

LEGAL AND INSTITUTIONAL ASPECTS OF RECOGNIZING AND SUPPORTING CONSERVATION BY INDIGENOUS PEOPLES AND LOCAL COMMUNITIES

AN ANALYSIS OF INTERNATIONAL LAW, NATIONAL LEGISLATION, JUDGEMENTS, AND INSTITUTIONS AS THEY INTERRELATE WITH TERRITORIES AND AREAS CONSERVED BY INDIGENOUS PEOPLES AND LOCAL COMMUNITIES



KALPAVRIKSH



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“First Nations have always practiced conservation. Our very existence as nations and peoples depends on the continued existence of the marine ecosystems. We would not exist without the seas and aquatic resources that were once bountiful on this coast. In your rush to protect some of the last remaining areas on the coast, you must consider and respect our place in the environment. Many of you who espouse the virtues of biodiversity seem to overlook the place that our peoples and our cultures have in the fabric of life. We have lived as part of these same areas or ecosystems that you are now trying to protect since time immemorial. Therefore, you must also protect our place in those areas and ecosystems. Also, many of the areas being considered for protection represent some of our last opportunities to regain self-reliance. Protection of these areas is now necessary only because your cultures try to consume and develop everything that is in sight. Now that there is only a little bit left, you decide to protect it. First Nations must not be made to suffer the burden of conservation, when the system of overuse and over-harvest was not of our making.”

*Ovide Mercredi
Former National Chief of the Assembly of First Nations
Canadian House of Commons
Parliamentary Standing Committee on Canadian Heritage
21 May 2001*

Authored by: Harry Jonas, Ashish Kothari and Holly Shrumm

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Cover Photos (clockwise, from top left): Sun setting on the remote village of Tovu, Totoya Island, Fiji. © Stacy Jupiter

A Dusun boy wearing a traditional rattan basket (*wakid*) as he helps gather wild vegetables in the forests bordering the Crocker Range Park in Sabah. © Noah Jackson

Guna boats (Panama). © Jorge Andreve

Khwe community representatives from Namibia and Botswana participate in a workshop in the Bwabwata National Park, Namibia. © Natural Justice

Contributors:

The report draws directly on the work by the following people who wrote and contributed to the national, regional and/or international reports: **Ashish Kothari** (Coordination of the Recognition Study), **Harry Jonas** and **Holly Shrumm** (Coordination of the Legal Review; International Law and Jurisprudence; Asia Regional); **Colleen Corrigan** and **Aurélie Neumann** (Recognition); **Eli Makagon** and **Stephanie Booker** (International Law and Jurisprudence); **Fred Nelson** (Africa Regional and Kenya*); **Brian T. B. Jones** (Namibia*); **Ndiawar Dieng** and **Soulèye Ndiaye** (Senegal*); **Simone Lovera** (Americas Regional); **Alcides Vadillo P.** and **Carmen E. Miranda L.** (Bolivia*); **Peigi Wilson**, **Larry McDermott**, **Natalie Johnston**, and **Meagan Hamilton** (Canada Legal); **Thora Herrmann**, **François Depey**, **Monica Mulrennan**, **Michael A. D. Ferguson**, **Gleb Raygorodetsky**, and **Catie Burlando** (Canada Recognition); **José Aylwin** and **Lorena Arce** (Chile*); **Patricia Madrigal Cordero** and **Vivienne Solís Rivera** (Costa Rica Recognition); **Onel Masardule** (Panama*); **Staff at VIDS** (Suriname*); **Neema Pathak Broome** (India*), **Shalini Bhutani**, **Ramya Rajagopalan**, **Shiba Desor**, and **Mridula Vijairaghavan** (India Legal); **Tushar Dash** (India Recognition); **Taghi Farvar** (Iran*), **Puya Hariri**, and **Mina Esteqamat** (Iran Legal); **Nahid Naghizadeh** and **Abbas Didari** (Iran Recognition); **Justine Vaz** (Malaysia Legal); **Samson B. Pedragosa** (the Philippines*); **Dau-Jye Lu**, **Taiban Sasala** and **Chih-Liang Chao** (Taiwan Legal); **Dermot Smyth** (Australia*), **Chrissy Grant** (Australia Recognition), and **Hanna Jaireth** (Australia Legal); **Stacy Jupiter** (Fiji*), **Kiji Vukikomoala**, **Elizabeth Erasito**, and **Kevin Chand** (Fiji Legal); **Hugh Govan** and **James Comley** (Fiji Recognition); **Iris Beneš** (Croatia Recognition); **Marco Bassi** (Italy Recognition); **Sergio Couto** (Spain Recognition); **Andrey Laletin** (Russia Recognition); and **Helen Newing** (United Kingdom Recognition).

* Denotes both the Legal Review and Recognition Study

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EXECUTIVE SUMMARY

Overview

Across the world, areas with high or important biodiversity are often located within Indigenous peoples' and local communities' conserved territories and areas (ICCAs). Traditional and contemporary systems of stewardship embedded within cultural practices enable the conservation, restoration and connectivity of ecosystems, habitats, and specific species in accordance with indigenous and local worldviews. In spite of the benefits ICCAs have for maintaining the integrity of ecosystems, cultures and human wellbeing, they are under increasing threat. These threats are compounded because very few states adequately and appropriately value, support or recognize ICCAs and the crucial contribution made by Indigenous peoples and local communities to their stewardship, governance and maintenance.

In this context, the ICCA Consortium conducted two studies from 2011-2012. The first (the *Legal Review*) analyses the interaction between ICCAs and international and national laws, judgements, and institutional frameworks. The second (the *Recognition Study*) considers various legal, administrative, social, and other ways of recognizing and supporting ICCAs. Both also explored the ways in which Indigenous peoples and local communities are working within international and national legal frameworks to secure their rights and maintain the resilience of their ICCAs. The box below sets out the full body of work from which this report is drawn.

1. Legal Review

- An analysis of international law and jurisprudence relevant to ICCAs
- Regional overviews and 15 country level reports:
 - *Africa*: Kenya, Namibia and Senegal
 - *Americas*: Bolivia, Canada, Chile, Panama, and Suriname
 - *Asia*: India, Iran, Malaysia, the Philippines, and Taiwan
 - *Pacific*: Australia and Fiji

2. Recognition Study

- An analysis of the legal and non-legal forms of recognizing and supporting ICCAs
- 19 country level reports:
 - *Africa*: Kenya, Namibia and Senegal
 - *Americas*: Bolivia, Canada, Chile, Costa Rica, Panama, and Suriname
 - *Asia*: India, Iran, the Philippines, and Russia
 - *Europe*: Croatia, Italy, Spain, and United Kingdom (England)
 - *Pacific*: Australia and Fiji

The *Legal Review* and *Recognition Study*, including the research methodology, international analysis, and regional and country reports, are available at: www.iccaconsortium.org.

Main Recommendations

To recognize and respect Indigenous peoples' and local communities' rights to protect the integrity of their ICCAs, the following recommendations are made to governments, intergovernmental and non-governmental organizations, research institutions, and donors:

a. Recommendations for Overall Legal Reform at the National Level

- Respect and uphold human (including collective or community) rights.
- Improve implementation of legislation by harmonizing laws and undertaking institutional reform.
- Improve access to justice and uphold the rule of law.
- Support legal empowerment and capacity building initiatives.

b. Recommendations for Legislating for Integrated Socio-ecological Systems and Implementing Laws in Conformity with Human Rights Standards

- Recognize and respect customary and collective land rights.
- Reform environmental and natural resource laws to enhance rights and remove direct threats to ICCAs.
- Reform policies and laws to effectively protect and promote traditional knowledge, cultural heritage and customary practices.
- Ensure protected areas comply with international rights, principles and standards.

c. Recommendations for Appropriately Respecting and Supporting ICCAs

- Respect the rights of Indigenous peoples and local communities to self-determination.
- Create an enabling environment for self-designation and self-definition of ICCAs.
- Recognize the full diversity of Indigenous peoples and local communities and respect the social, cultural and spiritual values of ICCAs.
- Recognize customary laws and decision-making processes.

d. Recommendations for Non-legal Recognition and Support

- Provide appropriate administrative and programmatic recognition and support through national and sub-national strategies and action plans, incentive schemes, programmes, and research and funding policies related to the environment, development, and social welfare.
- Undertake locally appropriate research about aspects such as the conservation benefits and values of ICCAs, threats to ICCAs, and community-determined plans and priorities for maintaining the integrity of ICCAs.
- Increase public awareness and social recognition of Indigenous peoples' and local communities' rights and ICCAs.
- Institute easily accessible and transparent funding mechanisms.
- Provide opportunities for training and capacity-enhancement, including culturally sensitive inputs and facilitation.
- Facilitate access to culturally and ecologically appropriate facilities and services for wellbeing and welfare (for example, water, sanitation, health, education, and infrastructure).

- Support Indigenous peoples' and local communities' mobilization and advocacy efforts at all levels.
- Support the self-defined establishment, consolidation and/or registration of Indigenous peoples' and local communities' federations, associations, networks, and other organizations;
- Facilitate opportunities for Indigenous peoples and local communities, both women and men, to participate in and promote their rights and ICCA-related issues within environmental, human rights and other networks.

This report sets out the key findings of this body of research. **Section 1** argues that the inadequacy of rights afforded to Indigenous peoples and local communities and the insufficient levels of legal and non-legal recognition and support for ICCAs in many countries actively undermine the integrity of ICCAs. **Section 2** illustrates that there are many positive developments at the international and national levels. **Section 3** highlights that, despite these developments, Indigenous peoples and local communities are still routinely denied their rights and ICCAs remain largely under-recognized and under-supported by state agencies and other key actors. **Section 4** shows that many Indigenous peoples, local communities and their ICCAs are resilient to hostile legal systems, though may need support to flourish. **Section 5** proposes a number of important recommendations for the 193 state Parties to the Convention on Biological Diversity, among others, about how to improve the legal and non-legal recognition of and support for ICCAs.



Dusun women and children in Ulu Papar, Sabah, Malaysia. © Natural Justice

What are ICCAs?

Indigenous peoples' and local communities' conserved territories and areas (ICCAs) contribute to the resilience and diversity of many ecosystems around the world. Their cultures, identities, languages, customary laws, traditional knowledge and practices, and worldviews are equally diverse and inextricably linked to those specific territories and areas. Sophisticated systems of stewardship by women and men ensure that ecosystems and natural resources therein are valued and used according to customary laws and decision-making processes in order to provide for current and future generations' social, cultural, spiritual, physical, and material wellbeing.

ICCAs are defined by IUCN as "natural and/or modified ecosystems containing significant biodiversity values, ecological services and cultural values, voluntarily conserved by Indigenous peoples and local communities through customary laws or other effective means". ICCAs generally include the following characteristics:

- A community is closely connected to a well-defined ecosystem (or to a species and its habitat) culturally and/or because of survival and dependence for livelihood;
- The community management decisions and efforts lead to the conservation of the ecosystem's habitats, species, ecological services, and associated cultural values (even when the conscious objective may be different than conservation *per se* and instead, for instance, related to material livelihood, water security, or safeguarding of cultural and spiritual places); and
- The community is the major player in decision-making (governance) and implementation regarding the management of the site, implying that community institutions have the capacity to enforce regulations. In many situations there may be other stakeholders in collaboration or partnership, but primary decision-making rests with the concerned community.

Every community's relationship to their territory or area is unique, and the way each describes and defines that relationship is equally diverse. Thus, while ICCAs vary widely in their ecological and socio-cultural features, origin, extent, objectives, governance and management features, the term 'ICCA' is not necessarily used by Indigenous peoples and local communities when referring to their territories or areas. 'ICCA' is therefore used only as a convenient generic term to enhance communication across diverse languages and worldviews and is not meant to submerge or be imposed upon any local name or term.

Sacred natural sites (SNSs) are natural areas of special spiritual significance to Indigenous peoples and local communities and are often among the oldest conserved areas in the world. Many SNSs may be or be included within ICCAs, in so far as they share the characteristics listed above. Where this reports speaks of ICCAs, it also includes SNSs.

As an example, ICCAs and SNSs in the Philippines range from less than a hectare of forest patch used as a burial ground for revered tribal leaders in the island of Mindoro to a whole ancestral domain representing the areas that mobile or nomadic communities have traditionally roamed such as the 136,000-hectare Ilonggot ancestral domain in the island of Luzon, which is by far the biggest approved in the Philippines.

1. THREATS TO ICCAs

There are three major categories of external threats to ICCAs and to the Indigenous peoples and local communities who control these areas. The first consists of systemic pressures on the environment and biodiversity worldwide, including habitat loss, overexploitation of resources, pollution, invasive species, and climate change (as identified in Global Biodiversity Outlook 3). In general, these are driven either by the predominant market- or state-dominated economies' unsustainable patterns of resource extraction, production and consumption. The mainstream economic and governmental systems also promote rapid urbanization, loss of traditional languages and knowledge systems, dependence on imported and mass-produced foods and material goods, accumulation of capital, and elite capture, often also building on or exacerbating traditional inequities of class, caste, ethnicity, and gender. Due to the inextricable links between Indigenous peoples and local communities and the territories and resources upon which they depend, the loss of biological diversity is fueling the loss of cultural and linguistic diversity and inter-generational transmission of knowledge and practices. This in turn undermines social and cultural cohesion and sophisticated customary systems of caring for territories and resources.

The second category consists of the direct pressures on Indigenous peoples and local communities and their territories and resources. This includes, on the one hand, threats from industrial methods of extraction, production and development (for example, land conversion for large-scale livestock farms or monoculture plantations, infrastructure and dams, industrial fishing and logging, and large-scale mines) and, on the other hand, threats from exclusionary environmental and conservation frameworks that undermine the rights and livelihoods of Indigenous peoples and local communities.

The third category of threats – the focus of this synthesis report – has the potential to exacerbate the first two categories. The research highlights the widespread lack of effective legal recognition of a range of Indigenous peoples' and local communities' inherent rights, including to self-determination and self-governance, customary laws and traditional institutions, and customary rights to their territories, lands, waters, natural resources, and knowledge systems. They suffer continued marginalization from legislative and judicial systems and decision-making processes at all levels, impacts of discriminatory and fragmented legal and institutional frameworks, and exclusion from (or negative impacts of) governmental and corporate programmes of so-called development, conservation, and welfare. This is compounded by a corresponding lack of non-legal recognition of the above rights. Even civil society programmes can have inadvertent negative impacts on Indigenous peoples and local communities and their ICCAs. These factors actively undermine Indigenous peoples' and local communities' abilities to respond to the first two categories of external threats. In this context, *it is vital to ensure appropriate and adequate recognition of Indigenous peoples' and local communities' rights to maintain the integrity of their ICCAs.*

2. INCREASED RECOGNITION AND SUPPORT

2.1 Legal Recognition

The *International Law and Jurisprudence Report* illustrates the impressive extent of provisions in binding and non-binding **international instruments** that support, broadly put, the rights of Indigenous peoples and local communities over their territories, areas and resources. Notably, these rights are not limited to human rights instruments, but can be found across the full spectrum of international law and policy, including in the following categories: biodiversity and conservation, endangered species, agriculture, climate change, desertification, wetlands, cultural heritage and intellectual property, and sustainable development. It also details examples of judgements from regional and national courts that support Indigenous peoples' and local communities' rights, including a growing body of jurisprudence on aboriginal title. The research at the international level confirms the fact that Indigenous peoples and local communities are not merely stakeholders, but are rights-holders who must be respected and recognized as the stewards of their territories, areas and natural resources.

Similarly, at the **national level**, it is evident that there are a number of improvements in this regard, four of which are set out here. First, stronger and well-organized Indigenous peoples' institutions, alliances and organizations are increasingly demanding and participating in relevant policy-making and legislative processes. Second, an increasing number of government, development and environment agencies are applying human rights standards in their engagements with Indigenous peoples and local communities, including by upholding substantive rights, respecting procedural rights such as to free, prior and informed consent (FPIC), and recognizing traditional authorities and customary laws. Third, many countries are pursuing land restitution and reform programmes. These programmes can significantly contribute to Indigenous peoples' and local communities' rights over their territories and resources, provided these rights are fully taken into account and community tenure is promoted.

Positive Developments

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 – the National Reserve System (NRS). IPAs are planned, voluntarily declared (or dedicated) as protected areas and managed by Indigenous peoples themselves. While IPAs are not government protected areas, the IPA Program is an Australian Government initiative to support these activities and to formally recognize IPAs as part of the NRS. 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.

A major development in **Kenya** has been the new 2010 Constitution's provisions for land reform, which are being further developed in a range of policy reforms and draft legislation. The constitution effectively replaces trust lands with a new land tenure category of 'community lands', devolving trust lands – which comprise the majority of Kenya's land area – from the district to the community level. If effectively implemented, this has the potential to greatly strengthen the tenurial basis of ICCAs across Kenya, including both formally

constituted areas such as conservancies as well as traditionally protected areas such as pastoralist communities' customary grazing reserves. Nevertheless, the ultimate impact will depend on its implementation, which is inextricably linked to the country's broader political struggles.



Samburu herder protecting his flock in northern Kenya. © Natural Justice

Fourth, some new protected areas, wildlife, environmental, freshwater, and marine laws are more inclusive of Indigenous peoples' and local communities' institutions and customary resource use practices, providing greater and more appropriate rights in relation to nature conservation and management policies, as well as over wildlife and tourism benefits. Fifth, there are examples of better coordination among government agencies, leading to more integrated implementation of otherwise disparate laws and policies, for example, with regard to socio-economic rights, Indigenous peoples' territories, and wildlife management.

Indigenous Peoples' Rights and Integrated Legal Frameworks

Bolivia has recognized Lands of Original Communities (TCOs, in Spanish) since 1994. In the new constitution of 2009, this concept has been replaced by the broader concept "Original Indigenous Peasant Territories" (TIOCs, in Spanish). These entities represent a formal recognition by the State of the autonomy of the relevant Indigenous peoples, and allow them to manage their territories through their own governance structures. The concepts respect the Indigenous perspective on the concept of 'territory', which unites the aspect of political control, power and administration with the exercise of property rights over the land and the natural resources that can be found on the land. Notably, TCOs and TIOCs are not conservation areas in the strict sense. However, most TCOs include high biodiversity and are ecologically stable and a significant degree of the ecosystem integrity is due to the traditional interaction between Indigenous peoples and their territories. For that reason, fourteen areas have the double status of TCO and protected area.

Namibia provides Africa's leading example of a formalized, government-crafted process of devolving clearly delineated rights over wildlife to rural communities. Through Communal Conservancies, adopted in policy reforms shortly after Namibia became independent from South Africa in 1990, local communities can apply for and receive broad user rights over wildlife and both commercial and subsistence uses. Since the first of these conservancies were created in 1998, over 70 Communal Conservancies now cover nearly 15 million hectares, which is more than 16% of the country's total area and roughly the same amount of land contained in Namibia's formal protected area system.

The adoption in September 2007 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) represents a strong breakthrough in setting international standards for Indigenous peoples' rights. Since then, the UNDRIP has been taken into consideration by a number of **national and regional courts'** judgments. Similarly, the growing number of ratifications of ILO Convention 169, in particular in Latin America, has positively impacted the application and benchmark value of this instrument in national and regional case law. Other human rights treaties such as the Convention on the Elimination of all Kinds of Discrimination Against Women have important implications for ICCAs as well.

Additionally, there is a growing body of case law – through the Inter-American Court of Human Rights (IACHR), the African Court on Human and Peoples Rights, and national courts – that is supportive of a range of Indigenous peoples' and local communities' rights based on their connection to their territories and unique social, cultural and ecological systems. In the recent case of *Sarayaku v. Ecuador* (2012), for example, the IACHR ruled that Ecuador had, among other things, breached Sarayaku villagers' rights to prior consultation, communal property and cultural identity by approving a project without their involvement (see the *International Law and Jurisprudence Report*). At the national level, courts in Australia, Botswana, Belize, Canada, and South Africa, among others, have been instrumental in the move towards recognition of Indigenous peoples' territorial rights.

Emerging Jurisprudence

Mayagna Awas Tingni v. Nicaragua (2001): The IACHR recognized the validity of possession over land based in Indigenous custom as a foundation for property over these lands, even when a title is lacking. It also underscored the need to recognize and understand the broad relationship between Indigenous peoples and their lands, which forms a fundamental basis for their cultures, spiritual life, integrity, and economic survival.

Saramaka v. Suriname (2006): Based on the communities' relationships with their lands and natural resources, the IACHR ordered Suriname to, among other things: delimit, demarcate, and grant collective title over the territory of the members of the Saramaka people in accordance with their customary laws; abstain from acts until delimitation, demarcation, and titling has been completed, unless the State obtains the free, informed and prior consent of the Saramaka people; review existing concessions; grant legal recognition of the collective juridical capacity of the Saramaka people in accordance with their communal system, customary laws, and traditions; and adopt legislative, administrative, and other measures as may be required to recognize, protect, guarantee, and give legal effect to the right of the members of the Saramaka people to hold collective title of the territory they have traditionally used and occupied.

These two judgements, among others, have helped establish the jurisprudence on the rights of Indigenous peoples and are of utmost importance not just for Indigenous and tribal peoples of Suriname and of other countries that have accepted the jurisdiction of the Inter-American Court, but also for other Indigenous peoples around the world.

2.2 Non-legal Recognition and Support

At both international and national levels, ICCAs are also receiving much greater non-legal recognition and support than ever before, six general forms of which are set out below.

Administrative and programmatic recognition: ICCAs are provided space in governmental programmes or schemes, with or without specific legal measures to do so. This includes, for example, recognition in National Biodiversity Strategy and Action Plans and in national poverty reduction programmes, sub-national programmes and schemes of a similar nature.

In **Iran**, government organizations such as the Department of the Environment (DOE) and the Forests, Rangelands and Watershed Organization are members of the National Steering Committee of the UNDP-Global Environment Facility Small Grants Programme (GEF-SGP) and have lent their support and approval to relevant GEF-SGP projects focusing on ICCAs. In July 2007, the director general of the DOE stated that: *“The DOE is responsible for adding 200,000 hectares to the country’s protected areas before 2020. We should use lessons learned from the pilot projects in support of ICCAs in Iran and see how they can facilitate the process for more support and recognition of the ICCAs by approving suitable policies and laws in this regard.”*



The biodiversity-rich rangelands of the Qashqai tribal territory.
© Samira Farahani, CENESTA

Financial, technical, and developmental support: Indigenous peoples or local communities receive funding, inputs for building capacity, locally appropriate developmental facilities, facilitation for mapping, or other related activities. This could be provided by either government or non-governmental actors and includes specific schemes to support ICCAs in several countries and through global initiatives such as GEF-SGP.

In **the Philippines**, financial support to the government has enabled the provision of technical assistance to Indigenous peoples in the formulation of their Ancestral Domain Sustainable Development and Protection Plans (ADSDPP). The support that Indigenous peoples receive in the delineation of their ancestral domains and the formulation of their ADSDPPs based on their traditions and culture effectively supports their initiatives for ICCA governance and management. The Philippine government also launched the New Conservation Areas in the Philippines Project (NewCAPP) “to expand and strengthen the terrestrial protected area system in the Philippines by developing new protected areas models ... and expand the [...] system with the integration of new conservation areas to include sites with a comprehensive ecological coverage and strong links to local communities and indigenous lands in the surrounding landscape.” NewCAPP is providing direct funding for ICCA initiatives and related activities.

Documentation, research and database support: Various aspects of ICCAs are studied and reported on and ICCAs form part of one or more databases. Government, civil society, scientific institutions, and others, including the facilitation of initiatives by peoples or communities themselves, could undertake such activities. At the global level, the UNEP World Conservation Monitoring Centre has initiated an ICCA Registry (www.iccaregistry.org).

The recognition study highlights a number of countries that have databases relevant to ICCAs, including: **Kenya, Namibia, Bolivia, the Philippines, Fiji, England, Spain, Canada, and India.**

Social recognition and support: Indigenous peoples and local communities are granted awards, have access to media coverage and platforms to tell their stories, and so on. These could be granted by government, civil society, or others. A number of international institutions also provide such recognition, notably the Equator Initiative.

In **Spain**, the *Mancomún de la Costa de Fuerteventura* is a traditional local pastoral governance institution devoted to the regulation of extensive goat livestock breeding on Fuerteventura (one of the Canary Islands) – a sustainable activity that supports the last population of the endemic Egyptian Vulture subspecies in the world. It was awarded the *Medalla de Oro de Canarias 2011* (Canary Islands Golden Medal Award) from the regional government. Other countries that provide social recognition and support include **India** and **the Philippines**.

Networking support: Relevant peoples and communities are facilitated to (or themselves initiate ways to) exchange information and ideas with others, join or establish larger federations or associations, and synergize with others in various other ways. While much of this is led by civil society and by peoples or communities themselves, governments have facilitated this in some countries as well.

In **Australia**, the IPA Program convenes annual national or regional IPA Managers Meetings to enable managers and others associated with planning and managing IPAs to exchange experiences, ideas and concerns. These events have been essential to nurturing the development of the concept and practice of IPAs over the last 15 years. Other opportunities for knowledge-sharing among Indigenous peoples involved in environmental management are the bi-annual National Land and Sea Management Conference, largely funded by the Australian Government, and regional Indigenous ranger conferences and workshops hosted by a diversity of Indigenous organizations from time to time.

Advocacy support: Civil society undertakes lobbying, direct actions and other methods to influence government policy and programmes, or facilitates such action by peoples or communities themselves.

Many of these forms of recognition and support intersect with each other and are interrelated with legal recognition. For instance, in many countries, social recognition, networking and advocacy have been crucial in achieving legal and policy recognition of ICCAs.

3. LAWS AND STATE INSTITUTIONS CONTINUE TO UNDERMINE ICCAs

Despite greater respect for Indigenous peoples' and local communities' rights and recognition and support for their territories and areas in select legal frameworks, there continue to be significant gaps and weaknesses of various kinds in most countries.

3.1 International Law is Exclusionary and Fragmented

Notwithstanding the advances in international law noted above, the rights gains have been achieved in many cases against determined counterforces. Indigenous peoples and local communities struggle to be fully involved in the meetings, as evidenced in the recent meetings of the World Intellectual Property Organization's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. Where they are involved, certain state Parties continue try to avoid fully recognizing UNDRIP and other human rights.

While there is clearly a large range of rights at the international level, they remain disconnected from one another. The *International Law and Jurisprudence Report* highlights a 'body of law', but in fact, the instruments and provisions lack any cohesion or integration. This also leads to Indigenous peoples and local communities having to negotiate for hard-won rights on a particular issue within one instrument or mechanism again in other fora.

3.2 The Development, Implementation and Enforcement of Laws is Discriminatory

Processes through which laws are developed, implemented and enforced, in addition to the substantive provisions themselves, discriminate structurally and consistently against Indigenous peoples and local communities in a number of ways. First, Indigenous peoples and local communities are seldom meaningfully involved in the drafting of legislation that will impact important aspects of their ways of life. Second, laws that do support the rights of Indigenous peoples and local communities on paper 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).

Implementation Gap

The **Chilean Fishing and Aquaculture Law** of 1991 includes a provision to establish reserves for artisanal fishing. Its insufficiency to protect Indigenous peoples' traditional use of coastal areas motivated the Lafkenche Mapuche to undertake a campaign for the recognition of their rights over those areas, which resulted in the approval of a law on "Marine and Coastal Spaces of Aboriginal Peoples" (Ley No. 20.249). This law was adopted in 2008 and formally recognizes Indigenous peoples' customary uses of coastal areas, including the foreshore and seabed, not only for artisanal fishing but also for cultural practices. It has raised many expectations, but until now, only one such reserve has been declared.

Third, few countries' governments provide effective means with which to hold them accountable for their actions, which enables varying degrees of corruption. Where these conditions exist, Indigenous peoples and local communities often have correspondingly low levels of knowledge about their rights and ways to use them to influence political processes and engage government agencies. Fourth, conventional sectoral approaches address singular and distinct elements (land, wildlife, water, protected areas, etc.) of otherwise interconnected socio-ecological systems. Fifth, laws favourable to Indigenous peoples and local communities are often disregarded where they are in conflict with laws such as those facilitating industrial resource extraction or production. Sixth, the content of legal provisions is often discriminatory, in the sense that Indigenous peoples' rights are often of a weaker value or made subject to other rights and interests in a way that is not done for the rights (for example, to property) of other collectivities or individuals in the law. Seventh and lastly, the effectiveness of the overall legal framework is further undermined by gaps and overlaps between laws and their implementing institutions.

Undermining ICCAs

The *Fiji 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. The Philippines and Suriname, among other countries, exhibit similar dynamics.

According to the Constitution and laws in **Chile**, mineral and geothermal resources, as well as water, can be ceded by the state to non-indigenous individuals or corporations, which can exploit or use them despite their location on Indigenous peoples' lands. Although legislation introduced in 1994 require large development projects to conduct environmental impact assessments (EIAs), which assess the impact on natural resources and human communities, these studies generally have not prevented the implementation of large development projects that in turn strongly impact Indigenous peoples.

The typical effect of the above factors is that many Indigenous peoples and local communities are legally deprived of their customary land and resource rights. Even where they are granted such rights constitutionally or legislatively, they are still often dispossessed in practice because of inhibitive administrative barriers and other factors related to lack of respect for the rule of law.

a. Respect for Human Rights is Severely Lacking

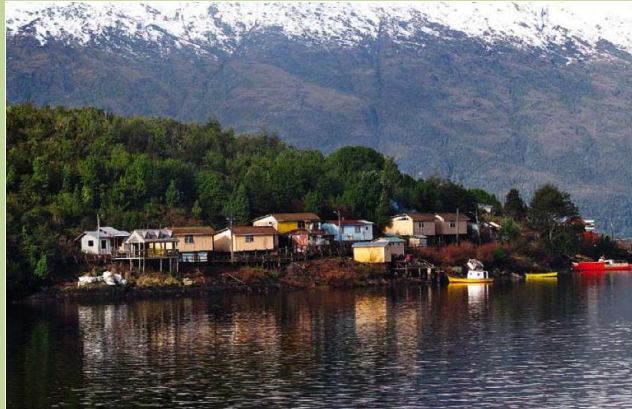
As noted above, a number of countries are moving towards greater inclusion of human rights (including Indigenous peoples' and cultural rights) in their legal frameworks, both as standalone laws and integrated into laws dealing predominantly with other issues such as protected areas. But many other countries fail to uphold these rights.

Perpetuating the injustices caused by the Doctrine of Discovery, many countries continue to ignore or undermine the most important principles, rights, and obligations enshrined in ILO Convention 169, the UN Declaration on the Rights of Indigenous Peoples, and other fundamental international human rights covenants and declarations, and have failed to enact new legislation or adapt existing frameworks to ensure coherence and compliance. For example, exploitation of natural resources and the establishment of state protected areas on pre-existing ICCAs still take place without the FPIC of the respective peoples and communities. The participation of representatives of Indigenous peoples and local

communities in national decision-making processes is extremely limited. Of the mechanisms that do exist, many fail to ensure genuine and meaningful processes of participation, including in particular of Indigenous women. Moreover, legitimate struggles of Indigenous and local leaders against the destruction of their territories, resources and cultures are routinely criminalized and faced with threats of militarization, extra-judicial killings, kidnappings and detentions. The denial of Indigenous peoples' and local communities' substantive and procedural human rights – through states' actions and inactions, often in cooperation with corporations or organizations driving the interventions – fuels conflict, degrades ecosystems, and significantly undermines community cohesion.

Human Rights Violations

As many other countries in the region, **Chile** has ratified most international human rights treaties, including *ILO Convention 169*, and it has signed the *UN Declaration on the Rights of Indigenous Peoples*. However, it has ignored the most important principles of these instruments and failed to elaborate or adapt its legislation to ensure coherence. Exploitation of natural resources and the establishment of protected areas on Indigenous peoples' territories take place



Kawésqar, Puerto Edén, Aysén, Chile. © Lorena Arce

without FPIC. In northern Chile, mining is imposed on lands and territories ancestrally owned by Andean peoples. In the South, Eucalyptus mono-crops have devastated native forests traditionally conserved by the Mapuche. The participation of representatives of Indigenous peoples and local communities in decision-making processes is extremely limited.

As in other continents, struggles over ICCAs often constitute some of the more prominent human rights conflicts taking place in African countries. One example is the conflict over pastoralist land rights (to land that has been managed as a customary grazing reserve, effectively constituting an ICCA) in relation to government protected areas management and a foreign hunting concession located in Loliondo, northern **Tanzania**. This conflict has existed since the early 1990s, but intensified in 2009 when at least 300 Maasai households were evicted from their own village land and a range of other alleged abuses and property losses took place. The root of the conflict is the government desire to control and lease out the communities' lands, which border Serengeti National Park and are home to abundant wildlife and outstanding scenery, ideal for tourism or in this case, high-paying recreational hunting activities.

b. Judicial Systems are Often a Barrier to Justice

A growing body of jurisprudence emerging from regional, national and sub-national courts supports the rights of Indigenous peoples and local communities, even when formal recognition under state law is lacking. This illustrates a concerted effort by certain judges and courts to understand and recognize the broad relationship between Indigenous peoples and local communities and their territories, which forms a fundamental basis for their cultures, spiritual life, economic survival, and the ecological integrity of their ICCAs.

Despite this, however, national and sub-national judicial systems are inherently challenging for Indigenous peoples and local communities. First, many cannot show standing before the law, negating the opportunity to defend their collective rights and interests in court. Second, the length of time that court cases take and their associated costs (including financial costs of lawyers as well as costs for time away from daily activities, travel from rural areas, communication with legal advisors, and so on) can be significant deterrents, especially when going against parties with seemingly limitless funds and political clout to challenge adverse decisions. Third, even when communities win cases, enforcing the judgements can be extremely challenging. Beyond these common issues, some countries suffer from particularly acute disrespect for the rule of law and corruption, which further undermine the integrity and effectiveness of the judicial system.

Lack of Standing

In **Suriname**, for example, twelve members of the Indigenous community PK filed a complaint in 2003 against the State Suriname and a mining company S., regarding gravel mining in the ancestral territory of the community causing harm to the community members' livelihood (*Community members versus the State Suriname and mining company S*). The decision of the judge was to deny the plaintiffs' claim as well as the company's counterclaim, partly because the community members did not – in the court's view – have the status to claim the measures requested.

c. Many Communities and Supporting Civil Society Organizations Lack Knowledge of Legislative and Judicial Systems

Many Indigenous peoples and local communities and their supporters lack the awareness and capacity to make full use of their rights and the associated legislative and judicial systems. Some countries even lack a cadre of lawyers able to take on such cases. Conversely, governmental and private interests can be very effective at using the law to further their own interests, often at the expense of peoples and communities.

Unused Rights

In **India**, for instance, the *Forest Rights Act* has seen very inadequate use by communities to claim rights to and governance of forests. There are several reasons for this, including lack of awareness about the Act or how to make claims; lack of proactive assistance from government departments; deliberate obstruction by some government agencies or officials; difficulties in finding evidence to file with the claims; and superimposition of top-down boundaries related to government schemes rather than acceptance of customary boundaries of the community.



Members of the federation of community conserved areas in Nayagarh district, Orissa (India), meeting to discuss the 2006 Forest Rights Act. © Neema Pathak Broome

3.3 Inappropriate Legislation Undermines ICCAs

Across jurisdictions, similar types of laws (or lack thereof) are often framed in ways that are biased against Indigenous peoples and local communities, further hindering their ability to retain the integrity of their ICCAs.

a. Lack of Recognition of Customary Laws and Traditional Authorities, Institutions and Decision-making Processes Undermines Community Cohesion

Closely linked to human rights, many countries do not recognize or respect Indigenous peoples' and local communities' customary laws and traditional authorities, institutions and decision-making processes. Where these are not recognized, culturally embedded systems of caring for territories and resources and engaging with others are undermined, often leading to deterioration of traditional languages and sophisticated systems of knowledge and practice. Notably, the multifaceted role of women in ICCAs is often overlooked. Instead, peoples and communities are required to establish institutions that accord with the dominant national paradigm in order for their authorities to be recognized as representatives. This violates a number of international human rights instruments and can lead to outsiders 'consulting' with and obtaining the agreement of imposed structures instead of the legitimate traditional authorities, which further undermines community cohesion and internal capacity to respond effectively to external threats.

Non-recognition of Community Structures

In countries like **Suriname** and **Chile**, the official administrative systems only recognize political representative structures, Western-style organizations and local government structures that do not necessarily represent the opinions and aspirations of Indigenous peoples and local communities. Often, as in Suriname, they are also affiliated with and influenced by political parties.

b. Lack of Recognition of Customary Land Rights is a Fundamental Issue

Although there have been a range of land tenure reforms worldwide to address historical injustices, many of these programmes have not placed sufficient emphasis on customary systems of tenure, stewardship or trusteeship. This issue is particularly acute in Africa, where hundreds of millions of rural Africans do not have secure land rights. Additionally, women often lack formal rights to land tenure. Common property resources such as forests and rangelands remain particularly vulnerable, usually considered unoccupied, unregistered and thus available for allocation by the state to individuals or corporations. This situation is a fundamental source of insecurity and actual or potential dispossession for up to half a billion people across Africa. Similar situations exist in many formerly colonized countries, such as those in South Asia.

Insecure land rights mean that Indigenous peoples and local communities are unable to legally enforce their customary ownership, rules and control, particularly when the government issues exploitative concessions and other permits in their territories. It also

hinders communities' abilities to make long-term plans in accordance with their own visions and aspirations, compounding legal uncertainty with further marginalization.

Lack of Recognition

One Indigenous person from **Suriname** summed up the sentiment roused by the lack of recognition, stating that: *"It is as if we simply do not count and exist; the animals have more rights than us."*

The surge in land acquisition globally, and particularly in sub-Saharan Africa because of the weakness of local land rights, is rapidly intensifying pressure on the traditional territories of pastoralists, small-scale and subsistence farmers, hunter-gatherers, forest-dependent communities, and others in rural areas. The recognition of land rights, perhaps above all others, will determine the opportunities for ICCAs to contribute effectively to conservation and rural livelihoods.

Lack of Land Tenure

In **Cameroon**, as in many African countries, the state claims ownership over all unregistered (i.e. not formally titled) lands, including all lands claimed according to customary rights and held through common property regimes. Thus, while local communities throughout Cameroon depend integrally on the forests in which they live, their customary rights are not recognized or delineated by the law as real property interests. This situation extends to the entire forested landscape of the Congo Basin where statutory tenure regimes are almost uniformly centralized.

In **Namibia**, the most significant threat to conservancies and community forests is the lack of secure and exclusive group land tenure to underpin the legal rights to the use and management of natural resources. If communities cannot prevent other people from using the land they wish to set aside for wildlife and tourism, there remains little incentive to maintain wild habitats. 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.

In **India**, the government owns much of the lands within Indigenous peoples' and local communities' conserved territories and areas. Not only do they not have ownership rights, but they also have very limited or no recognized access rights. The government can decide to change the land-use or lease the land for any other purpose without consulting or even informing the conserving communities. This is beginning to change with new legislation on forest rights, though very slowly.

c. No Rights Over Sub-soil Resources

Very few countries provide Indigenous peoples any rights over their sub-soil resources; in those that do, the rights are muted (such as in Bolivia and Canada). As previously discussed, where laws regulating access to natural resources (including sub-soil resources) are prejudicial to Indigenous peoples and local communities, laws that otherwise support their rights to retain the integrity of their ICCAs are significantly disabled. This is particularly evident in the context of laws relating to mining that are privileged by state agencies over the rights of Indigenous peoples and local communities.

Resource Rights

The Constitution of the State of **Panama** ignores the rights of Indigenous peoples to their natural resources. According to the Constitution, the State has national sovereignty over all natural resources in the country. Subsequent laws stipulate that subsoil resources and forests are all property of the State, disregarding Indigenous peoples' rights to the same resources. This has triggered many conflicts and cases of loss of natural resources due to both legal and illegal exploitation.



Guna boats, Panama. © Jorge Andreve

The Constitution of **Suriname** states in Article 41 that natural riches and resources are the property of the nation and that the nation has the inalienable right to take full possession of them for the economic and social development of Suriname. The Constitution does not acknowledge the existence or rights of Indigenous or tribal peoples in Suriname.

All sub-soil resources, including petroleum, are the property of the **Fijian** State as provided by Section 3 of the Mining Act. The Director of Mineral Resources has broad powers to issue prospecting licenses over land areas without owner consent and to declare a site less than 250 ha a mining site if it has importance to the nation, even if it is in a gazetted protected area. Section 11 provides a narrow class of lands exempt from any prospector's rights or mining tenement, including Fijian villages, burial land and reserved forests, amongst others.

d. Marginal Rights-based Approach to Natural Resources and the Environment

In many cases, laws relating to natural resources and the environment make no special provision for Indigenous peoples or local communities. This effectively criminalizes their customary livelihoods and resource use practices. At the same time, the legal frameworks create sectoral approaches to agriculture, forests, fisheries, water, wildlife, and other natural resources. This not only fragments otherwise interconnected ecosystems, but it also tends to mandate their overexploitation for short-term economic gains. In this light, new and emerging financial and market-based incentive schemes, for example, access and benefit sharing (ABS) and reducing emissions from deforestation and forest degradation (REDD), remain heavily contested. Indigenous peoples and local communities fear they will cause further marginalization, in addition to turning nature and natural resources purely into tradable commodities in the eyes of the state.

Natural Resource Management

In **Suriname**, the *Hunting Law* 1954 (revised last in 1997), the *Fish Protection Law* 1965 (revised last in 1981) and the *Sea Fishing Law* 1980 (revised last in 2001) similarly make no reference to Indigenous and tribal peoples, thus making their customary livelihood practices

illegal.

In **Senegal**, the marine realm is excluded from the ambit of the 1996 decentralization reforms, which has impeded local communities from gaining legal recognition of coastal ICCAs. Nevertheless, some pioneering communities have been able to extend the accepted purview of the decentralization laws and were among the first in the country to have their ICCAs formally recognized. Foremost amongst these is Kawawana, in Casamance Province, which obtained the approval of the Provincial Governor and Regional Council as a coastal ICCA. Despite this important local example, coastal ICCAs remain on questionable legal ground and will require additional reforms to fisheries or to decentralization statutes to provide coastal communities with clearer and more secure jurisdictional rights.

e. **Protected Areas Laws are Falling Behind International Rights**

There have been important advances in international protected area law and policy over the past 10 years, most notably, the Convention on Biological Diversity's Programme of Work on Protected Areas (particularly Element 2 on governance, participation, equity, and benefit sharing). Some countries boast successful examples of shared governance and co-management with Indigenous peoples and local communities or of recognition of ICCAs. However, most governments are struggling to enshrine these international standards within national protected area laws and policies. Notwithstanding salutary examples, the establishment, expansion, governance, 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. Few countries' protected area frameworks recognize ICCAs or allow for devolution of governance to peoples or communities. In some that do, there is often an inappropriate imposition of top-down designations, institutional arrangements, or conservation requirements in order to fit them into existing state protected area frameworks. This undermines the diversity of ICCA arrangements and is a significant risk to Indigenous peoples' and local communities' rights and ways of life.

In formal protected areas that overlap with or subsume ICCAs, particularly those governed and managed by the state, Indigenous peoples and local communities generally bear a disproportionate amount of the costs and enjoy relatively few benefits other than menial employment in tourism facilities or as guides or rangers. The establishment or expansion of such protected areas is often a point of conflict with Indigenous peoples and local communities, particularly when the customary use of natural resources is prohibited and traditional knowledge systems are ignored, including those of rural and Indigenous women. This atmosphere of legal uncertainty and often harsh enforcement of top-down rules undermines customary systems of stewardship, governance and management. The subsequent deterioration of traditional knowledge and customary laws, coupled with pressures from growing populations and migrants, make these protected areas prone to unsustainable use of resources.

Exclusionary Conservation

Even in **Panama**, where Indigenous peoples' territories have been recognized in the form of Comarcas, the law does not explicitly recognize or support the creation of community governed protected areas. Indigenous peoples and local communities generally gain little direct or immediate benefit from an area being declared protected, other than some possible employment as guides or enforcement officers. In the majority of protected areas

the traditional use of natural resources is prohibited, which also has significant negative impacts on the traditional knowledge of the affected peoples. There are a number of ongoing disputes about the creation of parks on ICCAs.

Similarly, in **Namibia**, where provision has been made for conservancies, neither policies nor legislation recognize the land rights or basic human rights of people living within state protected areas. There are no legal provisions for involving people living within or around the parks in planning, governance or management processes.



Although many conservationists promote the strict protection of major predators without the presence of people, leopards and lions are also being conserved in ICCAs in North Western Namibia. © Brian Jones

3.4 Non-legal Recognition and Support of ICCAs Remains Absent, Weak, or Inappropriate

Notwithstanding a number of progressive measures in several countries that provide non-legal recognition and support to ICCAs, there remain significant gaps and weaknesses in most countries.

a. Administrative and Programmatic Recognition is Absent or Weak

ICCAs are often excluded from governmental programmes and schemes or figure only in marginal terms, especially where they do not have legal recognition. Even national plans and programmes for biodiversity or wildlife conservation or sustainable use of biological resources often lack focus on ICCAs. Very seldom do poverty eradication or rural development programmes consider ICCAs (or more generally the practices of Indigenous peoples and local communities) as potentially effective ways of securing livelihoods, providing jobs, or in other ways achieving poverty- and development-related goals.

b. Financial, Technical, and Developmental Support

Linked to the general lack of legal, administrative or programmatic recognition, many countries do not have dedicated funds for or technical and developmental programmes oriented to the particular situations of Indigenous peoples and local communities or their ICCAs. Even where there are programmes for Indigenous peoples and local communities, they do not often support their own resource use and management traditions or institutions. Particularly weak is the provision of funding or technical support for activities such as legal empowerment, mapping and building capacity for reclaiming rights to and management of traditional territories and areas. In several places where such support does exist, it can be inappropriate in imposing uniform and gender-insensitive institutional structures, overly restrictive rules and regulations, and conditions that end up undermining the autonomy and diversity of local arrangements.

In **Namibia**, support to conservancies has been well-funded in the past, but as indicated above, donor support has been declining. One of the problems is that new conservancies are still emerging and require support from NGOs and government to become operational. Meanwhile, the more mature conservancies are becoming more self-reliant. Conservancies and community forests are technically able to raise their own funds from national and international sources, but this remains difficult because of their remoteness from the capital (Windhoek). Improved communications technology such as cellular telephones and increasing internet connection in remote areas could change this situation.

c. Documentation, Research and Database Support is Inadequate

Most countries have severely inadequate documentation of and research on ICCAs and almost none have databases. This weakness is not only prevalent in government agencies, but also civil society; part of the reason is that until very recently, ICCAs have simply been invisible to the formal sector of scientists and conservationists. Another problem is that in many places where such activity is increasing, the documentation, research or database development is not by or with the Indigenous peoples and local communities themselves, does not include procedures like FPIC, and is conducted and presented in languages or formats not accessible to the peoples and communities. Finally, documentation can sometimes also lead to unwelcome attention or pressures on an ICCA, for example, by instigating unsustainable tourism.

d. Social Recognition and Support are Far From Adequate

While public exposure to and understanding of ICCAs is rapidly rising in some countries, in most it remains a somewhat unrecognized phenomenon. The media, for instance, still focuses much more on formal government-managed protected areas. Forums and platforms where Indigenous peoples and local communities can tell their stories, through which social recognition could increase, are extremely limited.

e. Networking and Advocacy Support Remain Limited

In many countries, Indigenous peoples and local communities are struggling to set up their own networks and advocacy platforms. Where such networks of civil society organizations do exist, they are often excluded or only marginally included from important social processes. In multi-lingual or multi-cultural societies, for example, such marginalization takes the form of linguistic or ethnic exclusion.

Although **Chile** has well-informed Indigenous peoples' organizations and an aware civil society, lack of coordination between them and especially the lack of representative community voices have hindered an integration of their views in the development of public policies affecting them. An example is the minimal representation that they have had in a recent discussion of the merits of the Biodiversity and Protected Area Service (BPAS). An analysis of the impacts of the BPAS on ICCAs and proposals for proper ICCA recognition and support are virtually non-existent.

4. RESILIENT COMMUNITIES, HEALTHY ICCAs

In spite of the above challenges, communities have shown marked resilience to overcome discriminatory legal, economic and social systems. There are a large number of examples of thriving ICCAs in otherwise hostile legal environments. Similarly, where ICCAs have been directly threatened, Indigenous peoples and local communities are showing themselves to be highly adept at resisting egregious threats and engaging state and non-state actors to achieve their aims. In sum, many ICCAs have survived largely as a result of the strong will and dedication of the Indigenous peoples and local communities who govern them (whether *de facto* or *de jure*), rather than due to any legal or non-legal recognition by governments or other actors.

Nonetheless, appropriate legal, administrative and social recognition – coupled with reduction of both structural and systemic barriers to their rights and of external threats to their territories and resources – are indispensable conditions for Indigenous peoples and local communities to reclaim previously alienated ICCAs and maintain the integrity of their ICCAs for generations to come. Central to this is the recognition and appreciation of the multiple roles and benefits of ICCAs, which include realizing human rights, conserving and sustainably using biodiversity, eradicating poverty, securing livelihoods, food and water sovereignty, and mitigating and adapting to climate change, among others. Recommendations about how to do this are set out in the next section.

The Inuit of Nunavut have a comprehensive agreement with the Government of **Canada**. Nunavut is the largest, northernmost, and newest territory of Canada, officially separating from the Northwest Territories on 1 April, 1999 (via the *Nunavut Act* and the *Nunavut Land Claims Agreement Act*). Being the dominant population in Nunavut, the Inuit of Nunavut have qualified opportunities to exercise customary law. For example, the Nunavut government requires the application of Inuit knowledge (*Qaujimajatuqangi*) for the governance of the environment in the territory.



(Left to right) Hunting party with dogsleds; caribou; *igloo* (traditional homestead). © Nunavut Wildlife Management Board

5. KEY RECOMMENDATIONS: RECOGNIZE AND RESPECT INDIGENOUS PEOPLES' AND LOCAL COMMUNITIES' RIGHTS TO PROTECT THE INTEGRITY OF THEIR ICCAs

5.1 International Level

Parties to instruments dealing with human rights, Indigenous peoples and local communities, the environment and natural resources, cultural heritage, sustainable development, and human welfare (among others) should take responsibility for understanding and upholding the wealth of commitments and obligations enshrined in international law and regional jurisprudence that support Indigenous peoples and local communities rights, including to retain the integrity of their ICCAs. Treaty secretariats, intergovernmental organizations, NGOs, and others should assist with raising awareness and building capacity to do so within the relevant governments.

UN treaty monitoring bodies and secretariats, the UN Permanent Forum on Indigenous Issues, the UN Expert Mechanism on the Rights of Indigenous Peoples, and 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, among others, should examine and promote recognition and respect for ICCAs as means to realize a range of human rights instruments.

The Secretariat of the Convention on Biological Diversity should continue to facilitate the implementation and monitoring of various decisions of the Conference of the Parties, programmes of work, and cross-cutting themes related to ICCAs, including through training programmes and capacity building workshops, dissemination of information, and encouraging Parties to take up the recommendations of this study in their National Biodiversity Strategies and Action Plans and national reports. The Secretariat should also encourage appropriate recognition of ICCAs in all other relevant international treaties and mechanisms and regional fora in which it has informal or formal status.

The FAO is called upon to integrate support for ICCAs in ongoing programmes for land reform, agricultural extension and community forest and fisheries management. Its support for the rights of farmers, livestock keepers and small-scale and artisanal fishers is also crucial.

The UNDP-GEF Small Grants Programme is congratulated for including ICCAs in its 5th Operational Phase Biodiversity Portfolio. Building on this positive development, other UN agencies, in particular those with a mandate related to land and environmental matters, are called on to fully integrate appropriate support programmes for ICCAs into their work and funding mechanisms.

The International Union for Conservation of Nature (IUCN) should facilitate awareness and appreciation of ICCAs through its volunteer Commissions, regional offices, and global programmes, including by diffusing information about related policies, agreements, resolutions, and recommendations, and providing technical assistance to its members and partners to develop appropriate legal and policy measures to recognize ICCAs in collaboration with Indigenous peoples and local communities.

Conservation and environmental organizations (including NGOs, policy and research institutes, parastatal agencies, intergovernmental organizations, and networks, among others) must fully respect and uphold international human rights and embrace new paradigms of governance diversity and good governance, including a greater focus on Indigenous peoples' and local communities' rights and their ICCAs and gender considerations. Similarly, human rights and development organizations should mainstream the environment into their approaches and programmes as a fundamental aspect of securing human rights.

5.2 National Level

The most important recommendations of this report are for governments to recognize and ensure the effective recognition and enforcement of Indigenous peoples' and local communities' rights, including their rights to territories and resources, to self-government through their own traditional governance structures, and to provide or deny FPIC for any projects or activities that might affect them or their territories. It is also critical to supporting Indigenous peoples and local communities, both women and men therein, to engage in the development and implementation of laws and to increase effective access to justice. Governments are called on to legislate for socio-ecological systems and implement laws in an integrated and mutually supportive manner.

a. Recommendations for Overall Legal Reform at the National Level

A number of overall legal reforms and systemic changes are required to secure the rights of Indigenous peoples and local communities, including in relation to their ICCAs.

Respect and Uphold Human Rights

There is a strong correlation between supportive provisions for human rights and Indigenous peoples' rights on the one hand and good governance and management of lands, territories and natural resources on the other. In this context, the foundation for any recognition of ICCAs is law and policy that recognize self-determination, self-governance, and ownership or custodianship rights of Indigenous peoples over their traditional territories or other lands or waters, including natural resources and cultural systems. It is also critically important to extend similar international standards afforded to Indigenous peoples to tribal and local communities who can also show a deep cultural connection to their territories, areas and natural resources therein.

Accordingly, states should ratify and ensure effective compliance with international human rights instruments, recognizing and formalizing the rights of Indigenous peoples and local communities and major groups like women in accordance with international standards and obligations. States should also ensure transparency and accountability in all matters relating to Indigenous peoples' and local communities' rights, including allowing UN Special Rapporteurs and other international investigation and monitoring mechanisms to enter their countries, and ensure the rights to freedom of speech, assembly, information, and independent media.

In many cases, this will necessitate constitutional reform to create a more enabling legal framework for Indigenous peoples' and local communities' rights and their ICCAs. This requires higher-order transformation of power relations, governing structures, and citizens' rights.

Human Rights and Constitutional Reform

Kenya's new (2010) Constitution abolishes Trust Lands and replaces them with Community Lands as a new tenure category, which has the potential to be one of the most important reforms for community natural resource governance that has taken place in the region in recent years.

In 1991, **Bolivia** ratified ILO Convention 169, and the Constitutional Reform of 1994 recognized the existence of Indigenous peoples and their right to Original Communal Lands (TCOs, in Spanish). Article 2 of the new Constitution (2009) states: *“Considering the pre-colonial existence of nations and original Indigenous peasant peoples and their ancestral dominance over their territories, the free determination within the framework of the unity of the State is guaranteed, which consists of their right to autonomy, self-government, their culture, the recognition of their institutions and the consolidation of their territorial entities, in accordance with this Constitution and the Law”*. In Article 30, the right to collective title over lands and territories of Indigenous peoples is recognized, which is further elaborated in Article 403. Indigenous peoples exercise a right to property and exclusive access, use and exploitation rights over renewable natural resources on their territories. Regarding non-renewable resources and sub-soil resources like fossil fuels, only a right to prior and informed consult and a share of the benefits of the exploitation is granted.

However, the Bolivian Government has combined the discourse of defending the rights of Mother Earth and the need for a *'buen vivir'* (good life) in harmony with nature with an aggressive economic policy that prioritizes the exploitation of fossil fuels, minerals and other natural resources. The promotion of mega-projects within the framework of the regional infrastructure initiative of South America (IIRSA, in Spanish), mines, biofuel production, soy expansion, and hydro-electric dams has been accompanied by increasing porosity of environmental regulations and a large number of social conflicts. The well-known conflict over the proposed road through the TIPNIS (Isiboro Sécore National Park and Indigenous Territory) is but one example.



The IX Indigenous peoples' march against the construction of the road through the TIPNIS, in their rise to the Andes (Bolivia).
© www.ftierra.org

Improve Implementation by Harmonizing Laws and Undertaking Institutional Reform

Laws require effective implementation to achieve their stated aims. Yet it is clear from the research that even in instances where there are laws that support human rights and ICCAs, they are often inappropriate, top-down, hindered by administrative barriers, uniformly or ineffectively implemented, or overridden by laws and policies that contravene their provisions. Even in lieu of any new laws, significant improvement in many countries could be achieved through legal and institutional reform. This would involve rationalizing and harmonizing the full range of relevant laws as a cohesive framework, eradicating conflicts

between laws and implementing agencies (such as between environmental and economic development), and ensuring that they are implemented in an integrated manner.

Legal and Institutional Integration

Under the current **Fijian** Fisheries Act, protected areas where fishing is strictly prohibited cannot be established legally, as all Fijians are permitted to fish for subsistence use with certain gear. This gap in the law has led to difficulties related to community enforcement of both customary and national fisheries laws.

Improve Access to Justice and Uphold the Rule of Law

As noted above, there are an increasing number of judgements being handed down by regional and national courts that are supportive of Indigenous peoples' and local communities' rights. Yet these cases remain isolated examples against a backdrop of court-sanctioned injustice. Courts should not be the bastions of the privileged and must remain independent. A review and revision of how Indigenous peoples and local communities can challenge legislation and administrative actions and bring violations of laws that affect them to court is urgently required. The issue of legal standing is central to improving matters, as is the accessibility of legal empowerment and free legal aid. Upholding the rule of law at all levels is also fundamental to a functioning legal system that protects the rights of its citizens, rather than one that further entrenches the confluence between business and the state.

Aboriginal Title

Aboriginal title (also referred to in various countries as Indigenous title, native title, original Indian title, or customary title) is a common law doctrine that the land rights of Indigenous peoples to customary tenure persist after colonial powers assumed sovereignty. The requirements of proof for the recognition, content and methods of extinguishing aboriginal title, as well as the availability of compensation in the case of extinguishment, vary significantly by jurisdiction. A number of important judgements have been handed down by national courts in Commonwealth countries affirming aboriginal title, including **Botswana** (*San-Central Kalahari Game Reserve Cases*), **South Africa** (*Richtersveld Community v. Alexor Limited*), **Belize** (*Cal v. Attorney General*), **Canada** (*Delgamuukw v. British Columbia*), and **Australia** (*Mabo v. Queensland (No. 2)*).

Support Legal Empowerment and Capacity Building

Lawyers, judges, legal aid clinics, NGOs, and donors should support Indigenous peoples and local communities to learn about and engage effectively with state legal systems. A series of legal empowerment and capacity building programmes, including research, development of educational resources and tools, translation services, and financial support, should be developed in close collaboration with diverse peoples and communities.

b. Recommendations for Legislating for Integrated Socio-ecological Systems and Implementing Laws in Conformity with Human Rights Standards

The effect that legal and institutional fragmentation has had on otherwise interconnected systems cannot be overstated. What is required is a shift from a disaggregated and discriminatory approach to the law to one that supports Indigenous peoples and local communities and the ecosystems and broader territories and areas upon which they depend. Governments should legislate for dynamic landscapes, seascapes and human-environment systems, not for their constituent components as distinct entities. This needs to be augmented by the integrated implementation of laws in conformity with human rights standards alongside localized, bottom-up efforts.

Recognize and Respect Customary and Collective Land and Resource Rights

The research strongly underscores the critical importance of legal recognition of Indigenous peoples' and local communities' (including women therein) customary and collective land and resource rights to maintaining the integrity of their ICCAs. Yet, many Indigenous peoples and local communities have only *de facto* rights to their territories and resources, not formal legal rights recognized by the state. Accordingly, land tenure systems that recognize and respect customary and collective land and resource rights are urgently required. Notably, any land tenure reforms must accord with the local populations' customs (while requiring legitimate equity considerations), especially providing for collective or communal tenure without imposed restrictions or requirements for 'development' or other uses. Such reforms should also include simpler procedures with lower costs and fewer bureaucratic barriers to realizing those rights.

Customary and Collective Rights

In terms of current legislation, the **Fijian *i Taukei Lands Act*** provides in Section 3 that 'native lands shall be held by native Fijians according to native custom as evidenced by usage and tradition.' This provision allows for a broad spectrum of usage and governance rights defined by native custom and tradition, as well as being subject to the regulations made by the iTaukei Affairs Board. Section 21 of the *Forest Decree* gives provision for the customary rights of native Fijians on native land and the right to exercise any rights established by native custom such as hunting, fishing or collecting wild fruits and vegetables. According to Section 13 of the *Fisheries Act*, it is an offence to fish or collect shellfish without a permit for trade or sale in an area



A ridge-to-reef seascape from Waya Island, Fiji. © Stacy Jupiter

where the fishing rights or *qoliqoli* (traditional fishing grounds) of a *mataqali* (clan) are recognized in the Register of i Taukei Customary Fishing Rights; members of the *mataqali* themselves are exempted. This allows for the involvement of communities in the governance of the coastal zones and the application of customary laws to regulate the *i qoliqoli* in some instances. Notably, by 2011, there were over 149 Locally Managed Marine Areas (LMMAs) managed by 400 communities, covering half the area of Fiji's *qoliqoli*.

☑ **Reform Environmental and Natural Resource Laws to Enhance Rights and Remove Direct Threats to ICCAs**

First, states should ensure the full and effective participation of Indigenous peoples and local communities, including women, in all decision-making processes related to the environment and natural resources. Second, states should reform environmental and natural resource laws to fully comply with international human rights instruments and customary laws of traditional authorities. Third, states should remove subsidies and perverse incentives for large-scale, industrial methods of extraction, production and development that threaten ICCAs directly or indirectly. Fourth, states should review existing concessions and withhold the issuance of new titles or licenses that may conflict or overlap with ICCAs without effective realization of the right to FPIC and other international and customary rights and procedures of the affected peoples or communities.

Integrated Socio-ecological Systems

Namibia's Communal Conservancies are based on the *Policy on Wildlife Management, Utilisation and Tourism in Communal Areas* (1995) and the subsequently enacted *Nature Conservation Amendment Act* (1996). The Act provides for rural communities to form conservancies and gain use rights over wildlife and tourism within the conservancies.

Article 96 of **Panama's** *Wildlife Law* (1998) states that the National Environmental Authority will coordinate all matters related to the environmental and natural resources in Indigenous peoples' territories with the traditional authorities of the relevant peoples and communities. The law also stipulates in Article 104 that when authorizing the use of natural resources in Comarcas or the lands of Indigenous peoples, projects presented by the members of the community will be preferred, provided they meet the conditions and procedures established by the competent authorities.



Community game guards download GPS data during the annual game count in the Mayuni Conservancy, North Eastern Namibia.
© Olga Jones

☑ ***Reform Policies and Laws to Effectively Protect and Promote Traditional Knowledge, Cultural Heritage and Customary Practices***

The research shows that states should work with Indigenous peoples and local communities to develop culturally appropriate legal regimes that protect their collective rights over traditional knowledge and cultural heritage, taking into account the specific knowledge and heritage of women. This may include supporting the appropriate documentation, valuation and revitalization of traditional knowledge, languages and customary practices.

States should also enact the principle of subsidiarity by decentralizing rights over territories and resources to the Indigenous peoples and local communities concerned. Towards this end, states should consider an overall law or policy on community stewardship of natural resources that recognizes traditional authorities and customary laws and practices and promotes integrated ecosystem approaches to governance and management.

☑ ***Ensure Protected Areas Comply with International Rights, Principles and Standards***

States should undertake a full review of national protected area systems with Indigenous peoples and local communities, NGOs, and research institutions, including of *de facto* and *de jure* governance and management arrangements, to identify ways to ensure compliance with international human rights instruments and related principles and standards for protected areas. They should also undertake a rigorous evaluation of the impacts of protected areas on Indigenous peoples and local communities, especially when overlapping with or subsuming their territories, and utilize customary or community-based approaches for preventing and resolving conflicts.

States should recognize and respect ICCAs as “effective area-based conservation measures” (as per the CBD’s Aichi Target 11) in their own right without requiring them to fulfill externally defined requirements or be part of national protected area systems. Inappropriate recognition of ICCAs, including by viewing and valuing them only in terms of their contributions to conservation, may pose as many dangers as the imposition of state protected areas. Towards this end, states should take responsibility to enact rights-based approaches to protected areas, building on international instruments such as UNDRIP, internationally adopted standards and principles such as those emanating from the CBD’s Working Group on 8(j) and Related Provisions and the Programme of Work on Protected Areas, and resolutions and recommendations of the IUCN World Conservation Congresses and World Parks Congresses.

Just Conservation

Australia’s terrestrial protected area estate (the National Reserve System) totals about 106 million hectares (about 14% of the nation’s total land area), of which about 26.5 million hectares are contributed by IPAs. This large and growing protected area network represents both a challenge and an opportunity for Indigenous peoples’ livelihoods and connections to Country. For many Indigenous peoples, protected areas have alienated them from their traditional estates as part of the wider colonial system that led to dispossession and catastrophic cultural changes. For an increasing number, however, protected areas present an opportunity to strengthen culture and identity through employment and governance partnerships that are valued by the Indigenous community and wider Australian society

alike. Protected areas as a focus for reconciliation rather than dispossession is a relatively recent phenomenon and an ongoing journey. Of particular interest is the convergence of national parks (and other government protected areas) and IPAs, which began as very separate protected area concepts and which are now showing signs of merging as a contemporary expression of Country.

The first IPA to be based on Indigenous Country was dedicated by Mandingalbay Yidinji people over their traditional estate near Cairns in northeast Queensland in December 2011. The Mandingalbay Yidinji IPA includes all or part of the following government-declared conservation areas: national park, forest reserve, environmental reserve, terrestrial and marine world heritage areas, marine park, fish habitat area, and local government reserve. The IPA management plan provides the framework for the recognition of Mandingalbay Yidinji cultural rights, interests and values across all the tenures within the IPA. Dedication of the IPA has been recognized by each of the government agencies with legal responsibility for the management of the separate tenures within the IPA and collaboration occurs through an implementation committee chaired by a representative of Mandingalbay Yidinji people.



Trinity Inlet, Mandingalbay Yidinji Indigenous Protected Area, Queensland. © The Cairns Post

c. Specific Recommendations for Appropriately Respecting and Supporting ICCAs

- Respect the Rights of Indigenous Peoples and Local Communities to Self-Determination***

Above all else, legal frameworks that seek to recognize and support ICCAs should first respect Indigenous peoples' and local communities' rights to determine their own identities, visions, plans, and priorities. This includes respecting peoples and communities who do not want legal or other forms of recognition for their ICCAs and ensuring culturally appropriate protection of sensitive or confidential information. In all cases, legal recognition must be done with the full and effective participation and free, prior and informed consent of the Indigenous peoples and local communities concerned.

Create an Enabling Environment for Self-designation and Self-definition of ICCAs

States should pass legislation that recognizes and supports Indigenous peoples and local communities to voluntarily designate and define their ICCAs, both within and outside of national protected area or conservation systems. This would strengthen the recognition of Indigenous peoples' and local communities' rights and control over their territories while promoting more socially and culturally inclusive approaches to conservation. Such recognition could include strengthening community capacities for governance and management and should not impose preconditions, institutional arrangements, or strict requirements such as no-take zones. Only where desired by the peoples and communities concerned, formally recognized ICCAs could also be counted towards sub-national or national targets for terrestrial, coastal and marine areas under protection.

Self-designation

Several of the laws of the **Panamanian** Comarcas themselves (for example, the Law of the Comarca Embera-Wounaan, the Law of the Comarca Ngobe-Bugle and the Law of the Comarca Kuna de Wargandi) include procedures to designate certain areas as conservation areas. Moreover, the Embera-Wounaan Comarca Law grants the authority to administer the part of the National Park Darien located on its territory to its own traditional authorities, in conjunction with the National Environmental Authority. While the laws of the Panamanian State do not refer to ICCAs, the laws of the Indigenous Comarcas do mention the traditional management practices in Indigenous peoples' territories. As the Panamanian State has recognized the traditional authorities of Comarcas, it should also recognize the ICCAs established by them.

Recognize the Full Diversity of Indigenous Peoples and Local Communities and Respect the Social, Cultural and Spiritual Values of ICCAs

Indigenous peoples and local communities and their ICCAs, found in a wide range of ecosystems and social-cultural settings, are by definition extremely diverse. Legal and policy frameworks must fully respect, recognize and support this diversity without imposing strict criteria, requirements or qualifications. This requires dominant legal and political systems to embrace a plurality of cultures, laws, worldviews, and epistemologies.

Respecting 'Conservation Pluralism'

For most Indigenous peoples in **Canada**, traditional laws and systems of governance are based on a concept of interconnectedness. The Algonquin speak of *ginawaydaganuk* or 'web of life' and the Nuu-chah-nulth speak of *Hisuk ish ts'awalk* or 'oneness'. In many traditional Indigenous cosmologies, the connection between the land and humanity is seamless. The Nunavut territorial government has developed its own environmental policy and requires the application of Inuit knowledge (*Qaujimajatuqangi*) for the governance of the environment in Nunavut. *Avatittinnik Kamatsiarniq*, the Inuit *Qaujimajatuqangit* principle of environmental stewardship, emphasizes the key relationship between people and the natural world.

Policies and legislation that formally recognize the social, cultural and spiritual values of ICCAs should be further strengthened in culturally appropriate and sensitive ways. This would enhance their protection and respect and affirm the worldviews of the respective Indigenous peoples and local communities who act as their traditional custodians. It would also support their right to control external pressures such as tourism and unwanted developments. It is important, however, that such measures do not enable religious and ethnic bigotry and bias and do not require recording or disclosure of sensitive or confidential information such as locations or traditional names.

Sacred Natural Sites

Senegal, like many countries in sub-Saharan Africa, has numerous small sacred forests and other sacred natural sites. However, they are not given any formal status under protected area legislation or other statutes and their protection is entirely dependent on local norms and customs.



A centuries-old shell mound at *Petit Kassa*, Casamance, Senegal.
© Christian Chatelain

Indigenous peoples in **Canada** have not always been able to prevent the desecration and destruction of their sacred sites. Countless sites have been destroyed over the years by, for example, mining, forestry activities, farming, and souvenir collectors. Notwithstanding this, there are some provisions to allow co-management of sacred sites. For example, in 2010, the Brokenhead Ojibway Nation reached a tentative deal with the Province of Manitoba to develop a co-management agreement for petroform sites that are within the boundaries of Whiteshell Provincial Park.

Recognize Customary Laws and Decision-making Processes

The full realization of Indigenous peoples' and local communities' rights necessarily requires recognition of and respect for their customary laws and traditional authorities, institutions and decision-making processes, within a broader framework of respect for human rights, including the rights of women and ethnic minorities. This includes support for autonomous systems of self-governance and management, particularly regarding decisions that affect their territories and natural resources.

Traditional Authorities and Customary Laws

In **Panama**, Indigenous peoples are able to exercise rights to self-determination that are actually stronger in practice than they are according to formal law. The fundamental Angmar Igar Law of the Comarca of Guna Yala, for example, is not formally recognized by Panamanian law, but in practice the Kuna people are able to exercise their right to

autonomy and self-determination within their territory. This allows them to establish their own protected areas such as *Galus and Birias*, being terrestrial and marine SNSs.

Each Comarca has its own land and natural resources laws. The Embera-Wounaan Law designates specific lands to the conservation of flora, fauna and water for the preservation of life. Under the authority of its General Congress, it established a Division of Lands and Limits, which is responsible for the implementation of physical planning, and the Division of Natural Resources and the Environment, responsible for the planning and implementation of natural resources management, including conservation areas. It does so in coordination with the National Environmental Authority of the Government of Panama.

5.3 Recommendations for Non-legal Recognition and Support by Governments, Intergovernmental and Non-governmental Organizations, Research Institutions, and Donors

Legal reforms and recognition alone do not secure Indigenous peoples' and local communities' rights and ICCAs. Appropriate forms of non-legal recognition and support such as those set out below also play an essential role, and sometimes pave the way for legal recognition. They should be undertaken in accordance with customary laws and values, community-defined plans and priorities, and gender considerations, and with the full involvement and free, prior and informed consent of the Indigenous peoples and local communities concerned, careful handling of sensitive information, and respect for those who do not wish to be involved. In all of the following recommendations, the full involvement of both women and men and of communities as a whole rather than only a few individuals needs to be ensured; special facilitation may be necessary for weaker or disprivileged groups.

Provide appropriate administrative and programmatic recognition and support through, for example, national and sub-national strategies and action plans, incentive schemes, programmes, and research and funding policies related to the environment, development, Indigenous peoples and local communities, women's empowerment, and social welfare.

Work with Indigenous peoples and local communities to undertake locally appropriate research to further develop the knowledge base about aspects such as the conservation benefits and values of ICCAs, threats to ICCAs, and community-determined plans, priorities and protocols for maintaining the integrity of their ICCAs. Particular emphasis should be placed on enabling community members to conduct their own research and documentation and to communicate it in their own words, including through Indigenous and community media. Care also needs to be taken to avoid documentation that could threaten the ICCA by bringing unwanted attention.

Increase public awareness and social recognition of Indigenous peoples' and local communities' rights and their ICCAs through relevant workshops, festivals and celebrations, awards for exemplary conservation, livelihood or development initiatives, appropriate inclusion in educational curricula and programmes, and constructive coverage in print, broadcast, online, social, and other media.

Institute easily accessible and transparent funding mechanisms, provide opportunities for **training and capacity enhancement** (including culturally sensitive inputs and facilitation), and facilitate access to **culturally and ecologically appropriate facilities and services** for wellbeing and welfare (for example, water, sanitation, health, education, and infrastructure).

Support Indigenous peoples' and local communities' mobilization and advocacy efforts at all levels, including by respecting their rights to free speech, assembly, independent media, and international solidarity, and by providing platforms and spaces for them to make their voices heard. This could be through measures such as securing technical and financial support and raising national and global awareness through action alerts and campaigns.

Support the community-defined establishment, consolidation and/or registration of Indigenous peoples' and local communities' federations, associations, networks, and other organizations, and facilitate opportunities for Indigenous peoples and local communities to participate in and promote their rights and ICCA-related issues within environmental, human rights and other networks.

This publication describes and analyses the interaction between Indigenous peoples' and local communities' conserved territories and areas (ICCAs) and a number of critical factors, including: international law; national legislation; judgements; institutional frameworks; social recognition; and administrative, technical, financial, and other types of support from governments, civil society, and other actors. It points to the fact that the vitality of the world's ICCAs is inextricably linked to larger, ongoing struggles of Indigenous peoples and local communities worldwide.

In many countries, Indigenous peoples and local communities continue to face a lack of recognition of their customary land rights, governance institutions, and/or rights over natural resources in their territories. At the same time, legislation and policies are developed without their full and effective participation, legal frameworks fragment otherwise connected cultural and ecological systems, and justice systems remain largely inaccessible. Together, these factors are significantly hindering the ability of Indigenous peoples and local communities to maintain the holistic integrity of their territories and areas.

The publication concludes that Indigenous peoples' and local communities' stewardship of their territories and areas is contingent upon the legal and social recognition of, among other things: their existence and rights as distinct peoples and communities; the full extent of their territories and areas; customary and contemporary systems of natural resource governance and management; and communal control over historically state-dominated or corporatized resources such as crops, wildlife, forests, pastures, and fisheries. It is also essential for governments, NGOs and other service providers to ensure their support (including training and capacity building, financial resources, development and welfare inputs, networking, and advocacy) is *adequate*, *appropriate*, and determined and prioritized by the peoples and communities themselves.

This report is based on:

1. Legal Review

- An analysis of how international law and jurisprudence relate to ICCAs
- Regional overviews and 15 country level reports:
 - *Africa*: Kenya, Namibia and Senegal
 - *Americas*: Bolivia, Canada, Chile, Panama, and Suriname
 - *Asia*: India, Iran, Malaysia, the Philippines, and Taiwan
 - *Pacific*: Australia and Fiji

2. Recognition Study

- An analysis of the legal and non-legal forms of recognizing and supporting ICCAs, published in a forthcoming CBD Technical Series volume
- 19 country level reports:
 - *Africa*: Kenya, Namibia and Senegal
 - *Americas*: Bolivia, Canada, Chile, Costa Rica, Panama, and Suriname
 - *Asia*: India, Iran, the Philippines, and Russia
 - *Europe*: Croatia, Italy, Spain, and United Kingdom (England)
 - *Pacific*: Australia and Fiji

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The reports are available at: www.iccaconsortium.org.