



INDIGENOUS PROTECTED AREAS AND ICCAS: COMMONALITIES, CONTRASTS AND CONFUSIONS

Dermot Smyth

Corresponding author: dermot.smyth48@gmail.com

Research Institute for the Environment and Livelihoods, Charles Darwin University, Darwin, Australia

ABSTRACT

Indigenous Protected Areas (IPAs) in Australia and ICCAs (an acronym derived from ‘Indigenous and Community Conserved Areas’, originally used to summarize ‘Indigenous peoples’ protected areas, Indigenous peoples’ conserved territories and community conserved areas’) internationally are both area-based designations that provide contemporary expressions of the ancient and ongoing relationships between Indigenous peoples (and also non-Indigenous local communities in the case of ICCAs) and their local environments – with a particular emphasis on conservation outcomes. This paper explores commonalities and contrasts between IPAs and ICCAs, seeking to clarify their meanings and applications, and also to contribute to debate on the concepts of ‘conserved areas’ and ‘protected areas’ within the IUCN conservation lexicon. The paper describes the evolution of the IPA concept from being based on Indigenous legal ownership (tenure) of land to being based on Indigenous ‘Country’ (traditional clan estates), irrespective of current legal ownership. This is contrasted with the evolution of the ICCA concept that currently only applies to Indigenous peoples’ and local communities’ territories and areas where major decision-making authority has been retained by the respective Indigenous peoples or local communities. Proposals are made to clarify the use of the terms ‘protected area’ and ‘conserved area’, particularly in the context of respecting the rights of Indigenous peoples and local communities to assign their own designations to their respective territories and areas.

Key words: Indigenous Protected Areas, ICCAs, Indigenous peoples’ and local communities’ territories and areas, IUCN protected area matrix

INTRODUCTION

Indigenous Protected Areas (IPAs) in Australia and ICCAs¹ internationally are both area-based designations that provide contemporary expressions of the ancient and ongoing relationships between Indigenous peoples (and also non-Indigenous local communities in the case of ICCAs) and their local environments – with a particular emphasis on conservation outcomes. Because of these shared characteristics, IPAs are sometimes characterized as Australian examples of ICCAs (Borrini-Feyerabend, 2010; Davies et al., 2013), whereas a closer analysis reveals that significant differences between the two concepts have emerged as both have evolved over the last 10 to 15 years. This paper explores commonalities and contrasts between IPAs and ICCAs. It seeks to clarify their meanings and applications, and also to contribute to debate on the concepts of ‘conserved areas’ and ‘protected areas’ within the IUCN conservation lexicon.

IPAs are areas of land and/or sea that have been voluntarily dedicated by their Indigenous traditional owners, recognized by all tiers of Australian governments as protected areas, and managed by a combination of ‘*legal and other effective means*’ (Szabo & Smyth, 2003), consistent with IUCN’s protected area definition and guidelines (Dudley, 2008). There are currently 72 IPAs across Australia, comprising over 40 per cent of the total area of recognized protected areas.

‘ICCA’ refers to areas of land and/or sea where Indigenous peoples or local communities closely connected with the areas have decision-making responsibility, and where conservation of natural and associated cultural values is achieved either intentionally, or incidentally as the result of cultural or livelihood activities (IUCN, 2014). Estimates of the number and extent of ICCAs globally depends on whether the term is



Milimininya Dhamarandji at Dhambaliya coastline, Dhimurru IPA © Lisa Roegeer, Dhimurru

used by third parties to refer to the 'myriad' areas they believe meet the ICCA criteria, or whether the term is confined to areas for which the relevant Indigenous peoples or local communities have themselves chosen to use this designation and then possibly listed their area on the ICCA Registry. The ICCA Registry website², which currently contains information regarding 30 ICCAs worldwide, is an online platform on which Indigenous or local community organizations can voluntarily provide data, case studies, maps, photos and stories which result in useful statistics and analysis on their territories or areas they have chosen to designate as ICCAs.

HISTORY AND EVOLUTION OF IPAS

The IPA concept was co-developed by representatives of Indigenous people and the Australian Government in the mid-1990s, in response to a commitment by the Australian Government to establish a comprehensive and adequate protected area system representative of the full range of ecosystems in Australia in the context of the 1994 IUCN guidelines for establishing protected areas (Smyth & Sutherland, 1996). These initiatives coincided with growing interest from Indigenous people across Australia to re-engage in the management of their traditional estates, including large areas returned to them through land claim processes of the 1970s and '80s, as well as areas included in government national parks.

It was apparent that a comprehensive system of protected areas representative of all Australian bioregions could only be achieved with the inclusion of some Indigenous-owned lands, whose owners were

unlikely to voluntarily return their lands to government ownership and management. The 1994 IUCN guidelines (and the subsequent 2008 guidelines), however, recognized Indigenous ownership, use and management of land as consistent with protected area status and that protected areas could be dedicated and managed through a combination of '*legal and other effective means*' (Dudley, 2008). Consultations with Indigenous groups across Australia determined that some Indigenous landholders were interested in voluntarily dedicating and managing their land as protected areas as part of the National Reserve System (NRS)³, in return for government funds and other assistance required for the planning and ongoing management of their land.

The first IPA was voluntarily dedicated⁴ by Adnyamathanha people in 1998 at Nantawarrina in South Australia, the first occasion in Australia that any form of protected area had been established with the consent of Indigenous landowners. To date, 72 IPAs have been dedicated and recognized across Australia with a combined area of over 60 million hectares, which equates to over 40 per cent of the NRS⁵.

The role of Indigenous people is to plan, dedicate and manage IPAs; the role of government is to provide support and recognition. Recognition of an IPA occurs when an appropriate management plan has been developed, usually accompanied by a funding agreement with the government to enable the responsible Indigenous organization to implement the plan.

In the dedication and management of IPAs, *'legal means'* may include: legal ownership of land (and the control of access that ownership enables); Indigenous customary rights enshrined in legislation; protection of sacred sites and other cultural sites and areas through cultural heritage legislation; and protection of culturally significant species and habitats through biodiversity conservation legislation. *'Other effective means'* for managing IPAs include: the development and implementation of management plans (which includes many practical activities not based on legal instruments, such as feral animal control, weed management, monitoring and research); Memoranda of Understanding and other partnerships with government agencies, community natural resource management groups, conservation NGOs and neighbouring landholders; and funding and other resources provided by governments, NGOs, other partners and through commercial activities on the IPA (e.g. visitor permit fees or eco-cultural tourism operations).

From tenure-based to Country-based IPAs

From 1998 to 2011, IPAs were only established on land that was legally owned by Indigenous people under various forms of exclusive tenure (freehold, leasehold, native title etc.). These tenure-based IPAs work well for Indigenous groups who have substantial legal ownership of their traditional clan estates, which are often referred to by Indigenous Australians as 'Country'. In this context 'Country' refers to: *'....more than just a geographical area: it a shorthand for all the values, places, resources, stories, and cultural obligations associated with that geographical area. For coastal Aboriginal peoples and Torres Strait Islanders, "Country" includes both land and sea areas, which are regarded as inseparable from each other'*. (Smyth, 1994)

Tenure-based IPAs, however, are not feasible for the many Indigenous groups who have legal ownership of only small portions or none of their traditional Country. Neither do they work for Indigenous groups whose Country has already been dedicated by governments as national parks or other forms of protected area. Furthermore, in coastal areas, tenure-based IPAs generally do not accommodate the inclusion of Indigenous peoples' traditional marine estates ('Sea Country'), because Indigenous ownership of marine areas has so far only received limited recognition in Australia (Smyth, 2008). While the Australian High Court has confirmed that land rights legislation in the Northern Territory recognizes Indigenous ownership of intertidal land and intertidal seawater in that jurisdiction, exclusive Indigenous ownership of marine areas beyond low tide in the Northern Territory, and all

Sea Country elsewhere in Australia, remains unrecognized in Australian law (Butterly, 2013).

In 2011, the first IPA based on Country rather than tenure was established in far north Queensland. The Mandingalbay Yidinji IPA (Mandingalbay Yidinji, 2011) was dedicated over multiple tenures, including a national park, forest reserve, environmental reserve and marine park, all lying within the traditional estates of Mandingalbay Yidinji People. This was achieved following legal recognition of co-existing native title rights over some of the tenures, with recognition and support from the government agencies for managing the existing protected areas within the overarching IPA.

Country-based (multi-tenure) IPAs are managed through a similar range of *'legal and other effective means'* by which Indigenous-owned (single tenure) IPAs are managed, with the addition of a governance committee that includes representatives of Indigenous traditional owners, relevant government agencies and other parties collaborating in achieving the goals of the IPA, as well as the shared legislative authorities and capacities of collaborating partners (Rose, 2013). All tiers of government recognize that the various tenures previously managed separately by different agencies now constitute a single Country-based IPA, complementing rather than replacing the component protected areas. An IPA management plan describes the natural and associated cultural values across all tenures within the IPA, and sets out strategies and actions for collaborating partners to achieve the management goals of the IPA – complementing (not replacing) the statutory management plans for the component protected areas.

Following the example of the Mandingalbay Yidinji IPA, several other Country-based IPAs have been dedicated elsewhere in Queensland (Girringun Regional IPA, Kuku Yalanji IPA and Thuwathu/Bujimulla IPA), the Northern Territory (Yanyuwa IPA) and Western Australia (Nyangumarta IPA); planning is currently underway for several other Country-based, multi-tenure IPAs in several Australian jurisdictions.

Sea Country IPAs

Dhimurru IPA, dedicated in 1990, on the north-east Arnhem Land coast in the Northern Territory included 9,000 hectares of Sea Country that had previously been registered as a complex of marine sacred sites under the *Northern Territory Aboriginal Sacred Sites Act 1989* (NT). The legal protection of the marine sacred sites was sufficient for the Australian Government to recognize the inclusion of Sea Country into the Dhimurru IPA (Smyth, 2007).



Miyapunu (Olive Ridley) Marine Turtle rescue, Dhimurru IPA © Vanessa Drysdale, Dhimurru

However, for the Yolngu people of north-east Arnhem Land, the traditional owners and managers of Dhimurru IPA, the area of registered marine sacred sites included in the IPA represented only a small fraction of their customary marine estates. Further planning and negotiation with government agencies, non-government organizations and other interest groups eventually led to the dedication and recognition of an additional 400,000 hectares of Sea Country into the Dhimurru IPA – without any expansion of the area of registered marine sacred sites and without legal recognition of customary ownership rights of the additional Sea Country included in the IPA.

The dedication and recognition of the expanded Dhimurru IPA (Dhimurru Aboriginal Corporation, 2015) was achieved by demonstrating, through provisions in the management plan, collaborative governance arrangements and the shared capacities of Dhimurru Aboriginal Corporation (representing Yolngu traditional owners), partner government agencies, commercial and recreational fishery organizations, research institutions and others that the conservation and sustainable use goals of the IPA could be achieved consistent with a Category V protected area. The expanded Dhimurru IPA

provides a contemporary expression of Yolngu people's ancient and continuing cultural connection to, and responsibility for, their Sea Country estates. It provides a new pathway for Indigenous-led, collaboratively governed and managed integrated coastal land and sea protected areas – in an Australian jurisdiction where there has long been political and community resistance to establishing legislated marine protected areas.

IPAs in the IUCN protected area matrix

All IPAs, whether based on tenure, Country and with or without Sea Country (marine areas), are consistent with the IUCN protected area governance sub-type '*Indigenous peoples' protected areas and territories – established and run by Indigenous peoples*'. Dudley (2008) defines Indigenous peoples' protected areas as: '*clearly defined geographical spaces, within the lands and waters under traditional occupation and use by a given indigenous people, nation or community, that are voluntarily dedicated and managed, through legal or other effective means including their customary law and institutions, to achieve the long-term conservation of nature with associated ecosystem services, as well as the protection of the inhabiting communities and their culture, livelihoods and cultural creations*'.

Since Country-based IPAs (including Sea Country IPAs) involve collaboration with government agencies and other partners, these IPAs share some of the features of IUCN governance type B 'Shared Governance'. However, as the planning, dedication, collaboration and management is led by the Indigenous traditional owners, the above IUCN definition of Indigenous peoples' protected areas most accurately reflects all IPAs.

Country-based planning

The evolution of IPAs from solely being based on legal tenure to embrace the option of being based on traditional Country (including Sea Country) was facilitated through a process of Country-based planning (Smyth, 2011). A Country-based plan is simply a plan for the Country of a particular Indigenous group, as defined and selected by that group. If the plan is developed by a single family or clan group, the Country-based plan may relate to a relatively small area. Alternatively, an Indigenous group may comprise members of several clans, or a whole language group or perhaps several language groups – in which case the Country-based plan would relate to a larger area. The critical factor to a successful Country-based plan is that the Indigenous group determines the cultural and geographical scale at which they wish to plan.

Because Country-based plans are based on traditional geographical and cultural scales they can include multiple tenures, multiple interest groups, multiple rights holders (e.g. farmers and commercial fishers) and multiple authority holders (such as government agencies). As an Indigenous-led process, Country-based plans provide an opportunity for Indigenous people to document their cultural, natural and livelihood values across all of their traditional Country, irrespective of current tenure and legal authority, and to build understanding and collaboration among other interest groups and authority holders for the safeguarding of those values.

Country-based plans also provide Indigenous people with the opportunity to consider what management or conservation framework (if any) they wish to apply to their traditional Country, including over portions of their Country for which they may no longer have legal authority. The Mandinglbay Yidinji IPA, for example, came about as the result of undertaking a strategic plan for Mandinglbay Yidinji Country (Mandinglbay Yidinji Aboriginal Corporation, 2009) which documented a wide spectrum of values and considered opportunities for protecting and managing those values through building partnerships across tenures, landholders and agencies. Negotiating support for the implementation of a Country

-based plan is a challenging process, but the experience so far in Australia has been that well facilitated, Indigenous-led planning can lead to unexpected levels of collaboration among multiple parties – including between government agencies that had hitherto not collaborated with each other⁶.

HISTORY AND EVOLUTION OF ICCAS

The term 'ICCA' evolved from 'CCA' (Community Conserved Areas), a concept that emerged in the lead up to, and during, the 2003 World Parks Congress. CCAs were defined as: *'Natural and modified ecosystems, including significant biodiversity, ecological services and cultural values, voluntarily conserved by indigenous peoples and local and mobile communities through customary laws or other effective means'* (Borrini-Feyerabend et al., 2004)⁷.

CCAs were regarded as pre-existing areas, established in the distant past, over which Indigenous people or local communities had both a cultural connection and decision-making authority, and from which conservation outcomes were achieved – even though those outcomes may be the result of cultural or livelihood practices rather than an intent to achieve conservation of natural and associated cultural values.

Borrini-Feyerabend et al. (2004) suggested that some CCAs may meet protected area criteria and proposed that CCAs should be recognized as one of four governance types for protected areas. However, when the IUCN's *Guidelines for Applying Protected Area Management Categories* were developed (Dudley, 2008), CCAs were allocated to a sub-type of governance type D '*Governance by Indigenous peoples and local communities*'⁸, within which the following two sub-types are recognized:

- Indigenous peoples' protected areas and territories – established and run by Indigenous peoples; and
- Community conserved areas – declared and run by local communities.

Whereas CCAs originally referred collectively to areas managed by Indigenous peoples and by local communities, Dudley (2008) uses the term '*Community conserved areas*' as a governance sub-type referring only to areas managed as protected areas by local communities. Elsewhere in Dudley (2008), the term '*Indigenous and community conserved areas (ICCAs)*' is used to summarize '*Indigenous peoples' protected areas, Indigenous peoples' conserved territories and community conserved areas*', but neither 'ICCAs' nor 'Indigenous and community conserved areas' appear as part of the IUCN protected area matrix.



Djawalu Mununggurr hunting, Dhimurru IPA © Vanessa Drysdale, Dhimurru

From 2008 onwards, 'ICCAs' has been variously translated as:

- Indigenous peoples' protected areas, Indigenous peoples' conserved territories and community conserved areas (Dudley, 2008);
- Indigenous/Community Conserved Areas (Kothari, 2008);
- Indigenous and community conserved areas (Kothari, 2008);
- Indigenous territories and community conserved areas (Kothari, 2008);
- Indigenous conservation territories and areas conserved by indigenous peoples and local communities (ICCA Consortium, 2010);
- Indigenous Peoples' and Local Communities' Conserved Territories and Areas (Kothari et al., 2012);
- Indigenous Peoples' and Community Conserved Territories and Areas (Borrini-Feyerabend et al., 2013);
- Territories and areas conserved by indigenous peoples and local communities (IUCN, 2014; Borrini-Feyerabend & Hill, 2015);
- Indigenous peoples' and local community conserved territories and areas (ICCA Consortium, 2015);
- Indigenous and Community Conserved Areas (UNEP-WCMC, 2015).

Most recently, IUCN (2014) and Borrini-Feyerabend and Hill (2015) have described 'ICCAs', as an 'abbreviation' for the territories and areas conserved by Indigenous peoples and local communities, referencing both Dudley (2008) and Kothari et al. (2012). However, as noted above, Dudley (2008) includes '*Indigenous peoples' protected areas*' within the arrangements that are summarized as '*Indigenous and Community Conserved Areas*', while Kothari et al. (2012) refer to the '*phenomenon of Indigenous Peoples' and Local Communities' Conserved Territories and Areas (ICCAs)*', without inclusion of '*Indigenous peoples' protected areas*'. Reference to '*Indigenous peoples' protected areas*' has also been omitted from subsequent published explanations of the term 'ICCAs' and from recently published versions of the IUCN protected area matrix (discussed further below).

Notwithstanding the somewhat convoluted history and diverse translations of 'ICCAs', the essential meaning of the term has maintained the key characteristics of the original CCAs. The three key characteristics of ICCAs are:

- An Indigenous people or local community possesses a close and profound relation with a territory, area or habitat;
- The people or community is the major player in decision-making related to the site and has *de facto* and/or *de jure* capacity to develop and enforce regulations; and
- The people's or community's decisions and efforts lead to the conservation of biodiversity, ecological functions and associated cultural values, regardless of original or primary motivations (IUCN, 2014).

Achievements and challenges of the ICCA concept

Over the 12 years since the 2003 World Parks Congress, awareness and application of the ICCA concept has grown across the globe, bringing much needed support to many Indigenous peoples and local communities in their struggles to maintain the natural and cultural values and ecosystem functions of the areas of long standing cultural, spiritual and economic importance to them. Through the work of the ICCA Consortium and others, the concept of ICCAs has provided a framework for communicating the importance of these areas and for their recognition and support. International policies and recommendations, such as through the Convention on



Dhimurru Landscape © Dhimurru

Biological Diversity, World Conservation Congresses and World Parks Congresses have, directly and indirectly, embraced the significance of Indigenous peoples' and local community conserved territories and areas, without necessarily using the term 'ICCAs'.

There are, however, challenges and constraints within the current ICCA concept that could potentially limit further progress in gaining the recognition and support referred to above. These challenges stem from the conflation of Indigenous and local community interests into a single conceptual framework, and the application of the 'conserved' label to Indigenous territories and local community areas at a global or regional scale. Another potential constraint arises from the current application of the ICCA concept only to portions of Indigenous peoples' traditional territories or local communities' areas where the respective peoples or communities have retained major decision-making authority. A further complexity arises from inconsistent terminology within the IUCN protected area governance/management matrix. There is also the inherent difficulty of applying to one location an acronym that refers to multiple territories and areas. These challenges are explored further below.

Conflation of Indigenous peoples' and local communities' interests

While 'ICCA' is a convenient collective term to describe the many locations around the globe where the intentional or unintentional activities of Indigenous

peoples and local communities result in conservation outcomes, difficulties arise when applying the term to a particular place. While there may be geographical overlaps of interest, each traditional territory or area will typically be associated with either an Indigenous group or a local community, which therefore can make it inappropriate to use a collective term that embraces both Indigenous peoples and local communities.

In Nepal, for example, some Indigenous people have expressed concern about the reference to local communities, and some local communities have expressed concern about the reference to Indigenous people, when engaging in dialogues about the ICCA concept with representatives of the local ICCA network in that country⁹. Similar concerns have been raised informally with the author at several international gatherings; it would be valuable to elucidate the extent to which this matter is more widely of concern to Indigenous peoples and/or local communities.

Although some international frameworks do link Indigenous peoples and local communities, there is strong global recognition of the distinct identity and rights of Indigenous peoples, as expressed, for example, in the UN Declaration on the Rights of Indigenous Peoples. A collective term that has a level of convenience for use in discussions about Indigenous peoples' territories and local communities' areas has the potential to place a barrier to engagement among the peoples and communities whom the concept seeks to support.



Dhimurru staff © Dhimurru

A possible solution to these difficulties is to use more specific terms, such as the IUCN protected area governance sub-types ‘*Indigenous peoples’ protected areas*’ and ‘*Community conserved areas*’, which do distinguish the separate identities of Indigenous peoples and local communities, and which can be used to refer to a particular location. These terms, however, only apply to locations that are dedicated and recognized as protected areas. As discussed further below, a wider solution to these terminological challenges is therefore required to accommodate locations that do not meet the IUCN protected area definitions.

Assigning labels to territories and areas without informed consent

The early literature on CCAs and ICCAs applied these terms to myriad locations around the globe without consideration of the need to obtain the prior informed consent of the people and communities connected to the territories and areas to which the terms referred. These acronyms overtly express the ‘conserved’ label on locations which may be regarded very differently by the Indigenous peoples and communities involved. Since 2010, the ICCA literature has included caveats such as: *The application of the generic term ‘ICCA’ to the myriad of territories and land and/or water areas conserved by Indigenous peoples and local communities has not yet been submitted to most of them for their Free, Prior and Informed Consent. Such consent should not be implied. The term is used here for the purpose of dialogue and communication rather than labelling.* (ICCA Consortium, 2010)

Even with this caveat, however, the ongoing reference to myriad ICCAs still implies that countless unspecified locations are deemed to be ICCAs, without the knowledge or engagement of the respective people or communities. Certainly in Australia there is a strong cultural proscription against ‘*speaking for someone else’s Country*’ (Smyth & Grant, 2012); to do so shows a lack of

respect for the people and their Country, even if no disrespect is intended.

Constraints of the ICCA criteria

The current criteria for recognition of ICCAs constrain Indigenous peoples or local communities from applying the ICCA framework to areas of their traditional domains if they no longer have *de facto* or *de jure* decision-making power over those areas (IUCN, 2014). This limitation of the current ICCA criteria is similar to the limitation of IPAs when they were restricted to areas of Indigenous-owned land over which Indigenous people had complete decision-making authority. As discussed above, the IPA concept has evolved beyond the constraints of Indigenous tenure to better reflect traditional Country, providing an opportunity for this ancient cultural and geographical scale to re-emerge as the basis for contemporary landscape and seascape management. There may be opportunities for the ICCA concept to similarly evolve, as discussed further below.

ICCAs and protected areas

The intersection of ‘ICCAs’ with protected areas presents a challenge for the understanding, communication and adoption of the ICCA concept. As noted above, ‘ICCA’ can be applied to areas where conservation outcomes occur (or are assumed to occur) without explicit conservation intent by the relevant Indigenous peoples or local communities. It is also applied to areas explicitly dedicated by those peoples and communities as protected areas. The distinction between ‘conserved areas’ and ‘protected areas’ is further complicated by the terminology used in the IUCN protected area matrix (Dudley, 2008), which refers to ‘*Indigenous peoples’ protected areas*’ and ‘*Community conserved areas*’.

Adding to the confusion have been unexplained changes of terminology in recently published versions of the IUCN protected area matrix, while referencing the original source (Dudley, 2008). For example, the

governance sub-type '*Indigenous peoples' protected areas and territories*' has been changed to '*Indigenous peoples' conserved areas and territories*' in IUCN/CEESP (2010), ICCA Consortium (2010), Borrini-Feyerabend et al. (2013) and IUCN (2014), and changed to '*Indigenous bio-cultural areas and territories*' in ICCA Consortium (2010), while referencing Dudley (2008) and without acknowledging that these changes have been made. With respect to governance type C (Private protected areas), IUCN/CEESP (2010), Borrini-Feyerabend et al. (2013) and IUCN (2014) refer to '*Conserved areas established and run by individual landowners*', whereas Dudley (2008) makes no reference to '*Conserved areas*' within this governance type.

The most recent representation of the IUCN protected area matrix (Borrini-Feyerabend & Hill, 2015) does acknowledge that changes have been made to '*The updated IUCN Protected Area Matrix (as modified by the authors)*', without detailing the changes that have been made or why these changes were needed. The source for the 'updated' version of the matrix is identified as Borrini-Feyerabend et al. (2013) in which there is no mention that changes have been made to the Dudley (2008) version. While the aim of these changes may be to standardize terminology, it remains unclear why '*conserved area*' is preferred to '*protected area*' in a protected area matrix; and the effect of the change is to significantly re-characterize the governance sub-type to which IPAs in Australia had hitherto been assigned.

DISCUSSION

The concepts of IPAs and ICCAs have both led to increased recognition and support for the ongoing efforts of people and communities to care for territories and areas with which they have long and deep associations. To maintain this effort it would be helpful to clarify the language used to describe and build support for these initiatives and, where possible, to re-invigorate the traditional cultural and geographical scales which have long characterized the human use and management of terrestrial and coastal marine environments.

Clarification of language could include restricting the use of the term '*conserved areas*' to locations where the relevant Indigenous people or local communities have chosen to apply this designation to their respective territories or areas in order to achieve recognition and support for the conservation outcomes from those locations. The terms '*Indigenous peoples' protected areas*' and '*Community protected areas*' could then be used as governance sub-types within a revised IUCN protected area matrix, for locations where recognized

protected area dedications have been made by the relevant peoples and communities.

The acronym 'ICCA' has been useful in drawing attention to the contribution made by the territories and areas of Indigenous peoples and local communities to global conservation, but its continued use may require a more nuanced approach to avoid being counterproductive. The conflation of Indigenous peoples' interests with those of local communities risks alienating both groups, and the collective meaning of the term, however it is defined, makes it problematical to apply to a particular location.

Applying any generic term or acronym to those parts of Indigenous territories and local community areas deemed to have conservation value, has the potential to imply that these territories and areas are not valued unless they are shown to have conservation outcomes. A more constructive approach is to encourage the re-emergence and continuation of Indigenous peoples' and local communities' governance of the totality of their traditional territories and areas, and support them to decide the outcomes and labels they wish to ascribe to those territories and areas.

Through a Country-based planning approach, the experience of IPAs in Australia has shown that by means of the negotiated exercise of cultural authority over all of their traditional Country despite current legal constraints, Indigenous people can lead innovative arrangements for the conservation of natural and associated cultural values across multiple tenures; this is being achieved across diverse land and sea environments in collaboration with multiple partners. This of course is a challenging process: it requires relentless Indigenous leadership of the collaborative partnerships, as well as the cooperation of government agencies and others who require ongoing assurance that the investments in collaboration, and the IPA designation itself, are achieving mutually rewarding outcomes. Nevertheless, the IPA framework does now provide for this option – an approach which has the potential to be applied elsewhere, possibly through a process similar to Country-based planning and the further evolution of the ICCA concept.

The emerging discussion on 'other effective area-based conservation measures' (Jonas et al., 2014), and the establishment of the dedicated World Commission on Protected Area Task force¹⁰ to pursue that discussion, may provide further clarification on the appropriate and respectful use of terminology for territories and areas where conservation outcomes are achieved, and provide a process for the evolution of the ICCA concept to occur.

This process may also facilitate the revision of the terms used in the IUCN protected area matrix in a transparent manner.

PROPOSALS

The following proposals to refine and apply the use of terms discussed in this paper are presented to stimulate dialogue and to clarify the concepts and language used to promote support for the contributions Indigenous peoples and local communities make to caring for our planet:

- Support Indigenous peoples and local communities to develop strategic plans for their traditional territories and areas, irrespective of the current geographical extent of their decision-making authority, to explore options to care for and pursue livelihoods from those territories and areas – including, but not limited to, their voluntarily designation as ‘*conserved areas*’, ‘*protected areas*’ or some other governance framework of their choice. These Indigenous-led and community-led planning processes need not require legal authority or government approval, but would incorporate whatever legal and other effective mechanisms are locally available;
- Replace or complement the collective term ‘ICCA’ with more specific terms such as ‘Indigenous conserved area’, ‘Indigenous conserved territory’ and ‘community conserved area’ to be applied to areas and territories where the respective peoples and communities have chosen to assign these designations to their land and/or waters, without formal dedication as protected areas;
- Within governance type D in an amended IUCN protected area matrix:
 1. maintain ‘*Indigenous peoples’ protected areas and territories*’ as a governance sub-type to apply to areas and territories that have been dedicated by the relevant Indigenous peoples and appropriately recognized; and
 2. replace ‘*Community conserved area*’ with ‘*Community protected area*’ as a governance sub-type to apply to areas that have been dedicated by the relevant local community and appropriately recognized;
- When a collective term is required for discussion, use a neutral descriptor such as ‘Indigenous peoples’ and local communities’ territories and areas’ to refer to places where conservation outcomes may occur – unless and until the appropriate peoples or communities have chosen to apply ‘conserved’, ‘protected’ or some other label to these territories or areas; and

- If we are tempted to create and apply new acronyms and abbreviations, let us try to avoid them becoming ‘...*methods of mystification, of creating secrets that conceal meaning from the uninitiated*’ (Adams, 2015).

FOOTNOTES

¹ The acronym ‘ICCA’ is derived from ‘Indigenous and Community Conserved Areas’ and was originally used by Dudley (2008) to summarise ‘Indigenous peoples’ protected areas, Indigenous peoples’ conserved territories and community conserved areas’; ‘ICCA’ has subsequently been given a variety of alternative meanings as discussed further in this paper.

² <http://www.iccaregistry.org/>

³ The NRS is Australia’s network of terrestrial protected areas, comprising 146 million hectares covering 19 per cent of the Australian continent. The NRS includes Federal, State and Territory national parks and other conservation reserves, private protected areas, and protected areas owned and managed by conservation NGOs, protected ecosystems on farm land, and Indigenous Protected Areas.

⁴ The terms ‘declaration’ and ‘dedicated’ are both used to describe the formal process of establishing an IPA; ‘dedicated’ is used here for consistency with the IUCN protected area definition (Dudley, 2008).

⁵ Current data on IPAs provided by Marcus Sandford, Environment Branch, Department of the Prime Minister and Cabinet, Australian Government. See also: www.abc.net.au/news/2015-10-02/katiti-petermann-indigenous-protected-area/6818100

⁶ Other examples of Country-based plans are available at: www.environment.gov.au/indigenous/seacountry/ and www.clac.com.au/publications/2014/84

⁷ A subsequent definition of CCAs replaced ‘ecological services’ with ‘ecological functions’ to reflect the wider role of ecosystems beyond services to people (Borrini-Feyerabend & Dudley, 2008).

⁸ The other three governance categories are: A. Governance by government; B. Shared governance; and C. Private governance.

⁹ Personal communication from Jailab Rai, ForestAction, Nepal, who points out that these questions are being raised in the context that: Indigenous peoples in Nepal are struggling to have their Indigenous identities recognized by the State; and the mixture of Indigenous and non-Indigenous people that comprise most ‘communities’ in Nepal, resulting in fear and scepticism by some non-Indigenous people.

¹⁰ Terms of reference and purpose of this Task Force are available at www.cmsdata.iucn.org

ABOUT THE AUTHOR

Dermot Smyth studied biology at the Australian National University and James Cook University in the 1970s; his collaboration with Indigenous peoples began while undertaking wildlife research in Papua New Guinea, Indonesia and West Africa. On returning to Australia, Dermot embarked on what turned out to be a 35 year career working on research and consultancy projects to support the engagement of Aboriginal and Torres Strait Islander people in the management of their traditional land and sea estates ("Country") in all Australian states and territories. Dermot is currently an adjunct fellow at Charles Darwin University where he supervises post-graduate students and participates in research, planning and policy initiatives with Indigenous partners. Dermot's publications are available on his website www.sbconsultants.com.au

REFERENCES

- Adams, P. (2015). Can I just ask, WTF? *The Weekend Australian Magazine* July 25-26, 2015 (www.theaustralian.com.au/life/weekend-australian-magazine).
- Borrini-Feyerabend, G. (2010). *Bio-cultural diversity conserved by indigenous peoples and local communities – examples and analysis*. Companion to IUCN/CEESP Briefing Note No.10. Prepared for ICCA Consortium, GEF SGP, GTZ, IIED and IUCN/CEESP.
- Borrini-Feyerabend, G. and Dudley, N. (2008). Community Conserved Areas. In: N. Dudley and S. Stolton (eds) *Defining Protected Areas - An international conference in Almeria, Spain, May 2007*. Gland, Switzerland: IUCN.
- Borrini-Feyerabend, G. and Hill, R. (2015). Governance for the conservation of nature. In G. L. Worboys, M. Lockwood, A. Kothari, S. Feary and I. Pulsford (eds.) *Protected Area Governance and Management*, pp. 169–206, Canberra: ANU Press.
- Borrini-Feyerabend, G., Kothari, A and Oviedo, G. (2004). *Indigenous and Local Communities and Protected Areas: Towards Equity and Enhanced Conservation*. World Commission on Protected Areas Best Practice Protected Area Guidelines Series No. 11. Gland, Switzerland: IUCN.
- Borrini-Feyerabend, G., Dudley, N., Jeger, T., Lassen, B., Pathak Broome, N., Phillips, A. and Sandwith, T. (2013). *Governance of Protected Areas – from understanding to action*. Best Practice Protected Area Guidelines Series No. 20. Gland, Switzerland: IUCN.
- Butterly, L. (2013). Changing Tack: Akiba and the Way Forward for Indigenous Governance of Sea Country. *Australian Indigenous Law Review* 17(1): 2.
- Davies, J., Hill, R., Walsh, F., Sandford, M., Smyth, D. and Holmes, M. (2013). Innovation in Management Plans for Community Conserved Areas: Experiences from Australian Indigenous Protected Areas. *Ecology and Society* 18(2): 14. <http://dx.doi.org/10.5751/ES-05404-180214>.
- Dhimurru Aboriginal Corporation (2015). *Dhimurru Indigenous Protected Area Management Plan 2015-2022*. Dhimurru Aboriginal Corporation, Nhulunbuy, Australia (available at www.dhimurru.com.au).
- Dudley, N. (ed.) (2008). *Guidelines for Applying Protected Area Management Categories*. Gland, Switzerland: IUCN.
- ICCA Consortium (2010). *Bio-cultural diversity conserved by indigenous peoples and local communities – examples and analysis*. Companion document to IUCN/CEESP Briefing Note No. 10, 2010.
- ICCA Consortium (2015). ICCA Consortium website www.iccaconsortium.org, accessed 26 July 2015.
- IUCN (2014). *A primer on governance for protected areas and conserved areas*. Gland, Switzerland: IUCN.
- IUCN/CEESP (2010). *Strengthening what works – recognising and supporting the conservation achievements of indigenous peoples and local communities*. IUCN/CEESP Briefing Note no. 10, May 2010.
- Jonas, H. D., Barbuto, V., Jonas, H. C., Kothari, A. and Nelson, F. (2014). New Steps to Change: Looking Beyond Protected Areas to Consider Other Effective Areas-Based Conservation Measures. *PARKS* 20.(2): 111-127. DOI: 10.2305/IUCN.CH.2014.PARKS-20-2.HDJ.en
- Kothari, A. (2008). Protected areas and people: the future of the past. *PARKS* 17 (2).
- Kothari, A., Corrigan, C., Jonas, H., Neumann, A. and Shrumm, H. (eds.) (2012). *Recognising and Supporting Territories and Areas Conserved by Indigenous Peoples and Local Communities: Global overview and national case studies*. Technical Series No. 64, Montreal, Canada: Secretariat of the Convention on Biological Diversity, ICCA Consortium, Kalpavriksh and Natural Justice.
- Mandingalbay Yidinji Aboriginal Corporation (2009). *Strategic Plan for Mandingalbay Yidinji Country*. Queensland, Australia: Mandingalbay Yidinji Aboriginal Corporation.
- Mandingalbay Yidinji Aboriginal Corporation (2011). *Mandingalbay Yidinji Indigenous Protected Area Management Plan*, www.djunbunji.com.au/indigenous-protected-area, accessed 26 July 2015.
- Rose, B. (2013). Indigenous Protected Areas – innovation beyond boundaries. In: P. Figgis, J. Fitzsimons and J. Irving (eds.) *Innovation for 21st Century Conservation*, pp. 50-55. Canberra: Department of Environment, Water, Sustainability, Population and Communities, Australian Government.
- Smyth, D. (1994). *Understanding Country – The Importance of Land and Sea in Aboriginal and Torres Strait Islander Societies*. Council for Aboriginal Reconciliation Key Issue Paper No. 1, Council for Aboriginal Reconciliation. Canberra, Australia: Australian Government Publishing Service.
- Smyth, D. (2007). Dhimurru Indigenous Protected Area: Sole management with partners. In: T. Bauman and D. Smyth, *Indigenous Partnerships in Protected Area Management in Australia: Three case studies*, pp. 100-126. Canberra: Australian Institute of Aboriginal and Torres Strait Islander Studies.
- Smyth, D. (2008). Just Add Water? Taking Indigenous Protected Areas into Sea Country. In: D. Smyth and G. Ward (eds.), *Indigenous Governance and Management of Protected Areas in Australia*, pp. 95-110. E-book published by the Australian Institute of Aboriginal and Torres Strait Islander Studies. Available at http://aiatsis.gov.au/sites/default/files/products/report_research_outputs/2008-protecting-country-ch8-smyth.pdf.
- Smyth, D. (2011). *Guidelines for Country-Based Planning*. Department of Environment and Resource Management, Queensland Government, Brisbane. Available at <http://>

- www.ehp.qld.gov.au/cape-york/pdf/country-based-planning-guideline.pdf.
- Smyth, D. and Grant, C. (2012). Recognition and Support of ICCAs in Australia – case study for: recognising and supporting territories and areas conserved by Indigenous peoples and local communities. In: K. Ashish (ed.) with C. Corrigan, H. Jonas, A. Neumann and H. Shrumm, *CBD Global Overview and National Case Studies*, Secretariat Technical Series No. 64, ICCA Consortium, IUCN/TILCEPA, Kalpavriksh and Natural Justice.
- Smyth, D. and Sutherland, J. (1996). *Indigenous Protected Areas: conservation partnerships with Indigenous landholders*. Consultancy Report for Environment Australia, Canberra, Australia.
- Szabo, S. and Smyth, D. (2003). Indigenous Protected Areas in Australia. In: H. Jaireth and D. Smyth (Eds.), *Innovative Governance: Indigenous Peoples, Local Communities and Protected Areas*, pp. 145-164. IUCN-sponsored publication, New Delhi: Ane Books.
- UNEP-WCMC (2015). ICCA Registry. Available at <http://www.iccaregistry.org>, accessed 26 July 2015.

RESUMEN

Las Áreas Protegidas Indígenas (API) en Australia y las áreas conservadas por pueblos indígenas y comunidades locales (ICCA, por sus siglas en inglés), que originalmente se empleaban en el ámbito internacional para resumir “*áreas protegidas por pueblos indígenas, territorios conservados por pueblos indígenas y áreas conservadas por comunidades locales*”, son designaciones basadas en zonas que proveen expresiones contemporáneas de las relaciones antiguas y actuales entre los pueblos indígenas (y también entre las comunidades locales no indígenas en el caso de las ICCA) y sus entornos locales –con un énfasis particular en los resultados de las acciones de conservación. Este trabajo explora aspectos comunes y contrastes entre las API y las ICCA, tratando de aclarar sus significados y aplicaciones, y contribuir al debate sobre los conceptos de “áreas conservadas” y “áreas protegidas” en el léxico de la UICN en materia de conservación. El artículo describe la evolución del concepto de API desde estar basado en la propiedad indígena legalmente reconocida (tenencia) de tierras hasta basarse en las tierras de clanes tradicionales, independientemente de la titularidad legal actual. Esto contrasta con la evolución del concepto de ICCA que actualmente se aplica solo a los territorios y áreas de pueblos indígenas y comunidades locales donde el poder de decisión ha sido conservado por los pueblos indígenas o las comunidades locales. Se formulan propuestas para aclarar el uso de los términos “área protegida” y “área conservada”, particularmente en el contexto del respeto a los derechos de los pueblos indígenas y las comunidades locales para conferir sus propias designaciones a sus respectivos territorios y áreas.

RÉSUMÉ

Les aires protégées autochtones (APAs) en Australie et les APACs (un acronyme pour «aires de patrimoine autochtone et communautaire», connus à l'origine en tant qu'aires protégées des populations autochtones ou territoires conservés par les peuples indigènes ou encore aires conservées par les communautés), sont chacune des appellations territoriales contemporaines qui traduisent les relations anciennes et actuelles entre les peuples autochtones et les communautés locales (ainsi que des communautés non-autochtones dans le cas des APAC) avec leur environnement – visant en particulier les résultats de conservation. Ce document explore les points communs et les différences entre les APAs et les APAC, cherchant à en préciser le sens et les applications, et aussi à contribuer au débat sur les concepts des «aires conservées» et des «aires protégées» dans le lexique de la conservation de l'UICN. Le document décrit l'évolution du concept de l'APA, initialement fondé sur la propriété juridique autochtone (foncière) de terres, et qui s'est par la suite fondé sur la notion de ‘pays’ autochtone (domaine clanique traditionnel), indépendamment de la propriété juridique. Ceci est en contraste avec l'évolution du concept de l'APAC qui ne s'applique actuellement qu'aux territoires des populations autochtones et des communautés locales où le pouvoir principal de prise de décisions est retenu par les peuples autochtones ou des communautés locales elles-mêmes. Des propositions sont faites pour clarifier l'utilisation des termes d'«aire protégée» et d'«aire conservée», en particulier dans le contexte du respect des droits des peuples autochtones et des communautés locales d'attribuer leurs propres désignations à leurs aires et territoires respectifs.