



Accompanied by a National Park associate (back right) two Imajuyen fishermen — long term custodians of the vast territory that is now the Banc d'Arguin National Park (Mauritania) — ride the sailboats provided to them to define the protected area by their "presence" and support in its surveillance. Courtesy: Grazia Borrini-Feyerabend

# ICCAs and Overlapping Protected Areas: Fostering Conservation Synergies and Social Reconciliation

**Policy Brief** of the **ICCA Consortium**

Issue No. **4**

The **ICCA Consortium**

Produced in collaboration with CENESTA and Kalpavriksh  
 Series Sponsors: the Christensen Fund and UNDP GEF SGP



# An urgent global issue & missed opportunity for conservation, reconciliation & social justice

Throughout the inhabited world, indigenous peoples and local communities have long governed, managed, used and conserved their territories, areas and natural resources. They have done so using indigenous and local knowledge, skills, practices and institutions, which often have enormous importance for the conservation of biodiversity on both land and sea.<sup>1</sup> Accordingly, many of their territories and areas are among the richest and best conserved ecosystems on the planet<sup>2</sup> and many have been declared as protected areas. As a result, a large number of protected areas worldwide overlap with “territories and areas conserved by indigenous peoples and local communities” (abbreviated here as ICCAs).<sup>3</sup>

In many parts of the world, this overlap has been, and continues to be, a cause of disempowerment and suffering for indigenous peoples and local communities. A vast number of exclusionary protected areas have displaced resident and custodian communities to create uninhabited “wilderness” preserves. This ignores and denies the conservation significance of their territories and areas conserved over generations, violates internationally affirmed rights, criminalises longstanding livelihoods, causes loss of identity and culture, and generates impoverishment and social problems and conflicts. Such injustices persist in the protected areas of a number of countries despite the adoption of international law and policies that affirm rights and rights-based approaches to protected areas and value the knowledge, institutions, and practices of indigenous peoples and local communities – also known as the “new protected area paradigm”.<sup>4</sup> The overlap of protected areas and the territories, lands and waters of indigenous peoples and local communities, including their ICCAs, thus remains a major global conservation and social justice issue.<sup>5</sup>

Lack of understanding, appreciation and appropriate recognition and respect for ICCAs is a widespread problem. It is particularly acute for ICCAs that are overlapped by protected areas without the consent of their indigenous and community stewards and without ensuring their governance, management and access and use rights. Failing to recognise and respect overlapped ICCAs – and thereby failing to uphold rights and to value indigenous peoples’ and local communities’ knowledge, skills, practices, institutions and ways of life – is a missed opportunity for conservation, including achieving protected area goals and creating systems of effective and equitable protected areas. It is also a significant missed opportunity to redress past and ongoing injustices, build new relationships and promote social reconciliation.

Policies recently adopted by the International Union for Conservation of Nature (IUCN) aim to address these injustices and missed opportunities by seeking appropriate recognition and respect of ICCAs overlapped by protected areas.<sup>6</sup> There are multiple avenues through which this can be achieved. Much can be learned from the experience of diverse countries that have instituted progressive reforms and commitments even before the adoption of these IUCN policies.

This Policy Brief explores the issues of ICCAs and overlapping protected areas, discusses key approaches for appropriately recognising, respecting and supporting overlapped ICCAs, and offers recommendations. It is based on an in-depth report to the ICCA Consortium, *Recognising and Respecting ICCAs Overlapped by Protected Areas*, which presents information and analysis from a three-and-a-half year process of consultation and discussion within the ICCA Consortium and at international meetings of the IUCN and Convention on Biological Diversity (CBD).<sup>7</sup>

## Understanding & appreciating ICCAs

ICCA is an abbreviation for “territories and areas conserved by indigenous peoples and local communities” (as first used by IUCN) and for “indigenous and community conserved territories and areas” (as used most recently by the CBD in several decisions).<sup>8</sup> IUCN and Parties to the CBD have used this term since the early 2000s to stress the global contributions of ICCAs to the conser-

vation of biological and cultural diversity and the sustainable use of natural resources.

IUCN has also defined ICCAs as “natural and modified ecosystems, including significant biodiversity, ecological services and cultural values, voluntarily conserved by indigenous and local communities through customary laws or other effective means.”<sup>9</sup>

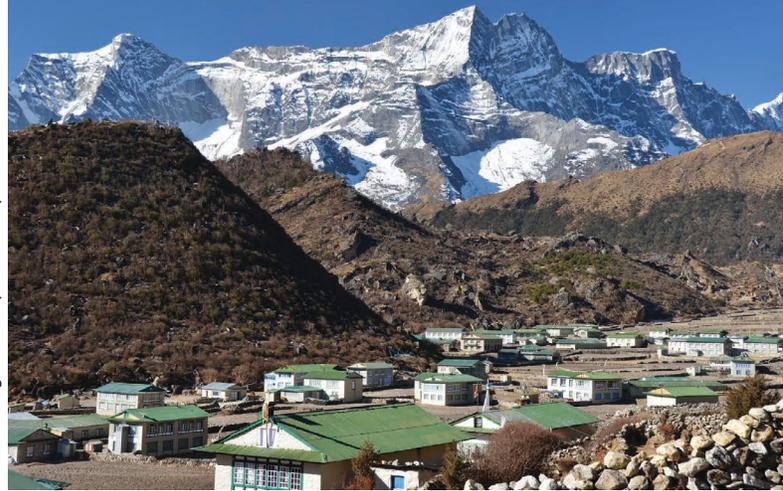
The ICCA Consortium identifies three key characteristics of ICCAs:

- ▶ An indigenous people or local community possesses a close and profound relation with a site (territory, area or habitat);
- ▶ The people or community is the major player in decision-making related to the site and has *de facto* and/or *de jure* the capacity to develop and enforce regulations; and
- ▶ The people's or community's decisions and efforts lead to the conservation of biodiversity, ecological functions and associated cultural values, regardless of original or primary motivations.

Both IUCN and the CBD recognise and use the term ICCAs in two senses: as a type of protected area governance (governance by indigenous peoples and local communities) and as an umbrella term for diverse collective practices and institutions through which indigenous peoples and local communities contribute to conservation.<sup>10</sup> As a type of protected area governance, IUCN and CBD Parties urge the inclusion of ICCAs in national protected area systems when their custodians so wish.<sup>11</sup>

Myriad types of ICCAs exist, with diverse indigenous and local names for the collective institutions governing specific areas and natural resource use. They range in size from areas smaller than a single hectare to entire territories that encompass thousands of square kilometres, and have varied governance arrangements, goals, regulations and practices. They include collectively governed territories and areas, cultural

The Sharuwa (Sherpa) village of Khumjung and part of the Khumjung-Khunde villages' protected community forest ICCA within Sagarmatha (Mt. Everest) National Park and World Heritage Site, Nepal. Courtesy: Stan Stevens.



sites, sacred places, refuge areas for particular species and sustainably used commons such as community forests, rangelands, transhumance routes and locally managed marine areas.

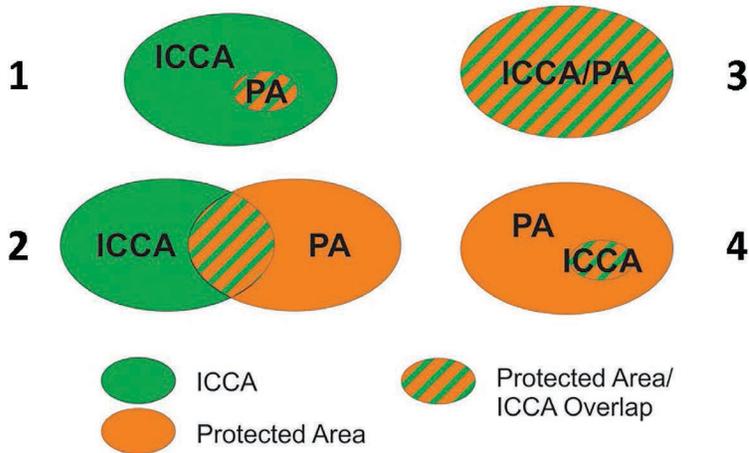
Some of these diverse ICCAs have been recognised as equivalent to protected areas and included in national systems in countries such as Australia and Namibia.<sup>12</sup> Many more meet international protected area criteria but have not yet been recognised as such nationally.<sup>13</sup> Others that do not meet such criteria or whose custodians do not wish them to be recognised as protected areas may often be excellent examples of “conserved areas” – also referred to as “other effective area-based conservation measures” in Aichi Target 11 of the CBD’s *Strategic Plan for Biodiversity 2011-2020*. Such areas have conservation as an outcome but are not necessarily dedicated and managed for long-term conservation.<sup>14</sup> ICCAs overlapped by government-declared or private protected areas may thus be eligible for recognition as protected areas or as conserved areas (“other effective area-based conservation measures”).<sup>15</sup>

## ICCAs overlapped by protected areas: diverse situations, contexts, & potential benefits of mutual recognition & respect

While there is not yet comprehensive global documentation, preliminary analyses indicate that many protected areas overlap with the traditional territories and areas of indigenous peoples and local communities. In countries as diverse as India, Nepal, the Philippines, Iran, Colombia, Bolivia, Canada, Australia, and the USA, such overlaps appear particularly extensive and can involve most or all of the national protected area system.<sup>16</sup> Globally, it may even be the case that most of the existing protected areas overlap with

the traditional territories and areas of indigenous peoples and local communities.

One of the main consequences of such overlaps is that they superimpose protected area governance and management systems upon ICCAs that possess their own such systems. This has profound consequences for both conservation and the wellbeing and cultures of the concerned peoples and communities.<sup>17</sup>



**Figure 1.** Diverse configurations of ICCA and protected area overlaps. *Courtesy Piper R. Gaubatz.*

Overlaps have diverse geographies, including (the numbers below correspond with those in Figure 1):

1. One or several protected area(s) overlapping with parts of larger ICCAs;
2. Protected areas partially overlapping with ICCAs;
3. Protected areas that are congruent, or nearly congruent, with ICCAs; and
4. Protected areas overlapping with one or more smaller inset ICCA(s).

Such diverse geographies differ in the degree of overlap, the extent to which the protected areas and ICCAs buffer one another and the level of conservation connectivity provided by ICCAs beyond the overlapped area. Overlaps also vary significantly in socio-political contexts, including (among others): degree of recognition and security of customary collective tenure and other rights; degree of understanding and acknowledgment of ICCAs' conservation contributions; and degree of collaboration among overlapping governance institutions. These diverse relationships compose a spectrum that includes:

- ▶ **Contradiction and conflict:** intentional or inadvertent undermining of ICCAs;
- ▶ **Co-optation:** undermining ICCAs by transforming them into shared governance;
- ▶ **Neglect:** independent operation without legal recognition or coordination; and
- ▶ **Mutual recognition:** respectful co-existence, complementarity, coordination and synergy.

Of these governance arrangements, only the fourth – mutual recognition – appropriately recognises and respects overlapped ICCAs and can achieve benefits beyond those achievable by protected areas alone.

## Box 1.

### Potential benefits of recognising & respecting overlapped ICCAs

- ▶ Maintain and restore biological and cultural diversity, cultural landscapes and associated governance and management institutions and practices;
- ▶ Increase protected area effectiveness, equity and social legitimacy;
- ▶ Increase resilience of both protected areas and ICCAs against internal and external encroachment and pressures;
- ▶ Enhance connectivity across protected areas and larger landscapes and seascapes;
- ▶ Strengthen participation by indigenous peoples and local communities in protected area governance and management;
- ▶ Increase collaboration between indigenous peoples, local communities, state agencies and conservation organisations;
- ▶ Increase visibility and economic opportunities for overlapped ICCAs and protected areas, including for national and international funding and collaborations;
- ▶ Support indigenous peoples' and local communities' empowerment and self-governance, including through custodianship of their ICCAs;
- ▶ Maintain and strengthen indigenous and local knowledge systems, inter-generational learning and pride, and support mutual learning with outsiders; and
- ▶ Affirm and honour indigenous peoples' and local communities' rights and responsibilities under customary law as well as international and national law, policies and regulations such as CBD decisions and IUCN policies.

# Key Approaches

Several different and at times complementary approaches have been effective in diverse countries in recognising and respecting ICCAs overlapped by protected areas. This Policy Brief discusses and provides case study examples of five such approaches. In some cases, these approaches have had very promising results that can provide best practice lessons; in other cases, the outcomes have been more mixed in terms of recognising and respecting ICCAs and/or maintaining the conservation effectiveness of the ICCAs and overlapping protected areas in the face of new pressures. This is a reminder of the complexity and challenges of overlap situations and of maintaining the integrity of ICCAs and protected areas alike.

As discussed in these five approaches – among other approaches that may be identified in the future – there are potentially effective governance arrangements that can appropriately and effectively recognise and respect overlapped ICCAs. They provide models of varying structures that can be adopted through law, contractual agreements, regulations and other means. However, they alone do not guarantee the development of relationships between indigenous peoples and local communities, state governments and conservation organisations that will sustain appropriate recognition and respect of ICCAs over time. Nor do they necessarily adequately defend ICCAs and protected areas from threats to their conservation goals and achievements.

Recognising and respecting ICCAs requires the affirmation of rights, rule of law and adoption of appropriate policies and governance structures. It also requires fostering relationships of trust and mutual respect between indigenous peoples and local community members and

government officials, building legitimacy for new governance arrangements, and developing effective means of conflict prevention and mediation. Deep-rooted issues, including conflicting worldviews and values, vested interests, uneven power relations and inter-ethnic, class and racial prejudices, often complicate these processes. Overcoming such issues can require inspired leadership, diplomatic skills and redress for past and continuing harms and injustices.

Moreover, even when overlapped ICCAs are recognised and respected, both they and the overlapping protected areas are not necessarily secure against external as well as internal changes and threats. Often, for example, neither the ICCAs nor the protected areas are adequately defended and supported by the state; some state agencies may even undermine conservation efforts by facilitating inappropriate land or marine uses and major infrastructure projects. In the face of continuing challenges, the strength and resilience of both ICCAs and protected areas will often be tested. ICCA custodians and protected area managers will need to practice adaptive management, learning from experience and ongoing monitoring and understanding of changing conditions. Adaptive governance of the overlapping protected area may also be important, allowing for flexible governance arrangements (learning by doing) while respecting rights and the integrity of the overlapped ICCAs.<sup>18</sup> In responding to these challenges, important roles can be played by international as well as national governmental and civil society organisations, including indigenous peoples' and community organisations and coalitions, ICCA learning networks and federations and human rights commissions, courts and monitoring mechanisms.

## 1. Recognising the ICCA itself as a protected area, with its custodians' free, prior & informed consent

This can resolve overlap issues by conferring protected area status on the ICCA. The protected area would be officially recorded (for example, in the World Database on Protected Areas maintained by the United Nations

Environment Programme's World Conservation Monitoring Centre, UNEP-WCMC) as an example of a protected area governed by an indigenous people or local community.<sup>19</sup>



Spring pasture in the Dolomites. Parco Naturale delle Dolomiti d'Ampezzo, part of the Dolomites World Heritage Site, Italy. Courtesy Regole of Cortina d'Ampezzo.

## Parco Naturale delle Dolomiti d'Ampezzo (Natural Park of the Ampezzo Dolomites), part of the Dolomites World Heritage Site, Italy<sup>20</sup>

The Natural Park of the Ampezzo Dolomites is an example of the establishment of a protected area – in this case by a regional government – that overlaps with part of the collectively owned, governed, managed and conserved forests and pastures (ICCA) of an ancient institution called

Regole of Cortina d'Ampezzo. As the result of a negotiated agreement, the regional government's original intention to create a new institution (*Ente Parco*) for governing the protected area was revised in favour of entrusting the governance of the protected area to the same community institution that runs the ICCA. Doing so required new legislation at the regional government level and a commitment by the Regole to take on the governance of state-owned areas beyond the geographical and jurisdictional limits of its traditional authority.

This protected area – now included in the Dolomites World Heritage Site, which comprises a number of diverse protected areas – extends over a significant part of the collectively owned and managed forest and pasture lands in the vicinity of the mountain town of Cortina d'Ampezzo. A community assembly has governed these commons for more than 800 years through local land use rules (*laudo* and *regole*). In 1990, the government of the Veneto region declared a regional nature park that encompassed some of the collective forest and pasture lands administered by the eleven communities of mountain families (approximately 1,000 families) of the Regole d'Ampezzo (11,400 of its 16,000 hectares (ha) as well as 4,700 ha of high mountains and waters under state property). The Parco Naturale delle Dolomiti d'Ampezzo can thus be understood as a protected area established to recognise the conservation value of an ancient ICCA. However, since its land also includes state property besides the ICCA, its institutional goals and responsibilities go beyond recognition of the ICCA. Moreover, the protected area includes only part of the territory of the Regole. A significant part of its collectively owned forests and pastures are situated outside of the protected area boundaries.<sup>21</sup>

The ancient Regole d'Ampezzo governs the protected area as a whole through a management plan that includes zoning and uses of community forests and grazing areas. The plan is developed and approved by the Regole's General Assembly before submission for approval to the regional government of Veneto. Importantly, national and regional protected area law recognise not only customary management but also governance by a customary institution. The regional and national laws were both modified specifically to accommodate the important case of the Regole.

## Yélisoubé (coral island) – Wildlife Sanctuary of the Islands of Loos, Guinea<sup>22</sup>

This is one of the four main islands and many islets that constitute the Wildlife Sanctuary of the Islands of Loos, and the only main island that is uninhabited. The Sanctuary is also a Ramsar site and the beaches, rocks and dense vegetation of Yélisoubé are prized as a key habitat for marine turtles and birds. The island is an ancient traditional ICCA and sacred for the local communities. It is under the governance of a College of Wise Elders, who have gone through initiation ceremonies and operate under the direction of a highly respected leader. The communities that follow the rules delivered and enforced by the College of Wise Elders include various ethnic groups and clans (such as the Baga and Mandéyi, as well as Fernandez, Emerson, Williams, Gomez and Dacosta, which emerged from intermarriages between Portuguese and English slave merchants and local indigenous black women). The government of Guinea is pleased to recognise the Leader of the College of Wise Elders as the Manager of the Wildlife Sanctuary.

Having designated the sacred island only as a place for worship and ceremonies, the College of Wise Elders is struggling to protect it due to the influence of monotheist religions, pollution and unsustainable fishing. Parts of the island are now being opened to agriculture and the collection of palm wine is common practice. Management by the College of Wise Elders could be strengthened through enhanced collaboration with government authorities, for example, provision of basic support for marine surveillance.

## 2. Transferring governance authority for the overlapping protected area to indigenous peoples & local communities

This makes the whole protected area an ICCA, creating a strong governance context for recognising and respecting local ICCAs such as com-

munity forests, locally managed marine areas, sacred places and species protection areas.

### Kanchenjunga Conservation Area, Nepal<sup>23</sup>

Declared in 1997, the Kanchenjunga Conservation Area (KCA) encompasses an area of 2,035 km<sup>2</sup>. This area overlaps with the customary territories – which have been nationalised since the 1960s – of the indigenous Sherpa (Sherpa), Walungpa and Limbu peoples. The protected area includes about 35 villages with a total population of about 5,000 people. Governance and management of the protected area by the government of Nepal was initially supported by WWF Nepal through its sponsorship of the Kanchenjunga Conservation Area Project. Following strong advocacy by the late WWF Nepal director Chandra Gurung, the government of Nepal transferred governance authority to the Kanchenjunga Conservation Area Management Council (KCAMC) in 2006. The Council is comprised of representatives of seven regional Conservation Area User Committees, 44 User Groups and 32 Mother Groups. The handover was formalised on 22 September, 2006, through the presentation of a “certificate of authority” by the Minister of Forests and Soil Conservation to Dawa Tchering Sherpa, the chair of the KCAMC. This occurred just a month after the national Cabinet’s approval of a management plan developed by the KCAMC (with technical support from WWF Nepal), which had been submitted to the Department of National Parks and Wildlife Conservation for its approval in 2004.<sup>24</sup> Following the governance handover, regional indigenous peoples govern the whole protected area as a new ICCA, as well as governing local areas through both new ICCA institutions such as Community Forest Users Groups<sup>25</sup> and customary ones.

KCA is the first – and until now, only – state-recognised protected area in Nepal to be governed by indigenous peoples and local communities. This is also the first time that governance authority has been recognised with a “certificate of authority” and the only time that the Cabinet of the government of Nepal has approved a protected area management plan.<sup>26</sup>

Ghansa village, a Sherpa (Sherpa) village in Kanchenjunga Conservation Area. Courtesy Nirmal Joshi/ Wikipedia Commons



## 3. Legally recognising both the indigenous peoples’ & local communities’ governance of their territories & ICCAs & the protected area, creating dual status for the overlap area

This affirms custodians’ continuing governance of the overlapped ICCA while also fostering coordination of protected area and ICCA management. This is best accomplished when protected area management plans respectfully acknowledge, integrate and “harmonise” with indigenous peoples’ and local communities’

own territorial plans, life plans (*planes de vida*) and ICCA management goals and plans. Indigenous peoples and local communities and the custodians of their ICCAs should participate fully and effectively in protected area governance, such as in a shared governance arrangement for the protected area as a whole.

### Pilón Lajas Biosphere Reserve and Indigenous Territory, Bolivia<sup>27</sup>

Pilón Lajas was designated as a biosphere reserve in 1977. The region acquired double status as a protected area and an indigenous territory in 1992 when the government of Bolivia adopted the

Indigenous Territory Declaration (Decree No. 23110), which recognised the 4,000-km<sup>2</sup> Pilón Lajas Biosphere Reserve and Communal Lands. The declaration of the region as communal lands as well as a protected area came in response to the 1990 March for the Dignity and Territory of the Indigenous Lowland Villages. In 1992, the Tsimané Mosesten Regional Council (Consejo Regional Tsimane Mosesten) was formed; in 1997, it received title to the region as the Territorio Comunitario de Origen of four indigenous peoples, the Tsimane, Mosesten, Tacana and Esse-Ejja. As of 2012, the Regional Council represented 22 indigenous communities that reside in the biosphere reserve with a population of 336 families (2,080 people). It is also a member of the ICCA Consortium.

This region now has a double legal status, with both the protected area and the indigenous territory recognised by the Bolivian state. Communities self-initiate and govern the lands in their indigenous territory, including through maintaining customary land use and management institutions and practices. They coordinate with the biosphere reserve administration through their Regional Council. The biosphere reserve is governed through a shared governance arrangement between the Tsimané Mosesten Regional Council and the Bolivian National Protected Areas Service. The Management Plan and Life Plan (*plan de vida*) developed by the communities and Regional Council in 2007 guide the management of the biosphere reserve, including annual operating plans. The development of this plan is reported to have been highly participatory, with input from all of the communities in the area under the direction of the leadership of the Regional Council. It commits the communities and Council to a set of goals over a ten-year timeframe.

However, both the biosphere reserve and the indigenous territory are now threatened by a dam and reservoir project that may flood much of the region. It is hoped that a strong alliance between indigenous peoples and conservation agencies will manage to fend off this threat.

## Biligiri Rangaswamy Temple Tiger Reserve and other cases, India<sup>28</sup>

In India, a large part of tribal and non-tribal territories and areas was taken over by the colonial and post-colonial governments over the last century and subsequently declared as government controlled forests such as reserved forests and protected areas. However, communities continue to access and use such areas despite their lack of any formal or legal rights to do so. Many communities continue their traditional use, management and conservation practices, including custodianship of sacred sites and *de facto* conservation and management of resources, as is the case with the *orans* and other systems of management of forests and rangelands and care of sacred sites in Rajasthan,<sup>29</sup> as well as sacred forests, wetlands and other ICCAs in many parts of India.<sup>30</sup> In other cases, traditional use, management and conservation practices have broken down.

The 2006 enactment of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act provides an opportunity for forest lands – including those within protected areas – to be reclaimed by local tribal and non-tribal forest dependent communities as their traditional community forest resources. The Act empowers local communities and vests the rights and responsibilities with them to

(*inter alia*) use, manage and conserve Community Forest Resources (CFRs). This has created a unique overlap situation in many protected areas where CFR titles have been received or are in the process of being claimed by local communities. For example, in the Biligiri Rangaswamy Temple Tiger Reserve, 25 of the 62 tribal settlements within the protected area have already received CFR titles. As a result, most of the protected area (330 km<sup>2</sup> of 540 km<sup>2</sup>) is now legally under community ownership; such title claims are pending for the remaining area.<sup>31</sup>



Workshop with Soliga advisors, and supporting NGOs, to initiate a community-led conservation planning process in Biligiri Rangaswamy Temple Tiger Reserve. Courtesy Ashish Hothari.

## Banc d'Arguin National Park, Mauritania<sup>32</sup>

Crucial habitat for millions of birds on the west coast of Mauritania, this is an immense 12,000-km<sup>2</sup> seascape of global significance linking the desert to a highly productive and diverse ocean coastline. A National Park since 1976 and a World Heritage Site since 1989, Banc d'Arguin has attracted enormous resources from organisations promoting the conservation of biodiversity and community livelihoods in protected areas. For centuries, the women and men of the local fishing communities (*Imraguen*) have been taking limited and very sustainable advantage of the hugely abundant fishery resources, which they capture, transform and preserve through ingenious traditional methods. Their "immense ICCA" was maintained by their effective presence, accumulated knowledge and skills and sustainable use of the natural resources. Today, their continuing presence remains crucial for the Park's survival, as it defines the Park's marine territory and the Imraguen participate in much needed surveillance operations. Long-term support initiatives have struggled to promote new local capacities, for example, through the building and use of fishing sailboats, the commercialisation of fish eggs (*poutargue*) and the development of cooperative-based fishing enterprises together with new externally imposed regulations such as a ban on shark fishing. Shared governance efforts, however, have been problematic because of persistent social stratification issues, declarations unsupported by facts and various governance deficiencies. Despite this, enlightened leadership in both the Park agency and the Imraguen communities has a great chance to learn from experience and consolidate effective and mutually advantageous shared governance for one of the most productive ecosystems in Africa.

## 4. Recognising ICCAs as governance/management sub-units or zones of protected areas

This ensures legal recognition of custodians' governance of their ICCAs and respect for their governance arrangements, goals and management practices. This is different from the more common

"land use zones" or "marine use zones", which tend to authorise specific uses without recognising any governance or management role for the relevant indigenous peoples or local communities.

## Mount Kalatungan Range Natural Park, Philippines<sup>33</sup>

In 2000, this interim protected area was declared by a presidential decree (Presidential Proclamation No. 305) and awaits official recognition by an Executive Order from the President of the Philippines. The natural park and its buffer zone overlap the customary territories of 12 Indigenous Cultural Communities of the Menuvù/Manobo, Talaandig and Bukidnon tribes, most of whom have filed claims for Certificates of Ancestral Domain (one of which has thus far been awarded). The natural park has been superimposed over only part of each of these 12 territories.

In 2010, these communities established a Mount Kalatungan Range Council of Elders, which strengthened shared governance of the natural park between the Protected Area Management Board (PAMB, a multi-stakeholder body composed of representatives from government agencies, local government units, NGOs, the academe and indigenous peoples) and the Indigenous Cultural Communities. One such community, the Menuvù (who have not yet been awarded a Certificate of Ancestral Domain Title), has documented and mapped its customary territory, all of which overlaps the natural park and buffer zone. This documentation process included a participatory 3-D model of their terri-

The Menuvù community's participatory 3-D model of their ancestral domain, an important part of the documentation of their ICCA. Courtesy Glaliza Tabanao.



tory (see photo), other forms of participatory mapping and a detailed inventory of resources, which together informed development of a community conservation plan and led to the PAMB's recognition of the ICCA.

In 2012, the Menvù community of Balmar publicly declared approximately 4,000 ha of the 13,200 ha of their customary territory as their *Idsesenggilaha* (sacred place) and listed it on the ICCA Registry maintained by UNEP-WCMC. Since then, the Talaandig community of Laindag/Portulin has also listed with the ICCA Registry its sacred *Inmeleleng* forest, most of which is overlapped by the Mount Kalatungan Range Natural Park. The PAMB subsequently recognised these and other ICCAs overlapped by the protected area.

No memorandum of understanding (MoU) has been signed between the Menvù community and the PAMB, though the PAMB signed a Board Resolution supporting the ICCA and adopting the Menvù Community Conservation Plan. As a result, the Protected Area Management Plan has been revised to integrate the Community Conservation Plan and to recognise the authority and decisions of the Menvù regarding the protection of the *Idsesenggilaha*. The PAMB now recognises and supports all ICCAs and the plans of other indigenous peoples living within the protected area. This recognition has facilitated increased (albeit still limited) coordination between the communities and also the implementation of agreements among the communities and with the other PAMB members.

## Kayan Mentarang National Park (KMNP), Indonesia<sup>34</sup>

In 1996, an existing strictly protected nature reserve was re-designated as Kayan Mentarang National Park (KMNP). This change was based on the results of a research project ("Culture and Conservation") that proved that the protected area was inside the customary territories of 11 indigenous Dayak communities and that the area had been sustainably governed and managed for centuries.

The new national park status allowed for a zoning system with traditional use for the indigenous communities. Participatory mapping delineated the areas actively used for agriculture, extraction and traditionally conserved areas (for example, *tana' ulen*). In 2002, the Management Plan for the KMNP was approved with a decree of the Minister of Forestry which states: "The KMNP shall be managed in collaborative way which involves all stakeholders, it is community-based, based on the approved [management plan] and the principles of sharing responsibilities, sharing benefits, and sharing roles in the management of the park." The communities continued the dialogue with the central authorities with the support of an NGO (WWF) and succeeded in instituting a multi-stakeholder board to ensure proper participation and collaboration in the management of the park. Moreover, the communities represented in FoMMA (Alliance of the Indigenous Peoples of the KMNP) negotiated with the authorities for a change in the external boundary of the park to exclude village and agricultural areas from the national park.

Together with representatives of WWF and the national park authorities, FoMMA drafted the guidelines for criteria and indicators for zonation in KMNP.<sup>35</sup> The document fully recognises that the national park is within 11 larger customary territories, proposes three main domains (zones), one of which is the "customary domain", and acknowledges ICCAs (*tana' ulen* areas) by recognising areas of forest and the watershed of tributaries conserved and protected by Dayak communities with special regulations and practices (such as *tana' ulen* and *tana' jaka*). It proposes the adoption of traditional or customary regulations and gives local communities full control over issues such as ecotourism and sustainable

use of non-timber forest products. The document was approved in 2010 and is the legal basis for the implementation of zonation in the KMNP.<sup>35</sup> Subsequently, one of the many Dayak villages with customary territory within the national park signed its own agreement with the national park authorities to maintain control of the governance of their *tana' ulen* and of economic benefits generated by sustainable use (including from ecotourism, research and education).



Discussing an MoU between the national park and community members about a research station within the *tana' ulen*.  
Courtesy WWF-Indonesia/Cristina Egheiter.

## Djoudj National Bird Sanctuary, Senegal<sup>36</sup>

A wetland of crucial importance for migrating birds fed by the Senegal River at the border with Mauritania, Djoudj was declared a National Park in 1971 and a World Heritage Site in 1981. Three traditional fishing communities that used to live in the area were forced to move out first because of the establishment of the park, and later because of the operations of the Diama Dam on the Senegal River, which profoundly altered the ecological equilibrium of the estuary feeding the wetlands. The dam operation flooded certain areas, lowered the water level in others and induced salinisation, silting and the proliferation of plants such as typhas and phragmites, which significantly clog all fishing environments and are not even eaten by cattle. Paradoxically, the situation evolved as a consequence of the brief but intense period of national conflict between Mauritania and Senegal from 1989-1991, right along the Senegal River. The number of repatriated Senegalese that resettled in the displaced villages of Djoudj was so large that the park agency decided to “allow” subsistence fishing in traditional fishing areas. The recognition of this sub-area to be governed and managed by the villages of the Djoudj particularly concerned the “Marigot of Djar”, the very core of what could be considered the “prior ICCA” of the three Djoudj fishing communities. With the help of an international initiative, a Chart developed in 2009 laid out principles and rules to regulate access to the Marigot of Djar and other areas, explicitly allowing the subsistence use of fishing resources by the originally displaced communities. Unfortunately, the Chart has not yet been implemented. The park director contends that fisherman from outside come in to exploit the resources; the local villagers lament that they have insufficient access to fishing and that the proliferation of thypa plants has blocked all access to the Marigot of Djar. Neither the ecosystem nor the communities appear yet to benefit from the Chart’s implicit recognition of the ICCA within the protected area. Nonetheless, the relationship between the park agency and the local fishing communities has improved and a new initiative in support of the ICCA has just commenced.

In Djoudj National Park, Senegal, the relationship between the park agency and the local fishing communities is now much better than it used to be, and a new initiative in support of ICCAs has just commenced. Courtesy: Grazia Borrioli-Fejerabend.



## 5. Redrawing protected area boundaries to avoid any overlap

This restores ownership of the overlapped area and governance authority for it to indigenous peoples and local communities. When the restitution of territory is accompanied by a conservation agreement or conditions, these should be developed with the full and effective participation of those indigenous peoples and communities and

their free, prior and informed consent. After the redrawing of protected area boundaries, indigenous peoples and local communities may decide to declare all or part of the formerly overlapped area as a protected area under their own governance.

## Carson National Forest, USA<sup>37</sup>

One of the most famous cases of land restitution from a protected area in the USA is the 1970 return of Blue Lake and its surrounding mountain forests and grasslands from a national forest in New Mexico to the Pueblo of Taos. This was done by changing the boundaries of the protected area through an act of Congress after more than half a century of efforts by the tribe to regain control over an area that is highly sacred to them and that they felt was being inappropriately protected and cared for by the U.S. Forest Service, which authorised commercial logging, grazing and tourism development under its multiple use management objective.

Blue Lake is an extremely important sacred place for the people of the Taos Pueblo and is the destination of a long-standing multi-day annual pilgrimage traditionally closed to non-tribal members. In 1906, the mountain lake and surrounding area (comprising 50,000 acres) were expropriated by the U.S. government and incorporated into Carson National Forest. In 1964, 2,000 of these acres were included in Wheeler Peak Wilderness Area as part of the initial development of the national wilderness preservation system.<sup>38</sup>

In 1970, after years of political manoeuvring – despite the opposition of the US Forest Service – Congress passed legislation that returned 48,000 acres from the national forest as trust land for the Pueblo de Taos (2,000 acres remained in Wheeler Peak Wilderness). The Congressional Act that transferred this land out of US Forest Service governance and national forest status included several conservation safeguards, including: granting conservation oversight responsibility over the area to the Secretary of the Interior (whose department includes the Bureau of Indian Affairs and whose responsibilities include federally recognised Indian tribes and reservations); requiring that the “lands shall remain forever wild and shall be maintained as a wilderness as defined in section 2(c) of the Act of September 3, 1964 (78 Stat. 890)”; and specifying traditional, non-commercial uses of the area by tribal members that were authorised subject to any conservation regulations imposed by the Secretary.<sup>39</sup>

Following the passage of this Act, the Taos Pueblo has exercised customary governance and management over the region under the legal oversight of the Secretary of the Interior. The Act restored customary access and use rights and was compatible with the expressed desire of the Pueblo to protect and care for the area as a sacred place. Consonant with protecting the area as sacred, the tribe closed the area to non-tribal members under a provision of the Congressional Act that stipulated that “with the consent of the tribe, but not otherwise, non-members of the tribe may be permitted to enter the lands for purposes compatible with preservation as a wilderness.”<sup>40</sup>

## Gifford Pinchot National Forest & Mount Adams Wilderness Area, USA<sup>41</sup>

According to the Treaty of 1855, the Yakama Nation retained the summit and southeast slope of their sacred mountain Pahto (Mt. Adams) in the present day state of Washington. However, due to an 1890 “surveying error”, 119,000 acres (including the summit) were nationalised. Of this, 98,000 acres had passed into private ownership by the time the original treaty map was rediscovered in 1930. No action was taken to restore any of the land to the Yakama Nation until 1972, when President Richard M. Nixon addressed the violation of the treaty by restoring 21,000 acres of federal land to the tribe by executive order. In 1909, these 21,000 acres had been incorporated into the Mount Rainier Forest Reserve and later became part of

the Gifford Pinchot National Forest. In 1964, the land was also designated part of the Mount Adams Wilderness, continuing under US Forest Service governance.<sup>42</sup>

The boundary of the national forest was modified to restore the 21,000 acres that had been wrongly expropriated to the reservation as trust land under the jurisdiction of the Secretary of the Interior (and the



Mount Adams above Bird Creek Meadows.  
Yakama Nation Mt. Adams Recreation Area  
(formerly part of Mount Adams Wilderness Area,  
Gifford Pinchot National Forest), USA. Courtesy  
FlutterbyMagia/ Wikimedia Commons.

Bureau of Indian Affairs). No conditions were attached to this executive order. The Yakama tribe chose to declare their own protected area, the Yakama Nation Mt. Adams Recreation Area. Although the regulations under which they govern it are similar to those in the Mt. Adams Wilderness – including allowing recreational use by non-tribal members (the only part of the reservation on which this is allowed) – the tribe chose to discontinue the area's inclusion in the national wilderness preservation system.<sup>43</sup>

## Mungkan Kandju National Park (now Oyala Thumotang National Park), Australia<sup>44</sup>

In an Australian case of the redrawing of protected area boundaries, ownership of the 456,000-ha Mungkan Kandju National Park was restored during 2011 and 2012 to its customary Aboriginal owners. The boundaries were redrawn in 2011 to revoke a 75,074-ha area from the national park, transferring this land to the Wik Mungkan, Ayapathu and Southern Kaanju peoples as freehold title. Ownership of the then smaller national park was handed over to them in 2012. The national park was renamed Oyala Thumotang National Park and shared governance was established with its Aboriginal owners. These actions belatedly redressed a decades-old injustice: the Queensland government had prevented the Wik Mungkan people from purchasing the National Park area when it had been held as a pastoral lease in the 1970s and then – after a court decision that should have facilitated the purchase – declared it Archer Bend National Park (and later renamed it Mungkan Kandju National Park).<sup>45</sup>

Nearly half of the land restored to Aboriginal ownership in 2011 as freehold became a new protected area – the Yuukingga Nature Reserve. This reflected a conservation agreement reached prior to the handback by the Oyala Thumotang Land Trust, which represents traditional owners, and the government of Queensland. The result was the traditional owners, dedication of 32,200 ha as the Yuukingga Nature Refuge, to be governed by them as part of the national reserve system.<sup>46</sup>

## ICCAs & collective rights

Many of the rights identified and affirmed by the ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (ILO 169) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) are relevant for the ICCAs of indigenous peoples. These include rights to self-determination; self-governance; collective ownership and control of territories, lands, waters and natural resources; livelihoods; culture; religion; and conservation of their territories. Rights identified by ILO 169 also apply to the ICCAs of local communities that identify as tribal peoples. Rights relevant to the ICCAs of local communities – particularly minority communities – are also affirmed in international treaties such as the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of all Forms of Racial Discrimination (CERD), the CBD and the American Convention on Human Rights (also see Box 2).<sup>47</sup>

The recognition of collective tenure rights is crucially important for ICCAs, as highlighted by the ICCA Consortium in its Policy Brief no. 2 (“Collective Land Tenure and Community Conservation”) and more broadly upheld in international court decisions.<sup>48</sup>

Appropriately recognising and respecting ICCAs implicitly or explicitly acknowledges the importance of indigenous peoples' and local communities' conservation achievements and is a key means of upholding their rights to self-governance, livelihoods, culture and the conservation of their territories. Conversely, lack of recognition and respect for ICCAs or their inappropriate recognition can violate a spectrum of rights.<sup>49</sup> Efforts to recognise and respect ICCAs should therefore be carried out in tandem with those focused on securing rights, including collective tenure rights, and remedying and redressing rights violations. IUCN's policy on ICCAs overlapped by protected areas, as expressed in World Conservation Congress Resolution 6.029, calls for greater attention to overlapped ICCAs by remedy mechanisms such as the Whakatane Mechanism and UN human rights monitoring mechanisms, including the UN Special Rapporteur on the Rights of Indigenous Peoples.<sup>50</sup> The UN Special Rapporteur can also promote appropriate recognition of and respect for overlapped ICCAs as a good practice that fosters rights-based conservation.

## Box 2.

### Key international treaties, declarations & guidelines relevant to ICCAs (in reverse chronological order)

- ▶ American Declaration on the Rights of Indigenous Peoples (2016)
- ▶ FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (2015)
- ▶ FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2012)
- ▶ UN Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007)
- ▶ The United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)
- ▶ ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989)
- ▶ African Charter on Human and Peoples Rights (1986)
- ▶ American Convention on Human Rights (1978)
- ▶ The International Covenant on Civil and Political Rights (1966)
- ▶ The International Covenant on Economic, Social and Cultural Rights (1966)
- ▶ The Convention on the Elimination of all Forms of Racial Discrimination (CERD) (1965)
- ▶ American Declaration on the Rights and Duties of Man (1948)
- ▶ The Universal Declaration on Human Rights (1948)

## ICCAs & the CBD

The Parties to the CBD have recognised ICCAs since 2004 as a key means of realising Articles 8(j) and 10(c) and implementing the Programme of Work on Protected Areas (PoWPA), the Plan of Action on Customary Sustainable Uses of Biological Diversity, the Chennai Guidance for the Integration of Biodiversity and Poverty Eradication and several other decisions. For example, PoWPA calls on Parties to “to facilitate the legal recognition and effective management of indigenous and local community conserved areas.” The Plan of Action calls for recognising and securing “cultural, social, economic and ecological elements associated with the traditional management systems of lands, waters and territories of indigenous and local communities.” As discussed in the ICCA Consortium Policy Brief no. 1 “ICCAs and the Aichi Targets”), ICCAs also contribute to the achievement of all Aichi Targets of the Strategic Plan for Biodiversity 2011-2020, and particularly to Targets 11, 14 and 18.<sup>51</sup>

CBD decisions relevant for the recognition and

respect of ICCAs overlapped by protected areas include (*inter alia*) those that:

- ▶ Recognise “the role of indigenous and local community conserved areas and conserved areas of other stakeholders in biodiversity conservation, collaborative management and diversification of [protected area] governance types”;<sup>52</sup>
- ▶ “Strengthen recognition of and support for community-based approaches to conservation and sustainable use of biodiversity in situ, including indigenous and local community conserved areas”;<sup>53</sup>
- ▶ Support indigenous peoples’ and local communities’ full and effective participation in protected area governance, including through taking into account indigenous peoples’ and local communities’ “own management systems and customary use” in protected areas;<sup>54</sup> and
- ▶ Support “the application of traditional knowledge and customary use in protected areas”.<sup>55</sup>

# ICCAs & IUCN policy

The IUCN has recognised ICCAs since 2004 through multiple World Conservation Congress Resolutions and Recommendations, including those noted below. ICCAs are also promoted in IUCN's *Durban Accord and Action Plan* (World Parks Congress 2003), the *Promise of Sydney* (World Parks Congress 2014)<sup>56</sup> and several IUCN publications, including in the Best Practice Protected Area Guideline Series.<sup>57</sup> Overall, IUCN endorses appropriate recognition of and respect for ICCAs.

A substantial body of IUCN policy – beyond the multiple resolutions affirming UNDRIP and the rights of both indigenous peoples and local communities in the context of protected areas – specifically applies to ICCAs in overlap situations. Key policies adopted prior to 2016 include:

- ▶ IUCN Resolution 5.094 (*Respecting, recognizing and supporting Indigenous Peoples' and Community Conserved*

*Territories and Areas*, adopted in Jeju in 2012), which calls for recognising and supporting ICCAs “in situations where they overlap with protected area or other designations”;

- ▶ IUCN Recommendation 5.147 (*Sacred Natural Sites – Support for custodian protocols and customary laws in the face of global threats and challenges*, adopted in Jeju in 2012);
- ▶ IUCN Recommendation 4.127 (*Indigenous peoples' rights in the management of protected areas fully or partially in the territories of indigenous people*, adopted in Barcelona in 2008), which calls for indigenous peoples' governance of Indigenous Conservation Territories when protected areas fully or partially overlap with those territories; and
- ▶ IUCN Resolution 4.038 (*Recognition and conservation of sacred natural sites in protected areas*, adopted in Barcelona in 2008).

## IUCN's new policy on ICCAs overlapped by protected areas

In September 2016, at the IUCN World Conservation Congress in Honolulu, the IUCN Members' Assembly adopted Resolution 6.029, *Recognizing and respecting the territories and areas conserved by indigenous peoples and local communities (ICCAs) overlapped by protected areas*. This new policy highlights the importance of the overlap issue and provides strong support to the appropriate recognition of and respect for overlapped ICCAs. It links the issue to the implementation of the CBD, UNDRIP and multiple IUCN policies, commits IUCN to implementing specific activities and calls for action by states, Parties to the CBD, conservation organisations, donors and UN human rights monitoring mechanisms.

The action elements of the new policy begin with IUCN's development, dissemination and strong promotion of “best practice guidance on identification, recognition, and respect for ICCAs in protected area overlap situations.” Under the policy, IUCN will:

- ▶ Develop best practice guidance together with the ICCA Consortium and others;
- ▶ Apply best practice guidance in its own programmes and practices, including by

requiring “appropriate recognition and respect for overlapped ICCAs before including any protected area in IUCN's Green List of Protected and Conserved Areas or before advising the granting of World Heritage status” to protected areas;

- ▶ Use the Whakatane Mechanism for protected area conflict mediation to foster recognition and respect for overlapped ICCAs;
- ▶ Encourage the Parties to the CBD and other states, conservation organisations, and other actors to recognise and respect overlapped ICCAs by developing and implementing appropriate “laws, regulations, agreements, protocols, plans, and administrative procedures and rules”;
- ▶ Encourage the UN Special Rapporteur on the Rights of Indigenous Peoples and other UN rights monitoring mechanisms to give greater attention to overlapped ICCAs in their work; and
- ▶ Report regularly on IUCN implementation of these actions to the IUCN Council, the Parties to the CBD and the UN Permanent Forum on Indigenous Issues.

Resolution 29 further encourages the Parties to the CBD to:

- ▶ Use best practice guidance in implementing the Convention, including through PoWPA and the Plan of Action on Customary

Sustainable Use of Biological Diversity; and

- ▶ Include reporting on the implementation of best practices in their reporting on protected areas, achievement of Aichi Targets and implementation of PoWPA.

## Best Practices & Principles

World Conservation Congress Resolution 6.029 calls for the development of best practice guidance. This should be developed through a broad dialogue with indigenous peoples, local communities, protected area managers and concerned civil society organisations. This dialogue – and better documentation and understanding of the overlap of protected areas globally – may identify additional key approaches and case studies besides those described in this

Policy Brief. Lessons learned should provide key insights for developing best practice guidance.

Best practice guidance should draw also on existing guidance on the appropriate recognition of ICCAs,<sup>58</sup> frameworks for assessing and evaluating protected area governance, IUCN policy and international environmental and human rights law, including the CBD, ILO 169 and UNDRIP. Such guidance should uphold fundamental principles such as those identified in Box 3.

### Box 3.

#### Key principles for developing best practice guidance on identification, recognition & respect for ICCAs in protected area overlap situations

- 1 Appreciate the conservation contributions and other values of ICCAs**, particularly the importance for biodiversity conservation of their custodians' knowledge, skills, practices, livelihoods, institutions, laws, rules, cultures and values;
- 2 Recognise collective human rights and responsibilities in ICCAs**, with ILO 169 and UNDRIP as minimum standards for indigenous and tribal peoples;
- 3 Recognise collective customary tenure;**
- 4 Recognise and respect indigenous peoples' and local communities' self-governance through their own governance institutions;**
- 5 Support indigenous peoples' and local communities' own initiatives to maintain, strengthen and restore their ICCAs**, including through the development of territorial plans and community protocols and provision of logistical, technological, legal and financial support where requested, and ensure such plans and protocols are fully respected in the management plans of overlapping protected areas;
- 6 Adopt appropriate measures to formally recognise and respect ICCAs overlapped by protected areas**, including through laws, policies, regulations, protocols, agreements and plans that secure conservation and equitable sharing of costs and benefits;
- 7 Adopt appropriate governance arrangements for protected areas that overlap ICCAs**, including through governance by indigenous peoples and local communities or through their participation in effective shared governance arrangements; and
- 8 Adopt adequate mechanisms to support the integrity and effectiveness of overlapped ICCAs** (for example, adaptive governance and management approaches, "no go" areas for industrial resource extraction and large-scale infrastructure, and liaison and ombudsperson positions to secure the full and effective participation of all concerned actors).

# Conclusions

IUCN policy urges all concerned actors to appropriately recognise and respect ICCAs that are overlapped by protected areas. International human rights and environmental law, including ILO 169, CBD, UNDRIP and CERD, provide strong support for this position.

This policy brief identified five **effective approaches for accomplishing appropriate recognition and respect of ICCAs overlapped by protected areas**. Four of these approaches do so while maintaining the protected area status of the overlapped area, while the fifth provides indigenous peoples and local communities with the opportunity to choose how they wish the area to be governed, including (*inter alia*)

by designating a new protected area under their own governance.

Clear benefits for conservation and social reconciliation can follow appropriate and effective recognition and respect for overlapped ICCAs. These are most likely when rights are affirmed, injustices are redressed, appropriate governance approaches, policies, rules and regulations and administrative procedures and practices are adopted, and adaptive governance and management are applied to address the dynamic complexities inherent in particular overlap situations. Such approaches **may reform existing structures and create opportunities to build new social relationships and achieve new conservation synergies**.

## Recommendations for IUCN & Parties to the CBD

### We recommend that the IUCN:

- 1. Raises awareness of World Conservation Congress Resolution 6.029;**
- 2. Develops** – in collaboration with the ICCA Consortium and with full and effective participation by indigenous peoples and local communities – **a volume of Best Practice Guidance** on appropriate recognition and respect of ICCAs overlapped by protected areas;
- 3. Incorporates such guidance** in its work, including in approving protected areas for inclusion **in the Green List of Protected and Conserved Areas** and in its reporting on protected areas being considered for **World Heritage status**;
- 4. Actively encourages** and reviews implementation of **World Conservation Congress Resolution 6.026**, which calls for excluding environmentally damaging industrial activities and infrastructure development in protected and conserved areas, and highlights ICCAs;
- 5. Mobilises financial and other resources to upscale the Whakatane Mechanism** and ensure that it promotes appropriate recognition and respect for ICCAs overlapped by protected areas; and
- 6. Reports annually on the implementation of Resolution 6.029** to the IUCN Council and the UN Permanent Forum on Indigenous Issues and biennially to the CBD.

The ICCAs of mobile, indigenous peoples in Iran often overlap with official protected areas. As a follow up to IUCN and CBD policy pronouncements since the Durban World Parks Congress of 2003, dialogue and negotiation between Iranian agencies and tribal authorities have increasingly delivered governance and management synergies. Courtesy: GENESTA.



**We recommend that Parties to the CBD (including all relevant state agencies):**

**1. Incorporate the principles and provisions of IUCN World Conservation Congress Resolution 6.029 and forthcoming best practice guidance** – taking into account the key approaches identified in this Policy Brief – in appropriately recognising and respecting ICCAs overlapped by protected areas, including through adopting new or implementing existing laws, policies, regulations, protocols, agreements, plans and

CBD decisions (particularly PoWPA and the Plan of Action on the Customary Sustainable Use of Biological Diversity); and

**2. Include reporting on the status of ICCAs overlapped by protected areas and implementation of best practices** as part of national conservation planning and reporting processes to the CBD, including National Biodiversity Strategies and Action Plans, national reports, implementation of PoWPA, and progress in achieving the Aichi Targets.

## Notes & References

- 1 Stevens 1997, 2014; Colchester 2003; Borrini-Feyerabend *et al.* 2004; Kothari *et al.* 2012.
- 2 Stevens 1997, 2014; Sobrevila 2008; Kothari *et al.* 2012; Tauli-Corpuz 2016.
- 3 Kothari *et al.* 2012; Stevens 2014.
- 4 Beresford and Phillips 2000; Phillips 2003; IUCN 2003a,b; Stevens 2014; Tauli-Corpuz 2016.
- 5 Colchester 1994, 2004; Stevens 1997, 2014; Borrini-Feyerabend *et al.* 2010; Indian Law Resource Center and Commission on Environmental, Economic, and Social Policy 2015; Springer and Almeida 2015; Tauli-Corpuz 2016.
- 6 See IUCN World Conservation Congress Resolutions 6.029 and 5.094. For discussion of earlier relevant policies see Stevens 1997, 2014; Colchester 2003, 2004; Jonas *et al.* 2012; Stevens *et al.* 2016.
- 7 Stevens *et al.* 2016.
- 8 The term "indigenous and community conserved territories and areas" is used in COP12 Decisions XII/3, para. 29 and Annex IV, para. 36(b); XII/5, Annex, Section 3C; and XII/12/B, Annex, Section IV, para. 9. CBD decisions have used different iterations of the term 'ICCA' since 2004, ranging from "indigenous and local community conserved areas" (COP7 Decision VII/28) to "indigenous and community conserved areas and territories" (for example, in COP12 Decision XII/5, preamble and para. 11).
- 9 IUCN World Conservation Congress 2004, Resolution 3.049 *Community Conserved Areas*.
- 10 Stevens 2014.
- 11 Stevens 2014; Stevens *et al.* 2016.
- 12 Stevens 2014.
- 13 Kothari *et al.* 2012.
- 14 Kothari *et al.* 2012; Borrini-Feyerabend *et al.* 2013.
- 15 Kothari *et al.* 2012; Borrini-Feyerabend *et al.* 2013.
- 16 See Stevens 2014; Stevens *et al.* 2016.
- 17 Stevens 2014; Tauli-Corpuz 2016.
- 18 Borrini-Feyerabend *et al.* 2006, 2013.
- 19 Borrini-Feyerabend *et al.* 2013.
- 20 Contributed by Grazia Borrini-Feyerabend and adapted from Lorenzi and Borrini-Feyerabend 2011 and Regole d'Ampezzo 2011.
- 21 Regole d'Ampezzo 2011.
- 22 Contributed by Grazia Borrini-Feyerabend and Alkaly Doumbouya.
- 23 Contributed by Stan Stevens, adapted from Gurung 2006, Jana and Paudel 2010, and other sources.
- 24 Gurung 2006; Wildlife Watch Group 2012.
- 25 Gurung 2006; Jana and Paudel 2010.
- 26 Gurung 2006.
- 27 Contributed by Stan Stevens, adapted from Peredo-Videa 2008 and UNDP 2012.
- 28 Neema Pathak Broome, with a contribution from Aman Singh.
- 29 Singh 2011.
- 30 Pathak 2009; Pathak and Dash 2012.
- 31 Desor 2012.
- 32 Contributed by Grazia Borrini-Feyerabend.
- 33 Contributed by Giovanni Reyes; see also UNEP-WCMC n.d.
- 34 Contributed by Cristina Eghenter; see also Eghenter and Labo 2003.
- 35 Eghenter, personal communication.
- 36 Contributed by Grazia Borrini-Feyerabend.
- 37 Contributed by Stan Stevens based on multiple sources.
- 38 Gordon-McCutchen 2008; Parker 1989.
- 39 An Act to Amend Section 4 of the Act of May 31, 1933.
- 40 An Act to Amend Section 4 of the Act of May 31, 1933.
- 41 Contributed by Stan Stevens, based on multiple sources.
- 42 Anonymous n.d.
- 43 Nixon 1970; Yakama Nation n.d.
- 44 Contributed by Stan Stevens based on multiple sources.
- 45 Pearson 2012.
- 46 Pearson 2012; Queensland Government, the Queensland Cabinet and Ministerial Directory 2012; Queensland Government Department of National Parks, Sport and Racing n.d.
- 47 Stevens 2010.
- 48 Almeida *et al.* 2015; Stevens 2014; Stevens *et al.* 2016; Tauli-Corpuz 2016.
- 49 Stevens 2010, 2014; Stevens *et al.* 2016.
- 50 IUCN's Whakatane Mechanism responds to requests by indigenous peoples for protected area conflict mediation and highlights good examples of rights-based conservation (see <http://whakatane-mechanism.org/>).
- 51 Kothari and Newmann 2014.
- 52 COP10 Decision X/31/B (para 31 (b)).
- 53 COP11 Decision XI/24 (para 1 (e)).
- 54 COP9 Decision IX/18 (para 19).
- 55 COP11 Decision XI/14 (section F, para 10(c)).
- 56 See Stevens *et al.* 2016 for analysis of relevant guidance in the Promise of Sydney.
- 57 Borrini-Feyerabend *et al.* 2004; Borrini-Feyerabend *et al.* 2013.
- 58 These include Borrini-Feyerabend *et al.* 2010; Jonas *et al.* 2012; Kothari *et al.* 2012; Borrini-Feyerabend *et al.* 2013; and Stevens 2014.

- Almeida, F., with G. Borini-Feyerabend, S. Garnett, H. C. Jonas, H. D. Jonas, A. Kothari, E. Lee, M. Lockwood, F. Nelson and S. Stevens. 2015. *Collective Land Tenure and Community Conservation*, Policy Brief of the ICCA Consortium, no. 2, Tehran: Cenesta.
- An Act to Amend Section 4 of the Act of May 31, 1933 (48 Stat. 108) [Indians, Pueblo de Taos Tribe, N. Mex., lands in trust], Public Law 91-550 (1970).
- Anonymous. n.d. "Management of Tribal Wilderness, Primitive Areas, and Wilderness Lands Re-classified to Tribal Jurisdiction." Available online at <http://bit.ly/2qsjrCu>.
- Beresford, M., and A. Phillips. 2000. "Protected landscapes: a conservation model for the 21st century," *George Wright Forum*, 17(1): 15-26.
- Borini-Feyerabend, G., N. Dudley, T. Jaeger, B. Lassen, N. Pathak, and T. Sandwith. 2013. *Governance of Protected Areas: From Understanding to Action*. IUCN/WCPA Best Practice Protected Area Guidelines Series No. 20. Gland, Switzerland: IUCN.
- Borini-Feyerabend, G., A. Kothari, and G. Oviedo. 2004. *Indigenous and Local Communities and Protected Areas: Towards Equality and Enhanced Conservation*. IUCN/WCPA Best Practice Protected Area Guidelines Series, No. 11. Cambridge, UK: IUCN.
- Borini-Feyerabend, G, B. Lassen, S. Stevens, G. Martin, J.C. Riascos de la Peña, E. F. Ráez-Luna, and M. T. Farvar. 2010. *Bio-cultural Diversity Conserved by Indigenous Peoples and Local Communities: Examples and Analysis*. Tehran: ICCA Consortium and Cenesta for GEF SGP, GTZ, IIED, and IUCN/CEESP.
- Colchester, M. 1994. *Salvaging Nature: Indigenous Peoples, Protected Areas and Biodiversity Conservation*. Geneva: United Nations Research Institute for Social Development.
- Colchester, M. 2004. "Conservation Policy and Indigenous Peoples," *Environmental Science and Policy* 7:145-53.
- Desor, S., A. Kothari, and N. Rai. 2011. "Conservation through Democratic Governance." Available online at <http://bit.ly/2fgBRE9>.
- Eghenter, C., and M. Labo. 2003. "In Search of Equitable Governance Models for Indigenous Peoples in Protected Areas—the Experience of Kayan Mentarang National Park," *Policy Matters* 12: 248-253.
- Gordon-McCutchen, R. C. 2008. *The Taos Indians and the Battle for Blue Lake*. Santa Fe, New Mexico: Red Crane Books.
- Gurung, G. S. 2006. "Beyond Integrated Conservation and Development Project: Balancing Conservation and Livelihood Needs in Protected Areas of Nepal – a Case Study from Kanchenjunga Conservation Area, Nepal." PhD Thesis, Department of Geography, University of Zurich, Switzerland.
- Indian Law Resource Center with collaborative support from the Commission on Environmental, Economic and Social Policy (IUCN). 2015. *Conservation and Indigenous Peoples in Mesoamerica: A Guide*. Washington, D.C. and Gland, Switzerland: Indian Law Resource Center and CEESP.
- IUCN 2003a. *The Durban Accord*. Vth World Parks Congress, Durban, South Africa. Available online at <http://bit.ly/2fd4Fu0>.
- IUCN 2003b. *The Durban Action Plan*. Vth World Parks Congress, Durban, South Africa. Available online at <http://bit.ly/2fRho7s>.
- Jana, S., and N. S. Paudel. 2010. *Rediscovering Indigenous Peoples' and Community Conserved Areas (ICCA) in Nepal*. Kathmandu, Nepal: Forest Action Nepal.
- Jonas, H., A. Kothari and H. Shrumm. 2012. *Legal and Institutional Aspects of Recognizing 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*. Pune and Delhi, India: ICCA Consortium, Natural Justice and Kalpavriksh.
- Kothari, A., C. Corrigan, H. Jonas, A. Neumann, and H. Shrumm (eds). 2012. *Recognising and Supporting Territories and Areas Conserved By Indigenous Peoples and Local Communities: Global Overview and National Case Studies*. CBD Technical Series no. 64, Montreal: Secretariat of the Convention on Biological Diversity, ICCA Consortium, Kalpavriksh, and Natural Justice.
- Kothari, A., and A. Neumann. 2014. *ICCA and Aichi Targets: the Contribution of Indigenous Peoples' and Local Community Conserved Territories and Areas to the Strategic Plan for Biodiversity 2011-2020*. Tehran: ICCA Consortium, Kalpavriksh, CBD Secretariat, CBD Alliance and Cenesta.
- Lorenzi, S., and G. Borini-Feyerabend. 2011. "Community Conserved Areas: Legal Framework for the Natural Park of the Ampezzo Dolomites (Italy)" in B. Lausche and F. Burhenne, *Guidelines for Protected Area Legislation*. Gland, Switzerland and Bonn, Germany: IUCN.
- Nixon, R. M. 1970. "Executive Order 11670 - Providing for the Return of Certain Lands to the Yakima Indian Reservation, May 20, 1972," in G. Peters and J. T. Woolley, *The American Presidency Project*. Available online at <http://bit.ly/2fd9aqi>.
- Parker, L. S. 1989. *Native American Estate: The Struggle Over Indian and Hawaiian Lands*. Honolulu: University of Hawaii Press.
- Pathak, N. (ed.) 2009. *Community Conserved Areas in India – A Directory*. Pune and Delhi: Kalpavriksh.
- Pathak, N., and T. Dash. 2012. "Recognition and Support of ICCAs in India," in A. Kothari, with C. Corrigan, H. Jonas, A. Neumann and H. Shrumm (eds.), *Recognising and Supporting Territories and Areas Conserved by Indigenous Peoples and Local Communities: Global Overview and National Case Studies*. Technical Series no. 64. Montreal: Secretariat of the Convention on Biological Diversity.
- Pearson, G. 2012. "Newman Closes 35 Years of Injustice with Return of Land," *The Australian*, May 26, 2012.
- Peredo-Videa, B. 2008. "The Pilon Lajas Biosphere Reserve and Indigenous Territory, Beni, Bolivia." Available online at <http://bit.ly/2g89auA>.
- Phillips, A. 2003. "Turning Ideas on Their Head: the New Paradigm for Protected Areas," *The George Wright Forum* 20(2):8-32.
- Queensland Government, Department of National Parks, Sport, and Racing. n.d. "Nature, Culture, and History [Oyala-Thumotang National Park]". Available online at <http://bit.ly/2gan7pN>.
- Queensland Government, the Queensland Cabinet and Ministerial Directory 2012. "Media Statements, Premier the Honourable Campbell Newman, Tuesday, May 22, 2012, Historic Handover of Cape York Park". Available online at: <http://bit.ly/2fHOHpt>.
- Regole d'Ampezzo. 2011. *Regole d'Ampezzo: the Collective Ownership in the Ampezzo Dolomites*. Cortina, Italy: Print House Cortina.
- Singh, A. 2011. "Oran/Devani Matters, Trees and Tigers Conservation by Tribes: a Case Study from Sariska," *ENVIS Newsletter* 10(1):2-6.
- Sobrevila, C. 2008. *The Role of Indigenous Peoples in Biodiversity Conservation: The Natural but Often Forgotten Partners*. Washington, D.C.: International Bank for Reconstruction and Development/the World Bank.
- Springer, J., and F. Almeida. 2015. *Protected Areas and the Land Rights of Indigenous Peoples and Local Communities: Current Issues and Future Agenda*. Washington, D.C.: Rights and Resources Initiative.
- Stevens, S. (ed.) 1997. *Conservation through Cultural Survival: Indigenous Peoples and Protected Areas*. Washington, D.C.: Island Press.
- Stevens, S. 2010. "Implementing the UN Declaration on the Rights of Indigenous Peoples and International Human Rights Law Through the Recognition of ICCAs," *Policy Matters* 17: 181-194.
- Stevens, S. (ed.) 2014. *Indigenous Peoples, National Parks, and Protected Areas: a New Paradigm Linking Conservation, Culture, and Rights*. Tucson, Arizona: University of Arizona Press.
- Stevens, S., N. Pathak Broome and T. Jaeger with J. Aylwin, G. Azhdari, D. Bibaka, G. Borini-Feyerabend, M. Colchester, N. Dudley, C. Eghenter, F. Eleazar, M. T. Farvar, F. Frascaroli, H. Govan, S. Hugu, H. Jonas, A. Kothari, G. Reyes, A. Singh, and L. Vaziri. 2016. *Recognising and Respecting ICCAs Overlapped by Protected Areas*. Report for the ICCA Consortium. Available online at <http://bit.ly/2csyKVL>.
- Tauli-Corpuz, V. 2016. "Report of the Special Rapporteur of the Human Rights Council on the Rights of Indigenous Peoples." Available online at <http://bit.ly/2gxLtgC>.
- UNDP. 2012. "Tsimané Mosekene Regional Council, Pilon Lajas, Bolivia". Equator Initiative Case Study Series. New York, NY.
- UNEP-WCMC, ICCA Registry. n.d. "Idsesenggilaha of the Menuvù Tribe in Mt Kalatungan, Bukidnon". Available online at <http://bit.ly/2gqjUGz>.
- Wildlife Watch Group. 2012. "Observation of the Functioning of Kanchenjunga Conservation Area (KCA): the Region's First Community-owned Conservation Area". International Partnership for the Satoyama Initiative. Available online at <http://bit.ly/2fTZB5>.
- Yakama Nation. nd. "Yakama Nation Mt. Adams Recreation Area". Available online at <http://bit.ly/2gaT0y2>.



Tenzing Tashi Sherpa teaching youth about Sharuwa (Sherpa) ICCAs in Sagarmatha (Mount Everest) National Park and World Heritage Site, Nepal. Courtesy: Tenzing Tashi Sherpa.

**Authors:** Stan Stevens, Tilman Jaeger and Neema Pathak Broome, with contributions from Grazia Borrini-Feyerabend, Cristina Eghenter, Holly C. Jonas, and Giovanni Reyes.

**Citation:** Stevens, S., T. Jaeger and N. Pathak Broome, with contributions from G. Borrini-Feyerabend, C. Eghenter, H. C. Jonas, and G. Reyes, 2016. **ICCAs and Overlapping Protected Areas: Fostering Conservation Synergies and Social Reconciliation.** Policy Brief of the ICCA Consortium, Issue No.4, ICCA Consortium, Tehran, Iran.

**Design, pagination and printing supervision:** Jeyran Farvar (jeyran@cenesta.org)

**Orders:** info@icccaconsortium.org

**Note:** The opinions expressed in this Policy Brief are not necessarily those of all Members of the ICCA Consortium.

## Policy Brief of the ICCA Consortium

Issue No. **4**



Produced in collaboration with CENESTA and Kalpavriksh  
 Series Sponsors: the Christensen Fund and UNDP GEF SGP

