance traditional governance with adaptive and ecosystem-based management approaches to integrate human and ecosystem wellbeing, similar to the traditional indigenous ways of life. Yet despite formal pronouncements and certain good examples,<sup>7</sup> the trend has been to consolidate a central administration of protected areas within government.

Indigenous Protected Areas (IPAs) emerged from the Australian Government's 1992 commitment to establish a system of protected areas that is comprehensive, adequate and representative of all the terrestrial bioregions of Australia. As some of the bioregions occur only on Aboriginal-owned land, a program was developed in collaboration with Indigenous representative organizations to provide funding and other support to enable Indigenous groups to establish protected areas on their own lands. IPAs are planned, voluntarily dedicated (i.e. declared) as protected areas and managed by indigenous people themselves. The Australian Government formally recognize IPAs as part of the National Reserve System of Protected Areas, but IPAs are not government protected areas. In recognition that many government protected areas had already been established on traditional estates without indigenous peoples' consent, the IPA program also includes funding to enable indigenous peoples to negotiate enhanced engagement in the management of existing government-declared national parks and other protected areas.

Conservation and natural resource laws in India have a mixed orientation regarding community-based conservation. The enactment of the Wild Life (Protection) Act of India in 1972, has led to the designation of about 600 protected areas, which have in practice often weakened the rights and practices of local communities. In 2002 the Act was amended to include two categories mandating more participation: Community Reserves can provide legal support to CCAs on private or community lands, while Conservation Reserves provide a space for consultation with local people before declaration of the reserve and seek their inputs in the management of the reserve. Yet these remain largely centralized, top-down processes. Given the language used and the fact that the category Conservation Reserves specifically mentions government lands, it appears that Community Reserves allow inclusion of only non-government owned lands. Most documented CCAs in India exist on government lands,<sup>8</sup> and so these may not be eligible to be declared Community Reserves. In addition, Community Reserves cannot be declared in existing protected areas (PAs) and existing PAs cannot be easily converted to Community Reserves. Moreover, the Act mandates a uniform management institution for Community Reserves, which cannot accommodate the diversity of management arrangements that communities have developed across India.<sup>9</sup> This factor is a significant disincentive to communities declaring their ICCAs as Community Reserves. However, more recent legislation, especially the Forest Rights Act 2006, provide greater space for ICCAs, which is described below.

In the UK, protected area legislation gives the state the formal responsibility of management, including for Local Nature Reserves that are created at the initiation of local communities. One exception is Sites of Specific Scientific Interest (SSSIs), which can be managed locally, but here the state also defines and enforces restrictions on use, which can clash with traditional/local systems.

Current protected areas regulation in Suriname have a potential for certain (limited) 'co-management' arrangements, more specifically for the establishment of a 'consultation commission' (*'overlegcommissie'*) in relation to protected areas, in which indigenous community representatives participate. This has so far been piloted in three cases where protected areas overlap with indigenous territories. However, indigenous representatives only have an advisory role and their advice can be set aside.

In Mexico, the National Law on Ecological Equilibrium and Environmental Protection (LGEEPA, 1996) provides for land to be set aside for conservation that could be certified by National Commission of Protected Areas

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<sup>7</sup> A new cooperatively managed protected area, the Saoyú-Æehdacho National Historic Site of Canada, a cultural landscape of 5600km<sup>2</sup>, was created in 2008 in the Northwest Territories. It has many of the characteristics of an ICCA, however, since the formal protected area status was achieved through national legislation, at the urging of the community that is most closely associated with the site.

<sup>8</sup> This is due to the fact that most commons other than in north-east India have been taken over by the state during and after colonial occupation.

<sup>9</sup> In addition, community reserves come under some level of control by the Chief Wildlife Warden, the senior-most wildlife conservation government officer in the state.

(CONANP). In May 2008, the LGEEPA was reformed, allowing communities to register community reserves and voluntary conserved areas (VCAs), a new federal protected area category that also includes private reserves. It includes the obligation by the state to offer economic incentives, and natural products sustainably obtained from VCAs can obtain a seal of sustainability, granted by the National Agency on the Environment and Natural Resources. Mexico's National Wildlife Law has allowed communities, since 2007, to establish legally recognized wildlife management areas. However, implementation of these provisions has raised some concerns. For example, a Chinantec community in southern Mexico created a VCA that covered 72.5% of their communal lands. Agreeing to conservation measures that restricted their use of ancestral agricultural land and prohibited hunting led to increased dependency on external food supplies and losses of agro-biodiversity, dietary diversity, hunting skills, and associated environmental knowledge (Ibarra et al 2011).

In West Africa, Ghana has been recognizing community governance of wildlife sanctuaries and sacred groves for several years (the Monkeys Sanctuary of Boabeng Fiema dates to 1975); in Ivory Coast, ICCAs can be recognized as Natural Voluntary Reserve; and in Gambia, as Community Reserves (IUCN/PACO 2009). Italy also reflects the above trend, with Framework Law n. 394/1991 on Protected Areas acknowledging the link between communal property and environmental protection, opening up new opportunities for the communities to engage in official protected areas according to regional legislation.

#### 4.3.5 Forests

A recent report by the Rights and Resources Initiative provides evidence that the global area of forest recognized as owned or controlled by indigenous peoples and communities has increased from 10 percent in 2002 to 15 percent in 2012 (RRI 2012). Notably, in the forests of developing countries it has increased from 21 percent to 31 percent. In this context, this sub-section provides an overview of a range of forest laws, evaluating their effect on community-based conservation.

In India, the Forest Rights Act 2006 (FRA) is being used by local communities and community conservation groups to claim recognition of rights including management rights over community forests and customary territories. These claims and assertion of rights under the FRA have also helped protect some of the community forestry and indigenous areas from mining and industrial projects.<sup>10</sup> However, inadequate implementation of the FRA has limited its real impact. The Forest Conservation Act 1980 is intended to control the diversion of forest areas for non-forest uses. Towards that end, however, it has further centralized powers and responsibility of forest governance within the government, continuing the record the Indian Forest Act 1927 during colonial times. Continuous local resistance and unrest due to such policies led the government to develop programmes such as Joint Forest Management (JFM), which brought about involvement of the local people in forest management over more than 20 million hectares. However, governance of JFM too is through a centralised bureaucracy. It has been used more recently to convert thousands of Van Panchayats (forest councils), which were legally designated ICCAs in the state of Uttarakhand, into co-management regimes with greater powers of intervention given to the forest bureaucracy.

In Namibia, the Forest Act (No. 12 of 2001) makes provision for the establishment of various types of "classified forest". According to the Act, the Minister may enter into a written agreement for the establishment of a community forest covering a specific area of communal land. The agreement may be with any body that the Minister believes represents the interests of the persons who have rights over that area of communal land. The agreement may only be entered into if the relevant chief or traditional authority that is authorised to grant rights over the land gives its consent. Rights assigned to community forests include control over grazing, disposal of forest produce, and charging of fees for use of forest produce.

The Philippines adopted Community-Based Forest Management (CBFM) in 1995 as the national strategy to ensure sustainable development of the country's forestland resources. The government also applied this strategy in the management of coastal and marine resources (CBCRM). These programs do not operate on the principle of indig-

<sup>10</sup> For example, the Dongria Kondh's claim for rights to their ancestral forests in Niyamgiri, Odisha (south-east India) was partly responsible for the government to stop clearance of a mining project in the biodiversity rich area.



**Forest Rights Act consultation, Bodhada village, Maharashtra, India © Neema Pathak**

enous ownership of ancestral territories, instead providing lease or usufructuary contracts, limited to a period of 25 years and renewable for another 25 years. Nevertheless, many local communities and some indigenous peoples did secure some rights under these contracts.

The Mexican government's recognition of communities' rights to manage their forests, especially since the onset of ambitious community forestry initiatives in the 1970s, encouraged local people to embrace opportunities for commercial timber production in community-managed forests (Bray et al., 2003). Under the Mexican law on sustainable forest development (*Ley General de Desarrollo Forestal Sustentable*, 2003), which has regulations

for exploiting temperate and tropical forests, communities are required to establish management plans for species or habitat conservation within such forests. Community-managed forests conserve important habitats and wildlife (Martin et al 2010).

Community forests under various legislative measures represent an important land use in the United States, not so much for survival as for meeting timber, aesthetic, spiritual and other needs (Brown et al 2006).

#### **4.3.6 Traditional Authorities, Customary Laws, and Decentralization**

The sub-sections above note the importance of legal frameworks intending to provide for Indigenous and community stewardship, governance and management of their territories and areas, to include legal recognition of traditional authorities and to respect customary laws and practices. Some countries from those reviewed integrate the recognition of traditional authorities and customary laws into indigenous laws, including in Bolivia, Chile and the Philippines.

In India, the Panchayat (Extension to Scheduled Areas) Act (PESA 1996) is applicable to districts in India with a predominant indigenous/tribal population. It provides wide-ranging powers to the local community institutions (*Gram Sabhas*) to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and customary mode of dispute resolution. PESA also provides for statutory powers to the community institutions to govern and manage local resources. PESA, however, has been weakly implemented, and powers provided under the law to the *Gram Sabhas* are not realized in practice. The Biological Diversity Act 2002 provides for constitution of Biodiversity Management Committees by local bodies (Panchayat or Municipality) within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity and related knowledge. This is potentially a useful provision for governance of local biodiversity by communities through local authorities; however, it grants no specific powers to do so. Greater potential may exist with the Forest Rights Act (FRA) 2006, which 'empowers' *Gram Sabhas* to set up committees to protect their biological and cultural heritage, giving them rights to protect and manage forests, rights to their knowledge, and other community rights; what is urgently needed is an elaboration of how communities can operationalise this empowerment. Some sub-national laws (restricted to very few states) such as the Nagaland Village Council Act empower communities to manage their forests for conservation and sustainable use.

Rural villages in Tanzania are managed by Village Councils, accountable to the assemblies of all adults living within the village area, a system dating back to former President Julius Nyerere's *ujamaa* program, which established



villages as legal subjects and enabled them to develop their own by-laws. As long as they do not violate any other laws of the country, by-laws are legally binding and enforceable. The village by-laws thus provide communities with a powerful tool to develop natural resource management rules and procedures at the local level. In addition, land can be held and managed communally by Village Councils and Assemblies, which develop zoning and other land use plans, including for ICCAs. It is estimated that hundreds, perhaps thousands of ICCAs exist as legal entities at the village level in Tanzania, mostly comprising dry season grazing reserves and local forests, though many are poorly documented (Blomley et al 2007); the recorded ICCAs under official schemes are given in Table 2.3 above.

Similarly, in Malaysia, the Department of Fisheries has prominently endorsed the indigenous management system for maintaining the productivity of riverine fisheries. The Department's activities are prescribed in the Fisheries Act 1985, and more recently in the Inland Fisheries and Aquaculture Enactment 2003, which specifically mentions Community Fisheries Management Zones. Section 35 of the latter Act allows for the declaration and recognition of the indigenous system of resource management (i.e. *Tagal*). Section 36 and 37 creates a new protocol by providing for the creation of a committee to administer such zones, and by introducing punishment related to the Community Fisheries Zone. This recognition of indigenous prohibition and resource management systems has been an important turning point for the inclusion of indigenous knowledge in conservation in Sabah. By 2008, 179 villages had revitalised the *Tagal* system. The Fisheries Department reports that the number of *Tagal* areas established in Sabah has multiplied to 212 involving 107 rivers in eleven districts. This has resulted in a significant increase in the productivity of riverine fisheries and the maintenance of river systems.<sup>11</sup> There remain issues of top-down implementation of what is supposed to be a locally relevant approach (Goroh 2011)

In a similar vein, an active and well-supported organization comprising fishermen from eight communities in the Casamance region of Senegal has recently obtained the formal sanctioning of a new marine and coastal ICCA to be governed by the community under the supervision of their municipal Council under the legal framework of the national Decentralisation Law. This constitutes one of many examples of communities gaining recognition for self-governed Communal Natural Reserves.



Kawawana, Senegal's first ICCA recognised by Mangagoulack Municipality and the Ziguinchor Region © Christian Chatelain

<sup>11</sup> See Sabah Department of Fisheries website, <http://www.fishdept.sabah.gov.my>

In Tibet (China), local organizations approved by the government have established their own community conserved areas, usually dedicated to a focal wildlife species (e.g., the snow leopard, Tibetan antelope, Tibetan wild ass, black necked crane, etc.), with local regulations that define roles and responsibilities and penalties for poaching. This has been accompanied by environmental awareness initiatives in local schools and at community ‘wildlife festivals’.

Recognition of customary practices in Fiji, enabling the management of marine areas, and the United Kingdom’s Commons Act 2006 providing for governance by local commoners’ associations, are already mentioned above in Section 4.3.3.

#### **4.3.7 Tourism**

An example from Namibia illustrates the importance of legislation to the full implementation of policies intended to support economic opportunities in ICCAs. The Ministry of Environment and Tourism’s Policy on the Promotion of Community Based Tourism (1995) provides a framework for ensuring that local communities have access to opportunities in tourism development and are able to share in the benefits of tourism activities that take place on their land. The policy recognises that where tourism is linked to wildlife and wild landscapes, the benefits to local communities can provide important incentives for conservation of these resources. The policy document states that the Ministry will give recognised communal area conservancies the concessionary rights to lodge development within the conservancy boundaries. Based on the above, the government has recognised the right of conservancies to develop tourism on their land and enter into joint venture contracts for lodge development with private tourism companies. The Policy on Tourism and Wildlife Concessions on State Land (2007) enables the Namibian Minister of Environment and Tourism to allocate concessions in Protected Areas directly to local communities. This approach is strengthened in the National Tourism Policy (2008), which recognises conservancies as the mechanism by which benefits from tourism should reach rural communities. However, there is as yet no legislation to put this policy approach fully into effect and the Nature Conservation Amendment Act (1996) does not provide strong rights over tourism. It provides conservancies with rights to “non-consumptive use” of wildlife, which is further defined as use for “recreational purposes”, but no further details are given.

#### **4.3.8 Agriculture**

Agriculture is the backbone of many indigenous peoples and local communities’ economies, and thus recognition for local production systems and landscapes is crucial. In Spain, many *Juntas de Ganaderos* (“Livestock Breeding Committees”) that manage livestock breeding ICCAs have been legally and administratively established as governance bodies, while others have been in recent times administratively recognized by means of legal registries of “Agricultural and Livestock Local Committees”.<sup>12</sup> Others, in order to gain full administrative and legal status, have been inscribed at the national level in the “Special Registry of Mountain Associations”, defined as “*non-profit associations promoted ... as means to channel participation in the socio-economic development of mountain agriculture areas, compatible with the preservation and restoration of its habitat.*”

Croatia has recently introduced Pasturing Communities in its 2011 Amendments to the Law on Agricultural Land Act (2008). This is a participatory mechanism in the form of a cooperative designed to allow producers grazing cattle in protected pastures on common grounds to organize themselves locally and influence the management decisions. They are mandated to implement management decisions and programs, on their territories. While it represents a major step forward, the framework needs improvement by recognizing cattle owners as members and taking into account other interested stakeholders.

#### **4.3.9 Sub-soil Resources**

None of the countries reviewed for this volume provides ownership rights to indigenous peoples or local communities to non-renewable and sub-soil natural resources. Fiji illustrates the point, where ownership of mineral resources vests in the State. Mining leases may be granted without landowners consent. Mining leases may also be

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<sup>12</sup> [http://www.jcyl.es/web/jcyl/AgriculturaGanaderia/es/Plantilla100/1158761793701/\\_/\\_/](http://www.jcyl.es/web/jcyl/AgriculturaGanaderia/es/Plantilla100/1158761793701/_/_/)

granted over native land without landowners consent although mining is restricted under certain sensitive areas (e.g. villages, burials grounds, nature reserves). The Petroleum Act (1978) reserves all petroleum resources to the State.

In Bolivia, minerals and oil which exist within the *Tierras Comunitarias de Origen* are considered state property, but indigenous peoples have the right to prior consultation and information concerning any public work or project being planned that would affect their livelihoods and their right to autonomous territorial management.

#### 4.3.10 Judgments

Of equal importance to legal frameworks that affect indigenous peoples and local communities are the decisions of tribunals and courts interpreting and applying those frameworks to cases of non-implementation and abuses of power. Several national level judgments include recognition of relevant territorial or resource rights (Lynch 2011).<sup>13</sup>

In Botswana, the High Court held in *In re Sesana and the Attorney General*<sup>14</sup> (2006) that the eviction of Kalahari Bushmen from their ancestral hunting grounds in the Central Kalahari Game Reserve (CKGR) was unconstitutional. The High Court determined that the Bushmen had the right to hunt and gather in the CKGR and that they did not need permits in order to enter it. *In re Sesana* “marks the first time a modern, post-colonial national African court recognized the ancestral domain rights of indigenous people.” It also set a precedent by linking land rights to the sustenance of culture and the right to life. Although the government did not appeal *In re Sesana*, it has resisted implementation of the decision. Subsequent decisions include a Court of Appeals ruling in 2011 that the Bushmen have a right to drill for water in the CKGR.

In South Africa, the Supreme Court of Appeal (SCA) concluded in *Richtersveld Community v. Alexkor Ltd.*<sup>15</sup> (2003) that the Richtersveld community—descendants of Khoikhoi and San-speaking people whose ancestral lands had been taken away—were entitled to restitution and legal recognition of their ancestral domain rights. The Richtersveld community argued that they possessed a property right to their ancestral lands that survived annexation. The SCA agreed, finding “that at the time of annexation, the Richtersveld people had a communal ‘customary law interest’ whose source was ‘the traditional laws and customs of the Richtersveld people.’” The SCA enunciated that a change in sovereignty does not in and of itself destroy pre-existing property rights, and rejected the principle that some indigenous peoples lack recognizable property rights because they are not sufficiently civilized.

In Belize, the Supreme Court ruled in *Cal v. Attorney General of Belize* (2007) that where indigenous Mayans had been denied access to their ancestral lands in favor of oil and logging activities, the government was required to recognize Mayans’ customary tenure to land.<sup>16</sup> The Supreme Court determined that Mayan rights to occupy their land pre-dated colonization, and that these rights were not extinguished merely by a change in sovereignty. The case is significant for a number of reasons, especially the fact that it is the first national judgment to rely upon the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) for support.<sup>17</sup> Additionally, it concluded that “Indigenous title is now correctly regarded as *sui generis*...”

Similarly, in *Delgamuukw v. British Columbia*<sup>18</sup> (1997) the Supreme Court of Canada issued a landmark decision holding that “absent a valid extinguishment, indigenous people have *sui generis* aboriginal title to the land they exclusively occupied prior to the establishment of British colonial sovereignty, and aboriginal title is protected by the Constitution of Canada.” *Delgamuukw* is important because it sets forth ways in which aboriginal title can be established, including through the use of oral histories. The decision also prohibited the practice of commercial resource extraction to occur while claims were being contested in Canadian courts.

<sup>13</sup> The following analysis in this section is based on Lynch’s review of several national level judgments; the quoted portions are from this review.

<sup>14</sup> <http://www.saflii.org/bw/cases/BWHC/2006/1.html>.

<sup>15</sup> <http://www.saflii.org/za/cases/ZACC/2003/18.html>.

<sup>16</sup> <http://www.elaw.org/node/1620>.

<sup>17</sup> Specifically, Cal relied upon UNDRIP Article 26, which addresses Indigenous peoples’ right to land. The Supreme Court recognized that UNDRIP is not binding on member states, but determined that “where these resolutions or Declarations contain principles of general international law, states are not expected to disregard them.”

<sup>18</sup> <http://scc.lexum.org/en/1997/1997scr3-1010/1997scr3-1010.html>.

Other important decisions include the Brazilian Supreme Court's 2009 decision to put the 1.7 million hectare Raposa Serra do Sol Indigenous Reserve under legal control of indigenous Amazonians, and the United States Supreme Court's 1823 decision in *Johnson v. M'Intosh*, 21 U.S. 543, 1823, holding that Native Americans had, at a minimum, rights of occupation to their ancestral domain.

The High Court of Australia, in the landmark decision of *Mabo v. Queensland*<sup>19</sup> (1992), ruled that "absent a valid extinguishment, aboriginal peoples have, *sui generis*, native title to land they exclusively occupied prior to the imposition of British colonial crown sovereignty." Additionally, the High Court held that the government has a fiduciary duty to legally respect and protect native/aboriginal title. Addressing the status of the government's title to land, the High Court concluded that in acquiring sovereignty, the Crown did not obtain absolute title, but rather "radical title." This radical title is subject to native title rights where such rights have not been validly extinguished.

In a series of cases in Malaysia beginning with *Kuwau v. Johor* (1997) the Malaysian High Court established and expanded upon the concept of native title in Malaysian law (MLJ 1997). Subsequently, the High Court recognized the legal control of an indigenous community over its communal forest land in *Nyawai v. Borneo Pulp Plantation* (2001), and concluded that native title included both usufructuary rights as well as ownership of a portion of the indigenous peoples' ancestral domain in *Bin Tasi v. Selangor* (2002).

In Papua New Guinea (PNG), the Maisin people have repeatedly lost lands despite the fact that the majority of PNG's land area is subject to legally recognized customary aboriginal rights. In 2002, however, a Judge of the National Court of PNG cancelled government leases with private developers after determining that the government had illegally sold property rights, and prohibited the companies from entering the land without the written consent of local communities. The decision has empowered the Maisin to hold on to their lands and resist their commercial use.

Other important cases in Asia and the Pacific include a June 28, 2008 settlement in New Zealand between the government and seven Maori tribes that represents the country's largest settlement on grievances over the loss of land and fishery rights. In the Philippines, the Supreme Court in 2000 upheld the constitutionality of the 1997 Indigenous Peoples Rights Act, which provides that rights of ownership and possession held by Indigenous Cultural Communities and indigenous peoples to their ancestral domains shall be recognized and protected.<sup>20</sup>

#### 4.4 Trajectories and persistent challenges

Drawing on the above analysis, a number of common themes emerge relating to the trajectory that laws are taking, ongoing challenges indigenous peoples and local communities are facing when engaging with the various legal frameworks, and the effects these are having on their efforts to steward, govern and manage their territories and areas.

##### 4.4.1 Persistent Challenges

This rapid assessment highlights an overall positive trend towards increased recognition of communities' conservation efforts, but it also underscores the persistent challenges. These include:

**Lack of legal recognition:** Experience from around the world suggests that despite the overall positive trend, the lack of legal recognition of a range of factors critical to indigenous peoples and local communities remains the most pressing factor hindering their ability to govern and manage their lands, territories and natural resources. These include: their status as peoples or communities; traditional forms of leadership; customary laws; and their right and ability to own, steward, govern, manage and use lands, territories, waters and natural resources.

For instance, in Namibia, the most significant threat to conservancies and community forests is considered to be the lack of secure and exclusive group land tenure to underpin the rights that are legally provided with regard to use and management of natural resources. If communities cannot prevent other people using the land they wish to

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<sup>19</sup> [http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/high\\_ct/175clr1.html?stem=0&synonyms=0&query=~mabo](http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/high_ct/175clr1.html?stem=0&synonyms=0&query=~mabo).

<sup>20</sup> See *Cruz v. Secretary of Environment and Natural Resources*, G.R. No. 135385. December 6, 2000, <http://sc.judiciary.gov.ph/jurisprudence/2000/dec2000/135385.htm>.

set aside for wildlife and tourism, there is inadequate incentive to maintain wild habitats. Moreover, a lack of secure land tenure means that communities cannot easily raise capital loans themselves based on their land as security. It is also more difficult for communities to attract investors as partners in tourism joint ventures where rights to the land are not secure and the investment risk is therefore higher. It is evident that under communal land legislation, conservancies need to work closely with traditional leaders in order to limit access to land as these leaders allocate access to livestock grazing. In contrast, community forests are given stronger rights than conservancies and are able to control access to grazing. However, the lack of group tenure affects community forests as well as conservancies. This issue is compounded by the fact that the government continues to view communal land as “State Land” over which it can take decisions about how the land is used (see next sub-section below). For example, the Ministry of Lands and Resettlement has developed plans for the establishment of small-scale commercial livestock farms to be leased by individuals on communal land. Several of these blocks of farms are in conservancies, but there was no consultation when the farms were planned.

In India, many ICCAs are on lands owned by the government,<sup>21</sup> over which the community has not had ownership and very limited or no recognized access rights. The land-use can be changed without consulting or even informing the conserving communities. This is beginning to slowly change with new legislation on forest rights, though only for forest ICCAs. In contrast, the Canadian government has in several land claim agreements recognized indigenous ownership of land, and the responsible indigenous communities can voluntarily take actions to protect their lands as ‘private’ landowners.

**Inappropriate recognition:** As illustrated above, inappropriate recognition of elements necessary for resilient well functioning ICCAs can be highly disruptive to local contexts. Co-management that denies true sharing of power is one such example. Another is the imposition of state-developed natural resource management practices and institutions on communities who have customary practices and institutions for the same. Critical questions remain about the way some governments are starting to “recognize ICCAs”. Are traditional or customary forms of land and natural resource custodianship and management now being ‘pushed into’ contemporary conservation frameworks for the sake of species and ecosystem conservation and protection, or for the sake of conserving monetary and commercial values, or governmental and enterprise powers? Formal conservation frameworks are often delinked from traditional indigenous concepts and worldviews of life, spirituality and sustainability. They are also delinked from the essential relation with having legal rights over these indigenous lands and territories, and they sometimes serve very different purposes than those of the traditional indigenous concepts of territorial stewardship. The imposition upon territories or certain areas therein of other designations, institutional arrangements, and conservation requirements in order to fit them into these existing State frameworks is a significant risk to indigenous peoples’ and local communities’ rights and ways of life.

In Namibia, the State retains wide powers over wildlife, and the decision-making power of conservancies is limited and subject to government conditions contained in the legislation. For instance, some conditions with regard to hunting may not correspond to the needs of indigenous resource users. Conversely, individuals who, for personal benefit, do not want to comply with customary rules, can claim that they are not obliged to follow customary laws. The same is the case for Suriname. In Chile, the formalization of communities under laws that do not always adequately reflect their traditional authorities and customary laws and practices, and the pressure to privatize their lands into individual properties without consideration of their traditional management of the commons, is creating conflict within traditional communities. In India, communities can gain protection as ‘Community Reserves’ under the Wild Life (Protection) Act, but to do so, they would have to set up a uniform management body, and submit to the overall jurisdiction of the Forest Department.

**Legal fragmentation leading to conflict of laws and/or gaps between laws:** Because of the conventionally sectoral approach to law making, legal frameworks are comprised of a range of laws that attempt to address elements of socio-ecological systems as distinct units, as opposed to the system as a functioning whole. Thus, laws that recognize ICCAs can be diminished in their effects where they are in conflict with other laws whose singular provisions stand

<sup>21</sup> A legacy of the take-over of vast common lands, especially forests and wetlands, during the country’s colonial phase.



in contravention to ICCAs. The Fijian Mining Act, for example, gives the Director of Mineral Resources broad powers to issue prospecting licenses over land areas without owner consent and to declare a site less than 250 hectares (even in a gazetted protected area) a mining site if it has importance to the nation.

Similarly, where laws do not align seamlessly, the gaps can undermine the effectiveness of the legal framework. For instance, in Kenya, the police cannot apprehend suspected offenders at sea: this role is relegated to village fish wardens. However, fish

wardens can only apprehend from high tide mark seawards and must hand over custody of the offenders to the police once ashore. In practice, coordinating police and fish wardens to achieve adequate enforcement has proven impossible and similar issues, combined with the lack of equipment, salaries and resources, plague environmental management in general and ICCA enforcement. This can also lead to communities living in different ecosystems having divergent rights, as exemplified by the inadequate or unclear rights of fisher/coastal communities compared to forest-dwelling communities in India and Namibia.

**Inadequate implementation:** Otherwise well-intentioned and skillfully crafted laws can be severely undermined where state agencies either inadequately implement them, or implement them in ways that defeat the laws' original intent (willfully or by neglect). Several examples are given in Sections above, such as India and Bolivia.

**Imposition of state protected areas:** Despite improvements in this area, the establishment, expansion, and management of state and private protected areas often conflict or overlap with the customary territories, areas and practices of indigenous peoples and local communities) and this tends to undermine traditional land and resource management, within ICCAs. Several country reviews included here have highlighted this; additional cases are available from Nepal (Stevens 2010).

**Lack of means to use laws effectively:** Some indigenous peoples and local communities lack the means to use the available legal frameworks to effectively advocate for their rights and achieve their desired outcomes. This often includes the basic lack of awareness that such laws exist at all. Conversely, governmental and private interests can be very effective at using the law to further their interests, often at the expense of indigenous peoples and local communities. For instance, the process for free, prior and informed consent in the Philippines Indigenous Peoples Rights Act has been misused by extractive industry interests that have been able to manipulate its provisions to gain access to community. In India, the Forest Rights Act has seen very inadequate use by communities to claim rights to and governance of forests, due to lack of awareness about the Act, lack of pro-active assistance and sometimes obstruction from relevant departments, difficulties in finding evidence to file with the claims, superimposition of top-down boundaries related to government schemes rather than acceptance of customary boundaries of the community, and so on (MoEF-MoTA 2010).

**Arbitrary and opaque government decision-making and corruption:** At the more systemic level, many countries suffer from systems of government that provide its citizens few means to hold state agencies accountable for their actions, and suffer from varying rates of corruption. Such environments reduce the ability for indigenous



**Inuit territory, including ICCAs and the co-managed Torngat Mountains National Park, Canada © Parks Canada**

peoples and local communities to use existing rights or advocate for new forms of rights in accordance with international obligations. Several do not yet have legislation giving the public freedom of (or right to) information, or to participation in decision-making at various levels.

#### 4.5 Conclusion

The effect that legal and institutional fragmentation has had on otherwise interconnected landscapes cannot be overstated. Laws have been promulgated to conserve biodiversity without including local populations. Land issues have been dealt with without due consideration to local approaches to land ownership and stewardship. Social programmes have not given enough consideration to the vitally important role lands, territories and waters play in communities' lives. Development-related policies and laws often ignore the conservation angle. A conceptual shift has to take place—and is taking place in some states—to move from a disaggregated approach to the law to one that supports biocultural, eco-cultural or socio-ecological systems. In short, we need to legislate for interactive and connected landscapes, seascapes and human-environment systems, not merely for their constituent components as distinct entities. This needs to be augmented by integrated implementation and localized, bottom-up approaches to developing and delivering programmes.

Laws dealing with Indigenous issues are good examples of integrated legal approaches to socio-ecological systems. What is required is the extension of such socio-ecological or 'ecosystem approaches'<sup>22</sup> to a range of communities—without any diminution of the importance and exclusivity of indigenous rights to indigenous peoples. This paradigm shift in lawmaking is based on the principle of interdependence between humans and their larger environment, acknowledging the deep connection between land, flora and fauna, communities, traditional knowledge and culture and larger natural systems, among other factors. An example of this is provided by the Philippines' proposed legislation on national land use, which tries to ensure rational, holistic and just allocation, utilization, management, and development of the country's land and water resources. This is so that their use is consistent with the principles of equity, social justice, and sustainable development for the common good, and respect for and protection of the traditional resource right of the Indigenous Cultural Communities/ indigenous peoples (ICCs/IPs) to their ancestral domains, compliance with free, prior and informed consent of ICCs/IPs as well as recognition of customary laws and traditional resource use and management, knowledge, and practices in ancestral domains. Similarly, the Philippines' proposed law on sustainable forest management is intended to replace all the existing and current forestry laws and policies in the country; it involves vesting access rights and responsibilities to forest-dependent local communities and indigenous peoples to undertake sustainable conservation, protection, management, and development of forest ecosystems shall have precedence over other strategies.

Looking ahead, a future discussion should graduate from "recognizing and supporting ICCAs" to the value that the full recognition and realization of indigenous peoples' and local communities rights will have for environmental conservation and sustainable use, management and enrichment of nature and natural resources, and many social, cultural, spiritual, economic and other values and benefits. Securing such rights and ensuring that governments, private sector and other key actors uphold them, will help existing institutions that govern land and natural resources share power with, or transfer it to, peoples and communities, and enable proper defence against destructive projects. The conservation framework and the human rights framework are inseparably linked with the indigenous peoples' and local communities' perspective; this needs to be understood and respected, and translated into integrated legal frameworks.

<sup>22</sup> The ecosystem approach is a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way. Application of the ecosystem approach will help to reach a balance of the three objectives of the Convention. It is based on the application of appropriate scientific methodologies focused on levels of biological organization which encompass the essential processes, functions and interactions among organisms and their environment. It recognizes that humans, with their cultural diversity, are an integral component of ecosystems. <http://www.cbd.int/ecosystem/>

## CHAPTER 5: NON-LEGAL RECOGNITION AND SUPPORT OF ICCAS AT NATIONAL LEVEL

As we have seen above, indigenous peoples and local communities and their ICCAs have been given legal and policy recognition in a number of ways in some countries. But also as noted, huge gaps still remain in such recognition, from a complete lack of legal and policy recognition to inappropriate or inadequate recognition.

ICCAs require not only legal and policy recognition, but also other forms of recognition and support. This includes social recognition, and administrative, technical, financial, developmental, research, advocacy, and networking support (see Chapter 1 for brief descriptions of these terms). In most countries where they have legal/policy recognition, they also have access to such support; but the latter becomes especially crucial in countries where there is no (or very weak) legal/policy recognition. Non-legal forms of recognition and support can in fact often be the precursors and stimuli for obtaining legal and policy recognition.

Here we review the various non-legal ways in which ICCAs have obtained or been given recognition and support, and the gaps or challenges therein. As in the case of the previous chapter, the information below is from country level case studies produced for this study and included in this volume, as also other case studies and documents available.

This information is also summarized in tables at Annexures 1 and 2; additionally, country case study summaries appear in Annex 3, and the full case studies are included in the CD accompanying this volume.

### 5.1 Documentation, Research and Databases

#### 5.1.1 Forms of research, documentation, and databases

##### i. Research and Documentation

Research and documentation on ICCAs is rapidly increasing, especially since their recognition in global conservation policies. Where they have explicit recognition under conservation or indigenous/human rights regimes (e.g. Australia, Fiji, Namibia), or where there is national or international interest in maintaining certain kinds of traditional land-uses for cultural or other reasons (e.g. silvipastoral practices in Spain), such research and documentation is generally more advanced. Other factors leading to significant levels of research and documentation include the presence of government programmes aimed at supporting ICCAs (e.g. Australia), active civil society engagement in promoting or advocating for ICCAs (e.g. India, Fiji, England), or academic interest in particular forms of community-based resource management (e.g. on community conservancies in Kenya, land management practices of communities in Spain, common properties in Italy, community involvement in protected area management in Bolivia, or the role of traditional knowledge in studying aspects of climate change or developing criteria and indicators for sustainable forestry and community-based monitoring, in the Aboriginal peoples' territories of Canada).

Research on ICCAs covers various aspects: history, social dynamics, cultural and conservation values, economic benefits, threats and conflicts, processes of recognition and support, and so on. Documentation based on such research can range from simple publicity material (pamphlets, brochures, posters), to academic or scientific reports and books (e.g. on community forests in Mexico and Nepal, Locally Managed Marine Areas (LMMAs) in Fiji, Ancestral Domain sites in the Philippines, and ICCAs in India), and often also takes the form of films and audio-visuals. While much of the research and documentation has typically been by 'external' scholars, officials or activists, increasingly community members themselves are conducting these activities, based on their own traditional/local knowledge or a combination of this with modern knowledge (e.g. in Canada, Australia). In some countries documentation has included extensive and in-depth mapping exercises conducted with or by the peoples/communities (e.g. the Philippines).

The process of producing this volume itself, through the country cases commissioned specially for the purpose, has generated documentation in some countries (e.g. Suriname, Croatia, Spain).



Researchers discussing community forestry at Beganachari village, Chittagong Hill Tracts, Bangladesh © Ashish Kothari

In keeping with the general trend of substantially greater interest in and support to ICCAs from the civil society than from governments, research and documentation is also mostly done by non-governmental agencies. As recognition of ICCAs spreads, however, government agencies and independent researchers too are taking greater interest.

## ii. Databases

Even as research and documentation on ICCAs increases, there is also growing focus on creating databases that could absorb, collate, and make accessible the resulting information. As in the case of research and documentation, this activity is also more advanced in countries that have given explicit recognition to ICCAs (e.g. Australia, Namibia), though as far as we know, there is no country with a comprehensive database of ICCAs. In some cases, the database is maintained by official agencies (e.g. on IPAs in Australia); in others it is kept by civil society organizations (e.g. on community forests and reserves in Mexico, on CCAs in India, on LMMAs in Fiji), or by academic institutions (e.g. on community conservancies in Kenya). The IUCN United Kingdom committee is creating a mechanism for inclusion of UK ICCA directly in the World Database on Protected Areas (WDPA).

At the global level, as reported in Chapter 3 above, the World Conservation Monitoring Centre has initiated an ICCA Registry. It has however been justifiably circumspect in populating this database, having been advised that there are many sensitivities about what kind and level of information peoples/communities would find acceptable to put into it. It has drafted a protocol for free, prior informed consent to deal with this issue. However, there is already quite a lot of information on ICCAs available in the public domain, and there has been some discussion on whether this could go into such a database without having to seek FPIC from the concerned peoples/communities.

### 5.1.2 Key gaps and challenges in research, documentation, and databases

Despite this surge of activity, much of the ICCA phenomenon remains unresearched and undocumented, and therefore largely unknown to the world outside of the peoples or communities involved. In at least some cases this may not be a problem, and in fact may be a blessing in disguise, because the peoples or communities concerned may not want any exposure to the outside world. There is the very real danger of external attention leading to unwelcome consequences, such as inappropriate tourism, researchers with degrees of insensitivity to local cultures and ecologies, unwittingly or deliberately disruptive interventions by government agencies or civil society organizations, and so on. Some peoples, such as those living in Voluntary Isolation in South American countries,<sup>1</sup> have made it clear they do not welcome any external interventions including documentation.

But there is also the reverse situation, where ICCAs and their peoples/communities are suffering for want of any public knowledge on their initiatives. Lack of research and documentation is one reason for lack of recognition and support, and for the continuation of threats from imposition of disruptive or inappropriate land use processes, extractive industries, or top-down conservation policies. Greater research and documentation will, in such cases and if done with/by the concerned peoples/communities, lead to greater recognition and support.

One crucial issue in this is the frequently top-down nature of research and documentation; in many countries where there is some level of such activity, it is not necessarily participatory, much less driven by the peoples/communities governing ICCAs. In such situations, research questions are defined by outside researchers, and there is often 'extractive' research where nothing is given back to the people or community who hosted the researcher.

As in the case of research and development, there are several knotty and sensitive issues regarding databases at any level, especially when these are maintained by individuals and agencies other than the relevant peoples/communities. These include: possible negative impacts of public exposure on the ICCA or its people/community, faulty processes for obtaining FPIC to put information into a database (including the issue of inadequately democratic methods of obtaining such consent), whether the database architecture is designed to adequately safeguard sensitive information, and so on.

Suggestions on dealing with the above gaps and challenges are given in Section 6.4.

## 5.2 Social Recognition

### 5.2.1 Forms of social recognition

#### i. Platforms of public recognition

Given the lack of awareness about ICCAs being so widespread throughout the world, one of the most important modes of recognition and support is to create or provide public platforms for peoples/communities to voice their stories and perspectives. In several countries this has been done (mostly by civil society) through workshops and consultations, public presentations, visitation to ICCAs, distribution of publicity material, and other such means. It is surprising how rapidly the terms relevant to ICCAs have spread in some countries. For instance, the term 'community conserved area' is now used in official and civil society processes very frequently in India, where it was first used only a little more than a decade back; in the Philippines, a recent national workshop on ICCAs demonstrated that several dozen indigenous peoples and communities identify their territories as ICCAs, and have decided to initiate a national ICCA network; in Nepal a CCA federation is in the process of being established.

#### ii. Awards

As public exposure to, and recognition of ICCAs increases, society responds by instituting explicit ways of providing such recognition. Awards and prizes are one manifestation of this. In a number of countries (e.g. Chile, India, Kenya, Namibia, the Philippines, Fiji, United Kingdom), governments and/or civil society organizations have honoured peoples/communities governing ICCAs with awards, or recommended them for such awards at national

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<sup>1</sup> <http://www.un.org/events/tenstories/06/story.asp?storyID=200>





Awardees of the Equator Initiative, 2012, in Rio de Janeiro © Daniel de Castro / UNDP Brazil

and international level. Interestingly, these are not only meant to recognize conservation contributions, but several awards to ICCAs have been for models of sustainable development (e.g. in Spain), innovative natural resource management, and socio-cultural achievements (including, in Spain, as Intangible Cultural Heritage).

International agencies too have included ICCAs in their lists of awardees. The Equator Initiative, for instance, regularly honours peoples/communities who have achieved an integration of conservation and livelihood security, through initiatives that readily fit the ICCA definition.

### iii. Media exposure

While the mainstream media in many countries has justifiably been blamed for focusing excessively on scams and mayhem, or on individual celebrities, it has on occasion broken the mould and carried news and features on ICCA-like positive stories. At least in a few countries (e.g. Italy, UK, Chile, India, Namibia), these are increasingly appearing in print and electronic media, and in films or radio programmes. Equally if not more important, the alternative media has consistently given space to such stories and articles (e.g. the IUCN/CEESP journal *Policy Matters*<sup>2</sup>), and in a few countries civil society newsletters may even be focused largely on ICCA-like situations (e.g. *People and Conservation* in India<sup>3</sup>).

## 5.2.2 Key gaps and challenges in social recognition

In most countries, avenues for social recognition of ICCAs are either non-existent or weak. Most conservation platforms continue to focus on government protected areas, and most human rights platforms seem to ignore ICCAs.

Social recognition through public platforms, awards, media exposure, and so on, can be enormously motivating for the awarded people/community, and can inspire others to do as well; but they can also have a number of unintended negative consequences. They can cause resentment against a people/community for being singled out even though there are many others with similar achievements. Even more problematic is when a single individ-

<sup>2</sup> [http://www.iucn.org/about/union/commissions/ceesp/ceesp\\_publications/pm/](http://www.iucn.org/about/union/commissions/ceesp/ceesp_publications/pm/)

<sup>3</sup> <http://www.kalpavriksh.org/index.php/outreach/people-in-conservation-newsletter.html>

ual within a community is highlighted for recognition; though this may seem justified in the case of people who have clearly been leaders in the initiative, it tends to discount the collective effort that even such a leader requires, and creates jealousies and suspicions regarding the motivations of the leader. Media exposure can bring unwanted attention, such as mass tourism, on an ICCA.

These gaps and challenges are addressed in the suggestions given for social recognition, in Section 6.5.

### **5.3 Administrative, technical, financial, and developmental support**

#### **5.3.1 Kinds of support**

In several countries, ICCAs are extended various kinds of support by governmental, donor, civil society, and private organizations (including those of indigenous peoples and local communities themselves). It is important to note that such support may often even be in situations where ICCAs may not have legal recognition, and could indeed be precursors or stimulants to getting such recognition.

##### **i. Governmental support**

Typically support from government comes in the form of programmes or projects, where peoples/communities governing ICCAs get administrative, technical, financial or developmental backing. To give some examples:

- In Namibia, guidelines and policy documents on conservancies, community forestry, community tourism management, enable a host of administrative, funding, technical and networking opportunities to communities; this even includes the uncommon action of reintroducing endangered species like the Black rhinoceros *Diceros bicornis*, into community managed conservancies.
- In Kenya, several collaborative projects with donors enables the government to support conservancies, LMMAs, and sacred groves; this includes technical inputs for LMMAs.
- In some countries, there may be no support targeted specifically at ICCAs, but general programmes to support indigenous peoples' initiatives also indirectly help ICCAs, such as the Environment Protection Fund or the Fund for Land and Water in Chile.
- In Mexico, apart from government funds and other support to community forests, such initiatives also receive funds from schemes related to Payment for Ecosystem Services (PES) (Martin et al 2010).
- In India, a national scheme for wildlife conservation outside official protected areas, is available for ICCAs.
- In Australia, the federal government has clearly established budgets for the Indigenous Protected Area and Working for Country programmes, and territorial/state governments provide support for caring for Country initiatives; considerable technical and managerial support is also extended to indigenous peoples taking part in these programmes.
- In the Philippines, considerable donor and governmental support has been extended to community forestry, and a currently ongoing project to identify and recognize ICCAs; technical inputs to prepare Ancestral Domain Sustainable Development and Protection Plans are also extended.
- In Spain, ICCA-relevant practices are given administrative help through registration and support programmes, and assistance to develop eco-enterprises, educational services, and tourism infrastructure.
- In Canada, assistance is given to Aboriginal peoples for pursuing land claims and entering into land agreements; within some government protected areas, sacred natural sites are recognized as 'Zone of Extra Protection', mandating the relevant indigenous people to continue managing them.
- In Fiji, the government has extended administrative recognition and support to LMMAs, including by adopting them as the main measure for marine conservation, which is important in the absence of explicit legal backing; the support includes appointment of wardens, funding, technical inputs, and facilitation of ecotourism ventures.
- In United Kingdom (specifically England), the government provides administrative support for the management of local conservation areas, and has decentralized authority to local bodies to designate Local Green Spaces; it also provides technical inputs for management, direct funding through local councils and partnerships,

and indirect funding (to CSOs that support communities). National and European funding can also be in the form of subsidies for land use activities that help conserve biodiversity.

- In China, the government enters into a contractual and financial agreement with communities in Tibet for the protection of ecosystems and wildlife (Foggin 2010); within the Sanjiangyuan National Nature Reserve, an Incentive Agreement mandates the community of Cuochi to continue stewardship of 240,000 ha of pastures and sacred lands (Li undated).
- In Malaysia, the Bundu Tuhan Native Reserve obtained government recognition of its Village Development Plan, thereby reinforcing community authority over the area under Sabah's Land Ordinance, and helping to stave off threats from forces wanting to do logging and commercial tourism development (Martin 2010).
- In Iran, the government gives formal recognition to community rangers, has included assistance to ICCAs in the 5th Five Year Development Plan, and facilitated GEF Small Grants Programme funds to several ICCA activities.
- In Senegal, the government recruits eco-guards to help ICCAs, and local councils help in various ways.

## ii. Civil society support

Organizations and networks of civil society, including those formed by or involving indigenous peoples and local communities themselves, have been crucial in providing support to ICCAs in many countries. This is especially important where ICCAs (or their peoples/communities) have no or very weak official recognition, or indeed where they are discriminated against for various reasons. Often civil society has been the first to recognize the importance of, and provide support to, ICCAs. This also includes scientific organizations, universities, and other academic institutions.

Some examples of civil society providing technical, financial, or developmental support are as follows:

- In Kenya and Namibia, initiatives on conservancies, community or sacred forests, and others, have been given substantial support through funding and technical inputs (e.g. for planning, mapping, monitoring).
- In Chile, apart from direct funding support for community based conservation, livelihood development, and eco-enterprises, civil society has also helped peoples/communities to access available government funds.
- In the Philippines, claims by indigenous peoples to secure their Ancestral Domain titles, have been considerably enabled by civil society groups through legal advice and other inputs; of particular importance has been detailed, systematic, and innovative mapping that has become a model for community initiatives in the rest of Asia.
- Mapping and territorial planning has also been a crucial mode of civil society support to communities in Mexico (Martin et al 2010).
- In Australia, civil society assistance has been crucial for indigenous peoples to build the capacity to manage IPAs or become Indigenous Rangers, and to demonstrate management effectiveness where required by funding agencies; increasingly, though, the peoples are generating their own funds.
- In Croatia, civil society has funded community guards and developmental works, and provided capacity building to make management plans.
- In India, civil society has facilitated communities to access government funding, provided technical inputs for documentation, mapping and making claims for community forest rights.
- In Bolivia, civil society has been actively supporting recognition and certification of indigenous territories, and providing technical inputs including legal advice towards framing Indigenous Land Management Plans, for conflict resolution, and for monitoring; this includes a number of research institutes.
- In Canada, scientific institutions and civil society organizations have facilitated the development of indigenous capacities on a number of fronts relevant to governance and management.
- In Fiji, civil society support has been crucial in developing protocols and procedures for LMMA management and inter-community relations, direct and indirect funding support, facilitation of alternative livelihood and other development projects, and compensation for opportunity costs.

- In United Kingdom (specifically England), civil society groups have helped communities managing local conservation areas with skill training, technical guidelines, information dissemination on management and administration, and funding.
- In Colombia, CSOs have facilitated the development of ‘intercultural education and health’ programmes by the Tukano-speaking indigenous communities of the Yapu region, combining traditional and modern learning, formulating ‘life plans’ for livelihoods and conservation, and working out appropriate health inputs (Amaya 2010; Asatrizy and de la Peña 2008).
- In Thailand, a civil society organization helped tackle the immediate developmental needs of the coastal communities of Trang, including water provisioning, cooperative formation for marketing, and a fund for indebted and poor villagers; through this involvement the community got interested in regenerating and conserving mangrove forests (Suutari 2010).
- Biocultural Community Protocols (BCPs) are being used in a number of countries to enable communities document and regulate access to their knowledge, plan their futures, and gain respect for their ICCAs; CSOs are assisting communities in Africa and South Asia to develop such BCPs (Bavikatte and Jonas 2009).
- In China, Tibetan and international CSOs played a significant role in enabling the community of Cuochi reach an agreement with the authorities in the Sanjingyuan National Nature Reserve, mentioned above.
- In France, biologists from a university have helped fisher communities establish a few marine reserves on the Mediterranean coast (Le Sann 2007).
- In USA, CSOs and scientific agencies have helped communities to establish, manage, and generate benefits from, Community Forests (or other ICCA-type designations) (Brown et al 2006).
- In Iran, considerable civil society assistance has gone to nomadic peoples for management planning, workshops, training, mapping and other aspects.

### iii. International support

International networks of indigenous peoples or local communities, networks of other civil society organizations, UN agencies, and donor agencies have supported ICCAs in a number of ways. For instance:

- In Ecuador, a donor and an international conservation CSO have entered into a ‘conservation incentive agreement’ with the Chachi Indigenous People, to protect 7200 ha of forest in return for compensation payments (Speiser et al 2009).
- In Madagascar, a number of international civil society, research, and activist groups are involved in the country’s ambitious plans to triple the protected area coverage, including by recognizing ICCAs; such inputs have helped several villages in the rich Toliara coral reef area to sign a *dina* (local or customary law) to protect and rotationally use areas that are critical for octopus,<sup>4</sup> and set up a number of LMMAs including one (Velondriake) which at 64,000 ha is possibly the largest marine ICCA in the Indian Ocean<sup>5</sup> (Cripps and Harris 2009).



**Participatory methodologies to empower Ngäbe women, Costa Rica**  
© CoopeSolidar R.L.

<sup>4</sup> [http://www.blueventures.org/research\\_andavadoaka.htm](http://www.blueventures.org/research_andavadoaka.htm)

<sup>5</sup> <http://blueventures.org/conservation/community-conservation.html>; <http://velondriake.org/velondriake/velondriake-locally-managed-marine-area.htm>

- In Fiji, a number of international conservation and donor organizations have been active with local communities and groups in developing the network of LMMAs.
- In Ethiopia, several international CSOs and scientific institutions have helped communities establish the Guassa-Menz Community Conserved Area, including through research on biodiversity values, training for community based monitoring, revival of the traditional resource management and regulation system, and setting up financial self-reliance processes (UNDP 2012a).
- In Suriname, international environmental CSOs have helped indigenous peoples to build capacity to govern and manage traditional territories.
- In Senegal, an international network has helped a local coastal community to map, lobby for, and gain recognition for its ICCA.

Special mention needs to be made of the Small Grants Programme (SGP) of the GEF, which has for many years provided support to indigenous peoples and local communities for natural resource management and livelihood activities; while in the past this was not explicitly oriented to ICCAs, it has recently made these one of its global priorities, signaling to all participant countries that ICCA initiatives should be given preference in funding. This has considerably helped in research and documentation, livelihood generation, more effective conservation, and several other initiatives in several countries of South Asia, in Mexico, in Kenya, and other countries.

An ambitious international exercise in providing documentation support is the ICCA Registry of the World Conservation Monitoring Centre (see Chapter 3).

#### iv. Private sector (corporate) support

Perhaps least common, but increasing in some countries, is support to ICCAs from the private corporate sector. Examples include the following:

- Tourist companies in Kenya have been central to several conservancy arrangements.
- In Australia, corporate support has been extended to some IPAs, including a carbon offset agreement between a gas company and Indigenous People.
- In Italy, foundations and banks have been part of multi-party agreements to support community initiatives.
- In Brazil, an international cosmetic firm has assisted the Yawanawa people with marketing *urucum* seeds, collective interest in which led to resolving internal conflicts and the formation of a cooperative; this cooperative has successfully reclaimed indigenous territory, protected it from commercial logging (with help from government bodies), and implemented projects to improve food and water security, health, education, transport, energy sufficiency, and communications (some of this with international CSO help). (UNDP 2012b)

### 5.3.2 Key gaps and challenges in administrative, technical, financial, and developmental support

Notwithstanding the outstanding and innovative support given to ICCAs in a number of countries, there remain huge gaps and many challenges. These include:

- *No/weak support*: ICCAs get no or very little governmental support in a large number of countries; amongst those reviewed, for instance, this is reported from Russia, Croatia, Suriname, and Panama. In some countries like Namibia, where funding has been considerable till recently, it is declining because many initiatives are beginning to generate their own resources, neglecting the fact that new ICCAs require it; in UK (specifically England) there has been substantial decrease in funding related to the financial crises of the last few years.
- *Tedious procedures*: In several countries the procedures by which peoples and communities can get governmental support are bureaucratic and difficult; for instance, in United Kingdom (specifically England) some funding procedures for local conservation initiatives are complex, uniform and tedious, and fund-flow discontinuous and short-term.
- *Inappropriate institutional support*: In a number of countries, official support can come with its own problems, especially when it is based on top-down, uniform prescriptions that do not respect or match with the



customary and cultural milieu of the peoples/communities being supported. A typical problem is when official support schemes come with fixed prescriptions of the kind of community institutions that have to manage ICCAs, as these could disrupt or undermine self-created institutions. For instance in Spain, the EU requirement of creating Producer Organizations has disrupted traditional fisher institutions (*Cofradias*). In India, imposition of new rules governing Van Panchayats (forest councils) has pushed ICCA-like situations into co-management arrangements with considerable powers being taken over by the forest bureaucracy (MoEF-MoTA 2010); in Mexico, recent changes in relevant legislation which gives government the role of 'declaring' ICCAs could push them towards a co-management situation (Martin et al 2010). In Malaysia, recognition of the traditional *tagal* system of sustainable fisheries has come with uniform rules and transfer of power away from local elders to a state-level committee (Lasimbang 2010). On the other hand, it should also be noted that customary and traditional institutions can at times be dominated by a section of the people/community (excluding those with 'low' social or economic status, such as, very often, women), and governments may justifiably consider it their responsibility to ensure more democratic participation. The thin dividing line between external intervention that is inappropriate, and that which is necessary (from a human rights or ecological perspective) is not easy to maintain.

- *Uniform prescriptions:* Other kinds of uniform, top-down prescriptions that create problems include size specifications. In Cambodia, a spirit forest or burial ground forest under communal custodianship, to be recognized, cannot be more than 7 ha; in Burkina Faso a limit of a few hectares has been set for community hunting reserves (Zovics); in Morocco, there is a reverse problem, with a minimum prescribed area of 300 ha for community conservation areas (*agdal*). In all these cases, actual ICCA situations do not match these prescriptions, proving to be a disincentive for communities wanting recognition and support (Borrini-Feyerabend et al 2010).
- *Mismatch in perceptions, expectations:* External agencies supporting ICCAs will come with their own perceptions and expectations, and these may not match those of the peoples/communities being supported. In Australia, for example, support to IPAs comes with expectations that the community demonstrates 'management effectiveness', but the parameters of evaluating such effectiveness may be alien to the community, or different from their own ways of evaluating success. In Suriname, civil society projects with communities have often focused predominantly on conservation, ignoring issues of rights and cultural identity.
- *Inappropriate developmental support:* Notions of what constitutes appropriate education, health, infrastructural, and other developmental support can differ between an external agency and the recipient people/community, or amongst various sections of the latter; and even when all are in agreement, they may be ecologically inappropriate.
- *Neglect of local knowledge:* In many externally generated support initiatives, there is little or no place given to local (traditional or new) knowledge that exists with the people/community itself; external 'expertise' is considered most relevant, and imposed through the support programme. The Australian IPA programme has increasingly moved away from such imposition, recognizing and respecting indigenous knowledge in managing such areas, but in many other countries such a synergy between various forms and systems of knowledge is yet to be achieved.
- *Creation of dependence:* The most appropriate form of recognition and support is that which enables and empowers peoples and communities to become self-sufficient in various ways. Unfortunately many governmental and civil society organizations do not design their programmes in ways that make themselves redundant, instead creating and sustaining levels of dependence that are unsustainable.
- *Commodification and commercialization of ICCAs:* Several indigenous peoples and local communities, and other civil society organizations, have pointed to the dangers of financial support to ICCAs, including those from so-called 'innovative' financial mechanisms such as those related to climate change and PES. These risks are particularly high when the peoples/communities have themselves not been at the centre of devising and controlling such financial arrangements. Another issue frequently referred to is the transformation of an ethical/livelihood/cultural relationship of the people/community with the ecosystem/resource being conserved, into a predominantly commercial one, with all its attendant risks of unsustainability. Inappropriate flows of funding can strengthen local inequities (with elite capture of the sources of funds), create or enhance corruption, bind communities to conditions that reduce their autonomy, and in other ways weaken local peoples'

ability to govern their ICCAs. The promise of large amounts from climate related monies could even lead to further alienation of local peoples if governments ignore democratic norms in order to showcase 'effective' protection through conventional, top-down measures (Lovera undated; see also several documents at <http://globalforestcoalition.org/resources/climate-change>).

- *Quantitative target and scaling up approach:* Governments and civil society organizations often have the tendency to want to quickly replicate or scale up one or a few successful initiatives. This ignores the fact that every site and community is unique and simple replication does not work; also, ICCA recognition and support are long-term processes in which communities need adequate time to empower and capacitate themselves. In the state of Uttarakhand in India, for instance, the relatively successful model of Van Panchayats (forest councils) that was spread to over 6000 sites over a period of many decades, was sought to be replicated to double this number within a few years in the 2000s; the result was rapid creation of several thousand more Van Panchayats many of which are more on paper than on the ground (MoEF-MoTA 2010<sup>6</sup>). In Tibet, there is concern that the proposed rapid spread of the contract model of community conservation by the Chinese authorities may not be effective, as communities would not have had the time to build the capacity for effective management (Foggin 2010).

These gaps and challenges are addressed in the suggestions given for administrative, technical, financial, and developmental support, in Sections 6.3 and 6.6.

## 5.4 Advocacy

### 5.4.1 Forms of advocacy for ICCAs

Advocacy relating to ICCAs includes activities at various levels and scales, and on various issues relating to recognition and support. These include:

- lobbying with governments to recognize and respect the rights of indigenous peoples and local communities over their territories, cultures, and resources, without an explicit reference to ICCAs;
- lobbying regarding specific ICCAs, or to the ICCA phenomenon in general.

Forms of advocacy also differ according to who is carrying it out: by the peoples or communities themselves, or by other civil society organizations and networks, or even at times by some government agencies vis-à-vis other agencies.

In all these cases, advocacy has been fundamental to the increasing recognition that peoples/communities and their ICCAs are receiving. Examples include the following:

- In Suriname, considerable advocacy has been carried out by the traditional authorities of indigenous peoples, with some help from civil society groups; this is for indigenous rights recognition, not ICCAs in particular.
- In Kenya and Namibia, civil society advocacy has been crucial in the development of favourable policy and legislation for community based initiatives including conservancies, community forestry, locally managed marine areas.
- Indigenous peoples' and civil society advocacy was central to the breakthroughs made in Australia, towards recognizing territorial rights, and making indigenous concepts and practices such as Country part of official policy.
- In India, recent legislation that is beginning to help in restitution of forest governance to communities was brought in after years of advocacy by networks and organizations of indigenous (tribal) peoples, communities, and other activists.

<sup>6</sup> See in particular report of the field visit of the Government of India Committee on the Forest Rights Act, to Uttarakhand, at <http://fracommittee.icfre.org/TripReports/UK%20UP/Uttarakhand%202nd%20consultation,%20detailed%20report,%20final,%209%25.pdf>.

- In Croatia and Italy, community associations have been important in gaining some recognition for initiatives at responsible community-based land management, including (in Italy) recent valorization of ancient ICCA-like arrangements.
- Mobilization by indigenous networks in Bolivia, and by other civil society groups, has been crucial in advocating and obtaining recognition of *Tierras comunitarias de origen* (communal lands, or TCOs) or *Territorios Indígenas Originarios Campesinos* (Indigenous peasant lands, or TIOCs); of crucial importance have been the series of eight Indigenous Marches for Territory and Dignity, the earliest one in 1990 succeeding in obtaining recognition of several indigenous territories, and the latest one in October 2011 (supported by very large numbers of residents of La Paz city) to protest the planned construction of a road through a TIOC.
- In Fiji, recognition and spread of the LMMA approach to marine conservation has been greatly helped by active advocacy by communities and civil society organizations, and by the national network of LMMAs.
- In United Kingdom (specifically England), advocacy by civil society has made a crucial contribution to environmental and community considerations in major recent pieces of legislation and policy.
- In Thailand, efforts of forest-dwellers, small farmer and fisher communities, along with CSOs, resulted in the 1997 Thai Constitution recognizing certain rights of communities (Ferrari 2006).

### 5.4.2 Key gaps and challenges

The biggest gap is that there simply are not enough adequately capable and resourced organizations and networks, for the level of advocacy needed to provide recognition and support to ICCAs. Several countries do not have an active civil society, or do not have the conditions in which peoples/communities and others can safely carry out advocacy, for historical or contemporary reasons relating to colonization, suppression, and lack of democracy. For their part, civil society organizations including international groups and networks can at times be insensitive to the situation in which peoples/communities find themselves, and engage in kinds of advocacy that could backfire, e.g. when this gets portrayed as being ‘anti-national’ or playing into the hands of ‘foreign interests’, at times discrediting local movements in the eyes of the public, or inviting harsh state action.



**Ceremonial blending of waters by First Nations expressing solidarity with the Wet’suwet’en people © Pat Moss**

The need for greater, more sensitive advocacy is dealt with in Section 6.7.

## 5.5 Networking

### 5.5.1 Forms of networking

- i. National (or sub-national) level networks and federations of indigenous peoples and local communities

In many countries, indigenous peoples and local communities governing ICCAs have found it advantageous to come together in the form of sub-national or national networks to strengthen their cause. They can also often be part of international networks. Some examples:

- In Suriname, indigenous peoples are organized into a national level traditional authority, which is instrumental in advocacy and dealing with government and other agencies.

- Australia has several regional associations of indigenous peoples giving support to IPAs, Working for Country, and caring for Country initiatives.
- In India, indigenous peoples and local communities (especially forest-dwelling and fishing) have state level or national level platforms for advocating their rights over natural resources, and coordinating resistance to destructive land/water uses.
- In Russia, indigenous peoples working on forestry and other issues have a national federation.
- In Spain, there are several networks of communities dealing with different resources, such as silvipastoralism, fisheries, and woodlands; some get support from international networks such as for artisanal fisheries.
- In United Kingdom (specifically England), several networks (including online ones) bring together communities managing local conservation areas.
- In Nepal, perhaps the world's first national federation of ICCAs was proposed in 2009, and is in the process of being registered; with help from some civil society groups it is organizing exchange programmes, documentation, learning workshops, and advocacy activities (Jana and Paudel 2010; Paudel 2011).
- In the Philippines, a National ICCA Network has been initiated at a recent (2012) workshop, primarily by indigenous peoples' representatives and groups.



**Networking meeting of communities and civil society, Akhupadar, Odisha, India, © Ashish Kothari**

#### ii. Other national (or sub-national) level conservation and human rights networks

Several countries have networks of civil society organizations (other than those of indigenous peoples and local communities, though often containing members of these), working on issues related to ICCAs. While most of these are independent of government, there is also a number of instances of government-sponsored, or government-recognized networks that play an important role vis-à-vis ICCAs. Some examples of ICCA-related networks:

- In Namibia, a national association of support organizations for community-based natural resource management is very active; it has also been recognized by the government.
- In the Philippines, a currently ongoing project supported by GEF and the government has facilitated the networking of ICCAs. Civil society and indigenous peoples have combined to carry out significant networking activities, including the creation of a Consultative Group on Indigenous Peoples that is pushing for policy changes and implementation.
- In Kenya, networking of conservancies with civil society help, has helped improve security against conflict and theft (through an innovative central communications hub), and resolve inter-community conflicts.
- In Fiji, the government, civil society groups, and communities comprise the FLMMA, which is hosted by a government agency.
- In Canada, civil society groups have helped Aboriginal peoples to network around ICCAs and in empowerment to participate in protected area management.
- In India, national networks bring together those working on conservation, human rights, and livelihoods, for learning, outreach, and advocacy on new conservation paradigms and community forest rights.

#### iii. International level conservation and human rights networks

Several international, regional, and global networks that work on conservation, human rights, and cultural issues have provided direct or indirect support to ICCAs. This includes:





Participants of ICCA planning meeting, Kawawana, Senegal © Philippe Tous

- A number of regional and global networks of indigenous peoples, of peasants, and of fisher communities, all of whom have been advocating clearer and more comprehensive recognition of territorial and resource rights.
- Networks of IUCN Commissions focusing on conservation and rights (including those featured in Chapter 3)
- Networks of civil society organizations or individuals working on indigenous or community rights issues, or on conservation, in association with or to help indigenous peoples or local communities.

The only global network explicitly focusing on ICCAs is the ICCA Consortium (see Chapter 3).

### 5.5.2 Key gaps and challenges

As in other forms of support, the biggest gap is that there simply are not enough networks relating to ICCAs; many countries have none at all, and in many others even where they exist, they are weakly empowered or resourced. Indigenous peoples and local communities find it very difficult to build the capacity and resources, and find the time required, to run effective networks. Other civil society networks may have greater ability to do this, but may not have adequate representation of, or may not be adequately sensitive to the concerns of, indigenous peoples and local communities. Where networks are supported by government agencies, there may at times be inappropriate imposition of conditions that weaken their ability to function in the best interests of peoples/communities and their ICCAs.

These gaps and challenges are dealt with in suggestions that we provide in Section 6.8.



## CHAPTER 6: RECOMMENDATIONS FOR RECOGNIZING AND SUPPORTING ICCAS

### 6.1 Introduction

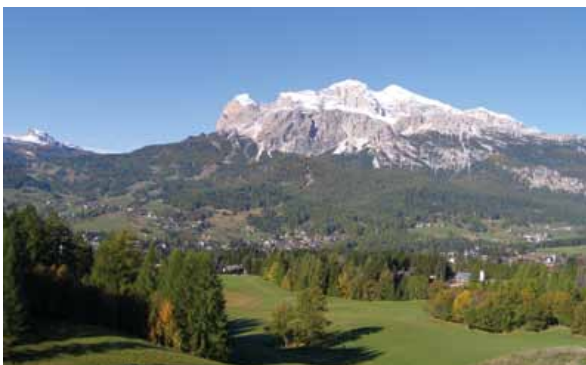
In the chapters above, an analysis has been presented of the various ways in which ICCAs have been recognized and supported by governments, civil society, donors, the private sector, and others. The key strengths and shortcomings of the various approaches followed, have been brought out; in particular it has been pointed out that not only does there need to be recognition and support, but that it must be *adequate* to meet the needs of ICCAs, and that it must be *appropriate* to the ecological, cultural, political, and economic conditions of the respective indigenous people or local community.

It has also been pointed out above that recognizing and supporting ICCAs is of immense benefit all round. Indigenous peoples and local communities are strengthened by this, and their prospects for food, water and livelihood security are enhanced. The conservation of wildlife and biodiversity is strengthened across landscapes and seascapes. Governmental commitments made both domestically and internationally are met; e.g. the Aichi target 11 of the Strategic Plan for Biodiversity 2011-2020 to put 17% terrestrial and 10% marine areas under effective conservation would be more effectively achieved if ICCAs are given appropriate and adequate recognition.

Several countries have moved significantly in providing adequate and appropriate recognition. But most still have a long way to go, and some may not even have made a start. It is in this context that the recommendations below are made.

We have seen that recognition and support to ICCAs can come in many forms:

1. *Legal and policy recognition*, in which the relevant people or community, and/or its ICCA, is given space in one or more legal or policy instrument (including national constitutions); this could range from general terri-



CLOCKWISE FROM TOP LEFT: Panoramic view of Apollo Leco TCO in La Paz department, Bolivia © Carmen Miranda; An all-women forest protection committee, Dangejheri, Odisha, India © Ashish Kothari; San people of the Nyae Nyae Conservancy at its Annual General Meeting © Brian Jones; Cortina d'Ampezzo landscape, with lands owned by the Comunità delle Regole d'Ampezzo in the Natural Park of the Ampezzo Dolomites © Stefano Lorenz

torial, land and resource rights to indigenous people or local communities, to very specific formalization of ICCAs as part of the country's conservation or protected area system.

2. *Administrative and programmatic recognition*, in which the ICCA is provided a space in some governmental programme or scheme, even though there is no specific legal measure to back this up.
3. *Financial, technical, and developmental support*, in which the relevant people/community gets funding, inputs for building capacity, locally appropriate developmental facilities, facilitation for mapping or other related activities, and so on; this could be from either government or non-governmental actors.
4. *Documentation, research and database support*, in which various aspects of the ICCA are studied and reported on, and ICCAs form part of one or more databases of information; such activities could be by government, civil society, scientific institutions, and others, including facilitation of initiatives by peoples/communities themselves.
5. *Social recognition and support*, in which the ICCA-relevant people or community gets awards, media coverage, platforms to tell its story, and so on; these too could be by government, civil society, or others.

#### **Box 6.1 ICCAs, Biosphere Reserves and Heritage Sites**

The United Nations Educational, Scientific and Cultural Organization (UNESCO) has several programs that are relevant to ICCAs and as a result offer opportunities for increased awareness, recognition and support. These programs include the Man and Biosphere (MAB) program which recognizes biosphere reserves, areas designated for innovative approaches between sustainable development and conservation. The goal is a balanced relationship between people and nature. While there has been some conflict with communities on the ground in some MAB sites over the course of the program, it is an international process that can support ICCAs if managed with good governance principles and participation, as well as equal access to benefits. An example of an ICCA that exists within the realm of a biosphere reserve is Pilon Lajas, a Biosphere Reserve and Indigenous Territory based in Bolivia. Established as a UNESCO Biosphere Reserve in 1977, the area was designated a national biosphere reserve and indigenous territory in 1992 by Supreme Decree. Five years later, the multiethnic Tsimané Mosen Regional Council was given native title to the communal lands.<sup>1</sup> In 2010, members of the community registered their ICCA in the global registry.

UNESCO's World Heritage designation also offers the opportunity for recognition of ICCAs through its declaration of natural and cultural sites. While ICCA-like arrangements are not currently listed within the criteria for selection of existing sites, they could be encompassed within those World Heritage sites that fall into both categories; in 2012, there are currently 28 mixed properties that represent both natural and cultural universal heritage.<sup>2</sup> However, the World Heritage committee needs to deal with the legitimate concern of indigenous peoples and local communities that often, such designation takes place without adequate consultation with them, and without their free, prior and informed consent.<sup>3</sup> In its 40th anniversary celebrations, UNESCO is holding a series of programmes around the theme of 'World Heritage and Sustainable Development: The Role of Local Communities.'<sup>4</sup> In the future, it is hoped that UNESCO can become a strong advocate for communities who conserve their own areas but who could benefit from international mechanisms.

<sup>1</sup> [www.parkswatch.org/parkprofile.php?l=eng&country=bol&park=plbr&page=man](http://www.parkswatch.org/parkprofile.php?l=eng&country=bol&park=plbr&page=man)

<sup>2</sup> <http://whc.unesco.org/en/list>

<sup>3</sup> See submission of indigenous organizations to the Permanent Forum on Indigenous Issues, [www.docip.org/gsd/collect/cendocdo/index/assoc/HASH018c/e07e9861.dir/PF11miliani080.pdf](http://www.docip.org/gsd/collect/cendocdo/index/assoc/HASH018c/e07e9861.dir/PF11miliani080.pdf)

<sup>4</sup> <http://whc.unesco.org/archive/2012/whc12-36com-12D-en.pdf>

6. *Networking support*, in which the ICCA-relevant people or community is facilitated to (or itself initiates ways to) exchange information and ideas with others, join into larger federations or associations, and in other ways synergize with other ICCAs or support groups; while much of this is by civil society or by peoples/communities themselves, governments too have facilitated this in some countries.
7. *Advocacy support*, in which civil society undertakes lobbying, direct actions, and other methods to influence government policy and programmes, or facilitates such action by peoples/communities themselves.

We have also seen that there is no uniform prescription for which forms of recognition and support are most suitable; this will depend on the local situation. In general, though, it seems that legal and policy recognition (if appropriate) may be the most important, barring situations where the people/communities feel that it may undermine their situation. It also seems that while funding is important, the often-predominant importance it is given by governments and donors tends to ignore the other forms of support, which may often be more vital.

Based on the above, presented below are some key measures and steps that could be taken by international agencies, governments, civil society, private sector, or others, to recognize and support ICCAs.

## 6.2 Legal and policy recognition

### i. At the international level

- All relevant global and regional environmental treaties should incorporate actions to recognize and support ICCAs; this would include Ramsar, World Heritage, MAB, CITES, Law of the Sea, and others (see Box 6.1). CBD has taken a lead in this, by explicitly recognizing the value and role of ICCAs and mandating governments to provide them recognition and support; similar provisions should find their way into all the other relevant environmental treaties.

### Box 6.2: Transboundary ICCAs

Several indigenous peoples and local communities have territories and resource use areas that transcend national boundaries, with the latter usually having been superimposed on the former. This is especially the case with mobile or nomadic peoples. Even as the move towards transboundary protected areas managed by governments has gained considerable ground in recent years, very few steps have been taken for recognizing transboundary ICCAs. Amongst of the few recorded examples are the *Facerías* Agreements of pastoral communities ranging across Spain and France.

Governments and international organizations need to recognize traditional and ongoing ICCA-like arrangements of indigenous peoples and local communities that cross national boundaries, through appropriate legal, policy, and other support. This would include reviewing existing government-managed transboundary protected areas.



**Tribute of the Three Cows, celebration at Piedra de San Martín, Spanish-French Pyrenees border, honouring transboundary community grassland management agreement © Antonio Jesús Gorriá Ipas**

- All relevant global and regional treaties dealing with human rights, indigenous peoples, agriculture, and other development or human welfare aspects, should recognize the crucial role of ICCAs in achieving their objectives, and provide for specific measures to strengthen this role. UN treaty monitoring bodies, the UN Permanent Forum on Indigenous Issues, the UN Expert Mechanism on the Rights of Indigenous Peoples, the UN Special Rapporteurs on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples, on Cultural Rights, on Minority Issues and on the Right to Food should examine and promote recognition and respect for ICCAs as means to implement the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), ILO Convention 169, Universal Declaration on Human Rights (UNHR), and numerous other human rights treaties (see Chapter 3). ICCA recognition should also be promoted as a remedy and means of redress in cases where rights have been violated by past suppression or undermining of ICCAs.
- The CBD Secretariat should continue to facilitate the implementation of various COP decisions related to ICCAs (including those described in Chapter 3), through training programmes, dissemination of information, and encouraging parties to consider recommendations of this volume; it should also encourage recognition of ICCAs in all other relevant global treaties and regional forums in which it has a formal status.
- The IUCN should facilitate awareness and appreciation of ICCAs, including by diffusing information about its relevant policies, agreements and resolutions, and providing assistance to governments, civil society, indigenous peoples and local communities in developing appropriate legal and policy measures to recognize ICCAs; IUCN should also explicitly link (and facilitate governments to link) ICCAs with the objectives of poverty eradication, livelihood enhancement, climate change mitigation and adaptation, measures for justice and human rights, and other such goals.
- Global civil society organizations dealing with conservation and human rights should give full and explicit recognition to ICCAs, and review their internal policies and programmes to make them respond to ICCA needs. The former, in particular, need to overhaul conventional conservation approaches and embrace the new paradigms of governance diversity and good governance, which would entail a much greater focus on ICCAs (and co-management); the latter need to integrate biodiversity conservation and the ethics of living with nature, into their approaches.

## ii. At national and sub-national levels

This section does not make country-specific recommendations, but provides a set of overarching recommendations that should be addressed with regard to local realities in respective countries. In general, they support the national and sub-national implementation of relevant international instruments such as the UNDRIP, the UDHR, and the CBD, in ways that are appropriate to the local context.

**Uphold human rights (including Indigenous/community rights):** Considering the correlation between strong indigenous rights and human rights provisions on the one hand and good governance and management of lands, territories and natural resources on the other, the foundation for any recognition of ICCAs is law and policy that recognizes ownership or custodianship rights of indigenous peoples over their traditional territories or other lands or water bodies, including natural resources and cultural systems. Concomitantly, these should be supported by authorising autonomous administrative functions to collectively manage and develop their territories and natural resources, including to conserve and preserve the integrity of their lands. The same would apply to traditional local communities.

National human rights monitoring bodies should include attention to ICCAs as one of their concerns, in particular in evaluating the implementation of UNDRIP and other human rights instruments, including the right to culture and the right to food and water.

**Carry out legal reform:** It is clear from the analysis in Chapter 4 that even in instances where there are laws that support ICCAs, often they are susceptible to being either inappropriate (being top-down or uniform), or badly implemented, or overridden by laws and policies that contravene their provisions. Even in lieu of any new laws to recognize ICCAs, a significant improvement in a number of countries would be achieved through legal and institutional reform, to rationalize and harmonize respective frameworks. Law reform programmes are required to review the full range



of relevant laws as a framework<sup>1</sup> and to eradicate conflicts between laws and between implementing agencies (such as between ‘conservation’ and ‘development’ frameworks) and to ensure they operate seamlessly, to achieve both biodiversity conservation and cultural, livelihood, and tenurial security.<sup>2</sup>

**Enact and implement laws according to the ecosystem approach or integrative socio-ecological approaches:**

Wildlife and protected areas laws that do not also take into consideration indigenous peoples and/or local communities are likely to lead to or perpetuate social injustice; conversely human rights or indigenous rights laws that do not integrate nature conservation and natural resource sustainability may perpetuate environmental damage.

ICCAs are holistic systems that require integrated laws (or at least a policy that ensure integration of different laws) combining measures for territorial rights and natural resource custodianship, protection and sustainable use, biocultural rights, and so on. Such laws and policies would provide a framework of principles and outcomes (such as conservation and equity), and not impose top-down, uniform prescriptions regarding institutions, strategies, and actions to be carried out. Where such laws exist, they need to be implemented more effectively; where they are currently flawed, they need to be reformed; where they do not exist, they need to be enacted.

**Provide tenurial security through land laws:** While indigenous peoples and local communities can govern and manage land, territories and resources without land rights (i.e. on a *de facto* basis), a number of examples in previous chapters highlight the inherent weaknesses of this approach. Land reform must accord with the local populations’ customs (while requiring legitimate equity considerations), especially providing for communal or collective tenure that is inalienable, indivisible, and in perpetuity. Developing more secure rights over collective lands and resources, and simpler procedures with lower costs for obtaining those rights, will be critical for the future expansion and consolidation of ICCAs. This will also involve restitution of rights over territories and areas, and/or resources, that have been forcibly alienated from indigenous peoples and local communities in the past.

**Decentralize and enhance rights to steward, govern and manage natural resources:** Measures are needed to reform a range of laws and policies related to governance, stewardship, and management in ways that would create stronger incentives for indigenous peoples and local communities to support conservation efforts. Reforms to the laws should grant indigenous peoples and local communities clearer decentralized rights over natural resources. Towards this end it would be useful to have an overall policy for community stewardship, governance and management of natural resources that promotes integrated approaches within terrestrial and marine ecosystems, and to insert this into the Constitution if it does not already exist.

**Recognize traditional authorities and customary laws and practices:** To effectively govern and manage ICCAs, indigenous peoples and local communities require their traditional authorities and customary laws and practices to be officially recognized and respected. In this regard, communities should be provided the legal space to develop their own officially recognized by-laws and resource use regulatory systems that incorporate existing



**Development projects such as this road through Gunayala protected area (managed by the Guna people), Panama, should be subjected to free prior informed consent © Onel Masardule**

<sup>1</sup> This could be thought of as a “legal ecosystem”.

<sup>2</sup> This approach can be likened to increasing connectivity between different forms of protected areas, by increasing legislative connectivity.



customary rules. Legal support for conservation according to the principle of self-governance and self-identification through community-based decision-making institutions is crucial; though there may be justification for interventions to ensure universally accepted human rights goals such as ethnic, gender, class, and other forms of equity where traditional systems do not ensure these.

**Institute free and prior informed consent:** It is crucial to ensure that the right of indigenous peoples and local communities to provide or deny free, prior and informed consent (FPIC) to any activities or developments that affect them, is included in all relevant laws, policies, and decision-making processes, including those involving the private sector, and is fully upheld in practice. The aim is to ensure that there is no coercion, intimidation or manipulation in these decisions; that adequate time is given for consultation and consensus processes; that adequate information relevant to the decision including its pros and cons is provided; that such information is accurate and in a form that is accessible and understandable, including being provided in local languages; and that all members of the people or community are able to participate.

**Review protected area governance:** The diversification of a country's protected area system, to encompass the full range of governance types recommended by the CBD PoWPA, requires a review of the policy, legislation, and programmes related to protected areas.<sup>3</sup> This would include one or more of the following options, aimed at strengthening conservation as also recognizing indigenous/community rights:

- assessing whether any existing government managed, co-managed, or privately managed PAs would be more appropriate as ICCAs, and moving towards such conversion;
- assessing the desirability and feasibility of recognizing existing ICCAs as part of the protected area system, and taking action towards this;
- recognizing ICCAs that have in the past got embedded within, or converted to, other forms of protected area governance, including through restitution of rights where they were taken away in the past;
- planning for a mosaic of governance types that provide conservation, connectivity, corridors, and other benefits across large landscapes and seascapes.

All such actions need to happen with the full involvement and FPIC of the relevant peoples and communities.

**Conduct impact assessments:** As a pre-requisite to FPIC, cultural, environmental and social impact assessments should be carried out for all developments proposed to take place on, or which are likely to impact, lands and waters traditionally occupied or used by indigenous peoples and local communities, in accordance with the CBD Akwé: Kon voluntary guidelines (see Chapter 3). These assessments should be done with the full involvement of the affected peoples or communities, and their results accessible to them in local languages.

**Ensure effective implementation:** Constitutional provisions, policies and laws require effective implementation to achieve their stated aims. Ways to streamline implementation will vary according to local contexts, but crucial measures towards this include empowering citizens and communities, within the law itself, to enforce its implementation, appropriate penalties for lack of or distorted implementation, such as is found in several Freedom of (or Right to) Information laws, and participatory institutional structures.

**Create legal empowerment:** Communities should be given opportunities, or be facilitated when they take the initiative, to learn about State legal systems and be enabled to engage more effectively with other sections of society, according to their values, customary laws and positive rights. A series of capacity and training programmes towards this should be developed in close collaboration with relevant peoples and communities.

**Create an enabling environment for self-designation of ICCAs:** States should pass legislation that would *de jure* recognize and support voluntary designation and protection of terrestrial and marine ICCAs on indigenous/community-owned lands and waters. Such recognition could increase the current area under conservation status, while at the same time strengthening indigenous peoples and local communities' rights, allowing them to

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<sup>3</sup> A forthcoming publication *Governance of Protected Areas: From Understanding to Action*, will provide guidance on doing such assessments (Borrini-Feyerabend et al 2012)

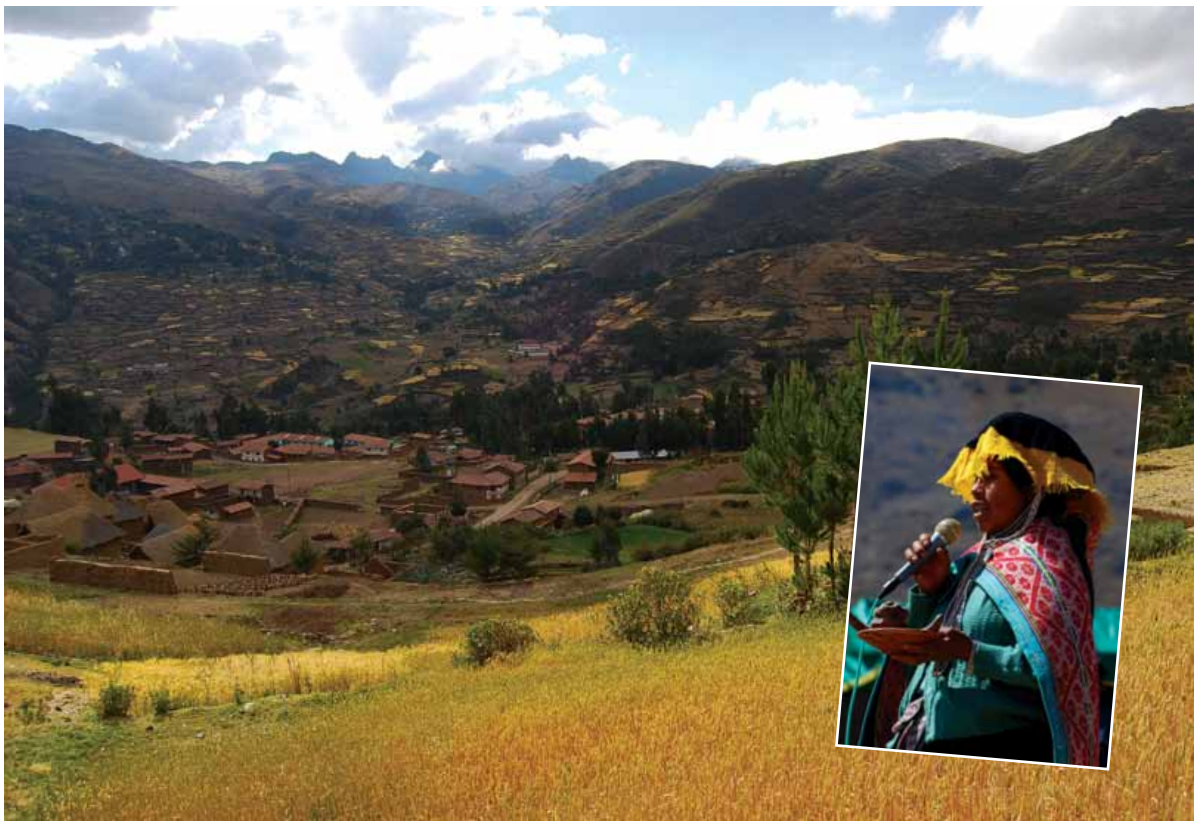
retain autonomy of their lands, and promoting more socially and culturally inclusive conservation approaches. Appropriate community-based mechanisms of monitoring conservation outcomes, and ensuring equity in decision-making and sharing of benefits, could be built into such recognition.

**Recognize sacred natural sites:** Policies and legislations that formally recognize the existence and importance of sacred natural sites, as one form of ICCA, should be further strengthened in culturally appropriate and sensitive ways that enhance their protection and respect and affirm the rights and worldviews of their traditional custodians to their autonomous governance and management of their sacred sites, including over uncontrolled tourism and other unwanted developments. It is important however that such measures do not provide encouragement to religious and ethnic bigotry and bias, strengthen traditional inequities, or require recording or disclosure of sensitive or confidential information.

**Respect the wishes of peoples or communities who do not want legal recognition:** While legal recognition is considered as a generally beneficial foundation for a resilient ICCA, it is also important to note that not all indigenous peoples or local communities will want their ICCAs to be recognized, for a variety of reasons (e.g. those in voluntary isolation). Any law that seeks to recognize ICCAs should also provide for this eventuality.

**Recognise the full diversity of ICCAs:** As described in Chapter 2, ICCAs come in an enormous diversity of sizes, institutional arrangements, ecosystems, socio-cultural settings, and so on; legal and policy measures must fully respect, encourage and enable this diversity, and provide for recognition of ICCAs of all kinds.

**Create awareness and build capacity:** Regular, on-going programmes are needed to increase awareness regarding ICCAs amongst policy-makers, and to help build capacity amongst all relevant sections of society to strengthen the legal and policy recognition of ICCAs.



Parque de la Papa landscape integrating 'wild' and 'domesticated' biodiversity by the Quechua people, Peru © Ashish Kothari 6.3; Quechua potato conserver Francisca Bayona with potato varieties, Peru © Ashish Kothari

### 6.3 Administrative and programmatic recognition and support

Governments can provide a variety of administrative and programmatic support, either linked to legal and policy recognition that is in place, or even in the absence of such recognition. This could include the following activities (or facilitate indigenous peoples and local communities to undertake them):

- i. i. Providing recognition and support in *national action plans, schemes, and programmes* related to environment, development and social welfare. For instance, ICCAs can be recognized as a valid and valuable form of conservation and sustainable resource use in National Biodiversity Strategy and Action Plans, national action plans for wildlife conservation, agricultural sustainability plans, and so on. They can also be recognized for their food, water, and livelihood security functions in national strategies for poverty eradication, plans for resource-based employment, and other plans/schemes related to the Millennium Development Goals. Finally, their contribution to mitigation and adaptation, and to the socio-ecological resilience of communities, could be part of national plans for dealing with climate change.
- ii. ii. Integrating ICCAs into *sub-national level (provincial, state, district, etc) plans, schemes, and programmes*, dealing with all the above topics.

### 6.4 Documentation, research and databases

Given that knowledge and documentation of the extent, contributions, and governance dynamics of ICCAs is highly inadequate in most countries, governments, civil society, research institutions, and other organizations can undertake the following activities:

- i. Identification of the *location* of various kinds of ICCAs across the country, and documentation of their basic features.
- ii. Research to document in more detail, various aspects of these ICCAs, gradually covering as many of the identified sites as possible; focus in particular on their various ecological, socio-cultural, economic, and political *values*.
- iii. Analysis of the *strengths and weaknesses* of each ICCA, and in particular, identification of the kinds of recognition and support that would help strengthen it.
- iv. Creation of national or sub-national level *databases* where information on ICCAs can be collated and made publicly accessible, ensuring that such databases are secure against piracy and misuse.

Research institutions should document and analyse the experience of indigenous peoples and local communities governing and managing ICCAs under different contexts and conditions and develop policy advice, in particular regarding ways to recognise self-identified indigenous peoples and local communities as legal subjects with common and collective rights over territories and natural resources. Many such institutions, especially those dealing with wildlife conservation, need to review their almost exclusive focus on government protected areas, and embrace all forms of conservation governance, including ICCAs, in their work.

Another crucial step would be for countries to identify and report on the governance type of their protected areas, when undertaking exercises to categorise them, or when sending information to repositories like the World Database on Protected Areas, or when framing reports under relevant international treaties such as the country reports for the CBD. This would enable clearer identification of ICCAs.

It is crucial, however, that all the above activities follow certain core principles, including the following:

- i. They are done by or with the central involvement of the relevant indigenous peoples and local communities, and with their explicit free and prior informed consent.
- ii. In particular, the desire of a people or community not to have their ICCA publicly identified, or not to be researched and documented, or not to be put into databases, must be respected.

- iii. All those external to the people/ community, must respect the local socio-cultural milieu, and must explain the purpose, implications, and outcomes of the proposed research/documentation before engaging in it.

### 6.5 Social recognition

Social recognition is often the most important kind of support that indigenous peoples and local communities are looking for. Governments, civil society, and others can undertake the following activities:

- i. Based on available information and documentation, facilitate public awareness of ICCAs, in particular of their various values.

This can be through the *mass media*, specialized newsletters and magazines, brochures and other publicity material. If such material is in national/foreign languages different from that spoken by the relevant people or community, it should preferably also be in their language.

- ii. Provide platforms of public recognition, such as at relevant *workshops, festivals, and celebrations*.
- iii. Institute awards for exemplary conservation, livelihoods, or development work by ICCAs; and recommend them for such *awards* at international levels.
- iv. Educational institutions and the media should include awareness of ICCAs in school curricula and in their regular programs, including the need for cultural sensitivity and respect for free, prior and informed consent

practices; they should spread information on threats to ICCAs and encourage social mobilisation in their support.

UN agencies and initiatives should provide enhanced social recognition to ICCAs through appropriate conservation awards, greater integration of ICCAs into the programmes and curricula of international organizations, and sensitive public exposure in the media. The World Conservation Monitoring Centre could help substantially on this through its ICCA Registry (see Chapter 2).

### 6.6 Funding, developmental and technical support

ICCAs are often in need of funds, or facilitation to build capacity for a vari-



Members of community conserving Godawari Kunda community forest, Nepal © Ashish Kothari'



Elementary school of Quinquén community, Chile, with young araucaria tree, a species traditionally protected by the community © Lorena Arce



**Box 6.3: Aid agencies and ICCAs**

Multilateral and bilateral aid agencies often have considerable influence in national and sub-national policies and programmes related to conservation, livelihoods, and human rights. They need to:

- review their aid policies and programmes and modify them (or formulate new ones) so they recognize, are respectful of, and support ICCAs;
- support ICCA communities to participate in international fora concerned with environmental treaties as well as economic and political treaties and institutions; promote better linkages amongst indigenous rights, human rights, and environment policies and programmes;
- provide appropriate technical, financial, and other support to indigenous peoples and local communities as requested by them, avoiding market mechanisms (including carbon markets) that could undermine ICCAs or Indigenous/community rights;
- support exchange programmes and learning networks among policy makers, CSOs and members of ICCA communities from different regions within a country, and from different countries.

ety of tasks and responsibilities. Based on the needs assessment mentioned above, and based on specific requests from indigenous peoples or local communities, help can be given by governments, civil society, and other organizations in the following ways:

- i. Institute an easily accessible and transparent mechanism of *funding* ICCAs, linked to or independent of schemes and programmes mentioned in 6.2 above; while usual processes of monitoring that the funds are utilized for the purpose they were sought for, there should be minimal interference by the funding agency in the functioning of the ICCA. As noted in Ch. 5 above, funding can often become a means by which external agencies (governmental or civil society) assume control of or undue influence over the recipient people or community, which is not desirable.
- ii. Provide *training and capacity-enhancement* for technical aspects like management, accounting, ecological restoration, enhancing livelihoods, mapping, research and documentation, and so on, wherever possible building on local or traditional knowledge, supplementing it with outside knowledge and techniques.
- iii. Provide culturally sensitive inputs and facilitation that help in overcoming traditional or new inequities, in particular aiming to *empower* those who are underprivileged or exploited within the people or community.
- iv. Facilitate *access to developmental facilities*, including water, sanitation, health, education, infrastructure, and others, while ensuring that these are ecologically and culturally appropriate, and that the people or community is able to understand and manage them as soon as possible.
- v. Consider *subsidies* for continuing traditional practices that help conserve and enhance biodiversity, combined with actions which also promote self-reliance to avoid perpetual dependence on such subsidies.
- vi. Reform or change inappropriate financial, developmental, technical and technological programmes and policies that undermine ICCAs, including perverse incentives.

**6.7 Advocacy**

Where ICCAs have successfully obtained recognition and support, it has almost always been a result of sustained advocacy. Typically this has been one of civil society's most crucial roles, though often it is the indigenous people or local community itself that has been at the forefront of advocacy (linked to its struggle for self-determination and rights). In view of this, civil society, and even relevant sections of government, can do the following:

- vii. Based on demands and needs expressed by ICCA-related peoples or communities, carry out *advocacy* with government, inter-governmental organizations and other relevant institutions, for appropriate recognition and support.



- viii. Join in or *support the advocacy efforts of indigenous peoples or local communities* to obtain recognition of their territories, cultures, rights, and ICCA-related initiatives.

**Box 6.4: Actions by Indigenous Peoples and Local Communities**

Indigenous peoples and local communities should

- enhance their own awareness and recognition of the importance of their and others' ICCAs;
- strengthen mechanisms for participatory monitoring, evaluation, learning and communication about them, with an emphasis on inter-generational learning;
- continue to strive towards the recognition of their ICCA-related common rights, and governance and management capacities;
- identify, and work to eliminate, internal inequities on the basis of gender, race, class, caste, ethnicity, or other such characteristics;
- identify, and work to eliminate, internal factors that may be leading to biodiversity and cultural erosion;
- make efforts to systematize and diffuse lessons learned and best practices relevant for their particular contexts through appropriate communication and legal tools
- work with formal sector institutions in a collaborative manner where relevant and appropriate.

The above activities would include advocacy for promulgation and implementation of relevant national laws and policies, and implementation of obligations under international environmental and human rights instruments such as CBD and UNDRIP.

**6.8 Networking**

Another crucial factor in the success of ICCAs obtaining recognition and support, has been networking amongst various indigenous peoples or local communities, and/or their networking with other civil society organizations, government agencies and officials, research institutions, and others. Given this, governments, civil society and others can help with the following activities:

- i. Facilitating *federations* and *associations* of indigenous peoples and local communities, to synergise their struggles and initiatives, learn from each other, and provide a united front for advocacy; ideally, such facilitation should be as much from the background as possible, minimally interfering with the functioning of the federation or association.
- ii. Providing a *prominent* space for indigenous peoples or local communities in networks of conservation, human rights, or other kinds of organizations that have a mixed constituency; and taking up ICCA related issues in these.
- iii. Facilitating *opportunities* for ICCA-related peoples or communities to network with funding organizations, technical experts, and others that could provide appropriate recognition and support.

Civil society organizations should set up specific international alliances to raise effective alerts and take global action relating to threats to ICCAs emanating from international economic and political forces (an ICCA threat alert mechanism is managed by the ICCA Consortium, see Chapter 3).

**6.9 Key steps for appropriate recognition and support**

Given below in Table 6.1, is a summary of the various aspects to do, and aspects to avoid, while providing recognition and support to ICCAs.

**Table 6.1: The Dos and Donts of Recognising and Supporting ICCAs<sup>1</sup>**

Dos	Don'ts
Help concerned peoples/communities to <b>document</b> ICCAs (including their values, processes, and challenges) and make them known and appreciated by the public, if they agree.	<b>Never</b> research or diffuse ICCA information <b>without free, prior and informed consent</b> of the relevant people/ community.
Assist the ICCA peoples/communities to gain <b>recognition of their land, water, and biocultural resource rights</b> (stewardship, property, custodianship, use) including by helping them with mapping, demarcation, historical records, etc.	<b>Do not impose</b> inappropriate property or governance <b>regimes</b> , especially private (individual) ownership; <b>do not look away or approve</b> when rights have been taken by force or ignored
Recognize the <b>local institutions governing the ICCAs</b> , while helping them to <b>self-evaluate and strengthen the quality of their governance</b> (e.g., gender and class equity, transparency, effectiveness)	<b>Do not undermine or displace</b> functioning ICCA governance institutions <b>or impose</b> new <b>institutions</b> upon endogenous bodies and rules
Provide means for joint, constructive <b>evaluation</b> of ICCAs by concerned peoples/communities, civil society and government administrations, <b>focusing on outputs and impacts</b> for conservation, livelihoods and cultural values	<b>Do not externally evaluate the ICCA</b> in isolation from their governing peoples/communities, or solely in terms of external criteria and expectations
Strengthen, reform or frame national laws and policies that <b>recognize indigenous peoples and local communities as legal actors</b> possessing <b>common rights</b> , and that <b>recognize the indivisible, inalienable and perpetual rights to territory and resources</b>	Do not require peoples/communities to conform to notions of <b>private, individual and corporate</b> actors, or impose conditions based on minimum/maximum <b>size or other artificial limitations</b> , in order to gain recognition; do not allow for <b>division or alienation</b> of territorial rights
Emphasize that ICCAs are <b>living links between biological and cultural diversity</b> —stress history and continuing evolution/change, ancestral territories, cultural identity as expressions of human rights to be enjoyed by all --- and assist in changes that may be necessary to achieve universal objectives of equity and justice	Do not—overtly or implicitly—promote cultural uniformity, parochialism, narrow-mindedness, apartheid or ethnic disrespect or prejudices against the “others”
Provide <b>assistance in technical aspects of management</b> , if required and sought by the community, through respectful, cross-cultural dialogue between “traditional” and “modern” (or ‘external’ and ‘local’) knowledge, including mutual validation where necessary	<b>Do not impose management objectives</b> , legal categories or <b>technical expertise</b> that undermine ICCAs’ local meaning and value; do not validate traditional knowledge by modern knowledge as a one-way process
Help <b>resist threats to ICCAs</b> from outside or within the people/community, through various means, including building legal capacity, providing relevant information, and seeking <b>special status</b> (e.g. off-limits to destructive activities, “ecologically important”, part of the national protected area system, etc., as appropriate)	<b>Never impose</b> on an ICCA land/water use changes, or ‘development’ projects, or commercial plantation/fishery/pastoral activities that threaten it; but also never impose a <b>particular status</b> (including that of an official protected area) without the free, prior and informed consent of the relevant peoples/communities as decided by them

<sup>1</sup> It is important to read and use these together and not in isolation; for instance suggestions regarding respect to customs and traditional knowledge have to be read with those on dealing with local inequities.

Dos	Don'ts
Facilitate <b>knowledge of the full implications of financial and economic measures</b> meant to support ICCAs, in particular new mechanisms related to climate, ecosystem services, etc.; and ensure that the people/community has full capacity to take its own decision	<b>Do not impose financial and economic measures</b> of 'support' to ICCAs that promote predominantly market-oriented solutions, and undermine either the autonomy of peoples/communities or their multi-faceted links with the ICCA
Support activities that strengthen local <b>livelihoods and food sovereignty / security</b> , both those linked to and not linked to the ICCA, sensitive to local environmental conditions, and building on local skills, institutional arrangements, and knowledge	<b>Never</b> "recognize" ICCAs in ways that <b>diminish local livelihoods or food sovereignty and security</b> ; avoid rural development and welfare activities that undermine ICCAs
Provide or strengthen socio-cultural, economic and political <b>incentives</b> for conserving the ICCA while seeking to maintain their independence and autonomy.	Do not undermine existing motivations for caring for the ICCA; <b>do not make ICCAs dependent primarily on outside financial support</b>
Provide special <b>support to young people</b> caring for ICCAs and resisting the many forces luring them away or alienating them; facilitate locally relevant, <b>culturally-sensitive health and education services</b> that incorporate local languages and knowledge	Do not impose or support <b>health and education services that are culturally insensitive</b> , irresponsive to local contexts and livelihoods, and/or disruptive of local identities
Respect and strengthen <b>local, traditional or indigenous knowledge</b> , and protect it against piracy and misuse; facilitate its evolution in complementary partnership with formal, modern knowledge, in particular to fill gaps, or to deal with local inequities	Do not impose <b>external or "modern" ways</b> of understanding and solving problems, do not undermine customary approaches and values that have stood the test of time
Respect local notions of <b>time and pace</b> , and the need for change to take place as a <b>process</b> rather than as a project	Do not <b>rush processes</b> of creating, recognizing, strengthening ICCAs with timeframes of outsiders, or because of time-bound <b>projects</b>
Support <b>networking among ICCAs</b> , for mutually beneficial empowerment	Do not impose <b>top-down prescriptions</b> as part of networking or supporting ICCAs; do not also flood attention on individual ICCAs as if they are solitary phenomena
Support <b>alliances</b> among indigenous peoples, local communities, human right advocates and development and conservation practitioners	Do not project networks in which indigenous peoples and local communities are <b>minority or voiceless members</b> , as being representative of their concerns
Promote values of <b>community integrity and solidarity</b> and <b>environmental awareness and care</b> , and project the collective work of peoples/communities	Do not conform to or promote <b>private interests, money, power and violence</b> as main social discourse and values; do not unduly highlight the achievements of single individuals over and above the collective effort required in an ICCA
Support <b>peace and reconciliation</b> efforts that respect local communities and their ties to their territories/lands/waters	Do not <b>exacerbate conflicts</b> or put communities onto the frontlines of conflicts
Facilitate the <b>empowerment of women, landless, minorities</b> , and other weaker sections of peoples/communities, to take part in decision-making	Do not bring in any <b>activities or policies that weaken</b> already weak sections, including women, landless, minorities, and so on.

(adapted from Borrini-Feyerabend et al 2010; and Lovera 2011)

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## **ANNEXURE 1: GOVERNMENTAL RECOGNITION AND SUPPORT OF ICCAS: A COMPARATIVE GLIMPSE<sup>1</sup>**

*(Note: Source of information for all countries, except where given in the table, is the country case study contained in this volume; since the information here is highly summarised, it should be read with the case study for a full understanding)*

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<sup>1</sup> The views expressed in this table do not necessarily represent those of the Secretariat of the Convention on Biological Diversity, or of the Parties to the Convention.



COUNTRY	Legal recognition of IP/LC rights / decentralised governance	Legal recognition of ICCAs	Non-legal policy recognition (including actions plans)	Administrative recognition / support	Documentation / research / database support	Social / public / media recognition	Funding and develop support	Technical support	Networking support
Africa									
Kenya	Till recently, weak land tenure, e.g. Group Ranches (subject to division, privatisation, heavy registration fees, & elite takeover due to inappropriate provisions), none for forests/coasts; new Land Policy (2009) & Constitution (2010) provides framework for stronger land rights	Land legislation provision on Group Ranch (for pastoral territories) used for conservancies (which otherwise do not have specific legislative backing); Beach Management Unit regulations under Fisheries Act for LMMAs; National Monument provision under Antiquities Act for coastal sacred forest groves.	Kenya draft Wildlife Policy (2007) calls for support to communities to set up their own conservation areas (fairly general provision).	Kenya Wildlife Service (KWS) provided key facilitation of initial community conservancies in different part of the country in mid 1990s; Kaya sacred groves nominated for World Heritage Site status.	National Museums of Kenya research on Kaya sacred forest groves.	(not clear)	Collaborative projects with donors and CSOs to provide funding, fund-raising support, (especially for conservancies, LMMAs, sacred groves)	Technical inputs, building capacity, management planning etc, especially for LMMAs.	(not clear)
Namibia	Constitutional recognition of customary law having same status as statutory law; however no or weak communal land tenure as all common lands viewed as state-owned	Policy on WL Management, Utilisation and Tourism in Communal Areas (1995), and Nature Conservation Amendment Act (1996) recognise conservancies, with considerable flexibility to develop local institutions, control funds, etc (though in practice more uniform), but no secure land rights; Forestry Act 2001 recognises community forests (and explicitly mandates use of local rules), though not full authority	(See tourism policies, under Funding; others not available)	Community Forestry (CF) Guidelines on management bodies	Conservancy and CF income and use of income monitored and recorded annually; wildlife trends monitored annually. All data recorded in ConInfo data base and annual "State of Conservancy" report.	(not clear)	Tourism related policies (1995, 2007, 2008) enable community tourism management and revenues at conservation sites; Direct funding and livelihood generation support; collaborative projects with donors and CSOs to provide fund-raising support	Official help in initiating first conservancies (before legal backing), continued with facilitation of planning, mapping, monitoring of conservancies and community forests; Reintroduction of wildlife into conservancies (including Black rhino)	Facilitation of national Namibian Association of CBNRM Support Organisations (NACSO)

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Senegal	Decentralization law grants to locally elected authorities the right to allocate and manage natural resources within their jurisdiction; includes the right to create Communal Natural Reserves (Réserves Naturelles Communautaires - RNCs).	Communal Natural Reserves (RNCs) and Pastoral Units (UPs) can encompass terrestrial and pastoral ICCAs. In 2010 one Community Heritage Area (Aire du Patrimoine Communautaire- APAC) recognised as coastal-marine ICCA. RNCs, UPs and APACs may soon be listed as part of the national system of Protected Areas, with risk of imposition of co-management.	Action plans are prepared wherever Municipal, Inter-municipal and Regional Councils have established RNCs, UPs and APACs	The cultural values of SNSs (and possibly also their ecological value) acknowledged and respected by relevant ministries	(not clear)	None.	Eco-guards are recruited by government institutions at various levels, for ICCA surveillance	Some technical inputs by government departments	None
Americas									
Canada	Constitution backing to indigenous land rights claims; agreements between governments and First Nations empowering latter regarding land ownership and natural resource governance.	Land claims agreements back up Conservancies and Tribal Parks (some of which are ICCAs). Also significant co-management of PAs on indigenous lands.	(not clear)	Sacred Natural Sites are given status as Zones of Extra Protection, within PAs.	(not clear)	(not clear)	For management planning and other activities.	(not clear)	(not clear)
Suriname	None	None	None (but ongoing dialogue, and oral willingness to move towards recognition).	None (but willingness to do so).	None	None	None	None	None
Panama	The constitution, General Law of the Environment and National system of Protected Areas recognize IP's rights. LCs not granted any direct recognition.	No specific law recognizing/supporting ICCAs officially.	None	None	None	None	None	None	None

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Costa Rica	<p>Indigenous Law (1977) recognises indigenous territories and rights of their peoples and natural resources;</p> <p>Minerals and hydrocarbons not included as part of their territories, as they are public goods.</p>	<p>Law of Biodiversity 1998 promotes participation of all social sectors in conservation and sustainable use of biodiversity; 2008 decree by Institute of Fisheries and Aquaculture opens up possibility of recognizing Marine Community Areas for responsible artisanal fishing; draft new autonomous indigenous act, providing territorial status to 'indigenous reserves', pending; draft TECOCOS law for coastal communities could help.</p>	<p>New document 'Policies for Protected Areas' recognizes various governance types of PAs, and need of incorporation of local communities, indigenous people, afrodescendant communities and civil society organizations for incorporation and recognition of traditional and ancestral forms of knowledge and practices.</p>	<p>Law of Biodiversity creates institutions within the National System of Conservation Areas, which is decentralized and participative, e.g National Council of Conservation Areas, Regional and Local Councils.</p>	None known	(not clear)	(not clear)	(not clear)	(not clear)
Chile	<p>Indigenous Protection, promotion and development Law (No. 19.253, 1993) recognises IP rights &amp; areas; however also imposes top-down ways to formalise, does not recognise territories; Law No. 20.249 (2008) recognises coastal/marine IP space.</p>	<p>None specifically as ICCAs; inappropriate recognition as private conservation.</p> <p>New bill on Biodiversity and Protected Area Service not yet open to ICCAs, and not consultatively framed.</p>	None	<p>State body (CORFO) has supported the initiative of one Mapuche indigenous community (Quinquen) to establish an ICCA on its ancestral lands.</p>	None	<p>Few initiatives with official recognition and awards.</p>	<p>Environment Protection Fund, others available for IP use (not ICCA targeted).</p>	<p>CONADI help to claim property rights, through Fund for Land and Water (but inadequate).</p>	None

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Bolivia	2009 Constitution recognises Indigenous right of land and territory, management of natural resources, participation & consultation, culture and language, customary law through indigenous judiciary, and exercise of territorial autonomy; New Autonomy Framework Law could limit this as it requires large population size & other criteria not met by lowland Indigenous territories. Discussions ongoing for recognition through Land Law, PIC Law, Forestry Law.	None specifically oriented towards ICCAs, but TIOC-related legislation very good basis for ICCAs.	(not clear)	(not clear)	TCOs/TIOCs which are Protected Areas have a broad base of scientific information; official Atlas of TCOs published in 2011.	Recognition of Indigenous peoples and their TCOs/TIOCs as social, political and territorial actors.	Indigenous Fund created with the 5% tax on hydrocarbons; municipalities that are Indigenous Autonomies have revenue-sharing; Most TCOs are located in areas of extreme poverty, prioritized for support by government programs and international cooperation.	None	None
Mexico <sup>1</sup>	Constitutional (1917) community ownership of land / rights to resources (comunidades & ejidos); state laws, e.g. Oaxaca Indigenous Rights Law; but 1992 Constitutional reform also open to division and privatisation of community lands.	ICCAs as PAs ('Voluntary Conserved Areas') under General Env. Law (2008) but fears regarding possible misuse of latter to convert ICCAs into CMPAs, and clubbing with PPAs; Also scope within General Wildlife Law (wildlife management areas); Law on Sustainable Forest Development (community forests); state laws, e.g. Oaxaca Indigenous Rights Law.	(details not available)	Administrative help by National Commission of Natural Protected Areas (Conanp) to VCAs for certification <sup>2</sup> ; same by National Forestry Commission (Conafor) for forest certification.	Conanp database includes only the certified areas <sup>3</sup> .	(details not available)	Federal and state programmes include financial incentives, forest produce certification, funds for CF planning; Payment for ecosystem services scheme for many, e.g. 59 sites in Oaxaca (to begin with positive, but potential negative in long run if it is a disincentive to subsistence/cultural incentives for conservation).	(details not available)	Incipient network on Mexican ICCAs formed by CSOs, government officials, researchers and community representatives.

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Australia - Asia									
Australia	Native Title Act 1993 (spurred by 1992 Mabo HC judgement) and statutory land rights legislation in states and territories enables restitution and establishment of IP territorial rights (now about 20% of country's landmass), including ownership transfer of some PAs; challenge of overlapping legal (statutory & customary) jurisdictions.	No specific law for Indigenous Protected Areas (IPAs), but IPA management gets legal backing from land/natural resource related laws.  IPAs can also have multiple tenures including government managed PAs or conservation sites (e.g. Mandingalbay Yidinji IPA).  Inadequate regime for marine ICCAs.	National Strategy for Conservation of Australia's Biodiversity includes indigenous and community conservation and policy recognition of IPAs.	IPAs recognised as part of National Reserve System, given administrative and financial support through IPA Programme and Working for Country Programme.	National documents and database maintained by National Reserve System of Protected areas, and IPA and WoC Programme offices.	Growing public and media recognition of IPAs, through newspaper articles, TV documentaries, tourist maps and brochures, and signage on Country.	Substantial from IPA and Working for Country programmes, land and sea management and for Indigenous Rangers; also from state and territory govts for caring for Country & cultural heritage activities; challenge of mismatch between funder and community expectations, & of having to demonstrate 'management effectiveness'.	Assistance in management planning; human resources (rangers, scientists) for IPA management.	Annual IPA Managers meetings funded by Australian Government provides networking opportunities; also bi-annual National Indigenous Land and Sea Management Conference, as well as local and regional Indigenous ranger workshops.
India	Constitution guarantees rights of IPs (scheduled tribes); Panchayat (Extension to Scheduled Areas) Act 1996 recognises customary practices, self-governance, resource ownership etc of STs within identified areas (however, poorly implemented); no territorial rights & unclear resource rights for fishers and nomads.	Wild Life Act 1972 (amendment 2003), Biological Diversity Act 2002, Forest Rights Act 2006, some state laws, provide legal backing to ICCAs (including non-IP LCs); however a number of provisions inappropriate, imposing uniform institutions, giving weak functions with no powers, or limiting scope to exclude govt lands; implementation of all poor w.r.t. ICCAs; court judgements (e.g. on Commons) could provide backing.	National Forest Policy, National Wildlife Action Plan, National Biodiversity Action Plan, and others provide policy backing to ICCAs in some contexts.	(not clear)	Very little; some states keep documentation/data on recognised ICCAs.	State and national level awards given to community conservation initiatives.	Central govt scheme for conservation outside protected areas (used v. Sparingly so far); UNDP funds for CCAs through state govts; central/state funds for JFM (but most may not be ICCAs); some state govt funds for ICCAs.	Some states extend technical inputs re. Sustainable forestry, eco-enterprise (including tourism).	None.



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Iran	Constitution interpreted by government as requiring handover of territorial governance rights to local communities and nomadic peoples; Conservation and Use of Forests and Rangelands law 1980 safeguards traditional use over forests, common property rangelands, public tree nurseries, customary migration routes and territories of nomadic tribes; nomadic territory governance also upheld by Establishment of the Land Affairs Organisation Law and 2011 Law of the Fifth Five Year Development Plan; Forest, Range and Watershed Management Organisation (FRWO) uses legal power to grant collective grazing rights.	Appointed agency heads at provincial level can declare ICCAs de facto, but can be overturned by central authorities; Administrative Decree by the Department of the Environment (DOE) recognises Namdan Plain Wetland as ICCA; ICCA of Farkhmand tribe of Bakhtiari nomadic tribal confederacy recognised and legally protected; Secretariat of the High Council of Environment, headed by the President of the Republic discussing ICCAs as a PA governance type with CSOs and IP/ community leaders.	Action plan prepared jointly by CSOs/ IPs / FRWO/ DOE led to territory based ICCA included in the Law of the Fifth Five-Year Development Plan; numerous declarations and commitments by FRWO top administrators in support of nomadic and local community ICCAs; de facto acceptance by govt of ICCAs, through GEF SGP projects. In May 2012, DOE included ICCAs in Aichi target 11 along with their 'appropriate recognition'.	Formal recognition of community rangers (forest and range guards) with badges to enforce community customary laws and regulations in nomadic territory-based ICCAs. Boundaries of ancestral territory of Abolhassani indigenous nomadic tribe recognised in Touran UNESCO Biosphere with government technical assistance in teaching GPS application; Administrative support to ICCAs under 5th Five-Year Development Plan.	Support to documentation by peoples/communities (see Table 2).	Government pronouncement in support of ICCAs actively sought and obtained in platforms (e.g., World Day to Combat Desertification).	Some support in Fifth Five-Year Development Plan; financial support to wetland ICCAs such as Dangah Migratory Bird Refuge; fuel, water, fodder inputs in times of need. Considerable funding from GEF, other donors, including community investment funds, and conservation projects.	(not clear)	(not clear)

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Japan <sup>4</sup>	Local fishery cooperatives or alternative local entities have right to use and manage fishery resources, under Fishery Law; many management rules autonomously set and implemented by local organization.	Community managed fishery areas get legal backing through territorial-use rights guaranteed by government licensing scheme under Fishery Law.	None	Economic incentives and social policies support livelihoods in remote fishing villages, though not specifically to the ICCAs.	Central government has databases and maps on tenure areas for licensed coastal fishing entities.	None	Support to local fishery groups; however amount of government spending at Ministry of Agriculture, Forestry, and Fisheries is in a long term decline, with some temporary increase for recovery programmes in areas hit by the Tsunami in March 2011.	Technical support by local fishery research laboratories established by central and prefectural governments; but budget for scientific research decreasing.	

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Malaysia <sup>5</sup>	Rights of indigenous people to customary lands through land legislation in Malaysian Borneo (Sabah & Sarawak), but uneven track record of providing tenure, and many cases of land appropriation by state government for development schemes; in Peninsula Malaysia, Orang Asli Reserve land exists, but insecure tenure/ownership; long track record of appropriation of Reserve land for 'public purposes' and forced resettlement, although more recently, some efforts to reverse this in at least one Peninsula state.	None; ongoing review in Sabah may lead to legislative backing. Use of tagal, the traditional management of freshwater fisheries by local communities, has been acknowledged by the state government and is actively promoted.	Sabah Parks has revised its enactment to allow Community-Use Zones in sections of the Crocker Range Park; New Marine Parks in eastern Sabah, and the Coral Triangle to have communities within their boundaries (IUCN Class V) and CCAs are being explored in the management plan. In Sabah, new Sabah Biodiversity Strategy being drafted emphasises role of ICCAs; the Kinabalu Eco-link is a proposed to join the Kinabalu Park and Crocker Range Park at a landscape level through a network of ICCAs.	Only Selangor in Peninsular Malaysia actively restoring tenure and governance rights to Orang Asli, although this is an ongoing process.	In Sabah, support for registering ICCAs; Sabah Fisheries Dept record of tagal areas; Sabah Biodiversity Centre to play a role in collating information on ICCAs. Studies of local resource use and management by local communities supported by government.	Not much.	In Sabah, review by international contributions for CBD implementation, through government.	None.	None

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Nepal <sup>6</sup>	Constitutional guarantees on rights of IPs (indigenous nationalities); Nepal also signatory to ILO 169; ongoing process of drafting new Constitution includes proposed provisions rights of IPs including right to natural resources.	Various ICCA-like practices recognized under various laws: National Park and Wildlife Conservation Act 1972 (amendment in 1992, Buffer Zone and Conservation Area as PA categories); Forest Act 1993 (Community Forest User Groups as self-autonomous perpetual institutions; Conservation Area Management Regulation 1996 (VDC level institutions); Kanchanjunga Conservation Area Regulation 2005 (management and conservation by local people through conservation area management councils); Buffer Zone Management Regulation 1996 and Guidelines 1999 (household level users groups federated community level and BZ council).	National Biodiversity Strategy 2002, National Wetland Policy 2003, and National Conservation Strategy recognise need for community participation and rights, could provide basis for ICCA recognition.	Concept and practices of Community Forest User Groups (CFUGs) are recognised, but not necessarily as ICCAs.	Database of CFUGs.	Some individual journalists showing their interests, but not widespread.	Support for CFUGs, BZ management committees, Kanchanjunga Conservation Area; some support from GEF SGP for ICCA networking and preliminary studies.		Some limited support from GEF SGP.

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Philippines	Constitutional recognition of IP rights, enforced by Indigenous Peoples Rights Act 1997 (ownership through titles, self-delineation of territories, self-governance, etc.); National Integrated PA System (NIPAS) 1992 also recognises IP rights; a MoA in 1973 recognised rights of communities (incl LCs) to manage ancestral lands; Exec. Order 263 1995 to recognise community-based forest management (By 2000, 5.3 m.ha, 30% of forests), thereafter coastal/marine resource management; But Certificate of Ancestral Domain Title (CADT) recognition sometimes held hostage to conditions, e.g. to exclude sites the government wants to hold on to; also complex issue of interests of non-indigenous within CADT areas esp. in situation of resource scarcity; New land/forest/minerals laws under consideration.	None specific to ICCAs; review underway to enable diversification of PA system to include ICCAs (but in initial phase, top-down identification and declaration of CCAs, creating conflicts).	Tenure arrangements (lease/ usufruct-ary contracts) under several programmes, for IPs or LCs: Forest Occupancy Management and Communal Tree Farming Programme 1974, Integrated Social Forestry Programme 1982, National Forestation Programme 1987, Community Forestry Programme 1987, PA Community Based Resource Management Agreement 1996, Socialised Industrial Forest Management Agreement 1996.	Through programmes and projects. Some inappropriate interventions, e.g. National Commission on Indigenous Peoples (NCIP) imposing new institutions or rules undermining existing (customary) ones, or prescribing uniform format for Ancestral Domain plans; distortion of FPIC stipulations to manipulate local consent for extractive industries.	Through the New Conservation Areas in Philippines (NewCAP) project, the Philippine government is providing support to select communities as pilot sites in documenting and building a database on their conservation areas.	Media coverage of the regional ICCAs, on prime-time television; episode on ICCAs also made available on YouTube.	Substantial, through programmes and projects; in particular Integrated Social Forestry Programme 1982, Community Forestry Programme, and Natural Resources Management Programme. Most recent Govt/ GEF NewCAP Project is funding identification, networking etc of ICCAs.	Assistance to prepare Ancestral Domain Sustainable Development and Protection Plans, also to build capacity for various community-based programmes (including to non-IP LCs).	Through NewCAP Project.
Russia	Presidential Decree (1992) protecting habitat and economic activity of minorities in the North; 1996/2001 laws following this; Communal Lands law for Khanty-Mansi Autonomous Okrug territory (1992).	Territories of Traditional Nature Use (TTUN) law of 2001 (general) but poor implementation by regions (no model regulations at federal level, Land Code contradictory).	Strategic Action Programme for Environment Protection of Arctic Zone of Russian Federation (2009), promoting traditional land uses, co-management, etc.	Some regions provide help to peoples in TTUNs.	Some documentation (partly reported in references).	None reported.	Some regions (in Siberia, Russian Far East, Murmansk) provided support to peoples in TTUNs.	No support from federal government, limited support from some regional governments.	None.



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Fiji	Customary / indigenous land ownership prevalent, but no ownership over marine resources; Constitutional review in process, could erode or enhance indigenous rights.	Under development, Cabinet having approved framing of PA legislation that recognises ICCAs; proposed Inshore Fisheries Decree may provide legal backing, but as yet unclear; current legal framework is fragmented and ridden with gaps.	(not clear)	Formal adoption of Locally Managed Marine Areas (LMMMA) approach, administrative support.	Fiji LMMMA Network (FLMMA) maintains database of sites, library of research results, monitoring data, research priorities.	Govt sponsored celebration of LMMAs including prizes, national and international recognition.	Funding for appointing fish wardens; to develop ecotourism ventures.	Police and armed forces support communities in controlling poaching; fish wardens are appointed by government.	Joint networking with communities and civil society; hosting of FLMMA Network coordination.
Europe									
UK (England)	Commons Act provides for governance by local communities / landowners, in collaboration with govt; new legal framework for decentralisation (Localism Act) may help.	No law for community controlled ICCA. Commons Act makes provision for collaborative management through creation of Commons Councils but as yet not clear how or to what extent they can build on existing commoners' associations.	National Policy Planning Framework decentralises planning responsibility to local authorities and makes provision for local communities to designate Local Green Spaces but mechanism, resources, and level of protection not clear.	Most community conservation sites receive some level of advisory or technical support from local government, government-led partnerships and other relevant government institutions.	Forestry Commission supported a set of studies of community woodlands and their support needs; DEFRA funded a study of Greens, including the role of professional support.	No particular mechanisms directly from government.	Through local councils, government-led partnerships, environment-related government institutions, and indirectly through funding of CSOs that support communities. Funding procedures and requirements often complex and bureaucratic, and funding often discontinuous and short-term; also funds declining recently.	Natural England oversees management of Commons and Sites of Special Scientific Interest (SSSIs). Local government, government-led partnerships and other environment-related government institutions provide technical support for many other individual sites.	None.

COUNTRY	Legal recognition of IP/LC rights /decentralised governance	Legal recognition of ICCAs	Non-legal policy recognition (including actions plans)	Administrative recognition / support	Documentation / research / database support	Social / public / media / recognition	Funding and develop support	Technical support	Networking support
Croatia	No IPs (or none recognised); no recognition of community land rights till recently, new Amendments on Law on Agricultural Land (2011) provide for Pasturing Communities mechanism for community land management.	No legal recognition of ICCAs; Custodian contracts under Nature Protection Act can provide some backing, but not used; EU Common Agricultural Policy may be a homogenising threat; civil society lobbying for community management provision in new Nature Protection Act.	None known.	None	None	None	For one ICCA in collaboration with CSO, otherwise none; may be possible from domesticated biodiversity funds and rural development schemes.	None	None
Spain	Long-standing (several centuries) recognition of customary rules and practices, reinforced or modified in recent laws (mentioned in next column).	Legal measures rel. to institutions of silvopastoralism, hunting, fishing, woodlands (incl Law 147 of 1963, Law 52 of 1968, Law 55 of 1980, Royal Decree 2741 of 1986, Law 3 of 2011 on Marine Fishing, etc) provide backing to ICCAs (though not explicitly only for conservation); challenge to identify genuine rights-holders as some arrangements centuries old and records are poor, also to meet new administrative/legal requirements  Transboundary (France-Spain) ICCA (customary agreement from 1375) recognition through treaty.	None that is known.	Administrative recognition to wide range of community practices relevant to sustainable use and conservation, through registration, support programmes, etc.	Research on several ICCA-like situations supported by government, including on values, sustainability, history, socio-economic conditions, and so on.	Awards given to many communities for sustainable use/development/conservation work; annual event related to trans-boundary ICCA recognised as Intangible Cultural Heritage; Media coverage and social support to traditional parties and fairs related to ICCA management.	Substantial funding for various kinds of customary practices & institutions, related to ICCAs; support to develop tourism, eco-enterprise, interpretation centres, education, etc; additional funding support mainly by EU funds, mostly managed by regional governments.  Some top-down, conflictual imposition, e.g. EU requirement of Producer Organisations with different structure than Cofradias (traditional fisher-person guilds).	Inputs on sustainability, enterprise, new technologies and knowledge on management, laws, market strategies, etc. Technical support given by professionals directly hired by ICCA or most often by local or regional government.	Most ICCA are member of regional or national level sectorial associations that are partially funded by the government by means of yearly subsidies intended to support associations.

COUNTRY	Legal recognition of IP/LC rights / decentralised governance	Legal recognition of ICCAs	Non-legal policy recognition (including actions plans)	Administrative recognition / support	Documentation / research / database support	Social / public / media / recognition	Funding and develop support	Technical support	Networking support
Italy	<p>Common Property and rights of 'civic uses' recognised in Italy based on long-standing legal and customary history (e.g. 1927 general law on civic uses);</p> <p>series of laws giving weak to strong legal backing in the agro-silvo-pastoral landscape protection and protected areas sectors. From 1970s competence on environmental and agricultural policy progressively devolved to Regions; proposal submitted to Parliament for new law with strong protection to common property and civic uses.</p>	<p>Recognition of traditional common property institution as possible governing body for regional protected areas under National Protected Area Law 394/1991; Regional Law n. 26/1996 (Veneto) favours reconstitution of common properties (Regole), while binding them to environmental protection measures.</p>	<p>Common properties and civic use lands benefiting from EU agricultural and environmental policies, though EU does not directly recognise common properties and civic use lands; Common properties with legal personalities meet EU requirements, but in case of civic use lands third actors operating in the territory rather than the formal administrators are considered the key economic counterparts.</p>	<p>Some regions provide very limited administrative support to governing boards of Common Properties and Civic Use Lands in consequence of legal recognition, to formulate funding proposals.</p>	<p>None known.</p>	<p>Local government funds for public initiatives such as conferences, symposia.</p>	<p>Diverse EU funding, requiring co-financing by local government. Regional funding for communities managing official protected areas; cases of official government developmental support for communities and common properties within and around PA boundaries.</p>	<p>Some regions provide a limited technical support to the management boards of common properties and civic use lands for project formulation.</p>	<p>None.</p>

## Endnotes

<sup>1</sup> Martín, G., C. del Campo, C. Camacho, G.E. Saucedo, and X.Z. Juan. 2010. Negotiating the web of law and policy: Community designation of indigenous and community conserved areas in Mexico. *Policy Matters* 17; and C. Camacho, Pers. Comm. 2012.

<sup>2</sup> Comisión Nacional de Áreas Naturales Protegidas (National Commission on Natural Protected Areas) webpage: [http://www.conanp.gob.mx/que\\_hacemos/areas\\_certi.php](http://www.conanp.gob.mx/que_hacemos/areas_certi.php)

<sup>3</sup> Comisión Nacional de Áreas Naturales Protegidas (National Commission on Natural Protected Areas) webpage: [http://www.conanp.gob.mx/que\\_hacemos/listado\\_areas.php](http://www.conanp.gob.mx/que_hacemos/listado_areas.php)

<sup>4</sup> Personal communication, Dr. Nobuyuki Yagi, May 2012. The information covers only coastal/marine areas.

<sup>5</sup> Personal communication, Justine Vaz, April 2012.

<sup>6</sup> Members of Forest Action, personal communication, 2012.

## **ANNEXURE 2: CIVIL SOCIETY RECOGNITION AND SUPPORT OF ICCAS: A COMPARATIVE GLIMPSE<sup>1</sup>**

*(Note: Source of information for all countries, except where given in the table, is the country case study contained in this volume; since the information here is highly summarised, it should be read with the case study for a full understanding)*

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<sup>1</sup> The views expressed in this table do not necessarily represent those of the Secretariat of the Convention on Biological Diversity, or of the Parties to the Convention.

COUNTRY	Documentation / research / database support	Social / public / media recognition	Funding and developmental support	Technical support	Advocacy support	Networking support
Africa						
Kenya	Various inputs for research, documentation, database (including International Livestock Research Institute (ILRI) database on all community conservancies).	Community conservancies and Locally Managed Marine Areas (LMMAs) widely recognised; international awards (e.g. Equator Prize) to conservancies.	Significant external funding from donors, CSOs, and corporate bodies (tourist companies); facilitation to develop livelihoods (especially tourism).	Significant technical/capacity inputs by CSOs and institutions.	Significant CSO advocacy to change/implement policy and laws, including on land & forest laws, both generally and in relation to ICCAs.	CSO based networking of conservancies (e.g. Northern Rangelands Trust, NRT); networking to improve security against theft & conflicts (central communications hub by NRT); also to resolve inter-community conflicts.
Namibia	Considerable research and documentation; not clear if participatory documentation takes place.	Significant social recognition, many national and international awards, regular media stories.	Considerable donor/CSO funding (but declining, though new conservancies/ community forests need funds), support for fundraising and income-generating livelihoods.	Considerable technical inputs for planning, mapping, monitoring, sustainable grazing and agricultural practices, etc.	Regular advocacy by Namibian Association of CBNRM Support Organisations (NACSO) and others.	NACSO.
Senegal	Documentation help by civil society groups (national and international).	National recognition, leading to international recognition (Equator Prize); use of community radio to spread success of Casamance region ICCA (APAC).	UNDP, GEF SGP and other funding for the marine/coastal APAC.	Inputs for mapping, planning, and good governance.	(Not clear).	ICCA Consortium is offering some support to expand the number of existing APACs in the country and their mutual learning.
Americas						
Canada	Joint research between modern scientific institutions and indigenous peoples; extensive documentation of traditional knowledge by peoples with CSO/institution help.	(not clear)	(not clear)	Facilitation of and building capacity for indigenous people-developed criteria / indicators for sustainable forestry, community-based monitoring, climate change studies.	(not clear)	Networking support for IPs involved in protected areas.
Suriname	Some (including through this study).	Some (esp. on general issues of IP rights).	CSO projects (but mostly international, and sometimes inappropriate as focused mainly on conservation).	Building capacity.	None (except by indigenous peoples themselves, generally for rights and self-governance).	Association of Indigenous Village Leaders in Suriname (VIDS), national level traditional authority structure (with regional units) of IPs themselves.
Panama	None	Indigenous administration recognized by some institutions, CSOs and other actors.	None.	None.	Very little.	Very limited support from networks.



COUNTRY	Documentation / research / database support	Social / public / media recognition	Funding and developmental support	Technical support	Advocacy support	Networking support
Costa Rica	Minimal.	Very occasional media coverage.	Some indigenous needs funded (e.g. for food security), else none.	None.	Advocacy of civil society solutions like TECOCOS (Coastal Communities Territorial) draft law or the autonomous indigenous people draft law, but limited impact.	Coastal marine communities helped by TECOCOS against landgrabbing; indigenous and peasants networks working hard to have political and institutional influence.
Chile	Some, such as for documentation, but not always participatory.	Social recognition through public platforms, media, awards (important since no specific ICCA recognition yet). UN (FAO) recognition as model sustainable forest management.	Some, for conservation, livelihoods, and development (e.g. tourism, eco-enterprises); help in accessing government funds.	Some funding; some oriented to development projects (tourism, local production) but not directly linked with ICCAs.	A few.	Proposed ICCA network, based on existing indigenous networks like Mapu Lahual; environmental and human rights CSOs network in support of ICCA.
Bolivia	Several research groups supporting IPs in documenting their efforts.	Broad public recognition of and solidarity with Indigenous peoples as social and political actors, though sometimes with discriminatory attitudes.	International funding and technical assistance to land titling TCOs/TIOCs, and to develop management plans for indigenous territories.	Strong and widespread inputs to management, monitoring, training in conflict management, and inputs to framing 'Indigenous Land Management Plans (GTT)';	Strong advocacy efforts for indigenous territory and TCO/TIOC recognition; also international support by CSOs and donors; urban support for specific causes (e.g. opposition to road through a TCO).	A parent indigenous organization exists; 54 Lowlands TCOs are part of the CIDOB (Indigenous Confederation of Lowland Bolivia).
Mexico <sup>1</sup>	Several Mexican research and education institutions conduct research on community conservation, making inventories, evaluating their effectiveness, studying the biodiversity, etc <sup>2</sup> .	Some coverage on importance of community conservation in local newspapers or particular webpages <sup>3</sup> .	Civil society funding for research, planning, training, certification, etc.; corporate funding in return for ecosystem services.	Training support by specific CSOs and some research institutes and universities, to strengthen local conservation processes, conduct community research, study effectiveness of community conservation.	Yes? (details not available).	An incipient network on Mexican ICCAs formed by CSOs, government officials, researchers and community representatives.
Australia-Asia						
Australia	Documentation of IPA, WoC, and caring for Country initiatives; including of about 200 independent indigenous ranger groups by regional Indigenous land and sea management organisations.	Growing public recognition (including environmental awards) of the contributions made by Indigenous people's management of land, especially management of weeds, feral animals and fire in large areas of Aboriginal-owned land in remote areas.	CSO and corporate funding & material support for IPAs, caring for Country initiatives; carbon offset funding agreement bet. IP/ govt/gas company.  Increasing attempts by IPs themselves to generate funds including through eco-tourism and recreational fishing on Aboriginal-owned lands.	Training and capacity building inputs for IPAs, WoC, caring for Country initiatives; technical/technological inputs to demonstrate management effectiveness; use of CyberTracker software and hand-held computers by Indigenous peoples to record and analyse environmental data – especially effective in areas where literacy and numerical levels are low.	Support for advocacy on IP territorial rights, sustainable traditional hunting, and IPA recognition.	Several regional associations of IPs, or other natural resource management groups supporting indigenous conservation; National Indigenous Land and Sea Management Conference held every 2 to 3 years.

COUNTRY	Documentation / research / database support	Social / public / media recognition	Funding and developmental support	Technical support	Advocacy support	Networking support
India	Substantial (though far from adequate) documentation, research, database support at local, state, and national levels; national Directory of CCAs published; dedicated newsletter People and Conservation.	Awards, reporting in mainstream and alternative media, public platforms to make voice and stories heard.	Facilitation to generate funds, inputs for developing enterprises, funding for documentation/ mapping.	Technical inputs for community-based documentation and mapping, making rights claims, legal aid, eco-enterprises. Inputs to government for policies and guidelines on ICCAs	Substantial advocacy for policy changes and measures for recognition and support, by communities themselves and by civil society organisations / networks.	Civil society networks (e.g. Future of Conservation Networks, Community Forest Rights Learning and Advocacy Process) involving or advocating ICCAs; community-based networks and federations for self-promotion.
Iran	Research and documentation (video, PowerPoint, photos, stories, etc.) of several ICCAs in both nomadic and sedentary peoples/communities; documentation towards inclusion in Global ICCA Registry; Studies such as resilience of indigenous nomadic peoples to climate change; Community Biodiversity Registers being carried out.	Facilitating platforms for peoples' voices and public exposure; dialogues within indigenous peoples to discuss relevance of ICCA concept; ICCA stories on public TV, national and provincial newspapers, and rural radio programmes.	Several projects directly funded, or helping route other donors' money; and helping set up community's own funds.	Inputs on strengthening and registration of ICCA organisations, GPS and Participatory GIS skills for delineation of the territories of nomadic tribes, botanical techniques for community biodiversity registers and protocols, registration of endemic species, varieties, breeds and genetic material, participatory video skills, financial management of projects and marketing.	Considerable advocacy on various fronts to gain recognition of territorial and resource rights, customary institutions, and other aspects.	Informal and formal networking; facilitation of federations of nomadic and other peoples.
Japan <sup>4</sup>	Various inputs on research and documentation, most of them in Japanese and not properly shared with international civil society.	Some local media coverage; however of late negative coverage as media focusing on need for fishery 'reforms' related to commercial forces of globalisation in place of fishery rights.	Major support from local donors; community members also provide in-kind contributions; recently, support reduced due to stagnant rural economy, with wealth concentrated in cities.	Some technical help from local agencies.	Minimal.	JF Zengyoren nationwide federation of fisheries cooperatives; due to decrease in number of fishers, political power may be on decline.
Malaysia <sup>5</sup>	Active role in documenting customary lands, traditional ecological knowledge, community mapping.	General support for indigenous communities and their struggle, but public responses are often muted or not widely taken up.	Main supporters for advancing the tenure over customary lands, and more recently, the ICCA concept.	Significant role in equipping indigenous communities with knowledge of laws, protocols and rights and providing them forums to articulate their interests with regard to land, governance, self-determination and endogenous development.	Active advocacy of community land issues, including in courts; in Sabah, support to mainstreaming ICCA concepts through ongoing policy development of state government.	Networking support strong, but significantly limited by resource constraints.

COUNTRY	Documentation / research / database support	Social / public / media recognition	Funding and developmental support	Technical support	Advocacy support	Networking support
Nepal <sup>6</sup>	Some preliminary but inadequate case documentation and related publications; some ongoing.	Some national level workshops; very limited media exposure.	Very limited support for regional and national interactions, case documentation, and networking.	Very limited help in developing skills for networking, lobbying and policy advocacy.	Substantial advocacy by CSOs and national level ICCA network, for gaining legal status, access to conservation related policy-making arenas through national level multi-stakeholder interactions and delegations.	Decision taken to convert ICCA Network (informal) into formal National ICCA Federation, in process; assistance by ICCA Consortium.
Philippines	Research, documentation, mapping of ICCAs with/by IPs/LCs.	Public awards.	Funds for community-based documentation, mapping, claims process, eco-enterprises, appropriate education.	Training and technical inputs for making Certificate of Ancestral Domain Title (CADT) claims, mapping, legal advise/support; Assistance to prepare Ancestral Domain Sustainable Development and Protection Plans; also to build capacity for various community-based programmes (including to non-IP LCs).	Considerable advocacy support, especially for CADT claims, and for progressive policies; Conservation organizations which have espoused the protected areas system, beginning to realize the wisdom of ICCAs, and expressed interest to know more about them.	Considerable informal and formal networking; Consultative Group on Indigenous Peoples v. recent; growing networking of sites explicitly willing to be identified as ICCAs; recent (2012) decision to create National ICCA Network <sup>7</sup> .
Russia	Some (mostly in Russian).	RAIPON (IP federation) works actively on social issues and publishes journal Living Arctic.	For projects by RAIPON.	Support for capacity building, mapping and planning.	Significant, by RAIPON.	IPs' own federation, RAIPON.
Fiji	Significant research, documentation, monitoring inputs by civil society.	Prizes and public recognition including by international networks/CSOs.	Direct and indirect funding support, facilitation of alternative livelihood and other development projects, and compensation for opportunity costs at some terrestrial sites; significant international CSO support also.	Support in developing protocols and procedures for Locally Managed Marine Areas (LMMA) and inter-community relations.	National level advocacy through Fiji FLMMA Network (FLMMA) and individually.	Joint community, civil society, government networking through FLMMA.

COUNTRY	Documentation / research / database support	Social / public / media recognition	Funding and developmental support	Technical support	Advocacy support	Networking support
Europe						
UK (England)	<p>Self-registering databases of sites are hosted by Common Ground (for community orchards), the Woodland Trust (for community woodlands) and GreenSpace (for green spaces)</p> <p>Recent research includes studies of community orchards, Greens, and other CCAs, and a major study of common lands by various universities.</p>	<p>Several national awards exist for community initiatives and for high quality local green spaces.</p>	<p>Small funds available through many national and local CSOs.</p>	<p>Training, technical guidelines, information etc. on management and administration available from many national and local CSOs.</p>	<p>Strong national advocacy by CSOs has been a major factor in shaping recent policy and legislative reform on issues including devolution, forest privatisation, planning policy, and local green spaces.</p>	<p>Several online networks for communities managing local conservation areas.</p>
Croatia	<p>Some by Association of Land Communities, on property issues (not necessarily conservation).</p>	<p>Very few local initiatives.</p>	<p>Funding of community guards, developmental works, biodiversity protection and relevant traditional practices.</p>	<p>Support for management planning.</p>	<p>Some, by Association of Land Communities of Croatia and other ecological organisations; efforts to change legislation that would enable recognition of ICCAs.</p>	<p>(same as previous column)</p>
Spain	<p>Substantial research and documentation on long-standing practices (silvopastoral, agricultural, fisheries), mostly by universities and institutions.</p>	<p>Media exposure for some initiatives; social recognition by civil society often followed by government recognition and media support.</p>	<p>Funding and inputs for sustainability of habitat use (but most funding is from government, EU).</p>	<p>Some technical inputs, mostly based on individual or personal initiatives.</p>	<p>Some advocacy by individuals.</p>	<p>Several community networks / associations of different resource use communities, incl. silvopastoralist, fishery, woodland (often government supported).  Support from international networks, e.g. Network of Small-Scale Fishing Communities for Sustainable Development (RECOPADES).</p>
Italy	<p>Extensive interdisciplinary research and publications (including specialised journal) on common properties and civic use lands, in universities and research centres; some detailed case studies.</p>	<p>Wealthy common properties promote cultural initiatives and social activities in favour of the local community; some manage museums, provide scholarship and support CSOs in the social field.</p>	<p>ICCAs mainly self-funded engaging in eco-compatible economic activities; specific public initiatives such as conferences, symposia and research project co-sponsored by foundations, local banks, and CSOs.</p>	<p>The research institutions on sustainable use of natural resources provide useful information base for decision making; submission of proposals for EU co-financing require high technical inputs paid by the project itself; management boards of the most active common properties acquire relevant skills.</p>	<p>Several networks and associations do advocacy at local and national levels, e.g. Consulta Nazionale della Proprieta Collettiva (National Advisory Body for Common Properties) for CPs (organised along regional lines), and others for non-CP ICCAs.</p>	<p>(same as previous column)  Italian members of CEESP and Honorary members of the ICCA Consortium provide international networking support.</p>

## Endnotes

<sup>1</sup> Martin, G., C. del Campo, C. Camacho, G.E. Saucedo, and X.Z. Juan. 2010. Negotiating the web of law and policy: Community designation of indigenous and community conserved areas in Mexico. *Policy Matters* 17; and C. Camacho, Pers. Comm. 2012.

<sup>2</sup> See for example: <http://www.conservcom.org/>

<sup>3</sup> For example: [http://monarch.pwnet.org/mom/conservation\\_in\\_mexico.es.php](http://monarch.pwnet.org/mom/conservation_in_mexico.es.php)

<sup>4</sup> Personal communication with Dr. Nobuyuki Yagi, May 2012.

<sup>5</sup> Personal communication with Justine Vaz, April 2012.

<sup>6</sup> Personal communication with members of Forest Action, 2012.

<sup>7</sup> [http://www.undp.org.ph/?link=21&id=141&act=press\\_release\\_listing](http://www.undp.org.ph/?link=21&id=141&act=press_release_listing)

## ANNEXURE 3: SUMMARIES OF THE 19 COUNTRY CASE STUDIES

(Sorted by region, within which by alphabetical order)

(Disclaimer: The views expressed in these case studies do not necessarily represent those of the Secretariat of the Convention on Biological Diversity, or of the respective Governments)

<i>Africa</i>	<i>North and Central America</i>	<i>Australia and the Pacific</i>
Kenya	Canada	Australia
Namibia	Costa Rica	Fiji
Senegal	Panama	
		<i>Europe</i>
<i>South America</i>	<i>Asia</i>	Croatia
Bolivia	India	Italy
Chile	Iran	Spain
Suriname	The Philippines	United Kingdom (England)
	Russia	

### AFRICA

#### KENYA

Fred Nelson

Kenya is a culturally and biologically diverse country with a wide range of customary and more recent, formalized community conservation arrangements across its landscapes. With more than three-quarters of its landscapes comprising semi-arid and arid rangelands and savannahs, traditional pastoralist land use and management practices, based around transhumant livestock management, are a central element of natural resource governance country-wide. Pastoralist communities have long protected important resources—such as forests, water sources, and dry season grazing refuges—through customary mechanisms. Weaknesses in collective customary forms of land tenure—as in much of sub-Saharan Africa—have however led to the erosion of these traditional communal management systems.

Kenya's legal framework for 'Group Ranches'—privately titled collective rangelands used for communal livestock production – provides a way for pastoralist communities to formalize rights over communal pastures, and has been widely adopted in Maasai communities in the southern and central parts of the country; but the Group Ranches have been increasingly sub-divided during the past twenty years.

New community conservation areas termed 'conservancies' have been widely created in pastoralist areas in southern and central Kenya, facilitated and supported by a wide range of government, NGO, private sector, and external donor resources and interests. Organizations such as the African Conservation Centre and Northern Rangelands Trust have played a key role in developing the management framework for these conservancies and scaling them up over larger areas in recent years. These conservancies provide a range of local values, including clarifying and firming up local land tenure over pasture and grazing areas, improving security through networks of community scouts and communications infrastructure and law enforcement bodies, and providing a legal structure for communities to enter into third-party joint ventures with tourism investors in order to generate local revenue from wildlife. At present NGOs and government are working to develop a harmonized legal framework for community conservancies, as to date these conservation areas have not had any basis in protected area or wildlife policy or law. Thus while these emerging ICCAs are widely supported by civil society, donors, and private sector, government policy is yet to create an enabling context for their establishment and governance.

The sacred Kaya forest groves on Kenya's coast are one of the country's most famous customary ICCAs, protected by the Mijikenda people for their spiritual and cultural value even while much of the region's coastal forests – a global



biodiversity hotspot – have been cleared. The Kayas are one of the six designated World Heritage Sites in Kenya (as a cultural site), and many of them have been protected by the government as ‘National Monuments’ under the Antiquities Act, effectively incorporating them into the protected area network while safeguarding their cultural values. Organizations such as WWF and the National Museums of Kenya have worked with local communities to protect Kayas and develop income-generating opportunities based on these forests such as through guided tourism visits for beach travellers on the Kenyan coast.

Within the past five to ten years, important policy and legal changes, as well as some pioneering local pilot initiatives, have helped coastal communities in Kenya to strengthen territorial rights over in-shore reef fisheries which support the livelihoods of artisanal fishing communities. The basis for this emerging ICCA governance framework on the coast are ‘Beach Management Units’ (BMUs), which are associations of fishermen, traders, and other fishery users and stakeholders centred around coastal landing sites. These BMUs are able to develop and enforce rules governing their fishery, including demarcating its boundaries and excluding non-members from outside the area, with the support and sanction of the Department of Fisheries. Several ICCAs have been mapped recently and donor and NGO support to these areas is increasing, with seemingly high potential to scale up coverage of a high potential of the Kenyan Indian Ocean coastline, home to important marine biodiversity which sustains millions of people along the coast as well as Kenya’s tourism industry.

A number of important recent developments at the level of government policy, and in relation to external forms of support to ICCAs, have occurred in Kenya. By far the most important of these are constitutional changes as adopted through the public approval of Kenya’s new constitution in August 2010. While the constitution provides general strengthening of devolved and democratic governance in Kenya, itself of great importance to ICCAs, it also provides for critical reforms to the country’s land tenure framework, changes that are elaborated in a new land policy. Specifically, these reforms call for the replacement of trust land – a historically weak tenure class managed on a trustee basis by County Councils (local, district-level government) that has been vulnerable to alienation and encroachment and which makes up the majority of land in Kenya – with a new tenure category of ‘community land’. This has the potential – if implemented effectively – to transform the historic weakness of communal and customary land rights in Kenya’s rural areas, which, as in most African nations, has been the greatest impediment to securing and sustaining traditional or newly established ICCAs.

Additional recent developments of importance to the recognition and support of ICCAs include enhanced donor support, such as that provided by the UNDP-GEF Small Grants Programme focal support to ICCAs in Kenya, as well as support by the UK government’s Darwin Initiative to the emerging coastal ICCAs. Large international conservation organizations such as The Nature Conservancy and Fauna and Flora International are also providing increased support to ICCAs, through partnerships with Kenyan organizations such as the East African Wildlife Society and Northern Rangelands Trust. The combination of experienced NGOs, a variety of conservation and development-focused donors, and recent institutional reforms at the constitutional and policy levels suggest that Kenya is likely to emerge in coming years as a leading African country in the recognition and establishment of ICCAs.

## **NAMIBIA**

**Brian T.B. Jones**

Namibia is the driest country in sub-Saharan Africa. It gained its Independence from South Africa in 1990 and still suffers from an apartheid legacy. At Independence, 48% of the available agricultural land had been allocated to the black homelands, which supported a population of about 1.2 million, while 52% had been allocated as freehold land to white commercial farmers. This dual tenure system remains in place.

Specific rules related to conservation are contained in the customary law of various groups in Namibia. However, due to historic dislocations and the rural governance context, Namibia does not have enduring territorial conservation practices as in other parts of Africa. Where areas of land have been conserved as part of the hunting grounds of community chiefs, or due to sustainable range management practices by semi-nomadic pastoralists, these have been incorporated into State-owned protected areas or formal community conservation areas such as conservan-

cies and community forests. In some cases national parks have been proclaimed around areas of land managed by indigenous San and Khoi-san communities some of whom still live inside these parks. In the Bwabwata National Park in the West Caprivi Strip the Khwe community has formed its own association to co-manage a multiple use area with the Ministry of Environment and Tourism (MET). The association shares the income from a trophy hunting concession with MET and is currently developing a tourism concession in the park. The association employs its own game guards, who carry out joint anti-poaching patrols with MET staff, as well as joint game counts and monitoring of natural resources.

Conservancies and community forests are provided for in national policy and legislation that promote community-based management of natural resources.

Wildlife legislation gives communities ownership of certain species of game animals if they form a conservancy and the right to apply for permits to use species with a higher level of protection. Conservancies also receive rights over trophy hunting and tourism lodge development within the conservancy boundaries. Conservancies keep 100% of the income they earn from wildlife and tourism. In order to form a conservancy a community must define its members and boundaries must be agreed with neighbours. The conservancy must have a representative committee and a constitution.

In 2009 the total cash income generated by conservancies was just under N\$26 million or around US\$3.7 million. In 2009 conservancies employed 406 staff using their own funds and another 157 using donor funding. Tourism in conservancies provided another 789 full-time and 250 part-time jobs and hunting operations generated 14 full-time and 53 part-time jobs. The value of conservancy-funded jobs was N\$4.8 million in 2009 or about US\$585,700. Some conservancies choose to use profits from their wildlife and tourism income to provide cash either to villages or directly to members or households. Others use their wildlife and tourism income for social projects agreed by the community. Conservancies also produce a range of non-cash benefits, including meat through trophy hunting and the hunting of game for own use. In 2009 conservancies distributed around 330,000 kg of game meat, valued at about N\$5 million or close to US\$714,300. Conservancies also invest part of their income in management of natural resources through employment of game guards and natural resource monitors, and wildlife monitoring through a structured approach called the Event Book System. Several conservancies have set aside areas of land specifically for wildlife and tourism.

Community forests are formed through a community entering into a written agreement with government, which must identify the boundaries of the community forest, include a management plan, and appoint a forest management committee. The agreement provides the community forest with rights over forest products including grazing. Community forest committees are authorized by government to issue permits for use of various forest resources.

Community forests generated more than N\$500,000 in 2009. Income is generated through the issuing of permits and use-concessions; the marketing of value-added forest products; and the marketing of non-timber forest products and indigenous natural plants. Income is shared between traditional authorities, management bodies and communities according to a Benefit Sharing Plan and most income is allocated to community development projects.

In early 2010 there were 59 conservancies managing 13,269,700 ha of communal land while 13 community forests covered 465,200 ha although this includes some overlap with conservancies (NACSO 2010). Conservancies covered 16.1% of Namibia's land surface with an additional amount of 0.2% of land under community forests where there is no overlap with conservancies. This provides a total of 16.3% of land under conservancies and community forests compared to 16.6% covered by national parks and game reserves.

Conservancies and community forests enjoy strong recognition from government and the NGO sector. Apart from the rights provided by national legislation, government extension officers and NGOs provide considerable technical support to communities for managing their resources. This includes institutional development and good governance, resource management and utilisation, and enterprise development. Considerable donor funding has been sourced particularly for support to conservancies. Government also transfers game animals from state-run protected areas into conservancies. These translocations include 31 black rhino, an indication of the level of wildlife conservation taking place within conservancies.

Conservancies and community forests are local institutions that provide communities with increased opportunities to manage their own affairs. This is important in the context of Namibia's emergence from South African apartheid rule. These institutions provide a major new form of corporate legal social organisation for communities on communal land covering a large part of Namibia. At the same time they face several challenges. These include the need for improved internal governance, particularly financial management and accountable decision-making by committees. In conservancies, the well-documented increases in wildlife numbers have also brought an increase in human wildlife conflict. Conservancies need to take increasing measures to reduce conflict and mitigate its effects.

## **SENEGAL**

### **Dieng Ndiawar & Ndiaye Soulèye**

Sustainable management of natural resources is crucial in Africa where – short of the lifestyle of 'developed societies' – local people kept a watchful eye on the resources on which they directly depend for their livelihoods. In Senegal, local people established, through time, rules for the management of natural resources that were generally respected by all. Transgressions of these rules could even be punished by death in view of the crucial importance of natural resources as sources of goods and services, and their role in local beliefs systems (sites for worship, etc.).

The convergence of local concerns with economic and environmental considerations facilitated the adoption of a colonial Decree on 4th July 1935, which set the Forest Management Plan in French-speaking Africa. In this way, the State created its conservation services and most protected areas. Post-independence (1960), however, management has not always resulted in conservation of natural resources. The rural population got progressively separated from traditional practices and natural resources, which led to frustration, while illegal activities gained ground over the years. The National Propriety Law No. 64-46, dated 17 June 1964, and its implementing regulations (Decree No. 64-573 dated 30 July 1964 and Decree No. 72-1288 dated 27 October 1972) actually caused a revolution in the rural areas by removing landowners and transferring the land to its real users. Natural resources were, at the same time, nationalised.

It was not until 1996 that the Government decided to apply the following two texts, as part of the deepening of the Decentralisation Policy:

- Law 96-06 dated 22 March 1996 – i.e. the Local Government Code – which created, among others, three types of local authorities (Region, Municipality, Rural Municipality) on the principle of free administration; and
- Law 96-07 dated 22 March 1996 – dealing with the transfer (decentralisation) of authority regarding Environment and Natural Resources (implementing decree No. 1134 dated 27 December 1996).

The evolution of governance from systems favouring repression to participatory and co-management systems has even reached today the situation of direct governance by entities other than the State, in particular for the case of local communities such as the Bassari indigenous people in the southeast of Senegal, and for the case of local authorities. Secular mechanisms guided by ancient customs have evolved into formal procedures established by the villagers and sanctioned by a ruling of the Rural Municipality and to the establishment of ICCAs recognised by the State representatives.

Along with the possibility of establishing ICCAs (which was legalised by the texts of the Third Phase of Decentralisation), people have set up mechanisms to give responsibilities, individually or collectively, to different groups (the young, the old, women, professional associations). Despite this vision, however, there are still gaps in the recognition of ICCAs in the national system of protected areas. For instance, areas in the maritime domain—where thousands of people need to find the source of their livelihood—are still excluded from the possibility of being declared ICCAs, as they are excluded from the decentralisation legislation that transferred resource management authority to Regions, Municipalities and Rural Municipalities. Change may just be forthcoming however, as the success of some on-going pilot experience may influence a positive policy evolution.

In the experience of the authors, traditional patterns of conservation of biological resources are very efficient, especially with the system of sacred sites, where all community members respect the local conservation rules. This study, however, was not designed to offer a systematic demonstration of such effectiveness, which might be the subject of other analyses.

We believe it is time to recognise the vital role of ICCAs in the effective conservation of natural resources and of local communities in the governance of protected areas. The future of biodiversity conservation and natural resources in Senegal is intimately linked to such recognitions. The decision to create ICCAs by local communities in their local area should suffer neither legal nor regulatory obstacle. The legal value of community decisions for conservation should not be questioned, even in the case of ICCAs created to serve as places of worship or reserved for cultural activities.

## **SOUTH AMERICA**

### **BOLIVIA**

**Carmen E. Miranda L. and Alcides Vadillo P.**

Bolivia is one of the 13 megadiverse countries in the world. Much of this is due to the diversity of ecological regions and ecosystems that the country has, as well as the large area covered by ecosystems still in good conditions. Millennia of human occupation of the territory that is now Bolivia, have resulted in a mosaic of cultures, social identities and socio-productive systems that maintain a large heritage of traditional knowledge and practices, which form a unique cultural diversity, and which also maintain high levels of biodiversity, especially in the lowlands.

The concept of ICCA is not completely adapted to the Bolivian reality. However, there are in the country a large number and diversity of indigenous territories under the concept of *Tierras Comunitarias de Origen*– TCO (‘communal lands’), legally recognized as a form of agrarian land ownership in the 1994 State Constitution reform. In the new 2009 Bolivian Constitution, this concept was extended, in order to recognize as well the public administrative rights of the territory, under the concept of *Territorios Indígenas Originarios Campesinos* – TIOC (‘peasant/indigenous territories’). These territories officially becoming an administrative territorial entity of the State, this new law expanded indigenous peoples’ power to exercise autonomous administrative functions. Both these legal categories can be used to manage and develop the administration of indigenous territories and natural resources more efficiently. Some TIOCs have achieved the recognition of their territory over land already declared as protected areas.

Indigenous people of the lowlands have been fighting for legal recognition of their territories from the founding of the CIDOB in 1983 and have acquired a national political recognition and dignity from the first march through the territory in 1990. The territory has been a unifying factor of social and ethnic identity, mobilizations and struggles, both local and in national scenarios. Since the enactment of Law No. 1715 in 1996, indigenous people have achieved recognition and certification of 190 indigenous territories or communal lands (TCOs) with an area of 20.7 million hectares, of which 54 TCOs are in the east, Chaco and Amazonia, an area entitled to 12 million hectares. Almost all of these lowlands TCOs are aware of the enormous value of biodiversity conservation, community life and the traditional use of natural resources.

Meanwhile, the indigenous territories in the Bolivian highlands support larger population groups due to their long history of occupation and use. These are threatened by mining activities and are incorporated into intensive production systems generating benefits to the market. These activities have resulted in an intensive and unsustainable use of the land, significant biodiversity loss and high levels of erosion and soil degradation. Most upland TIOCs are very impacted by the overuse of natural resources and have lost most of their biodiversity and ecological functions, so they do not meet the third feature that identifies an ICCA.

All the indigenous peoples and territories in Bolivia are legally recognized by the state and are supported by an extensive legal and constitutional framework. Until now, the progress in the recognition of TIOCs, and the

explicit vision for TIOCs into the Constitution of the State (CPE) that are based on the TIOCs boundaries, are processes very advanced and innovative, in terms of legal rights. This kind of recognition is the most advanced in the Americas and these forms of legal recognition are innovative, with a dynamic evolution, searching to expand their reach in terms of autonomy levels.

Although the Bolivian Constitution offer guarantees for human rights and rights of indigenous peoples; difficulties still arise in:

- The policy for transformation of ownership and transformation structure for land access. The political transformation of the agrarian structure, has strongly promoted the distribution of fiscal land including lands only suitable for forest management, for new settlements.
- The threats to their territorial rights by the interference of oil and mining projects, road construction linked to the IIRSA Regional Strategy, the advance of agriculture, the expansion of coca cultivation, the incursion of others searching for game and fish, and piracy of timber.
- The laws of constitutional development – such as the autonomy framework law – try to reduce the rights of indigenous peoples – recognized legally – under certain technical criteria by introducing requirements on population size, territorial continuity, and manageability; three aspects that greatly hinder the ability to achieve autonomy in TIOCs (because the characteristic of the indigenous people is to live in small and scattered population centres within large territories).
- Lack of prior and informed consent for policies and projects implemented by the government, affecting indigenous territories and rights, since several such projects are developed without respecting this constitutional mandate.
- Expanding agricultural frontier, which promotes colonization and occupation of forestland, protected areas and indigenous territories.
- Continuation of an extractive development model, with many consequences and risks:
  - Relaxation of environmental regulations;
  - Facilitating the activities of multinational corporations;
  - Generating high social and environmental costs;
  - Unprecedented change of land use, promoting the rapid transformation of forest ecosystems on poor soils in areas of agro-industrial production.

The present debate on the legal ground concerns three topics that are very important for the management of indigenous territories: a new Law on Land, in which the main topic will be the TIOCs; the Law concerning Prior Informed Consent of Indigenous People; and the new Forestry Law. In this context, the key issues that indigenous peoples and civil society organizations interested in defending human rights and the environment need to consider, in order to consolidate the environmental governance of TIOCs, are:

- Defend and ensure implementation of the State Constitution;
- Search for recognition and implementation of indigenous autonomy in the TIOCs;
- Influence the national debate on the three above laws;
- Continue the development and implementation of Indigenous Land Management Plans (PGTI).

## **CHILE**

### **Lorena Arce**

This case study presents an analysis of the current situation of ICCAs in Chile, which is not very promising if action is not taken soon for their adequate recognition and support.

In the first chapter, we will understand how private conservation (one of the four governance types of protected areas proposed by IUCN) is advancing towards public recognition. In this context, and without diminishing the efforts of the private sector, a major concern regarding ICCAs in Chile, is that they are being considered as part of this governance type, without the appropriate attention and deeper reflection to their particular characteristics.

In chapter two, we highlight the lack of documentation, research and discussion in Chile about ICCAs, which hinders the analysis about their main features. Our hypothesis is that despite the lack of information, there are a wide variety of areas or territories that are being voluntarily conserved by local or indigenous communities throughout Chile, even though their conservation efforts may not always be explicit and recognized. Therefore, in this section, three categories of ICCAs are proposed, regarding their relationship with state protected areas, which have a direct effect on their level of governance. Considering these initiatives, the main identified threats to ICCAs in Chile are: a) the scarce and inappropriate recognition; b) infrastructure investment and the extractive industry; c) the current administration of National System of Protected Areas (SNASPE) units; and d) the declaration of Biosphere Reserves in the country.

Chapter three, about governance and management, shows that one of the key points faced by ICCAs (mainly by indigenous peoples) is the imposition of formal rules over their customary organizations to manage their territories. Because of these, many communities have limited trust in conservation proposals, fearing that they will be restricted in their customary use of natural goods that support their livelihoods, or even lose property rights over their lands in order to comply with conservation goals.

Chapter four highlights how existing legislation does not recognize ICCAs as a type of governance of protected area or other forms of effective conservation, and it is only in recent years that some local initiatives have begun to open a way for such recognition.

Finally, in chapter five, some future activities and recommendations for ICCA recognition and support are presented. For legal recognition, as there is an ongoing debate on the Bill that creates the Biodiversity and Protected Areas Service, it is urgent to consider ICCAs as one of the four conservation categories proposed by IUCN and not as part of the private PAs as it is currently discussed. This is a necessary previous step to enable the design of differentiated support policies for them, with full participation of the communities involved and with their FPIC. Within the framework of this Bill, we recommend the design of economic incentives for those communities that are (or could be) contributing to conservation.

## **SURINAME**

### **Association of Indigenous Villagers in Suriname (VIDS)**

The goal of this review is to explore the forms of recognition and support for 'Indigenous Peoples and Local Communities Conserved Territories and Areas' (ICCAs) in Suriname. Suriname has a relatively long history of protected areas. Most of those are within the traditional (but not legally recognized) territories of Indigenous peoples. Our research has shown that the concept of ICCAs is not (yet) well known in Suriname, and ICCAs are not included in protected areas categories. However, there are many examples of cases/situations throughout the whole country that in practice match the criteria of an ICCA. These examples range from management of entire traditional indigenous territories to specific specie or area protection, always as a result of the traditional concepts of territorial management, and using customary (including cultural and spiritual) rules of the involved Indigenous communities. Likewise, the governance of ICCAs currently forms part of traditional governance systems and bodies over the Indigenous territories and villages. Within the collaboration between Indigenous communities and (international) conservation organizations on protected area management, there may be additional management structures, which would still abide by the community governance system.

Involved communities have highlighted various values of community conserved areas, which are inextricably linked to their rights as Indigenous peoples, among others self-determination over their territories and resources, the importance to their livelihoods, and preservation and transmission of culture, stories, traditions, practices and traditional knowledge. Also the conservation and economic values of such areas within Indigenous territories were highlighted.

Main threats were identified to be the non-recognition of Indigenous peoples' rights, particularly land rights, and of traditional Indigenous authorities, which results in, among others, unilateral governmental establishment and



decision-taking over protected areas even though in practice it is the Indigenous communities who manage those areas in Suriname. Economic pressures are another threat, forcing villagers to make unsustainable, narrower and shorter-term decisions over their natural resources. Intrusion of extractive industries is another major threat.

Recognition and support for ICCA initiatives are not very explicit or vocal. There is no official legal recognition of the rights of Indigenous peoples nor legal recognition of the ICCA concept, although government respondents have expressed interest in discussing the concept further. There is a growing support from environmental NGOs for conservation-related capacity building.

An informed discussion on whether or not ICCAs should be included in the protected area system of Suriname has not taken place yet and we recommend it should be held. However, some critical remarks were made that the categorizing of (part of) Indigenous territories as 'ICCA' should not 'dilute' the overarching issue of full legal recognition of Indigenous peoples' land and resource rights. The major recommendation related to the recognition and support of ICCAs in Suriname is therefore the legal recognition of the rights of Indigenous peoples, as the overarching framework in which ICCAs could be considered. Capacity strengthening and more awareness on Indigenous peoples' concepts and practices of territorial and environmental management, are other main recommendations.

## **NORTH AND CENTRAL AMERICA**

### **CANADA**

**Thora Herrmann, François Depey, Monica Mulrennan,  
Michael A. D. Ferguson and Gleb Raygorodetsky**

The name Canada would come from the word Kanata, which in Huron-Iroquois—an indigenous language—means 'the village'. The origin and the meaning of that name already sound like a good omen to discuss conservation undertaken precisely by (indigenous) communities in that country. In fact, the majority, if not all forms of ICCAs that have been reviewed for the purpose of this study are related to indigenous groups. In Canada, they are divided amongst First Nations People, Métis and Inuit. There are at least 50 First Nations language groups (including dialects) spread in 11 language families.

Indigenous and other communities that play a role in conservation have only recently been introduced to the name and acronym of ICCA, to describe a concept that has been present for millennia and therefore preceded the creation of Canada as a country. Examples used in the Canadian report are not restricted to ICCAs proclaimed by Indigenous people and communities under that specific name and acronym but rather all initiatives that would match the broad definition of such a concept (whether the ICCA acronym may have been adopted or not). The discussion around that topic being fairly recent in the country, it is still difficult to paint an accurate picture of the spatial extent it really represents as well as all communities it may include. A portion of those ICCAs may have been overlapped by more conventional forms of protected areas (such as national and provincial parks), however when they maintain characteristics that broadly define ICCAs, we included them in our inventory. It explains why some portions of them that may be included in parks and conservancies have also been included in the report.

Federal, provincial and territorial (three levels of government in Canada) conservation strategies have made considerable progress since their origin in the 19th century in terms of inclusiveness of the role of local communities in the management process. From an original model that excluded indigenous communities from their own territories, we have now transitioned to a more inclusive process that opens doors to various modes of governance and tend to be based on preliminary consultation, in the case of recently state declared conservation areas. This recent trend should not prevent encouraging and promoting the existence of ICCAs in a setting completely distinct from any state conservation process.

A previous report produced by the ICCA Consortium details the limitations in terms of legislation and policies in Canada that would support voluntary designation and protection of terrestrial and marine ICCAs on indigenous/aboriginal-owned lands/waters. However, several land claim agreements in Canada do recognize indigenous ownership of land, and therefore responsible indigenous communities could voluntarily take actions to protect

their lands (e.g. the Inuit have negotiated comprehensive constitutionally protected agreements for land and self-government). Yet, even if indigenous territories are constitutionally allowed (land claim agreements), the actual transfer of powers to the indigenous communities remains of critical importance. The phenomenon of indigenous conservation and governance that the ICCA concept partially embodies has been well established in indigenous lands across Canada for thousands of years. Indigenous Peoples in Canada adapted to the territories that they have occupied and used since times immemorial, and developed various ways to modify and manage the natural ecosystems that they depended upon for part of their livelihoods and cultures, as well establishing social and spiritual connections with these ecosystems. Self-identity, place and cultural identity of Indigenous Peoples in Canada are strongly linked to the land upon which they rely for their livelihoods. The wide range of terrestrial and marine areas that can be considered as ICCAs in Canada requires site-specific approaches to adapt solutions to local problems through learning-by-doing. ‘Packaged’ prescriptions do not work in Canada and it justifies the relevance of ICCAs that by definition are not based on a template or blue print. Long-term financial sustainability for communities is crucial for effective ICCA management.

If recognition of ICCAs is an important factor for their existence, some threats also compromise their integrity. Two types of threats are identified: external and internal. Hydroelectric mega-projects, mining, oil and gas (and associated means of transportation across territories), large scale logging, climate change and correlation of environmental and anthropogenic changes are described as external threats. Cultural realities that are often consequences of the previous list of external threats can be accounted as internal threats. For instance, the decline of ecological cultural knowledge and the loss of ability to transmit traditional culture (including languages) are two serious threats to indigenous peoples and their respective ICCAs. The last generation of elders who lived a ‘traditional life on the land’ is passing away quickly. In fact, examples used in this report demonstrate the role ICCAs play in reinvigorating traditional cultures.

This report points out key issues faced in governing and managing ICCAs. It also highlights key issues related to the recognition and support given by the government or non-governmental actors to ICCAs in Canada. At the end of this report there are a number of recommendations highlighted that could encourage recognition and support of ICCAs in Canada.

## **COSTA RICA**

**Patricia Madrigal Cordero and Vivienne Solís Rivera**

Costa Rica borders Nicaragua to the north, Panama to the southeast, the Caribbean Sea to the northeast and the Pacific Ocean to the southwest. It has a continental territory of 51,100 km<sup>2</sup>. Located close to Ecuador, Costa Rica’s Cocos Island expands its marine territory to 10 times that of its continental territory. This small country has a huge variety of natural habitats and microclimates that have made existence possible for a wide diversity of flora and fauna – a characteristic it shares with the rest of the Central American isthmus connecting South and North America. Together with the rest of the region it combines expanding economic development with major inequalities and a rising poverty index. It also maintains a democratic political system and legal framework that favours environmental conservation but needs stronger law enforcement and compliance

With respect to environmental performance, the 2010 State of the Nation mentions that the ecological footprint measured negative; in 2010, each inhabitant needed 13.4% more available land to sustain his natural resource use pattern. Some 56% of pollutant emissions come from transportation, while 21% come from industry and 23% are produced by commercial establishments.

The country’s governing environmental body is the Ministry of the Environment, Energy and Telecommunications (MINAET). Passage of the Biodiversity Act in 1998 provided backing for the National System of Conservation Areas, which in fact had been operating for many years, unifying authority over forestry, wildlife and protected areas by bringing them together in territorial units called Conservation Areas. These areas integrate both protected and private areas for applying development and conservation strategies. At present, close to 26% of the national

territory is protected under primarily state and private governance schemes (State of the Nation, 2010). Of this, 17.19% is marine territory, including interior and patrimonial waters.

The country has recognized the indigenous peoples' territories as indigenous reserves, which are administered by development associations. Conceptually, these territories could be considered ICCAs, even though the traditional forms of decision-making followed by their inhabitants are not officially respected. The reserves have a total of 3,344 km<sup>2</sup> (5.9% of the total continental territory of the country) and include 24 territories and 8 different indigenous groups. In the latest national census, 63,876 people living in these territories considered themselves indigenous (1.7% of the total population). These indigenous reserves were recognized by the Indigenous Act of 1977, but the boundaries of each territory were set by executive decree.

The MINAET recently approved and published its 'Policies for Protected Areas', where the stated goal is "*to consolidate a system of protected wilderness areas for in-situ conservation that is comprehensive, effectively managed and ecologically representative of the country's biological diversity by means of the recognition, encouragement and strengthening of different governance models for guaranteeing a long-term supply of ecosystem goods and services.*"

As part of its principles, it mentions the importance of public participation and the need to incorporate local communities, indigenous peoples, Afro-descendant communities and civil society organizations so that their traditional and ancestral practices and knowledge can be recognized. The way to achieve this is through the CORAC and COLAC committees described in greater detail in the case study.

Costa Rica does not recognize itself as a multi-ethnic state. At present there is a constitutional amendment in Congress that proposes to change Article 1 to define our country as an "independent, free, democratic, and multi-ethnic and pluricultural republic". The amendment is currently under debate and according to established procedures will need at least two congressional periods for its approval. The country's laws do not recognize collective ownership, either. The only constitutional mention of this is in Article 76, Title VIII, on education and culture: "...The state will strive to maintain and cultivate national indigenous languages".

The view of land in an indigenous cosmovision entails sustainable use of natural resources. Hunting, agriculture and sacred sites are a part of the cultural identity that necessarily evolves in the territories.

There are other initiatives to promote governance models with civil society participation, such as the marine areas of responsible fishing. For example, the conservation efforts of three coastal marine communities have been legalized by the Board of Directors of the National Fisheries and Aquaculture Institute (INCOPECA) in its decision to recognize the Isla Chira, Golfo Dulce and Tárcoles marine areas for responsible fishing, each with a different governance scheme.

The process of getting different sectors involved in conservation has been a slow and – at times – controversial one throughout the country's history of protected area conservation. The connection between biodiversity and culture has not been fairly or adequately recognized in conservation and development policies, leading to obvious consequences and fierce socio-environmental conflicts throughout both the country's territory and conservation history.

The biggest roadblocks to the governance and management of conservation areas by indigenous peoples and local communities are the following:

- Even though the Indigenous Law recognizes their territories, collective ownership is not recognized. The land is registered to the ADI or individual members of the indigenous people. Since this form of ownership is not recognized, the collective development of conservation efforts is limited. For example, more inclusive ways to distribute conservation benefits become more difficult if solely individuals exercise ownership. This has been pointed out as one of the limitations of the program of payments for environmental services, as explained in the case study.
- The legal framework does not recognize traditional forms of organization or customary law. Thus, proposed policies, plans, projects and strategies follow a traditional pattern and fail to recognize the indigenous cosmovision.

- There is institutional resistance to accepting new conservation proposals from locals, depending on their education and culture. The imposition of a Western accounting, management and administrative model excludes many local groups and indigenous peoples.

The national system of national parks and protected areas has had limited success in complying with the principles of sustainable development. The system has not been able to successfully combine conservation with the social wellbeing of many of the local communities inhabiting these territories or adjacent lands. The National Indigenous and Peasants Round Tables, as two separate organizations, are part of the National Commission for Biodiversity Management (CONAGEBIO), also established by the Biodiversity Act of 1998. This commission has a mandate to draft national policy on conservation, sustainable use and access to genetic resources and the associated knowledge, as well as to ensure equitable distribution of the benefits deriving from biodiversity use. These two Roundtable organizations, which are opportunities for civil society, have the capacity to influence policy-making in this field, which they have done. Both organizations have promoted the bylaws for access to traditional knowledge of biodiversity. They provide contributions, seek advocacy opportunities and stay on the alert for promoting and recognizing the conservation efforts of local communities and indigenous peoples.

Some recommendations deriving from the analysis include:

- The Costa Rican state has ratified the CBD (Convention on Biological Diversity) and its PoWPA (Programme of Work on Protected Areas). There is still a need to implement the recognition of different forms of governance for protected areas, despite the fact that recognition is included in the policy for protected wilderness areas.
- Follow-up and support is needed for bills currently in the legislative pipeline: recognition of the Republic of Costa Rica as a multi-ethnic and pluricultural country; the law for the autonomous development of indigenous peoples; and the law on coastal territories.
- Awareness-raising is needed for the country's legal authorities who have to resolve situations in which the rights of indigenous peoples and Afro-descendant and local communities are seriously affected by applying obtuse, formal interpretations lacking a focus on human rights.

## **PANAMA**

### **Onel Masardule**

*(Note: the full case study is in Spanish; only the summary has been translated)*

This case study offers an analysis of the importance of ICCAs for biodiversity conservation in Panama and of their recognition by concerned government institutions, in order to assess the situation of ICCAs in Panama and to suggest possible strategies for their genuine recognition by the National Authority of the Environment (ANAM).

This analysis shows us that the management and use of the territories and lands of indigenous peoples (IPs) and local communities (LCs) is not adequately recognised and valued, and even less IPs' and LCs' own initiatives for biodiversity conservation. This situation has often triggered various conflicts between ANAM and IPs, especially where the government institution promotes the creation of protected areas without consideration for the traditional conservation practices of IPs and LCs.

The work consists of two parts: the first is to analyse the situation of ICCAs in Panama for their recognition by ANAM; and the second will be a legal review of ICCAs at the national, regional and international levels. The present paper explores the first component, offering a diagnostic and strategies to achieve ICCAs' recognition in Panama, and later it will be complemented by the legal analysis.

Due to time and resources constraints, we were able to present only one typical example of ICCAs – with the Guna people – from which to draw a general idea of other IPs' practices in Panama, and we are hoping to have the opportunity to conduct more detailed work and studies of each indigenous people in the near future.

The traditional conservation practices of the Guna people – illustrated in the conservation sites known as Galus and Birias – show evidence of significant contribution to biodiversity conservation in Panama, although other ecosystems outside from Galus and Birias also have played a role for conservation, such as mangroves, woods and others.

IPs' territories and lands—with their practices and customary laws—have enabled the conservation of natural resources in regard to the following aspects:

- They are spaces that have been protected since a long time by IPs themselves;
- They contribute to the production and protection of water sources;
- They serve as spaces for the reproduction of animal and vegetal species;
- They contain sacred sites used by indigenous peoples;
- They have a cultural and cosmogonic value that contributes to care for nature;
- Their means of cultural, spiritual and material life revolve around the natural resources of their territories and lands;
- They form cultural and biological corridors that help to connect conservation areas;
- They have developed knowledge and techniques that contribute to resources management, such as shifting agriculture (which enables natural regeneration of the soil), land use regulation and agroforestry;
- Collective management by IPs – based on local organization and norms – enables sustainable use of the resources and more equitable distribution of benefits.

Facing these observations, it becomes crucial to establish governance systems that respect the management of IPs' and LCs' territories and lands, understanding those systems as the full responsibility of IPs and LCs to manage their areas, protected or not.

This study is mainly based on the work related to the topic conducted within the author's organization.

## ASIA

### INDIA

**Neema Pathak Broome and Tushar Dash**

Spread over 3,287,240 km<sup>2</sup> and with a human population of over 1,21 billion, India represents a wide spectrum of biological, cultural and geographic diversity. It has been identified as one of the top 12 global biodiversity hotspots and has 91 eco-cultural zones inhabited by 4,635 ethnic communities. India also has amongst the largest indigenous/tribal population, constituting 8.08% of the country's population, representing 461 tribes. The term 'Indigenous Peoples' is not officially recognized in the country, instead the Constitution of India uses the term 'Scheduled Tribes'. The total forest cover is estimated to be approximately 20% of the total area of the country. About 1,70,379 villages with a population of 10,674,334 inhabit areas within or in close proximity to forests.

India has a rich history of community-based conservation with thousands of small and large areas where traditional forms of conservation exist or new forms of conservation have evolved. The conservation processes at these sites are deeply interlinked with the local culture, lifestyles and needs. The colonisation of India by the British in the 19th century brought about a watershed change in both consumption of biological resources and its conservation. Hunting – introduced as a sport of the elite – led to the extermination of a large number of animals; common property was nationalised by the State and handed over to centralised bureaucracy to manage; essentially State taking over rights and responsibilities over most common property resources.

As on 2011, there were 663 protected areas in India covering a total of 4.83% of the total geographic area. However, despite a rich tradition of community conservation in the country, the conservation laws and policies in post independent India were not built upon them but were a continuation of or based on the colonial policies and practices. Conventional conservation in India, therefore, is viewed as a formal process within government designated Protected Areas where any form of human intervention is normally considered harmful for the ecosystem/species being conserved. This exclusionary form of conservation has led to various conflicts between local communities

that use natural resources and government officials/conservationists and designated managers of these sites. Even in the recent times wildlife conservation policies and laws have continued to be more stringent towards access and use rights of the local people, while seeking nominal participation of local people by bringing in provisions such as Conservation Reserves and Community Reserves. The continued relocation of people for creating inviolate zones for conservation without following due processes is illustrative of this.

The relatively large network of conservation efforts by local people – what we will be referring to as ‘Community Conserved Areas’ (CCAs) – has remained largely invisible, unrecognized and hence unexplored for its potential for achieving conservation as well as their economic, cultural, and spiritual values. CCAs in India are extremely diverse, covering a variety of ecosystems, set up and managed for a range of objectives, and achieving different ecological, economic, cultural and social results. These include CCAs conserving forest ecosystems, marine and coastal areas, wetlands, individual species, sacred landscapes and elements, among others. The few studies that have been carried out indicate that CCAs lead to a number of socio-cultural, economic, political and ecological benefits. In addition, many government-designated protected areas in India contain or are contained within pre-existing CCAs and customary territories, indicating that substantial ecosystem/wildlife survive in the country due to past and present CCA practices. CCAs, however, face a number of internal and external threats. These threats often emanate from a lack of tenure security that most CCAs in India face, but also from inappropriate legal and administrative interventions, inadequate external support particularly from the State, party/power politics, internal inequities, changing socio-cultural scenario affecting local aspirations, exploitative and iniquitous markets, extractive and hydroelectric industry, unregulated and planned urbanization, economic disparities, among many others.

It is important therefore to provide a framework of support for CCAs in the country, which itself needs to be done in consultation with the CCAs themselves. In the absence of an existing framework it may be useful to explore what kind of support or potential support may already be available for CCAs.

In India, legally speaking, efforts to recognize and support CCAs have been very inadequate so far. However there are laws, policies and court orders that directly or indirectly provide some legal space for recognition and support of community conservation as well as restoration of commons under the control of the local bodies. These include, the Constitutional provisions and Panchayati Raj Act, including 1996 Panchayat (Extension to Scheduled Areas) Act – PESA. PESA had immense potential to provide for tenure security over forest produce, one of the major constraints for forest-dependent communities. The provisions of the Central Act, however, were substantially diluted in most state adaptations rendering the act nearly powerless and bringing about little real change on the ground. The category Community Reserves under the 2002 Wildlife Protection Act (WLPA), provides some space within the WLPA for local involvement for the first time but remain highly restrictive by seeking to assert control of the forest department on the private and community lands and prescribing uniform institutional framework. The category Village Forests under Indian Forest Act 1927 provides a space for the local communities to manage their forests with the same rights and responsibilities as the Forest Department but remains unused in most part of the country. Even where used this remains subject to state-made operative rules, which have substantially reduced local powers in states where it is applied. The 2002 Biological Diversity Act (BDA) and 2004 Rules have two provisions that can provide space for CCAs, via creation of Biodiversity Management Committees (BMCs) at the level of all panchayats and creation of Biodiversity Heritage Sites (BHS). While the former provides the responsibility to document biological resources and associated knowledge it neither provides legal security for the traditional knowledge nor any rights of access and use. The latter is a fairly new category and its usefulness still needs to be seen. The category Community Forest Resources under 2006 Forest Rights Act (FRA) and 2008 Rules, for forest dependent CCAs appears to be by far the strongest legal space as it provides to the community the right to use, manage, and conserve their traditional forests and resources therein. A combination of the BDA and CFR provisions are being used by some communities to provide a more holistic framework for governance and conservation of CCAs. Some state-level laws have helped CCAs, including for the management of Van Panchayats (Forest Councils) in Uttarakhand state, and forests under Village Councils in Nagaland.



In addition, the apex and high courts of the country have passed a number of judgments that can have both negative and positive impacts on the legal security of CCAs. For example, under the T.N. Godavarman Thirumulkpad v Union of India and Others, Writ Petition No. 202 of 1995, an order banned the state governments from removal of forest produce from any national park or sanctuary causing a huge impact on the livelihoods of several million people living in and around protected areas across the country. A more recent Supreme Court order on the protection of the commons could provide some space for ICCAs, though it has not yet been operationalised in any form.

The 1988 National Forest Policy recognised that – for the first time in the history of independent India – subsistence requirements of the local people needed to be given preference over the industrial needs vis-à-vis forests. This led to the emergence of government schemes such as Joint Forest Management (JFM) in forests and Eco-development Schemes in protected areas, which sought to regenerate forests in return of some benefits that the local people received. However, the schemes have had limited success, mostly where individual government officials or a more empowered community have been pro-active rather than the inherent strengths of these schemes; both schemes remain top-down and do not provide legal powers of decision-making to communities. The National Wildlife Action Plan 2002–2016 recognised the role of local people towards natural resources and envisaged some time-bound actions, which remain unimplemented for a variety of reasons. The 2006 National Environment Policy recognises that communities have traditionally protected common resources, and acknowledges that the exclusionary model of conservation has undermined wildlife conservation. It calls for expanding the country’s network of protected areas, “including Conservation and Community Reserves”, but does not specify how community rights and participation are to be ensured.

All of the above mentioned legal and policy provisions have their own strengths and weaknesses and most will need to be modified if they were to provide effective support the CCAs. Important to keep in mind is that mutual trust and respect is often more important in providing support than creating legal and administrative spaces. In India legal provisions and government programmes need to be implemented with trust and respect to counter a long history of an exclusionary governance framework. Sometimes minimal legal provisions can provide more support if all actors—government, civil society, community—have mutual trust and understanding, as has happened at several sites. In addition, as CCAs gain more recognition, support has also been trickling in, in the form of funding, help in documentation, research and mapping, technical help, etc. from government and non-government agencies. This includes a central government scheme on conservation outside protected areas, under which guidelines for funding CCAs have been formulated. It also includes support by several civil society organisations such as Kalpavriksh, WWF-India, ATREE, Foundation for Ecological Security, and others. What CCA managing communities are looking for most is a sustained mechanism for support, which is not necessarily for funding but for technical inputs, governance related inputs, ecological inputs and so on. Also a facilitation and redressal mechanism, and an active role of the State and other actors in supporting their management of resources is often envisaged by local communities, but on equal terms and in the capacity of a facilitators and advisors rather than rulers or regulators as is the current practice.

## **IRAN**

**Nahid Naqizadeh, Abbas Didari and Taghi Farvar**

Iran is a vast country in southwest Asia covering an area of over 1.6 million square kilometres. It lies on the world’s arid belt and 85% of its land area comprises arid and semi-arid regions harbouring rangelands, low-density forests and deserts. Overall, natural ecosystems cover about 80% of the country’s surface area, or 130 million ha – including 14 million ha of forest (nearly 9%), 85 million ha of rangeland (nearly 52%) and about 33 million ha of desert (about 20%). The population of Iran was estimated by the World Bank at about 75 million in 2011 with 70% in urban areas and 30% as sedentary local communities in rural areas and indigenous nomadic peoples). Various ethnic groups – including Arab, Baluch, Guilak, Kurd, Lur, Persian, Turk and Turkman – have different cultures, languages, traditions and customary systems of natural resource conservation and environmental governance.

The history of conservation by indigenous peoples (IPs) and local/traditional communities (LCs) goes back thousands of years and is based on their strong social organisation, identity, collective production, and adaptation of

their governance and management systems to complex ecological conditions in forests, rangelands, wetlands, marine and coastal areas and for water, fisheries and wildlife resources. Compared to this rich history, modern government management of forests and rangelands goes back only a century to the time of the Constitutional Revolution of 1906. As part of this, the government has established 241 protected areas (10% of the national territory), including 25 national parks, 32 national nature monuments, 40 wildlife refuges and 144 conservation areas under the Department of the Environment (DOE). Other designations such as UNESCO Biosphere Reserves and wetlands of international importance (Ramsar sites) are included in the same areas. In addition the Forests, Rangelands and Watersheds Management Organisation (FRWO) manages 131 reserves with a total area of over 111,000 ha. Of these, 19 are Natural Forest Parks, 91 are Forest Reserves, and 21 are Natural Parks.

Seeking ‘modernisation’ (in the sense of Europeanisation), successive Iranian political regimes and governments since 1921 have attempted to weaken the customary institutions of natural resource management and livelihood systems. This applies especially to the 700 tribal formations – consisting of some 100 tribal confederacies and 600 independent tribes of the country. Successive governments sought to achieve this through forced sedentarisation (1921-1941), and land alienation (1941-1979) as well as through inappropriate policies of ‘agrarian reform’ and ‘nationalisation’ of natural resources. While post-revolutionary governments glorified the bravery and patriotism of nomadic tribes and their essential role in the Revolution, the push for their sedentarisation came when the Founder of the Revolution passed away. Thus in 1992 the President as Chair of the High Council of Nomadic Peoples, ordered the elaboration of a 20-year Sedentarisation Plan funded through the Five-Year Development Plans. He emphasised that he wanted “not a single tent-hold to be seen migrating in 20 years’ time”. It is therefore only through a remarkable feat of resistance and resilience that the governance systems of indigenous nomadic tribes and traditional communities in Iran have persisted to this day, with their unique territory-based ICCAs.

As part of this process of resistance and resilience, the ICCAs of the IPs and LCs of Iran continue in a diversity of bio-cultural landscapes and ecosystems. These include a variety of wetlands, marine and coastal ecosystems, deserts, forests, rangelands and grasslands with their socio-economic, cultural, political and ecological values. The unique characteristics and values of these ICCAs are a powerful motivation for the promotion and revival of their natural resource governance and management systems in the ancestral / traditional territories of IPs and LCs. To this day the Indigenous Nomadic Tribes (INTs) of Iran can rightfully claim their territories to be indigenous conservation territories; ICCAs are therefore at least as old as the nomadic pastoral system in Iran (about 10-12 thousand years).

The indigenous peoples and local/traditional communities of Iran have their own traditional norms, and customary practices (such as qorukh, yurd, kham) and unique spiritual beliefs regarding natural resources. These systems have sustained their way of life for thousands of years, but in the recent past, have been forced to face issues that threaten their very existence. Chief among these threats are two: the induced weakening of the tribal governance systems and the resultant fragmentation of their territorial ICCAs.

Fortunately, in the last decade, some policy- and decision-makers as well as social activists working closely with the indigenous tribes have started a process of analysis that has brought some in-depth understanding to the problems of the past. They are keen to gather legal and technical support for the governance and management capacities and institutions of indigenous peoples and traditional communities for natural resources at large, and for ICCAs in particular. In so doing they are applying new approaches and concepts in natural resource management such as: the Territory-Based Sustainable Range Management Programme (TBSRM); Non-Equilibrium Ecosystems (NEE) science; and the IUCN protected area governance ‘type D’ (ICCAs), as well as innovative and traditional mechanisms for the recognition of ICCAs. The latter has clear implications for the government to show progress towards Aichi Target 11 and therefore can provide additional incentives for government recognition of ICCAs. The innovative mechanism involves recognition by a hierarchy of structures ranging from a Community Declaration on ICCAs through UNINOMAD and relevant CSOs to a National Multi-Stakeholder ICCA Support Council to the global system including the ICCA Consortium and UNEP’s World Conservation Monitoring Centre (WCMC). Discussions are going on with WCMC for this collaboration which will strengthen the national case and support their inclusion in national registries for Aichi Target 11 and other ends. An innovative interpretation of Article 44 of the Constitution by officials of FRWO and DOE is tending to help in the devolution of governance respon-

sibility back to IPs and LCs. Planned inclusion of specific components in the Fifth Five-Year Development Plan (such as the National Sustainable Range Management Programme) would enable support for TBSRM which is to be carried out by UNINOMAD and its Secretariat, and will make it possible for ICCAs to regain their prominence for conservation in the formal IUCN sense of the term (preservation of biodiversity, sustainable livelihoods based on the latter, in addition to restitution of any components that may be identified as necessary for maintaining the integrity of tribal ICCAs).

Government organisations such as the DOE and FRWO are member organisations of the ‘National Steering Committee’ of UNDP/GEF/SGP and have lent their support and approval to relevant GEF SGP projects focusing on ICCAs. In support of these projects there is a high level of collaboration amongst IPs/LCs, UNDP/GEF/SGP and Civil Society Organisations (CSOs) as well as relevant government organisations. SGP projects have focused on developing a better understanding of and support for the ICCA concept including building in components for preservation, restoration and sustainable use (livelihoods), awareness-raising, trust-building, debate, documentation, a Multi-Stakeholder Capacity Building Platform, advocacy, networking, and fostering of the recognition of ICCAs at all levels. All these have played a major role in moving forward the cause of ICCAs and establishing them as a serious phenomenon; and at times even a priority in the minds and agenda of authorities. A further by-product has been the mobilisation of support from international bodies both from inside and outside the country.

Strong efforts are being made for the promotion of ICCAs through solidarity among IPs/LCs. This has been achieved through social and economic strengthening of governing institutions at local levels (the nomadic camp, clan, subtribe, tribe and tribal confederacy) but also by establishing strong national organisations, such as the Union of Indigenous Nomadic Tribes of Iran (UNINOMAD) and the Union of Indigenous Camel Herders of Iran (UNICAMEL), and through mobilisation of indigenous nomadic tribal members of Parliament. These formal entities that represent the interests of IPs/LCs interact with policy makers and government authorities in promoting better understanding, recognition and support of ICCAs in the country. At the same time, the innovations mentioned above in the autonomous recognition process of ICCAs play a major role in opening doors to consultation of nomadic tribes and their participation in policy forums and processes.

Nevertheless, In Iran, governance and management rules for natural resources need reform to achieve full recognition and support to ICCAs. The concerned rightholders and stakeholders are actively seeking for appropriate solutions to this and recommend a roadmap that includes:

- Empowering IP and LC customary institutions (via renewed self-awareness, internal cohesion, engagement, and effective dialogue and collaboration with state agencies and with more powerful coalitions and federations at the national level) to stand up as legally recognised actors, capable of playing the major role in recognising the nomadic ICCAs, defending their territorial and other rights and positively influencing policy;
- ‘Appropriate integration’ of indigenous knowledge and ‘relevant modern science’ for the preservation, sustainable use and restoration of ICCAs in the five biomes of the country;
- Developing a broad national legislative framework for participatory governance and management of rangelands, forests, wetlands and coastal areas, capable of accommodating ICCAs.

The vision for ICCAs in Iran is that they will be fully recognised as entities self-governed through their revived customary institutions and laws by their own long-time associated IPs and LCs and their re-empowered federations. Their role would be recognised for both preservation and restitution of biodiversity and its resources, as well as for the sustainable livelihoods of the relevant communities, and contribution to the local and national economy. Linkages between local and national organisations governing ICCAs would be as vibrant as those between international organisations and national entities.

## **THE PHILIPPINES**

**Samson B. Pedragosa**

The Philippines is an archipelago composed of more than 7,100 islands with a total land area of approximately 300,000 km<sup>2</sup>. Its exceptionally high biodiversity makes it one of the 17 megadiverse countries in the world.

But it is also considered as one of the 25 biodiversity hotspots and disaster area. This diversity is also reflected in the country's 94,013,200 population (2010). The majority of the people in the country are basically of Malay stock made up of various ethnic groups. There are an estimated 171 different languages in the Philippines, 168 are living languages and 3 are extinct. The same numbers also represent the different cultural entities that speak these languages.

Successive colonization divided the Philippine population into those who acquired power from colonization and those who lost power because they avoided colonization. The 'indigenous peoples' were separated from the rest of the population to form a minority. The NCIP estimates the population of indigenous peoples in the Philippines between 12 and 15 million distributed into approximately 110 different ethno linguistic groups or 'cultural communities'.

The economy of the Philippines is the 46th largest in the world, with an estimated 2010 gross domestic product (nominal) of \$189 billion. A newly industrialized country, the Philippine economy has been transitioning from one based on agriculture to one based more on services and manufacturing.

Efforts at conservation or management of natural resources (or a semblance of it) in the country officially began in June 1863 when the Spanish Regime created the *Inspeccion General de Montes*. The Americans renamed *Inspeccion* into 'Forestry Bureau' in 1900. It was reconstituted into the Bureau of Forestry in 1953 and later organized into the BFD in 1975. In 1987, the BFD and the Wood Industry Development Authority (WIDA) merged to become the Forest Management Bureau (FMB) and the Protected Areas and Wildlife Bureau was created.

In June 1992, the National Integrated Protected Areas System (NIPAS) was established in the Philippines. In 1995, the Community-Based Forest Management (CBFM) was adopted as the national strategy for the sustainable development of the country's forestland resources. In 1997, the landmark legislation on IPRA was enacted to recognize, protect and promote the rights of indigenous peoples. It is well-documented and evidenced that centuries before the creation of the Philippine State, the various indigenous communities in the archipelago have been managing these resources since time immemorial through their traditional knowledge, systems and practices.

ICCAs in the Philippines include sacred sites, natural features, indigenous territories, and cultural landscapes and seascapes. They are the repository of the country's natural wealth and biological resources. They provide resources and livelihood, and a variety of environmental services. The extent and coverage of ICCAs in the Philippines is still to be determined. But the number of approved Certificates of Ancestral Domain Titles (CADT) is a good indicator. Ancestral domains contain ecologically valuable areas that have been sustainably managed by the local indigenous peoples.

The main threats to ICCAs in the Philippines emanate from lack of recognition and respect. Many of the communities governing them have no legal status and are not formally acknowledged for conserving biological diversity. They receive no assistance, protection or support from the State.

Governance and management of ICCAs varies among communities. But they are rooted in the common concept of stewardship. Governing and managing ICCAs is replete with challenges and issues rooted in the lack of respect for the rights of indigenous peoples to their ancestral domains and the resources therein.

ICCAs are not yet formally recognized as such in the Philippines. But the Philippine government has provided legal backing and an enabling policy environment for recognizing and supporting their governance and management. A number of non-governmental organizations have already recognized and supported the governance and management of the ICCAs. They have been advocating for the recognition and respect of the rights of indigenous peoples to their ancestral domains and their traditional resource management systems.

Lack of funds hampers the development of ICCAs. The imposition of external institutions has been a constant issue. But corruption is the worst challenge and threat. For instance, the FPIC process has unwittingly been used to facilitate the entry of so many large-scale extractive activities into the traditional territories of indigenous peoples, including mining, plantation development, and logging, among others.

Recognizing the rights of indigenous people and other local communities to govern and manage their ICCAs rectifies errors brought about by the tragedy of colonization. The current environment that allows them a measure of recognition and support in the governance and management of their ICCAs should be sustained and enhanced. Indigenous peoples, local communities, and their supporters in civil society would have to continue their engagement with the Philippine government to improve the policy, put more money in its implementation, and enforce the rules.

The Philippine government, along with the indigenous peoples and other local communities would have to find ways to deal with the key issues of recognition and support that are mutually acceptable and beneficial. To provide direction for the continuing advocacy for recognition and support of the governance and management of ICCAs in the Philippines, the indigenous peoples who attended the series of conferences on ICCAs that Koalisyon ng Katutubong Samahan ng Pilipinas (KASAPI) and the Philippine Association for Intercultural Development (PAFID) conducted, in partnership with the Department of Environment and Natural Resources Protected Areas and Wildlife Bureau (DENR-PAWB), has put forward a set of guiding principles for all activities, discussions, and involvement on this matter. It is important that the concept of ICCA should be popularized and made clearly understood by policy and decision makers in government, and advocates in civil society.

## **RUSSIA**

### **Andrey Laletin**

The Russian Federation, located in the Eastern Europe and Northern Asia, is the world's largest country in terms of area. The current system of 'Especially Protected Natural Territories' (EPNT) – areas protected by the State – has been established for about 100 years (since 1916) and is now composed of over 13,000 sites, covering about 11% of the Russian territory. The legislation provides a legal base for EPNT activities. The term 'indigenous peoples' in Russia only applies to peoples with a limited population (up to 50,000). Only 45 peoples in Russia are recognized as indigenous under the official list of indigenous peoples, and 40 of them live in the North, Siberia and the Far East, spreading over the territories of 28 provinces of the Russian Federation. Other five are located in central and southern parts of European Russia.

The term 'ICCA' (Indigenous Peoples' and Local Community Conserved Territories and Areas) is not used in Russia. Instead the term 'Territories of Traditional Use of Nature' (TTUN) is widely used in this country. The Russian Federation appears to have the only law within the entire Arctic that could protect ICCAs/TTUNs *de jure* (Ferguson & Viventsova 2007): the Federal Law On Territories of Traditional Use of Nature of Indigenous Peoples of the North, Siberia and the Russian Far East was adopted in 2001, and its Article 4 expressly states that one of the goals of TTUN creation is "*conservation of biological diversity in the territories of traditional nature use*". Yet, there is no TTUN at the federal level in Russia so far (Yakel 2010). The majority of officially registered TTUNs in Russia are situated in Khanty Mansy Autonomous Okrug ('territory'), which comprises 475 TTUNs and includes about 4000 communities. This figure is constantly changing (Anonymous 2011). TTUNs range from a few hectares to hundreds of thousands of hectares, but there is no database with precise figures available.

Unfortunately, at the *regional* level, TTUNs have received little attention in the legislation. Lands allocated to indigenous peoples were considered primarily as lands for traditional economic activities, not for nature conservation. Accordingly, provincial acts that exist in several regions of Russia often did not have regulations aimed at protecting the biological diversity of these areas with the participation of indigenous peoples or those rules were not sufficient. This approach soon gave negative results. Many so-called ancestral lands were left for industrial development of natural resources in various ways.

If adequately implemented, TTUNs would have the capacity to legally protect most *de facto* ICCAs in Russia. Indeed, according to the federal law, their purposes are:

- Protection of the traditional environment and livelihood of indigenous peoples;
- Protection and development of traditional culture; and
- Protection of traditional ways of using natural resources and biodiversity.

The sizes and borders of TTUNs must be sufficient:

- To support reproduction and protection of the biodiversity of plants and animals;
- For local/indigenous people to utilize nature;
- To protect historically developed social and cultural relationships of indigenous peoples; and
- To protect the integrity of objects of historical, cultural inheritance.

The borders must be determined by federal, regional and local organizations.

The federal law gives a clear role to the indigenous members and organizations of the local communities in establishing laws or regulations for each TTUN. Although the laws governing the use of resources within a TTUN must be in agreement with the laws of the Federation and regional governments, the regulations of the TTUNs are to be based on the traditions of the local indigenous communities. The clauses on the legal regime governing TTUNs seem to allow for either community management of resources or co-management with regional governments, depending on agreements that may be reached with those governments. Other residents, businesses and organizations may also use a TTUN as long as that use is permitted by regulations of the TTUN. Ownership of the lands and waters within TTUNs is not given to the indigenous peoples; nevertheless, the use of resources within the TTUNs is given freely to members of the concerned indigenous people.

Over the past decade, it has become clear that TTUNs were possibly created reluctantly, because this process encountered a lot of difficulties. The main problems concern the growing economic crisis, the suspension of subsidies, and the unprofitability of traditional economy. Many indigenous people drop the traditional nature uses and move to towns and other settlements in order to get other jobs and to earn a salary. Many indigenous people used to work in reindeer state farms for a low salary. Nowadays, the majority of indigenous people do not have enough resources, in many places up to 60-70% of the population is unemployed. The impoverishment of indigenous peoples is connected not so much with the 'economic crisis', but with the fact that over the last 10 years indigenous peoples were deprived of the access to the traditional natural resources in the places of their traditional settlements and land use as they were sold. The official unwillingness to establish TTUNs is linked with the fact that the status of TTUNs – established according to claims by indigenous peoples – would have prevented the sales of licenses on the use of land, forest and marine resources on those territories.

In the legislation of the Russian Federation, the role of indigenous peoples in conservation has not yet found sufficient reflection. The role of indigenous peoples with the executive government authorities and environmental agencies is poorly understood. In this context, a set of measures is required to improve the legislation of the Russian Federation, to prepare a public education program for TTUNs, and to attract indigenous peoples to participate in the practical solution for conservation and sustainable development. TTUNs should be included in the Federal Law On Specially Protected Natural Areas. The Federal Law On Ecological Expertise (EIA) should make additions related to the necessity of ethnological expertise in areas inhabited by indigenous minorities. In the Regulations on Environmental Impact Assessment of Planned Economic Activities on the Environment in the Russian Federation it is necessary to make additions or special provisions on impact assessment of planned economic activities in the original environment and traditional lifestyles of indigenous peoples. It should also develop a system of government measures to prevent or significantly restrict the use of land in the territories of traditional use of nature for mining. The review of previous claims by indigenous communities on the creation of TTUNs demonstrates their understanding of conservation goals of biodiversity, and cooperation in the field of nature protection in their territories of traditional residence and economic activity.



## AUSTRALIA AND THE PACIFIC

### AUSTRALIA

**Dermot Smyth and Chrissy Grant**

This report provides an overview of the history, extent, governance and management of Indigenous held lands in Australia and the contribution of these areas to environmental conservation.

A little over 200 years ago, the island continent of Australia was totally owned, occupied and managed by its Indigenous peoples – the Aboriginal people of the mainland, Tasmania and inshore islands, and the Torres Strait Islanders of the northern archipelago between the mainland and Papua New Guinea. The impact of British invasion and colonisation in the late 18th century resulted in great losses of Indigenous people, culture and ownership of land across Australia. Since the 1970s, following many decades of legal and political campaigning, a process of Indigenous land claims, land restitution and the recognition of continuing ‘native title’ has resulted in about 20% of the Australian land mass now being in Indigenous ownership.

Since the 1980s Indigenous people have begun reasserting their role as sustainable users and managers of Australia’s environments and natural resources, including through the establishment of independent Indigenous ranger groups, land and sea management agencies, Indigenous Protected Areas (IPAs) and through the joint management of national parks. Though the term is not currently used in Australia, much of these Indigenous managed lands could be regarded as ICCAs. In particular, IPAs, which are voluntarily declared by Indigenous people over their customary land and sea estates and recognised by all levels of government as part of the National Reserve System of protected Areas, are a major focus of Indigenous efforts to look after the natural and cultural values of the Australian environment.

The 50 declared IPAs comprise a total land area of 26.5 million hectares, which represents about 25% of the NRS, and another 40 IPAs are currently being planned. Planning and management of IPAs are supported financially through the Australian Government’s IPA program, and many IPAs have developed collaborative partnerships with other government and non-government organisations.

While Indigenous engagement in ‘caring for Country’ (Indigenous management of land- and seascapes belonging to customary estates) is increasing, and while there is growing recognition of the contribution of Indigenous people to the national conservation effort, Indigenous land managers face significant challenges. These include:

- Local and regional governance of large, remote areas of land with dispersed Indigenous populations;
- Managing rapid cultural and social change while maintaining traditional cultural values and land management practices;
- Addressing severe and growing environmental threats from introduced animal and plant pests and climate change;
- Securing sufficient resources to meet community demands for engagement in land and sea management.

Despite these challenges, caring for Country is providing a growing number of Indigenous people, many of whom have experienced sustained economic and social disadvantage, with new opportunities to participate in the contemporary Australian society and economy while undertaking activities that strengthen their cultural identity and community wellbeing.

### FIJI

**Hugh Govan, Stacy Jupiter and James Comley**

The Republic of Fiji shares with other independent Pacific Island Countries a globally unique situation in which most of the territory is under customary ownership. While this situation originally represented a considerable challenge to European models of protected area establishment, the past 15 years have seen a proliferation of Indigenous and Community Conserved Areas (ICCAs) mainly in marine and coastal areas where they are known as Locally

Managed Marine Areas (LMMAs). ICCAs comprise all of Fiji's Marine Protected Areas covering 1,772,600 ha and three quarters of the terrestrial Protected Areas or 38,000 ha.

Fiji's marine ICCAs do not have legal recognition and are driven by utilitarian and, to some extent, spiritual or stewardship values. The ICCAs are supported by government and NGOs alike under partnerships such as the Fiji Locally Managed Marine Area Network (FLMMA) and more recently the Protected Areas Committee (PAC). The LMMAs under the FLMMA Network form the basis not only for achieving national commitments to Protected Areas but also the main strategy for national inshore fisheries management.

The increasing pressure on natural resources exerted by increased monetization of the economy, moves to promote mining and other extractive industries, erosion of traditional governance and political and legal instability along ethnic lines (including 4 coup d'états and 2 abrogated constitutions since independence) represent threats demanding an increased attention to legal and institutional support of ICCAs. Terrestrial conservation is particularly neglected and under threat from potential land reforms and development.

Since the last coup in 2006 the legal situation is in a great state flux with the abrogation of the constitution, changes to the institutions and procedures for land management and the abolishment of the Great Council of Chiefs on the one hand and a large number of decrees and legislation under development such as the review of the Fisheries Act, Forestry legislation and Mining Act on the other. The rapidly changing legal situation provides opportunities and also risks for the recognition of ICCAs, which will need careful monitoring and input in what has been a hitherto uncondusive environment owing to the censorship and intimidation experienced under the Public Emergency Regulations which were only lifted in January 2012.

ICCAs are generally recognized to be core to the management of terrestrial and coastal resources, but greatly increased emphasis is required to develop strategies for building overall national approaches supported by government policy, legislation, budgetary and institutional mechanisms.

## EUROPE

### CROATIA

Iris Beneš

Croatia, a small country without any indigenous people left, shares similar issues concerning community conservation with neighbouring countries presenting similar political and social background – i.e. former socialist countries in the wider region of Balkans/South-Eastern Europe. The literature and expertise on community conservation are virtually non-existent and the few remaining cases resembling ICCAs are at risk of disappearing, due to economic and social pressures. Some ICCAs do still exist – in spite of unfavourable circumstances – but with no future unless some conditions drastically change.

Following the Second World War and the formation of the Socialist Republic of Yugoslavia (including Croatia as one of the 6 federal states), a nationalization process took place and all lands from the pre-war communal and common land communities were proclaimed 'common' in the sense of 'the land of the general public'. Forest management was transferred to the Ministry of Agriculture and Land or to 'People's Committees', and other types of lands management to the People's Committees or to 'Peasants Workers Cooperation'. The nationalization was conducted without compensation, and thousands of acres became state-owned land. The best land was subjected to agricultural intensification, but in some (e.g. flooded) areas this was not possible so the communities continued to exercise their common rights de facto.

These areas cover most ICCAs in Croatia today. However, this new classification raises certain questions: what is a 'community' in such ICCAs? Is it a local politically elected board of the local municipality, a grassroots CSO set up for community management, or is it a whole village including totally passive individuals, not interested and disconnected from ecosystems?

As a former socialist country, Croatia recognized so-called 'social ownership', which was in theory and by definition common (owned by society in general), but in fact mostly controlled either by the State or state companies or by socio-political dominant structures. Although envisaged to foster participation, the result of the socialist system was passivity and lack of care and responsibility for the commons.

During certain periods of its history, Croatia was divided between civil and military provinces, and parts of it were under the ruling of the different states and empires (Ottoman, Austrian, Hungarian, French, Italian, etc.). This led to differences still visible in the legal remnants concerning the so-called 'common property'.

The most important threats to ICCAs in Croatia today are: unclear legal governance regimes of former common grounds and overlapping of jurisdiction (water and forest companies, municipalities, nature protection bodies, direct users); disappearance of the last generation of pastoralists, population decrease and isolation in the rural areas; inefficient institutional support, sporadic funding, legal obstacles and ambiguities; and delicate balance between development pressures and nature protection efforts, particularly regarding land grabbing (golf courses, building sites and tourism).

In the past, sustainable agricultural practices were a way of life, people tried to live in harmony with nature and were aware of its importance for their survival. Being isolated, many rural communities nurtured their heritage and took pride in the tribal/communal identity. With industrialization and economic progress, agriculture turned into a profession, and not a competitive or desirable one. ICCAs in Croatia – and in the region – survived where, for certain reasons (isolation, depopulation, bad land quality), this process did not take place. They somehow managed to stay under the radar, live around the current legislation, enabling them to preserve their uniqueness.

Several laws, programs, local strategies and action plans are currently being discussed in Croatia, which could influence profoundly the nature protection and agricultural sectors, both important for ICCAs management. The new Nature Protection Act is currently going through the public hearing procedure, and the Agricultural Land Act will be amended by the end of the year 2012. Unofficial announcements indicate that the changes to be made will not favour any of the community conservation modalities.

Those changes are known only by the limited circle of people involved in the revision process; while the wide public and most CSOs having no mechanism to follow such changes or participate in the process, despite the Aarhus convention's provisions. CSOs' biggest contribution is not only about enabling the articulation of the problems through the participatory mechanisms, but the possibility for advocacy and lobbying for the otherwise marginal groups (rural CSOs, PCs, rural municipalities) mostly affected by this new legislation. With laws, strategies and incentives better tailored for the community and their specific problems, the rural population has a chance for the survival and the evolution of traditional ways of nature management.

An effort should be made to find the most suitable way to also include the hard-to-reach and passive parts of what was once a unified community. It is important to assess the capacities of the ICCAs, their motivation to participate in policy debates, their will to be included in networks on a national and international level, their current organizational and administrative skills; and to offer them assistance, know-how exchange and capacity building with other similar ICCAs in the region.

Communities living in protected areas whose activities are crucial for the preservation of habitats, species and ecosystems should be included in protected areas management through innovative means of co-management (Cooperation Councils, Cooperatives, consultative meetings, etc.). The most important is to find the balance between economic development – needed for retaining the population in such areas – and nature protection efforts.

## **ITALY**

**Marco Bassi**

The concept of ICCA was introduced and first discussed in Italy during two workshops held in 2004 and 2005. The notion very well fits the tradition domestically known in terms of common properties (CPs) and 'civic uses' lands

(proprietà collettive e demani civici), a category referring to lands and the natural resources used in common by a community. The CPs and civic uses lands have been quantified to be about 10% of the national territory. As shown in the table below they include a diversity of governance solutions derived from their different historical recognition.

### Classification of Common Properties and Civic Use Lands in Italy

Civic Use Lands					
Common Properties					
Land owned by the government or private entities	Land formally owned by the community			Self-administered Common Properties	
				Land owned by the community with the legal status of association (with Statute)	
Undemarcated land under secondary civic uses rights by the local community	Land demarcated in result of liquidation of civic uses after 1927			Derived from liquidation of civic uses during the early unitary Italian State (Università agraria type)	Recognised before the unitary Italian State (Mountain and Plains types)
	Administered by the municipality	Administered by a board accountable to the municipality	Separate Administration Administered by a board accountable to the community	Administered by a board accountable to the community	
				Internal rules set by national and regional law	Relevance of customary rules
Open membership (residence)				Open membership – registered	Prevalently close membership (descent) – registered

The legacy of common property and use in Italy dates back to the Middle Ages. Some valley-based communities in the Alps (northern Italy) managed to achieve a relevant degree of political autonomy and self-government and to maintain it until the 19th century. They codified customary law concerning common use of forest and pasture. Elsewhere communities were allowed to exercise secondary rights to collect firewood, graze their livestock, hunt and gather wild plants on lands formally owned by the Church, the Crown or feudatory. In the Padan Plain (northern Italy) some communities were given stronger titles over certain land areas in return for various services.

From the 16th century Italy fell under foreign domination and failed to go through the land use changes that characterized other European countries. This only happened in result of the brief Napoleonic phase (1802-1814). The Napoleonic States established in northern and southern Italy attempted to reorganise the administrative structure and to rationalise agriculture by abolishing the prevalent feudal system, along with the practice of multiple land use. In the Alps the Napoleonic government transferred the control of the common pool natural resources to the newly established municipalities. The most organised communities reacted by engaging in a long sequence of appeals, demonstrations, advocacy efforts and complex court cases protracted under the different State formations and historical phases of the Italian unitary State. Only after the Second World War they progressively regained their lost rights with the legal status of self-administered CPs. In southern Italy the pre-unitary States engaged in a strong policy of ‘liquidation’ of the community’s secondary rights of land use – the ‘civic uses’. In compensation for their lost rights the local communities were recognized to own in common portions of the previously accessed land. However, the management of such ‘civic uses lands’ was entrusted to the municipalities rather than to the communities themselves. The legislation of the early Italian unitary State (late 19th century) provided for communities to self-administer the ‘liquidated’ civic uses lands in form of modern association, but only in the territories that were part of the Papal States, in central and north-central Italy. In 1927 the fascist regime introduced a new legislation at national level, inspired by the southern Italian legal model of liquidation of civic uses.

CPs and civic uses lands in Italy achieved recognition under agricultural law and were particularly associated to the agro-forestry and pastoral sector. They have been subject to regulations of restrictions on change of land use

and protected by provisions of inalienability and indivisibility. As environmental concern grew in the country, they also progressively acquired legal features associated to the environmental protection sector. From the 1980s they were declared subject to the national legislation on landscape protection. From the 1970s Italy started a policy of regional devolution in both the agricultural and environmental sectors. Its implementation was slow, but it gave opportunities to develop innovative solutions based on local traditions. In 1990 the *Comunità delle Regole d'Ampezzo* – a strong CP in the Alps – obtained from Veneto Region the establishment of the Natural Park of the Ampezzo Dolomites, including portions of their common lands. Soon after the Region also entrusted the same community with full responsibility concerning the management of the regional park. In 1996 the same region approved innovative law to promote the revitalisation of the ancient CPs, binding them to measures of environmental protection.

In 1991 Italy approved the first Framework Law on Protected Areas. Building on the existing legislative experience it opened up new opportunities for the CPs to engage in the official protected areas according to regional legislation. Yet, the full potential of CPs and civic uses lands for biodiversity conservation is far from being adequately studied, acknowledged and valorised in the country. The relevance of CP and civic uses lands is confirmed by the high degree of overlapping of community's land with the official protected areas, with the EU Natura 2000 sites and the UNESCO World Heritage Site of the Dolomites. However, communities are excluded from direct involvement in the governance and management of the national parks, and no support is provided for their on-ground action of conservation. Legal recognition in a sector different from biodiversity conservation empowered the most successful CPs to independently operate in the complex EU policy environment by establishing a management board accountable to community. They achieved financial viability by a stronger market integration of their traditional eco-compatible economic activities, for instance by achieving international certification of wood and food products, by engaging in the tourism business and in the official protected areas system, and exploiting new opportunities in telecommunication infrastructure and in the green economy. They have been supporting the local economy through direct employment, contracts to private enterprises for environmental management and by generating an enabling environment for the community's economic activities. The wealthiest CPs have also systematically engaged in promoting social and cultural initiatives on behalf of the broader community. Many efficient CPs – including communities that had previously opposed the establishment of national parks on their territories – were also able to engage in the environmental EU programmes compatible with local livelihoods and traditional economic activities.

However, the majority of the Italian CPs is too small or too weak in term of governance to achieve financial viability. In addition, most of the civic uses lands, especially in the south of the country, are currently under the formal administration of the municipalities and exposed to inappropriate occupation of land, legal but ecologically unsound private investments based on agreements signed with the public administration, and expropriation for development infrastructure. Even the well-established self-administered CPs need to continue their efforts to bring out the difficulties produced by legislation contradicting the key legal protections of CPs and civic uses lands. Additional problems are generated by inconsistency between national and regional law, and across regions.

The strong tradition of advocacy led by the communities themselves, the presence of several relevant research centres and of the Consulta Nazionale della Proprietà Collettiva – a self-established national advisory body organised along regional lines – provide a fertile ground for the implementation of the initiatives still required to strengthen ICCAs in Italy. This study has identified several needs, including:

- Promoting a better understanding of the conservation role played by the Italian CPs and compiling a register of the CPs fully featuring as ICCAs;
- Promoting comparative studies and advocacy at EU level;
- Defining the equivalence between the terminology prevalent in Italy and the one adopted in the international context of the CBD.

Concerning the weak CPs and civic uses land that have a potential to become ICCAs (see table below) the following priorities have been identified:

- Addressing the north-south gap with additional studies and specific policy;

- Strengthening governance of civic use land by empowering the communities;
- Strengthening performance of the small and weak CPs and their capacity to articulate plans in the field of conservation of biodiversity.

### Potential or weak ICCAs in Italy – recommendations for action

Existing situation	Specific problems/issues	Main required actions
Middle level and surplus budget CPs relevant for biodiversity but not yet included in any environmental programme.	Lack of environmental awareness.	Awareness building; information sharing; diffusion of best practices; providing incentives tied to biodiversity conservation.
CPs with territory overlapping with official protected area but playing no governance or management role for it.	Lack of responsive institutions; disempowerment.	Amendment of national and regional PA law. Social recognition to improved practices.
CPs with weak management board (very relevant in northern and, especially, central Italy).	Poor capacity to benefit from the European policy environment.	Pooling resources, forming local associations of CPs.
CPs administered by municipalities (very relevant in central and southern Italy).	Stronger exposure to the territorial threats and other abuses.	Policy to firmly establish the community administration of CPs as distinguished from municipal administration.
Undemarcated lands under 'civic uses' rights (very relevant in southern Italy).	The responsible community and the common land have not yet been defined or demarcated.	Building awareness about community rights; enabling legal and policy environment leading to the demarcation of land and allocation of responsibility to relevant communities.

## SPAIN

### Sergio Couto

Although many and vast areas of Spain fit the definition, the term 'ICCA' is virtually unknown to both the general public and the administration. However, the management of common lands and/or resources by local communities is a habitual, extremely diverse and quite often ancient phenomenon in Spain and in most cases this type of local management has preserved highly valuable and well-conserved ecosystems, some of which directly depend on this traditional management for their survival. For this reason, most commonly managed areas in Spain can be considered potential ICCAs, although any given potential ICCA must have some sort of specific assessment – including community participation processes – to be considered as such. Taking all this into account, the study of the ICCA phenomenon in Spain requires focusing on the common property, management and exploitation processes held and implemented by local communities, something that has been well researched by specialised academic groups in Spain, generally speaking. On the other hand, when referring to the concept of an ICCA, we recommend using the term *Área de Conservación Comunal* (Common Conserved Area) in Spain, as the word 'indigenous' is a confusing and controversial one in the Spanish context.

Because of the extremely diverse kinds of potential ICCAs in Spain, it is not possible to establish a minimum set of common characteristics without using descriptions that are at times too general and can have too many exceptions. To avoid this problem, we have grouped the most important kinds of potential ICCAs according to the natural resources they manage and depend, or used to depend, on.

*Pastoral ICCAs* are one of the most important groups of ICCAs in Spain. Most grazing lands in Spain are common, especially in the highlands, and their governance institutions are extremely old. The environmental benefits of traditional grazing management in Spain are among the best studied and most recognised of all the Spanish ICCAs. Although pastoral ICCAs are increasingly supported by the administration and society in general due to the cultural, environmental and socioeconomic values associated with their extensive stockbreeding, the sector is undergoing a long, profound crisis related to lower incomes, the lack of young people to replace the older generation, rural depopulation, the lack of participation in decision-taking processes handled by the administration and changes in land use.



*Woodland ICCAs* are facing similar threats with the difference that there are three main kinds of very different woodland ICCAs in Spain, each with a different denomination and historical legal, social and administrative framework. Tentative surface data are only available for the two smaller woodland ICCAs in Spain, which cover more than 2 M ha. Although common property is acknowledged in the Spanish Constitution, some kinds of woodland ICCAs are working hard to update and clarify their legal status today. Woodland ICCAs are among the oldest ICCAs in Spain, although, generally speaking, they are among the most threatened at this time, with a high rate of disappearance (it is believed that there were between 4.7 and 17 M ha, depending on the author). Furthermore, they have suffered more than other ICCAs due to privatisation and alienation processes, including the various Disentitlement Laws enacted over time.

*Hunting ICCAs*, on the other hand, are one of the most widely recognised ICCAs in Spain, with a clear, specific legal and administrative framework. Their recognition has increased, especially over the last few decades, and Hunting Societies (the Hunting ICCA governance body) currently manage a total of 6.4 M ha in Spain. Today, the extreme social, economic and environmental importance of Hunting ICCAs in rural areas is slowly being recognised, although research into the environmental and socioeconomic impact of the activity is still remarkably lacking. The introduction of management models in Hunting Societies and the spread of demonstration initiatives for common hunting management could provide exceptionally valuable tools for biodiversity conservation in Spain, especially taking into account the social and geographical potential and self-government capacity of these areas.

*Water management ICCAs* are very important across Spain. As is the case with most ICCAs in Spain, they date far back in history and are based on local governance bodies that are more or less recently fully acknowledged in administrative and legal terms. However, this traditional form of management is experiencing rural abandonment problems in the less productive agricultural areas like mountain and subdesertic areas and is disappearing in areas undergoing great transformations, for example territories where large-scale urbanisation processes are taking place.

*Marine ICCAs* in Spain are managed by around 230 *Cofradías*, ancient local governance bodies that manage the common exploitation of all coastal professional fisheries in Spain. 83% of fishing employment in Spain is based on the common management of the *Cofradía* system, which includes 95% of all Spanish vessels. Although there is full legal and administrative recognition of *Cofradías* in Spain because of their socioeconomic importance, the *Cofradías'* traditional and small-scale fisheries are facing a social and economic crisis at European level and are still absent or totally under-represented when European Community, national and regional fishery policy decisions are being taken.

In many ICCAs, threats related to traditional uses and rural areas converge: land use changes, rural depopulation, agricultural intensification, lack of effective sustainability criteria and no acknowledgement of environmental externalities. This is exacerbated by some of the ICCAs' internal problems related to the deterioration of their governance capacity and participation processes, the difficulties in preserving their cultural identity and the lack of scientific criteria and technical tools to develop compatible biodiversity conservation exploitation models.

To handle these threats and maximise the ICCAs' potential as an effective tool for biodiversity conservation, there is an urgent need to promote social and administrative support for the recovery of the ICCAs' cultural heritage, as well as to defend and promote the full inclusion of self-governing ICCA models in the current legal system, a process recently started by some NGOs and administrations, although local communities must be more demanding and accelerate this process in order to prevent irreversible cultural loss.

The results of this study reveal the importance of ICCAs in Spain and that their potential for biodiversity conservation is both obvious and enormous, as local communities commonly manage many of the resources of the Spanish coastline (which extends around 8,000 km) and more than 10 M ha of the forests and mountain areas and many other natural and rural areas. This potential for biodiversity conservation is further augmented by the fact that the areas mentioned are highly valuable in terms of biodiversity, both at national and European level, as well as on a global level, since they form part of the Mediterranean basin hotspot.

It is also clear that today in Spain, ICCAs have an increasing potential for biodiversity conservation, especially considering that the current conservation model implemented directly by the administration – which lacks

profound and effective participation processes, especially in rural areas – is exhausted because of the absence of new ideas, the many inherent limitations in the administration and, currently and for the foreseeable future, extremely tight budgetary restrictions. For this reason, it is urgently important to support the efforts of these communities in developing quality legal and technical advisement tools to improve traditional natural resource exploitation models with scientific and technical criteria that can both guarantee optimal natural resource exploitation and the promotion and enhancement of biodiversity. Another priority must be to implement awareness-raising campaigns at several levels, addressing ICCA communities, the administration and society in general to promote the existence of ICCAs and their contribution to society. A key part of this effort could be the support and dissemination of pilot and demonstration projects, as well as the implementation of specific national and EU-level programmes to handle current threats to ICCAs.

## **UNITED KINGDOM (ENGLAND)**

**Helen Newing**

The four parts of the United Kingdom (England, Wales, Scotland and Northern Ireland) have very distinct social and political systems and therefore this case study is limited to England alone. England covers an area of 130,281 square kilometres with a population of about 52 million, and is highly industrialised. Very few people are economically dependent on local natural resources and in 2009 only about 19% live in rural areas.

There is no formal protected areas designation in England that corresponds to the international category of ICCAs and awareness of the concept of ICCAs is almost non-existent in England at the local level. However there are many areas of traditional common lands that have some of the characteristics of ICCAs, and there are thousands of wildlife-rich areas that have been set aside over the past 30 years by local communities, with varying levels of protection and security, for their wildlife and recreational value. These include town or village Greens – areas that are legally designated based on evidence of customary recreational use by local people over a period of at least twenty years – and non-legal categories such as community woodlands, community orchards, community meadows and community nature reserves. Any attempt to evaluate which of these sites qualify as ICCAs must do so with reference to the three criteria for ICCAs set out in international policy: (i) that there are identifiable local communities related to them; (ii) that local communities are the major players (and hold power) in decision making and implementation of management decisions, and (iii) that the voluntary management decisions and efforts of such communities lead towards the conservation of habitats, species, ecological services and associated cultural values. In this report, areas that meet the first and third of these criteria are referred to as ‘potential Community Conserved Areas’ (pCCAs). Whether the local community is the ‘major player’ in governance – the remaining criterion for ICCAs – is hard to assess, both because of the lack of available information and because governance of sites almost always involves multiple actors at multiple scales. Some individual sites are highlighted in this report that appear to be governed primarily by the local community.

Commons are legally defined in England as lands that are subject to communal use rights by people other than the landowner. Many commons are extensive areas of upland and are of economic value for commercial livestock farming, but most other pCCAs are valued principally for their social and cultural significance, especially in terms of contact with nature and wildlife. Threats include (i) site destruction through conversion to other forms of land use and (ii) deteriorating site condition, caused either by visitor impacts or by changes in management institutions and activities.

Institutional arrangements for governance of pCCAs are very variable. Commons are managed by statutory co-management boards, informal commoners’ associations or local government. The 2006 Commons Act includes provision for the creation of statutory Commons Councils, but by 2011 no such Councils had been created. Formal responsibility for management of Greens lies with the local government but in many cases the local community takes the lead in management. Community involvement in management of other forms of pCCA may be through parish councils, charitable trusts, or Friends’ groups and other informal institutions. Land ownership

is an important, though not definitive, factor determining the level of control held by local communities. More detailed criteria need to be developed on how the governance criterion for ICCAs should be applied in England.

Many pCCAs are formally designated as commons, Greens or protected areas. Protected areas designation gives significant management responsibility to government institutions and can also introduce onerous administrative burdens, and this discourages some community groups from applying. However designation can also ensure government support, which is important for many community groups. At many sites there is a healthy collaboration between community groups and government institutions and in practice the community may be the main actor in governance even where they do not hold formal management responsibility, especially where the government body lacks resources for anything more than basic maintenance. Recognition of sites as ICCAs is also possible through registration on UNEP-WCMC's international ICCA Registry, and a mechanism has recently been developed by the UK National Committee for the IUCN by which ICCAs can apply for inclusion on the IUCN's World Database of Protected Areas. However there is as yet little awareness of these mechanisms. Most community groups also receive some level of funding and support from a range of government and non-governmental sources.

Negotiating the complex funding system, identifying available grants, and dealing with over-complex or technical application procedures represent major challenges for many local voluntary groups. There is also frustration at the lack of continuity in support and widespread concern about sharply falling funding connected to public spending cuts and the economic downturn. Severe cuts in government spending and a parallel fall in philanthropic giving for environmental projects in the UK have created a funding crisis that is likely to restrict the extent to which local communities can take responsibility for governance and management of pCCAs.

Recent and planned changes in policy and legislation, together with the current funding crisis, mean that the context for pCCAs in England is changing rapidly. The 2011 Localism Act and the 2012 National Planning Policy Framework devolve substantial planning powers to local authorities and communities, including powers to designate 'Local Green Spaces', which could become an important new form of pCCA. However policy and legislation are yet to be developed on the responsibility for governance of these Local Green Spaces, on the resources that will be made available for their management, and on the level and mechanisms for their protection.

The recommendations arising from this article are as follows:

- In connection with recognition of ICCAs within the UK protected areas system:
  - Protected areas legislation should be reviewed in order to consider possible mechanisms that allow for formal management responsibility to rest with local communities.
  - Natural England (the English government body responsible for nature and landscape protection) should ensure that management strategies, rules and restrictions for specific protected areas (especially SSSIs – Sites of Specific Scientific Interest) are developed on a site-specific basis in collaboration with owners and occupiers. In the case of commons with active commoners' associations, they should take due account of traditional ecological knowledge and customary practices.
- In connection with other forms of recognition:
  - National government and non-governmental organisations should initiate a systematic process of information dissemination and awareness-raising on ICCAs. As part of this process, local community groups and their supporters should be made aware of both the ICCA Registry and the opportunity for inclusion on the IUCN World Database on Protected Areas.
  - Research is needed that (i) informs the development of more detailed criteria for ICCAs governance in the context of England and (ii) based on these criteria, determines the numbers, coverage and conservation value of England's ICCAs.
  - Clarification is urgently needed on various aspects of implementation of Local Green Spaces – on who will hold responsibility for their management, and what financial and material support will be available, and what form and level of protection will apply.
- In connection with support:
  - Government funding and support for community conservation initiatives should be maintained at least at current levels, both direct to community groups and also to the many government institutions and

non-governmental organisations that support them. Funding schemes should be simplified to minimise the complexity and bureaucracy involved.

- More of the available funding should be aimed at stable, long-term support rather than short-term high-profile projects and programmes. This will allow community groups, NGOs and government bodies to plan on the medium to long term and to build stable institutional structures and activities.
- Research should be developed to build a better understanding of what kinds of recognition and support are most cost-effective for different kinds of groups and at different stages in their development.

## ANNEXURE 4: RESOURCES FOR CBD PARTIES AND OTHER ACTORS

(Key references, websites, organisations, tools, etc.)

### Key References

#### 1. Review of ICCA-related legislation, policies and institutions (2012)

Jonas, Harry, Ashish Kothari and Holly Shrumm. 2012. *Recognising and Supporting Conservation by Indigenous Peoples and Local Communities: An analysis of international law, national legislation, judgments, and institutions as they interrelate with territories and areas conserved by indigenous peoples and local communities*. Natural Justice, Bangalore and Kalpavriksh, Pune/Delhi.

The ICCA Consortium conducted research in 2011-2012 on the effects of international and national laws, judgments, and institutional frameworks on the integrity of ICCAs. It also explored the ways in which Indigenous peoples and local communities are working within international and national legal frameworks to maintain the resilience of their ICCAs. The study comprises an overview analysis, regional overviews and 15 country-level reports. This briefing note sets out the key findings and recommendations of this study, and incorporates the key findings and recommendations of the study on ICCA Recognition and Support that this volume contains.

PDF version available on the CD. Detailed country case studies and regional overviews are available at [www.iccaforum.org](http://www.iccaforum.org).

#### 2. Governance of Protected Areas: from Understanding to Action (in press)

Borrini-Feyerabend, G., N. Pathak, N. Dudley, T. Sandwith and B. Lassen (in press). *Governance of Protected Areas: from Understanding to Action*. GIZ, ICCA Consortium, IUCN/CEESP/WCPA, SCBD. IUCN, Gland.

The document has been developed as a response to a call from the Parties to the Convention on Biological Diversity (CBD) for resources, tools and capacity development around Protected Area Governance, to further the implementation of the CBD Programme of Work on Protected Areas (POWPA). Indeed, the Element on Governance, Equity and Rights of the POWPA is still the least implemented, and the Parties and Secretariat felt the need for support resources and a more systematic approach to assessing and improving PA governance. This document is designed to contribute to this. The document contains an overview of the concepts and scope of 'Governance of protected areas', as well as an overall framework to assess and evaluate governance at the level of protected area systems and at the level of protected area sites.

Will be available on <http://www.iucn.org/wcpa> and <http://www.iucn.org/about/union/commissions/ceesp>

#### 3. WCPA Guidelines for Protected Areas Legislation (2011)

Lausche, B. 2011. *Guidelines for Protected Areas Legislation*. IUCN, Gland, xxvi + 370 pp.

The purpose of these guidelines is to update and expand the original guidelines on protected areas legislation published in 1980 and to reflect new developments and emerging issues. These developments include significant advances in international environmental law, and an improved scientific understanding of the role of protected areas in nature conservation, including conserving biodiversity, maintaining ecosystem functions and supporting sustainable development.

PDF version available on the CD.

#### 4. Management of Environmental Quality – Special issue on traditional agricultural landscapes and community conserved areas (2011)

Brown, J. and A. Kothari (guest eds.). 2011. Traditional agricultural landscapes and community conserved areas. Special issue of *Management of Environmental Quality: An International Journal*, Vol. 22, No. 2, pp.139-266.

This special issue of Management of Environmental Quality brings out some of the key papers presented in a session on 'Traditional agricultural landscapes and community conserved areas', convened as part of the 11th International Congress of Ethnobiology (Cusco, Peru, 2008). They explore the linkages between these landscapes, their natural and cultural values and diverse systems of traditional management and governance. Included in this compilation are conceptual framework papers, general review papers and case studies from different regions of the world.

PDF version of Introductory Overview by guest editors, available on the CD.

### **5. CEESP Briefing Note 10 on ICCAs (2010)**

IUCN/CEESP. 2010. *Strengthening what works – Recognising and supporting the conservation achievements of indigenous peoples and local communities*. IUCN-CEESP Briefing Note 10, May 2010, CENESTA for GEF SGP, GTZ and IUCN-CEESP, Tehran.

CEESP – the IUCN Commission on Environmental, Economic and Social Policy – is an interdisciplinary network of professionals whose mission is to act as a source of advice on the environmental, economic, social and cultural factors that affect natural resources and biological diversity, and to provide guidance and support towards effective policies and practices in environmental conservation and sustainable development. Amongst other things, it regularly releases briefing notes in order to do so. This briefing note is about recognizing and supporting ICCAs, with a focus on lessons learned.

PDF version available on the CD.

### **6. Companion Document to CEESP Briefing Note 10 (2010)**

Borrini-Feyerabend, G. et al. 2010. *Bio-cultural diversity conserved by indigenous peoples and local communities – examples and analysis*. ICCA Consortium and CENESTA for GEF SGP, GTZ, IIED and IUCN-CEESP, Tehran.

This larger document provides the examples and analysis underlying the policy advice contained in the Briefing Note. The document can be read in conjunction with the Briefing Note or as a stand-alone, as main concepts are described again here. Although their existence is as old and widespread as human civilisation itself, ICCAs have emerged only recently as a major phenomenon in formal conservation circles. International policies and programmes, notably those of the IUCN and the CBD, encourage today all countries to recognise and support ICCAs as examples of effective governance of bio-cultural diversity. It is clear, however, that such recognition and support need to be carefully tailored, and cannot be improvised. IUCN/CEESP's Briefing Note no.10 and this document of complementary resources offer advice about that, addressing governments, civil society organizations, indigenous peoples and local communities engaged in collaboration, support and joint learning about ICCAs.

PDF version available on the CD.

### **7. Sharing Power: Learning by doing in co-management of natural resources throughout the world (2009)**

French – augmented – version: Borrini-Feyerabend, G., Pimbert, M., Farvar, M. T., Kothari, A., et Renard, Y. 2009. *Partager le pouvoir: Cogestion des ressources naturelles et gouvernance partagée de par le monde*. IIED et IUCN/CEESP/TGER, CENESTA, Téhéran.

English version: Borrini-Feyerabend, G., Pimbert, M., Farvar, M. T., Kothari, A., and Renard, Y. 2004. *Sharing Power: Learning by doing in co-management of natural resources throughout the world*. IIED, IUCN/CEESP/CMWG, CENESTA, Tehran.

At the heart of 'co-management' of natural resources is a process of collective understanding and action by local communities and other social actors. The process brings about negotiated agreements on management roles, rights, and responsibilities, making explicit the conditions and institutions of sound decentralised governance. De facto, co-management is about sharing power. The publication is designed to support those who wish to better



understand collaborative management processes and to develop and enhance them in practice. The experience of social actors learning by doing and improving their management practices on an on-going basis has informed this book, as have the complex and inspiring ways by which socio-political conditions can be improved through participatory democracy.

PDF version available on the CD.

### **8. Policy Matters – Issue on Conservation and Human Rights (2007)**

IUCN-CEESP. 2007. Conservation and Human Rights. *Policy Matters*, Issue 15, July 2007, IUCN, Gland.

*Policy Matters* is the journal of the IUCN Commission on Environmental, Economic and Social Policy – CEESP. It is published at least twice a year and distributed to CEESP's 600 members, as well as the IUCN Secretariat and at conferences and meetings throughout the world. When possible, it is published concurrently with major global events as a thematic contribution to them and to the civil society meeting around them.

This issue draws from the observation that conservation has too often undermined human rights, most clearly through protected area-related displacement and oppressive enforcement measures. However, conservation and human rights can also work in mutual support; some mechanisms, practices, policies and principles guiding conduct appear successful in responding to the challenge of their integration. The human rights perspective can provide us with the foundations of an analysis of power, the beginning of an explanation of why we live in a world where injustice and ecological destruction are so pervasive and intertwined.

PDF version available on the CD.

### **9. Policy Matters – Issue on Poverty, Wealth and Conservation (2006)**

IUCN-CEESP. 2006. Poverty, Wealth and Conservation. *Policy Matters*, Issue 14, March 2006, IUCN, Gland.

In this issue, the links between poverty and conservation are explored, revolving around 4 underlying dilemma: (1) Are conservation and human livelihoods basically incompatible; (2) Are indigenous and local communities opposed to conservation initiatives; (3) Is livelihood a matter of income or a matter of rights; and (4) Is poverty an issue to be solved for and by individuals or for and by communities? Another impressive collection of papers attempts at offering answers to these questions.

PDF version available on the CD.

### **10. Managing Protected Areas, a Global Guide (2006)**

Lockwood, M., Worboys, G., and Kothari, A. (eds.). 2006. *Managing Protected Areas: A Global Guide*. Earthscan, London, pp. 116-145.

This authoritative guide spans the full terrain of protected area management and is the international benchmark for all professionals, students and academics worldwide. The book employs dozens of detailed international cases studies, hundreds of concise topical snapshots, maps, tables, illustrations and a colour plate section, as well as evaluation tools, checklists and numerous appendices to cover all aspects of park management from biodiversity to natural heritage to financial management. The book establishes a conceptual underpinning for protected area management, presents guiding principles for the 21st century, reflects recent work on international best practice and provides an assessment of skills required by professionals. The publication is relevant to the full range of management systems worldwide, balancing more traditional, developed country approaches with developing country systems including participatory, integrated, multi-sectoral and value-driven approaches.

### **11. Parks – Issue on Community Conserved Areas (2006)**

IUCN-WCPA. 2006. Community Conserved Areas. *PARKS*, Vol. 16, No. 1, IUCN, Gland.

*Parks* is a 'international journal for protected areas managers', published twice a year by the World Commission on Protected Areas (WCPA) of the International Union for the Conservation of Nature (IUCN). This issue presents a general introduction to CCAs followed by a series of regional assessments of CCAs. For the latter, authors have brought out the current state of knowledge on CCAs, the extent and numbers of CCAs where known, opportunities and challenges facing CCAs, and key lessons on which to build future strategies. It provides an initial glimpse of the richness and complexity of CCAs.

PDF version available on the CD.

### **12. Biodiversity Issues for Consideration in the Planning, Establishment and Management of Protected Areas Sites and Networks**

Secretariat of the Convention on Biological Diversity. 2004. *Biodiversity Issues for Consideration in the Planning, Establishment and Management of Protected Areas Sites and Networks*. CBD Technical Series no. 15, Montreal.

The goal of the CBD Technical Series is to contribute to the dissemination of up-to-date and accurate information on selected topics that are important for the conservation of biological diversity, the sustainable use of its components and the equitable sharing of its benefits. A large and growing body of evidence has clearly established the need to disseminate synthesis publications relevant to CBD objectives and selected reports presented at CBD meetings.

PDF version available on the CD.

### **13. WCPA Guidelines for CMPAs & ICCAs (2004)**

Borrini-Feyerabend, G., Kothari, A., and Oviedo, G. 2004. *Indigenous and Local Communities and Protected Areas: Towards Equity and Enhanced Conservation*. IUCN, Gland and Cambridge, xviii + 111pp.

An open and flexible guide to engaging indigenous peoples and local communities in protected area management. It includes clear concepts and concrete advice for policy at the national, landscape and site level, and ushers better recognition and protection of existing Community Conserved Areas.

PDF version available on the CD.

### **14. Policy Matters – Issue on History, Culture and Conservation (2004)**

IUCN-CEESP. 2004. History, Culture and Conservation. *Policy Matters*, Issue 13, November 2004, IUCN, Gland.

This issue was prepared for the 3rd World Conservation Congress in Bangkok (Thailand) in November 2004, with the hope to contribute to highlight there the benefits of an approach to conservation that is history and culture conscious. It focuses on the need to confront the history of 'nature' and a variety of local cultural practices and rights.

PDF version available on the CD.

### **15. Policy Matters – Issue on Community Empowerment for Conservation (2003)**

IUCN-CEESP. 2003. Community Empowerment for Conservation. *Policy Matters*, Issue 12, September 2003, IUCN, Gland.

This issue was prepared for the World Congress on Protected Areas, in Durban (South Africa), September 2003. It contains an impressive amount of papers from CMWG, TILCEPA, and SLWG members relating various inspiring experiences of protected area governance involving indigenous peoples and local communities. It explores the complexities inherent in governing protected areas – the richness of traditions and experiences but also the wisdom, flexibility, ingenuity and sense of fairness required to understand and deal with, matters that impact upon

biological wealth, nature's support to life and cultural values. It also offers distilled debates, often with a regional or sub-regional perspective. Finally, it provides numerous examples of community conserved areas and co-managed protected areas, stressing the crucial conservation importance of the relationship between communities and the state.

PDF version available on the CD.

## 16. Parks – Issue on Local Communities and Protected Areas (2002)

IUCN-WCPA. 2002. Local Communities and Protected Areas. *PARKS*, Vol. 12, No. 2, IUCN, Gland.

This issue of Parks aims to showcase the different roles that local communities are playing in protected areas, highlight some emerging issues and challenges, and advance the debate on the state of community involvement in conservation.

PDF version available on the CD.

## 17. ICCA Consortium website

Various key documents can also be downloaded from the Consortium's website, notably:

- Regional reviews [http://www.iccaforum.org/index.php?option=com\\_content&view=article&id=82&Itemid=98](http://www.iccaforum.org/index.php?option=com_content&view=article&id=82&Itemid=98)
- Grassroots discussions [http://www.iccaforum.org/index.php?option=com\\_content&view=article&id=83&Itemid=99](http://www.iccaforum.org/index.php?option=com_content&view=article&id=83&Itemid=99)
- Examples and issues [http://www.iccaforum.org/index.php?option=com\\_content&view=article&id=94&Itemid=108](http://www.iccaforum.org/index.php?option=com_content&view=article&id=94&Itemid=108)

### Useful Organizations & Tools

- **ICCA Consortium: [www.iccaconsortium.org](http://www.iccaconsortium.org) [Last accessed August 30, 2012]:** The ICCA Consortium was created at a gathering during the 4th World Conservation Congress in Barcelona, Spain, in October 2008, as an international association of members dedicated to promoting the appropriate recognition of and support to ICCAs in national, regional and global arenas. Members represent Indigenous People Organisations (IPOs) and Community-based Organisations (CBOs) as well as civil society organisations working with indigenous peoples and/or local communities. Honorary members also play an active role given their expertise relating to ICCAs. As a global institution, the Consortium collaborates with the CBD Secretariat, GEF SGP, UNEP-WCMC, IUCN, research and advocacy organisations, and UN mechanisms promoting human and Indigenous Peoples and Local Community rights. It became a legal association in 2010.
- **UNEP-WCMC ICCA Registry: [www.iccaregistry.org](http://www.iccaregistry.org) [Last accessed August 30, 2012]:** The ICCA Registry is a global effort to assist with documentation of ICCAs and the recognition of community-based conservation in terms of biodiversity values, ecosystem services, livelihoods support and poverty reduction. The global ICCA Registry is the first collective international effort to build a voluntary and safeguarded base of information about this important conservation approach. Since 2009, the ICCA Registry has worked directly with communities as well as through established networks such as the GEF UNDP Small Grants Programme to build a trusted and needs-based platform for hosting case studies and registration details of diverse communities from around the world. Because the Registry adheres to UNDRIP and supports a free, prior informed consent process, each community has been made aware of the benefits and possible concerns about contributing information to the Registry.
- **UNDP-GEF Small Grants Programme: <http://sgp.undp.org> [Last accessed August 30, 2012]:** Established in 1992, the year of the Rio Earth Summit, the Global Environment Facility (GEF)'s Small Grants Programme (SGP), managed by UNDP, provides grants of up to \$50,000 directly to local communities including indigenous people, community-based organizations and other non-governmental groups for projects in Biodiversity, Climate Change Mitigation and Adaptation, Land Degradation and Sustainable Forest Management, International

Waters and Chemicals. In the 5th replenishment of the GEF, the SGP has prioritised ICCAs for significant financial support. This includes national level support to ICCAs (e.g. in Kenya, Nepal, and Sri Lanka), sponsorship of the ICCA Registry, support to the ICCA Consortium, and inclusion of ICCAs in its own internal workshops of SGP national coordinators. As a result, progress has been made on the ground.

- **Natural Justice:** <http://www.naturaljustice.org> [Last accessed August 30, 2012]: Natural Justice: Lawyers for Communities and the Environment is a non-profit organization, registered in South Africa since 2007. Their vision is the conservation and sustainable use of biodiversity through the self-determination of Indigenous peoples and local communities. Their mission is to facilitate the full and effective participation of Indigenous peoples and local communities in the development and implementation of laws and policies that relate to the conservation and customary uses of biodiversity and the protection of associated cultural heritage.
- **CEESP:** <http://www.iucn.org/about/union/commissions/ceesp> [Last accessed August 30, 2012]: CEESP, the IUCN Commission on Environmental, Economic and Social Policy, is an inter-disciplinary network of professionals whose mission is to act as a source of advice on the environmental, economic, social and cultural factors that affect natural resources and biological diversity and to provide guidance and support towards effective policies and practices in environmental conservation and sustainable development.
- **WCPA:** <http://www.iucn.org/wcpa> [Last accessed August 30, 2012]: The World Commission on Protected Areas (WCPA) is the world's premier network of protected area expertise. It is administered by IUCN's Programme on Protected Areas and has over 1,400 members, spanning 140 countries. WCPA works by helping governments and others plan protected areas and integrate them into all sectors; by providing strategic advice to policy makers; by strengthening capacity and investment in protected areas; and by convening the diverse constituency of protected area stakeholders to address challenging issues. For more than 50 years, IUCN and WCPA have been at the forefront of global action on protected areas.
- **CBD:** <http://www.cbd.int> [Last accessed 7 September, 2012]: One of the key agreements adopted at the 1992 Earth Summit in Rio de Janeiro was the Convention on Biological Diversity (CBD). This pact among the vast majority of the world's governments sets out commitments for maintaining the world's ecological underpinnings. The Convention establishes three main goals: the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits from the use of genetic resources. In the programme of work on protected areas (PoWPA) and subsequent decisions, Parties are invited to recognize the role of indigenous and local community conserved areas in biodiversity conservation, collaborative management and diversification of governance types. Over a thousand tools on key PoWPA themes are available for download, and e-learning modules on all the PoWPA goals plus climate change and marine protected areas are freely and publically available in languages.

## ANNEXURE 5: GLOSSARY OF KEY TERMS

*(Note: this contains terms that are frequently used in the text or are otherwise considered important for understanding the text, but may not be immediately clear in their meanings. No attempt has been made here to be comprehensive in the selection of terms. The explanations given are in the context of this publication, and may not necessarily be valid more generally).*

**Administrative/technical/developmental help:** In-kind support from official administration and development agencies, or civil society groups, specifically meant to encourage/recognize ICCA initiatives, help build capacity, or provide related and appropriate developmental inputs.

**Advocacy:** Lobbying with official agencies and others able to influence policies, laws, or other forms of recognition and support; advocacy support includes facilitating communities in carrying out advocacy, reaching their voices to policy levels.

**Aichi Targets:** A set of 20 targets related to biodiversity, part of the Strategic Plan for Biodiversity 2011-2020 adopted by Contracting Parties to the CBD at the 10th Conference of Parties, Nagoya, Japan, 2010. <http://www.cbd.int/sp/targets/>

**Benefit-sharing:** (in context of CBD) Sharing of the benefits of the use of genetic and biological resources, amongst relevant partners and sectors.

**Biocultural:** Interlinked biological and cultural aspects, e.g of a community or landscape/seascape.

**Biodiversity:** (short for 'biological diversity') The diversity of ecosystems, species, and genes; the diversity of life.

**Biogeographic region:** "area of animal and plant distribution having similar or shared characteristics throughout" (<http://www.britannica.com/EBchecked/topic/65890/biogeographic-region>)

**Civil society:** Social organization outside of government and business, e.g. not-for-profit organizations, NGOs, indigenous peoples and local community organisations.

**Clearing House Mechanism:** A mechanism aiming for "a biodiversity knowledge network for scientific and technical cooperation ... through effective information services and other appropriate means in order to promote and facilitate scientific and technical cooperation, knowledge sharing and information exchange, and to establish a fully operational network of Parties and partners." (<http://www.cbd.int/CHM/>)

**Commons:** "resources that are (or could be) held or used collectively by communities" (<http://www.iasc-commons.org/about>); "resources that are owned in common or shared among communities...can include everything from natural resources and common land to software" (<http://en.wikipedia.org/wiki/Commons>)

**Communal lands:** Lands used and managed collectively by an Indigenous People or local community; these may or may not be legally owned by the people/community.

**Conservation:** "the management of human use of the biosphere so that it may yield the greatest sustainable benefit to present generations while maintaining its potential to meet the needs and aspirations of future generations. Thus conservation is positive, embracing preservation, maintenance, sustainable utilization, restoration, and enhancement of the natural environment." (World Conservation Strategy, IUCN/UNEP/WWF, 1980)

**Contracting Parties:** Countries that have signed and ratified an international treaty; in the context of the CBD, referred to simply as 'Parties'.

**Customary law:** Rules of conduct, practices, and beliefs of communities that have the force of local law, because they are an intrinsic part of social life, and/or because they have statutory legal recognition.

**Decentralisation:** Dispersal of decision-making power, or governance, away from a centre to local entities, such as municipal/village/district level authorities and communities.

**De facto:** Factual or actual (not necessarily backed or sanctioned by law).

**De jure:** By law, or legally sanctioned.

**Documentation, research and database:** Facilitation of communities in carrying out studies and recording of their ICCAs, and putting these into public or limited forums and databases in ways that further contribute to their efforts.

**Ecocultural:** Interlinked ecological and cultural aspects, e.g. of a community or landscape/seascape.

**Ecoregion:** A region or area defined by ecological boundaries, such as a river basin or a mountain range.

**Ecosystem functions:** The ecological flows, benefits, and values arising from an ecosystem, such as the hydrological and soil stabilization functions performed by upland forests.

**Ecotourism:** “Responsible travel to natural areas that conserves the environment and improves the well-being of local people.” ([www.ecotourism.org](http://www.ecotourism.org))

**Financial assistance:** Funding directly for ICCA initiatives or for related activities.

**First Nations:** Term used by and for indigenous or aboriginal peoples in what is now Canada, other than the Inuit and the Metis ([http://en.wikipedia.org/wiki/First\\_Nations](http://en.wikipedia.org/wiki/First_Nations); <http://www.afn.ca/index.php/en>).

**Governance:** Decision-making, or use of power to take decisions, regarding a public matter; encompassing power, relationships, responsibility and accountability.

**Indigenous Peoples:** There is no universally accepted term for ‘indigenous peoples’. The ILO Convention 169 on Indigenous and Tribal Peoples in Independent Countries does not define them, but covers “tribal peoples in independent countries whose social, cultural, and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulation;” and “peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.” It stresses that ‘self-identification’ is a fundamental criterion. (<http://www.ilo.org/indigenous/Conventions/no169/lang-en/index.htm>; [http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312314](http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID:312314)). The UN Permanent Forum on Indigenous Issues notes the following features of such peoples: “Self-identification as indigenous peoples at the individual level and accepted by the community as their member; historical continuity with pre-colonial and/or pre-settler societies; strong link to territories and surrounding natural resources; distinct social, economic or political systems; distinct language, culture and beliefs; form non-dominant groups of society; resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities.” ([http://www.un.org/esa/socdev/unpfii/documents/5session\\_factsheet1.pdf](http://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf)). In this study the term is used for those who are, in this sense, self-defined, and/or accepted as such peoples in the respective countries they live in.

**Indigenous Peoples’ and Local Communities Conserved Territories and Areas (ICCAs):** natural and/or modified ecosystems, containing significant biodiversity values, ecological benefits and cultural values, voluntarily conserved by indigenous peoples and local communities, through customary laws or other effective means.

**Legal and policy recognition:** Identity, functions, powers, and/or rights granted to ICCAs in law and policy at national (or sub-national) level.

**Local community:** A human population with a clearly defined spatial identity, with members who are interacting with their environment in localized, physically proximate ways, and are small enough to enable face-to-face interactions amongst all members. Such communities may be long-standing (‘traditional’) or relatively new, and may consist of a single or multiple ethnic identities.

**Management:** actions oriented to meeting desired goals or objectives, including planning, organizing, staffing, resourcing, implementation, monitoring, and assessing.



**Mobile peoples/tribes:** “indigenous and traditional peoples whose livelihoods depend on extensive common property use of natural resources, and who use mobility as a management strategy and as an element of cultural identity.” (Dana Declaration, <http://www.danadeclaration.org/>); “indigenous and traditional peoples whose livelihoods depend on extensive common property use of natural resources and whose mobility is both a management strategy for sustainable resource use and conservation and a distinctive source of cultural identity” (including “nomadic pastoralists, sea-nomads, shifting agriculturalists and hunter-gatherers”), (IUCN World Conservation Congress 2008 Resolution 4.053, [http://intranet.iucn.org/webfiles/doc/IUCNPolicy/Resolutions/2008\\_WCC\\_4/English/RES/res\\_4\\_053\\_mobile\\_indigenous\\_peoples\\_and\\_biodiversity\\_conservation\\_.pdf](http://intranet.iucn.org/webfiles/doc/IUCNPolicy/Resolutions/2008_WCC_4/English/RES/res_4_053_mobile_indigenous_peoples_and_biodiversity_conservation_.pdf)).

**Nationalization:** taking over of properties, resources, or institutions by the nation-state.

**Networking:** Facilitating forums/networks/federations of ICCAs, or of ICCAs with other civil society organizations and processes.

**Participatory governance:** Decision-making in which relevant sections of society collectively take part.

**Payment for Ecosystem Services:** Arrangements under which communities, private land-owners, or others are offered payments in return for ensuring the continuation of benefits and flows from an ecosystem that they are managing.

**Private governance:** under the control and/or ownership of individuals, cooperatives, civil society organisations, or corporations.

**Private lands:** lands under private governance.

**Private parties:** individuals, cooperatives, civil society organizations, or corporations.

**Privatization:** handing over or conversion of communal or state properties, resources, or institutions to individuals, non-governmental organizations, or corporations.

**Protected area:** “A geographically defined area which is designated or regulated and managed to achieve specific conservation objectives” (CBD) ([www.cbd.int](http://www.cbd.int)). “A clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values” (IUCN) (Dudley 2008).

**Sacred Natural Site:** a territory or area of land or water, or “of rich and diverse nature” (<http://sacrednaturalsites.org/>), having special spiritual significance to peoples and communities.

**Shared governance:** Under the shared authority, responsibility, and accountability of multiple actors or sectors, from amongst governmental agencies, private individuals or entities, Indigenous Peoples, local communities, and other civil society organizations.

**Social recognition:** Appropriate public exposure, official or civil society awards, providing platforms for ICCA-related peoples/communities to make their initiatives publicly known, media exposure, and so on.

**Statutory law / statute:** Law, or the body of laws, created according to the State’s legislative process.

**Sui generis:** Of its own kind or class; original.

**Sustainable use:** “The use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations.” (CBD)

**Voluntary Isolation:** A situation in which an Indigenous People have opted to remain out of contact with the ‘outside’ world.



Territories and areas governed or managed by indigenous peoples and local communities contain significant levels of biodiversity (and related cultural diversity). The knowledge and practices of these people have contributed to conservation of ecosystem, species, and genetic diversity. This publication responds to the need for greater understanding on *how to recognize and support* the phenomenon of Indigenous Peoples' and Local Communities' Conserved Territories and Areas (ICCAs).

Such a need has emerged both from the peoples and communities themselves, and from civil society and governmental agencies working with them. It is also responding to the commitment of countries to recognize and support ICCAs, as part of international agreements on conservation and human rights.

This publication is based on a study on ICCA Recognition and Support, undertaken by the ICCA Consortium, coordinated by Kalpavriksh. It also incorporates some key findings of a parallel project on ICCA Legislation, also undertaken by the ICCA Consortium, and coordinated by Natural Justice.

The global overview, 19 country case studies, and annexures in this publication aim to:

- provide a glimpse of the range, diversity, coverage, and values of ICCAs, and the socio-cultural, economic and political contexts important for them;
- provide an understanding of the status and processes of recognizing and supporting ICCAs, at both international and national levels, and suggestions on how appropriate recognition and support could be given to them;
- help Parties to the Convention on Biological Diversity (CBD) implement their commitments under the Programme of Work on Protected Areas or other programmes and action plans of the CBD, and achieve relevant Aichi Targets of the Strategic Plan for Biodiversity 2011-2020;
- help Parties to the CBD and other countries implement their commitments under other relevant international agreements including the United Nations Declaration on the Rights of Indigenous Peoples;
- strengthen the efforts of civil society organizations, including those of indigenous peoples and local communities, in obtaining appropriate recognition and support for ICCAs.