National legal and policy instruments that formally recognise territories of life

(adapted from Borrini-Feyerabend et al. 2010)

Ideally, ICCAs are recognized as coherent land, water and natural resource units governed by self-defined communities under a common title (property or right to govern and use) that is inalienable, indivisible and established in perpetuity. In practice, there are diverse legal instruments and frameworks across different countries that align more and less well with these ideals. Examples include:

- Legislation addressing the ***collective legal and/or customary tenure, governance and rights*** of indigenous peoples and/or local communities to their territories and ancestral lands, waters and natural resources. This kind of legislation in some cases applies only to specific communities, such as mountain communities, tribal peoples living in forest environments, coastal communities managing customary fishing grounds or slave-descendant communities (Quilombolas, Afro-Colombian communities, etc.). In other cases, it applies to all "indigenous peoples" in a country that can satisfy certain requirements of ancestral domains. And it may refer to specific collective endeavours (e.g., transhumance). Recognition in legislation may be fully independent from conservation results, although it may be strengthened by being combined with the recognition of the conservation results consequent to the exercise of the customary tenure, governance and rights.
- ***Protected area laws*** that embrace the full spectrum of protected area governance types, including governance by indigenous peoples and local communities, within and outside a national protected area system.[11] In this sense, communities with a demonstrated capacity to conserve territories and areas of national biodiversity value are provided with an important degree of self-determination as they continue to provide benefits to society at large. Protected area frameworks can provide both legal backing and financial support for communities to govern themselves while fending off threats from concessions for extractive activities and mega infrastructures. Recent CBD decisions have stressed the need to properly recognise ICCAs also when they overlap with official government protected areas through positive collaboration between the relevant protected area authorities and communities.[12]
- ***Sectoral policies*** in forestry and wildlife, agriculture, tourism, mining, fisheries, finance and economic development that recognise indigenous peoples and local communities as legal subjects with collective rights and responsibilities. These often regulate special types of community concessions and privileges, such as for fishing, hunting, gathering and the sustainable use of forests.
- ***Land tenure and decentralisation policies*** that recognise indigenous peoples and local communities as legal subjects with collective rights and responsibilities and effective conservation measures for ecologically important or sensitive areas, such as watersheds, rivers, lakes, wetlands and coastal zones. As part of such recognition, decision-making is brought back to the community level through various forms of negotiation and local, sub-national and national governments agree to declare ICCAs 'off-limits' to destructive activities. While collective private property (which includes access, use and disposal) offers the most powerful bundle of rights, even secured rights of use of land or water under a variety of ownership regimes (e.g. private, state or municipal) can effectively sustain an ICCA on the basis of local by-laws and municipal ordinances. The important element is that the arrangements succeed in developing a strong, long-term association between territories of life and their custodian community and that the communities are allowed to develop and enforce the relevant rules.