

# RECOGNITION AND SUPPORT OF ICCAs IN ITALY

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Case study for:  
RECOGNISING AND SUPPORTING  
TERRITORIES AND AREAS CONSERVED BY INDIGENOUS PEOPLES  
AND LOCAL COMMUNITIES  
Global Overview and National Case Studies

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### List of acronyms

CBD	Convention on Biodiversity
CNPC	Consulta Nazionale della Proprietà Collettiva (National Advisory Body for Common Properties)
CP	Common property
CP/ICCA	Common property qualifying as ICCA
EU	European Union
FSC	Forest Stewardship Council
ICCA	Indigenous Peoples' and Community Conserved Areas and Territories
IUCN CEESP	Commission on Environmental, Economic and Social Policy of the International Union for Conservation of Nature
IUCN TILCEPA	Strategic Direction on Governance, Equity and Livelihoods in Relation to Protected Areas (formerly Theme on Indigenous Peoples, Local Communities, Equity and Protected Areas)
MATTM	Ministero dell'Ambiente e della Tutela del Territorio e del Mare (Ministry of Environment)
MCF	Magnifica Comunità di Fiemme
PA	Protected area
PEFC	Programme for Endorsement of Forest Certification
RdA	Comunità delle Regole d'Ampezzo

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### Summary

The concept of ICCA was introduced and first discussed in Italy during two workshops held in 2004 and 2005. The notion very well fits the tradition domestically known in terms of common properties (CPs) and ‘civic uses’ lands (*proprietà collettive e demani civici*), a category referring to lands and the natural resources used in common by a community. The CPs and civic uses lands have been quantified to be about 10% of the national territory. As shown in the table below they include a diversity of governance solutions derived from their different historical recognition.

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

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

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

From the 16<sup>th</sup> century Italy fell under foreign domination and failed to go through the land use changes that characterized other European countries. This only happened in result of the brief Napoleonic phase (1802-1814). The Napoleonic States established in northern and southern Italy attempted to reorganise the administrative structure and to rationalise agriculture by abolishing the prevalent feudal system, along with the practice of multiple land

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use. In the Alps the Napoleonic government transferred the control of the common pool natural resources to the newly established municipalities. The most organised communities reacted by engaging in a long sequence of appeals, demonstrations, advocacy efforts and complex court cases protracted under the different State formations and historical phases of the Italian unitary State. Only after the Second World War they progressively regained their lost rights with the legal status of self-administered CPs. In southern Italy the pre-unitary States engaged in a strong policy of ‘liquidation’ of the community’s secondary rights of land use – the ‘civic uses’. In compensation for their lost rights the local communities were recognized to own in common portions of the previously accessed land. However, the management of such ‘civic uses lands’ was entrusted to the municipalities rather than to the communities themselves. The legislation of the early Italian unitary State (late 19<sup>th</sup> century) provided for communities to self-administer the ‘liquidated’ civic uses lands in form of modern association, but only in the territories that were part of the Papal States, in central and north-central Italy. In 1927 the fascist regime introduced a new legislation at national level, inspired by the southern Italian legal model of liquidation of civic uses.

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

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

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promoting social and cultural initiatives on behalf of the broader community. Many efficient CPs – including communities that had previously opposed the establishment of national parks on their territories – were also able to engage in the environmental EU programmes compatible with local livelihoods and traditional economic activities.

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

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

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

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

- Addressing the north-south gap with additional studies and specific policy;
- Strengthening governance of civic use land by empowering the communities;
- Strengthening performance of the small and weak CPs and their capacity to articulate plans in the field of conservation of biodiversity.

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

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

### 1. Country description and context

#### 1.1. Key features of Italy<sup>2</sup>

##### *(i) Geography*

Italy is located in Southern Europe between latitudes 35° and 47° N, and longitudes 6° and 19° E. The country's total area is 301,230 km<sup>2</sup> consisting of three main components:

- The inner portion of the entire Alpine Arc with the adjacent large Padan Plain;
- The Italian Peninsula (or Apennine Peninsula) spanning from north into the central Mediterranean Sea;
- Sicily and Sardinia, the two largest islands of the Mediterranean Sea.

The Alps form the northern boundary of Italy, shared with France, Switzerland, Austria and Slovenia. They include several peaks above 4,000 metres, with a diversity of climate zones, corresponding to different elevations. The coldest zone is above 3,000 metres, a rocky area permanently coated with compressed snow. The typical Alpine climate is between 2,000 and 3,000 meters, with a vegetation of wildflowers and grasses. The subalpine zone between 1,500 and 2,000 is covered with forests of fir and spruce trees. Lower elevations, where farming is also possible, are characterized by oaks and large variety of plants.

The Padan Plain is crossed by the Po, Italy's longest river (652 km), ending to the east into the Adriatic Sea. It was formed by the sediments brought by the Po, its tributaries and other minor rivers flowing from the Alps and the Apennine mountains. The Padan Valley has a mild continental and a humid subtropical climate. It is intensively cultivated.

The peninsula has a typical 'boot' shape marking the division between Tyrrhenian Sea to the west, the Ionian Sea to the south, and the Adriatic Sea to the east. The interior part consists of the Apennine Mountains, with elevations lower than the Alps and only a few peaks just below 3,000 metres. This peninsula and the islands have a Mediterranean climate, though in the mountains the climate is much cooler with a vegetation including macchia, deciduous and mixed deciduous coniferous forests.

##### *(ii) Population*

With an estimated population of 60,626,442 and a density of 201/km<sup>2</sup> (520/sq. mile) Italy has one of the highest density among the western European countries, despite low habitation in vast tracts of the Alps and Apennine highlands. About half of the population concentrates in the Padan Plain and in the metropolitan areas of Rome and Naples.

From the late 19th century Italy was a country of combined high population growth and mass emigration, until the so-called 'Italian economic miracle' of the 1950s and 1960s. In the 20th century, but especially after the 50s, Italy was also characterized by a high internal migration, from the south and the mountainous areas to the industrialized cities of the Padan Plain. The birth rate dramatically declined from the 1970s, leading to severe population ageing. This trend has been mitigated by large-scale immigration during the last two decades.

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<sup>2</sup> Section 1.1 is based on common knowledge, secondary sources and information gathered from various websites, including Wikipedia.

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The national language is Italian, a Romance language spoken by the large majority of the population. A number of minority languages are also officially recognised alongside Italian in various parts of the country.

Catholicism is by far the dominant religion in Italy. Italy is a secular state, but the Vatican City State, an enclave within Rome – the capital city of Italy – is a sovereign ecclesiastic State ruled by the Pope. It is the spiritual and administrative centre of the Roman Catholic Church, the world's largest Christian church.

### *(iii) Predominant economic features*

Italy is a highly industrialized country with a GDP of EUR 1,221.16 Billion (Constant prices, 2010). The per capita GDP of EUR 20,237.87 (Constant prices, 2010) is also high, but with a sharp differential between the north of the country where it exceeds by far the EU average, and the south, where it is much lower.

Italy is a founding member of the G8, it is part of the Eurozone and a member of the Organization for Economic Co-operation and Development (OECD). The economy is based on exports, but the country is highly dependent on import of raw materials and energy resources, having rejected the various governmental attempts to develop the nuclear power sector.

A large number of small and medium size enterprises constitute the backbone of the Italian industry. They are clustered in several industrial districts, mainly in the north. Besides its manufacturing sector Italy is well known for its quality agricultural production, creative fashion industry and design. Tourism is a key complementing economic resource, Italy being the fourth highest tourism earner in the world.

The Italian economy is currently (as of early 2012) seriously affected by the international financial crisis as well as by internal structural problems. The country has recently fallen into economic stagnation with an economic growth far below the Eurozone average, while its public debt grew to 116% of GDP in 2010. Unemployment, traditionally one of the lowest in the Eurozone, is rapidly growing particularly in the south and among the youths and women.

### *(iv) History*

Italy is considered to have played a special historical role for the development of the Western Civilization. Rome prospered as the administrative centre of the Roman Empire until the 5th century AD, when the western section of the empire broke up into several kingdoms. The fall of the Western Roman Empire marks the historical passage from classical antiquity to the medieval era. From the 6th century the Papal States (or Pontifical States) started to emerge as a sovereign political entity in central Italy. The extension of the territory under the direct rule of the papacy changed over time, incorporating the current regions of Romagna, Marche, Umbria and Lazio at its height. The Papal States retained a relevant symbolic influence in Europe until their annexation to Reign of Italy in 1870.

In the High Middle Ages, in northern and upper central Italy, a number of independent city-states developed, known as the medieval communes or *signoria*, depending on the form of government. Along the coast, the maritime republics emerged, building commercial fleets and relevant trade networks across the Mediterranean and Europe. This is also the time when valley communities in the Alps achieved a relevant degree of political autonomy. The Italian city-states were the cradle of the Italian Renaissance from the 14th century. This cultural experience originated in Italy much earlier than elsewhere in Europe and marked a second historical turning point in Western history, the passage to the modern era.

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From the mid-16th century most of Italy fell under foreign domination. In the 18th century, Austria replaced Spain as the dominant power in the country, while the Kingdom of Sardinia emerged as a regional power with territories in Piedmont and Sardinia. The revolutionary ideas connected to the Enlightenment and the Napoleonic wars led to the unification of north Italy under Kingdom of Italy (1805 – 1814), at this stage merely a client state of the French empire. Napoleon also installed his brother as king of the Kingdom of Naples, in the south of the country. The Congress of Vienna (1814-5) restored the pre-Napoleonic status. The re-installed Kingdom of Sardinia became the centre for the Italian nationalist aspirations. It launched a series of wars of liberation against Austria and the Papal States. The unity of the country was declared after the conquest of the south of the peninsula and Sicily in 1861. This event was associated to the establishment of the unitary national state, marked by the adoption of the new name Kingdom of Italy (1861-1946). Venice was annexed in 1866, Rome in 1870 – the date marking the end of the Papal States – and other border territories were acquired in result of First World War (1914-18).

The male universal suffrage was introduced in 1913. From 1922 the Fascist party increased its influence, until in 1924 the opposition deputies withdrew in protest for the regime's use of political violence.

In 1929 the Lateran Pacts clarified the relations between the Kingdom of Italy and the Holy See (the universal government of the Catholic Church led by the Pope). They established the existence of the new Vatican City State.

In 1946 – after the Italian defeat in World War II – a referendum based on universal suffrage ended the monarchy. In 1947 the new Constitution of the Italian Republic was adopted.

### *(v) Administrative divisions*

Italy is a unitary state subdivided into 20 regions, further divided into provinces and municipalities. Some municipalities may also have 'fractions', often resulted from processes of fusion of administrative areas. In the mountainous areas more municipalities may establish a 'mountain community', a legally recognized administrative coordination. The region, provinces and municipalities have a degree of administrative and political autonomy with elective councils. The regional councils also have the power to legislate.

### **1.2. Brief history of conservation, state- and community-based**

Until the 1990s in Italy governmental agencies and environmental associations were regarded as the only repository of biodiversity conservation. The idea that communities can play a major role in biodiversity conservation was accepted as a result of the proactive initiatives taken by some communities enjoying a special status with regards to common property (CP) that managed to establish and administer official protected areas. National and legal legislation was developed to allow them to do it. Yet, communities are considered key actors for conservation only insofar they engage in the official protected areas system rather than for the conservation action they play as communities (Postiglione 2007: 76). In Italy there are many other communities who have played a major role in protecting the territory, independently of the official protected areas system. In central and northern Italy many of them legally own land in common and have management boards to administer their holdings. For these governance characteristics they fit the international definition of ICCA (CP/ICCA). All over Italy and particularly in the south there are lands under 'civic uses' protections (see below). It is not easy to mark a clear boundary between CP/ICCAs and lands on which the communities can only exercise civic uses rights, due the partial overlap of the two categories

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and for the existence of a variety of administrative arrangements for the civic uses determining different levels of community empowerment.

### *(i) Official conservation: Nationally recognized protected areas*

The National Park of Gran Paradiso was the first official protected area in Italy, instituted in 1922, during the early fascist time. Until 1935 the regime established three more national parks: Abruzzo, Circeo and Stelvio. For over 30 years they remained the only official protected areas in the country, even though the debate had developed. The principle of landscape protection entered into the 1947 Republican Constitution. From the 1950s Italia Nostra and other national environmental associations were formed. From the 60s several other associations connected to international environmentalism developed, such as WWF Italia, Fondo dell'Ambiente Italiano (FAI). Several important research institutions were involved in developing principles to incorporate in a Framework Law on Protected Areas, finally approved in 1991 (Silvestri 2004). The Framework Law (Legge 394/1991) defines the different types of protected areas and establishes the management procedures and the composition of board of the national parks and natural reserves. It is informed by the principle of compatibility of sustainable human activities with the conservation of biodiversity, to be achieved through a management Plan based on zoning. The interests of the local communities are only represented through a number of consultative procedures and institutional organs engaging the top elective officers of the local government, with no provision for direct community participation in decision-making.

The Law 394/1991 has also instituted an official list of the protected natural areas, regularly updated by the Ministero dell'Ambiente e della Tutela del Territorio e del Mare (MATTM, 'Ministry of the Environment and Territory and Sea'). It is published in the Official Gazette. The Italian official protected area system includes about 12,5% of the territory (estimation referred to 2007). Table 1 summarizes the official categories with total extension of the protected territory (EUAP 2010).

**Table 1: Area under conservation in Italy according to the official registry**

<i>Type of protected area</i>	<i>Total number of areas</i>	<i>Total surface under protection</i>		
		<i>Land (ha)</i>	<i>Sea (ha)</i>	<i>Coastline (Km)</i>
National parks	24	1,465,681	71,812	–
Marine protected areas	27		222,442	652
State natural reserves	147	122,775		
Other national natural areas (marine)	3		2,557,477	5
Regional natural parks	134	1,294,655		
Regional natural reserves	365	230,240	1,284	
Other regional protected natural areas	171	50,237	18	
<b>TOTAL</b>	<b>871</b>	<b>3,163,590</b>	<b>2,853,033</b>	<b>657</b>

The national parks and the state natural reserves are identified and instituted by MATTM. The state natural reserves are managed according the modalities established by the MATTM. The marine protected areas include those identified according to the national law 979/1982 for the protection of the sea and those internationally agreed by the international treaty on Specially Protected Areas of Mediterranean Importance. The latter are listed under the 'Other national natural areas' cluster of the official classification.

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The Framework Law 394/1991 delegates to the regions the capacity to establish both natural reserves and natural parks. The regional natural parks differ from national parks because of a more flexible definition, including elements such as the aesthetic value and the cultural traditions of local communities. The same law sets the modalities by which the regions can autonomously legislate concerning procedures and governance of the regional PA, allowing the possibility to assign their management to the ‘family communion’ having territory within the boundaries of the area (art. 22.1.e and art. 23).

The category ‘other regional protected natural areas’ gathers various types of protected areas fitting the requirements established by the Framework Law (394/1991), but whose definition and management characteristics are not recalled in the same law. They include many important ‘oases’ reserves managed by the environmental associations according to the modalities fitting the IUCN ‘private’ governance model, and the provincial protected areas.

### *(ii) Official conservation: European Union’s Natura 2000 areas*

Not all official protected areas are necessarily recorded in the official list (Postiglione 2007: 77). While most Italian sites recognized under the Ramsar Convention – whose relevance is highlighted in art. 5.5 of Framework Law 394/1991 – are included in one or the other national category, most of the areas involved in the Natura 2000 European Union’s network are likely to be out of the national registry.<sup>3</sup> Natura 2000, in fact, focuses on the ecological connectivity outside the official protected system. It promoted the identification of Special Areas of Conservation (SAC) and of Special Protection Areas (SPAs) considering sustainable human activities and the livelihoods requirements of the local communities. The MATTM has developed a separate list of the SAC and SPAs designated by Italy. Together, they include 21% of the national territory (MATTM Website).

### *(iii) Community-based conservation*

The Italian members of the CEESP network, including several professionals working for environmental NGOs, have greatly contributed to raise the theme of community involvement in conservation in Italy. In 2004 the CMWG of the IUCN-CEESP in collaboration with Legambiente organized a first workshop in the Aspromonte National Park, on the theme ‘Governance e Partecipazione nel Sistema delle Aree Protette in Italia’ (‘Governance and Participation in the Protected Areas System in Italy’). This was the first time the international concept of ‘indigenous and community conserved area’ (ICCA) was publicly discussed in Italy. Building on an established tradition prevalent in scholarly debate on common properties in Italy (Nervi 2002: 47-48), the group adopted the translation *Patrimonio di Comunità* (literally ‘Community Heritage/Patrimony’) to refer to such sites.

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<sup>3</sup> Natura 2000 is an instrument developed by the European Commission to fulfil European Union’s obligations under the UN Convention on Biological Diversity. It consists in a network of protected areas established in accomplishment of the 1992 Habitats Directive (Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora), requiring the designation of Special Areas of Conservation (SAC, in Italy denominated *Zone Speciali di Conservazione, ZSC*) by the member States. It also comprises the Special Protection Areas (SPA, in Italy denominated *Zone di Protezione Speciale, ZPS*) designated in accordance with the Council Directive 2009/147/EC (Birds Directive, replacing the 1976 Council Directive 79/409/EEC on the conservation of wild birds). In Italy SACs are initially identified by the administrative regions and registered at MATTM with the temporary denomination of *Siti di Importanza Comunitaria proposti* (pSIC, proposed sites of EU relevance). After approval by the European Commission they are listed and denominated as *Siti di Importanza Comunitaria* (SIC, sites of EU relevance). They are then formally designated as SAC by internal MATTM’s Decree, in coordination with the relevant regions.

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The following year, a follow-up workshop was held at Trino (Vercelli) on the theme *I Patrimoni di Comunità in Italia: Fra Storia e Cultura, Natura e Territorio* ('ICCAs in Italy: History, Culture, Nature and Territory'; see <http://www.ecomusei.net>). The case studies presented at Trino indicate a diversity of experiences that can be classified into three main categories of community conservation.



*Participants to the workshop 'I Patrimoni di Comunità in Italia', Trino Vercellese, 2005) visiting the Partecipanza Agraria of Nonantola.*

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The most relevant in quantitative terms is derived from the pre-modern local communities' practice to communally access variously owned land for a variety of 'civic uses', crucial for their livelihoods. Under the legal developments of the unitary state the secondary rights exercised by the local communities were changed into collective rights on portions of the same territories, subject to specific landscape and land use regulations.

The second category includes various initiatives aimed to preserve, revive and valorise cultural elements, practices and traditions positively influencing the landscape in aesthetic or environmental terms. They involve local communities, but do not require an exact demarcation of the land as prevalent with PA practices, nor do they require a rigid or legal definition of the social boundaries of the involved community, as prevalent in the Italian common properties. The cases presented at Trino workshop included the pastoral community of Gennargentu in Sardinia (Maurano 2005; box 1) and the ecomuseum experience in the Maritime Alps (De Biaggi and Ferrarotti 2005; box 2). Lack of an exact definition of the territorial boundary of the area, of the social boundaries of the community or of the governance features in relation to the area make the identification of the heritage-based initiative as ICCA still problematic.

**Box 1: The pastoral culture of the Gennargentu Massif (Sardinia)**

(Main sources: Maurano 2005; Ballero 2007; PNGOG)

The Gennargentu Massif in Sardinia has continuously been utilised by the transhumant pastoralists from the proto-historical age. The architectural elements associated to the current pastoral culture show continuity to a period predating the Nuraghe civilisation of the 2<sup>nd</sup> millennium B.C., in the Bronze Age. The massif, in Nuoro Province, and its slope degrading towards the sea in the Ogliastra Province are characterised by an outstanding biodiversity with a high presence of botanical and zoological endemics. It is now acknowledged that this biodiversity is to a large extent associated to the mobile pastoral practices. Much less, is, however, known about customary governance of the natural resources. The internal rules and regulations that have governed access to the pastoral resources are deeply rooted in the local culture, extending to the ritual and spiritual sphere. Carla Maurano has highlighted the relevance of springs in the culture of transhumance, shown by processes of sacralisation of the related sites, with presence of sacred woods and ancient temples. The latter recall the *tholos nuraghe* shape, also reproduced by the houses of the local pastoralists. These sites, of high value for endemic biodiversity, still have central symbolic value, with rituals taking now place in Christian form. The pastoral culture in its old and new manifestations produces an indirect action of environmental protection, as shown by the case recorded by Maurano of the wood fully reconstituted after it was destroyed during the war. This is a typical example of cultural landscape, the pastoralists playing a key indirect role in managing the natural resources, creating a human-modified environment of high biodiversity value. It is exactly because of this indirect biodiversity value that the environmentalists have claimed the status of national park for this area since the 1960s. It should also be noted that the same area is characterised by the presence of large extensions of land under rights of civic uses, derived by the traditional pastoral practices. The environmental organisations have obtained the inclusion of a provision for the constitution of the National Park of Gennargentu and Orosei Gulf in the 1991 Framework law on protected areas. The Park was formally instituted by Presidential Decree in 1998. Some of the local municipalities appealed against the institution of the park, but in 2008 the regional Administrative Court of Sardinia rejected their appeal. The strong pastoralists' opposition to the establishment of the national park is explained by the fear that the externally imposed environmental protections might affect the customary uses of the natural resources. This is especially likely to occur due to inadequate mechanisms of community representation in the management of national parks.

In a case like the Gennargentu, where the biodiversity features are the result of human action rather than its absence, a strict conservationist approach is neither desirable to the local communities nor appropriate. Policy should rather focus on promoting the cultural landscape approach, valorising the human activities that positively impact the landscape and biodiversity. In this perspective the pastoralists of Gennargentu have achieved a degree of recognition through international law, by registering their Canto Tenore (a style of guttural polyphonic singing) in the UNESCO Intangible Heritage List. The Canto Tenore was selected as symbol of the entire pastoral culture. The initiative indeed facilitated the adoption of the EU derogation concerning a traditional technic for cheese processing, but a full certification of the dairy products was never achieved.

The Gennargentu is still affected by high out-migration, a process that has affected the traditional transhumant practices. The adoption of more intensive pastoral practices proved to be an unsuccessful marketing strategy that recently led to a deep crisis of the small-stock and dairy sector.

### **Box 2: The ecomuseums in Piedmont Region**

The ecomuseums were first introduced in Italy by the Piedmont Region (Regional Law 31 of 1995) on the model of the French *ecomusée*. Rather than material culture as in classic museums, the ecomuseums focus on outdoor architectonic or landscape elements that are the result of the practices and traditions of specific local communities. The institutional action consists in supporting the relevant community's initiatives with an holistic approach. The 'Ecomuseum of Terracing and Grape' (Ecomuseo dei Terrazzamenti e della Vite) and the 'Rye Ecomuseum' (Ecomuseo della Segale) are two typical examples focusing on cultural heritage marking both the landscape and the community's local identity. The Rye Ecomuseum originated in association with the Natural Parks of Maritime Alps. It contributed to revitalise an abandoned itinerary that today can illustrate the ecological, agricultural and cultural features of the mountain life-style.

The third category refers to values-based communities taking action about specific threats on territorial spots of high biodiversity relevance. This is the case of the long-term involvement by international volunteers against poaching of migratory birds of prey in the Stretto di Messina (Morabito 2005). Although in this case the area of interest is clearly demarcated and the motivation of the action is explicitly biodiversity conservation, the fact that it involved a non-local community and the absence of a direct governance relation with the territory make the identification of this category with ICCA difficult.

This study focuses on the first category, whose characteristics more closely fit the international definition and understandings of PA and ICCA, and on which a rich tradition of studies exists. More research is required to understand the conservation impact and the governance mechanisms of the other forms of community conservation presented at the Trino workshop. Further research is also required to explore the role of more complex and even less known cases, such as those related to sacred sites, village ceremonies and pilgrimages, likely to be very relevant especially in the south of the country.

This report has greatly benefitted from the progress in understanding ICCAs in Europe achieved with a third workshop organized in Italy in 2011, again in the Aspromonte National Park (Gerace), on 'Understanding Community Conservation in Europe', co-organised by the ICCA Consortium, the Fondazione Mediterranea Falchi, the Aspromonte National Park, the IUCN CEESP and WCPA Commissions and the Regional Office for Europe of the IUCN Global Protected Area Programme (ICCA Consortium 2011).

## **2. Features of ICCAs**

The concept of ICCA has developed with main reference to the extra-European context. It is however clear that also in Italy many self-aware communities have responsibly used the natural resources with the objective to transfer them to the future generations. Some have also actively and successfully opposed the destructive practices under the exploitive industrial economy. This has especially happened where communities have legally been empowered to corporately own or administer land, a reality known in the Italian literature under the heading *proprietà collettive* – common properties (CPs). Their governance and the profound link between the community and a well-defined territory contribute to qualify them as ICCAs, but the extent to which the communities' decisions actually lead to the conservation of biodiversity needs to be carefully considered.

**2.1. Range, diversity, and extent of CPs/ICCAs**

*(i) Common properties and civic uses lands*

There are no exact estimates of the extension of land under common use in Italy, but the figure of about 3 million hectares, equal to 10% of the Italian territory, is generally provided (Postiglione 2007: 73). Most of these are in north and central Italy, especially – but not only – in the mountains. The accurate estimate is difficult because the process of establishing fully functioning common properties has not uniformly been achieved: a relevant amount of land is still under ambiguous or contended status, and the allocated parts are administered according to different modalities.

**Table 2: Classification of Common Properties and Civic Use Lands in Italy**

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

At a lower degree of accomplishment are territories that are not formally owned in common by the local community, but still subject to secondary rights of civic uses (see below). They are often owned by the public administration and in some cases by private entities. The local community can potentially claim them or just a portion of them in compensation for the liquidation of their collective rights, but never took action, often for lack of awareness about themselves and their rights. At a second level of achievement are lands that were clearly demarcated and are generically classified as *demanio civico universale* (‘land patrimony of the local community’, see below) or simply ‘civic uses’ lands, because they were entrusted to the collective use of a specific community as a result of the recognition of the ancient rights of civic uses. *Demanio* is a general legal category describing the inalienable public patrimony, but the rights on the lands constituting *demanio civico universale* are attributed to a specific local community rather than the collectively as a general entity (Lombardi 1999), and can for this reason be considered CPs in a proper sense. They should also be distinguished from *demanio comunale* (land patrimony of the municipality), land owned by the municipality rather than the community resident within the municipality (Di Genio 2010:

14). The *demanio civico universale* is subject to three main types of management arrangements, with a progressive possibility for the community to influence the decisional process. At the lower end of the scale are those CPs administered by the City Council in behalf of the local community. The City Council is not accountable to the community, but it is bound to the conditionality imposed by the national and regional ‘civic uses’ legislation, including the obligation to keep a separate budget for each CP. The community owning land in common is often associated to a fraction (*frazione*, an administrative division, often a small village) within the municipality. In this case the City Council may delegate the management function to a separate board chosen from among the residents of that fraction. Such board is, however, often accountable to the municipality rather than the community. Only under the ‘Separate Administration’ arrangement is the land owned in common managed by a board directly elected by the members of the local community (Nervi 2002: 73-4; 2008: 65-6). Despite the fact that all lands under civic uses restrictions cannot be alienated by law, they were – and still are – subject to abusive occupation either for agriculture or construction, including for commercial and industrial purposes. The municipalities have, in fact, often treated them as part of the *demanio comunale*, their alienable land patrimony. Especially under the first two management arrangements, the local communities are unable to exercise a direct control on important decisions such as deals and leases with the private enterprises. The abusive occupation has cyclically been legalized with *ad hoc* laws, a process that has seriously affected the CPs’ potential to conserve the environment, particularly in the south of the country and in areas of intensive urbanisation (Romaniello 2005; Carletti 2005; Nervi 2002: 51; Lagomarsini 2005; Lorizio and Marian 2004).

The highest performance in governance is achieved by communities that have acquired legal personality in the form of association. They directly manage their common land through the board elected according to the regulations set by their statutes. Yet, many self-administered CPs are affected by weak management, a factor limiting their capacity to establish effective governance.

We are not aware of any systematic study on the link between CPs and biodiversity, but serious consideration should be paid to the fact that most territories of the self-administered CPs and the civic uses lands are subject to special measures of landscape protection (Postiglione 2007: 69-70). Legal enforcement is an instrument in the hands of the CPs’ members to pursue their own motivation to preserve the inherited patrimony for the future generations.

Most civic use lands and the self-administered CPs are characterized by a typical mix of open-range pastoral practices with either non-industrial agriculture or sustainable forestry. Hence they provide the ideal habitats for a wide variety of flora and fauna, and are the most prominent reality for agro-biodiversity (Postiglione 2007: 77). Their relevance for biodiversity is signalled by the fact that several have territories overlapping with official protected areas (Di Genio 2004: 127; boxes 1 and 4), a few have taken up the management of the overlapping official protected areas (box 6) and many others have demarcated portions of their territory for inclusion in the Natura 2000 network (boxes 3 and 5).

(ii) *Typology of self-administered CPs/ICCAs*

The self-administered CPs are legally registered under a diversity of denominations reflecting the different historical processes by which they acquired self-awareness and legal recognition in the different historical polities of the Italian peninsula, starting from the Middle Ages up to the different legislative phases of the unitary Italian state. The denominations include *regole*, *comunanze*, *comunale*, *comunelle*, *università agrarie*, *vicinie*, *partecipanze*, *corporazioni*,

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*consorterie*, each prevalent in certain regions. Those names do not reflect actual differences in either functional or legal terms, all sharing today the same juridical status, a CP being land under the corporate ownership of a well-defined community. For the sake of exploring their potential role in conservation of biodiversity the self-administered CPs can be re-classified into three categories:

- a. *Università agrarie* and other CPs recognised according to the law n. 397 of 1894;
- b. Mountain (or Alpine) type;
- c. Plain type.

a. The name *università agraria* cannot easily be translated because *università* does not refer to its standard meaning ‘university’. It is derived from the latin *universi cives* (‘union of all citizens’), a form of community organisation existing since the time of the Langobards’ domination in the Early Middle Ages. During the 13<sup>th</sup> century the *universitates* (pl. of *universitas*) were officially recognized in southern Italy as the prevalent mechanism of local governance. In the early 14<sup>th</sup> century 1,259 *universitates* were recorded in southern Italy (Vigliotti 2001). The assembly formed by the most prominent head of families was its main decisional organ. The assembly used to elect the various functionaries who were also recognized by the king. In southern Italy the *universitates* lost capacity and autonomy under the strong feudal system (Mazzacane 1990: 85-93). Even when they were not any longer accepted as part of the main hierarchical structure, this particular form of community organisation – based on the assembly of the heads of family – survived as an informal or parallel community’s mechanism to make decision over access to land belonging to the Church, the Crown or a feudatory. Under the feudal system, in fact, for their survival local communities could, to various degrees, continue to collect firewood, graze their livestock, hunt and gather wild plants on lands formally owned by others. The protection of these secondary rights – later called ‘civic uses’ – was re-stated in various royal documents during the 15<sup>th</sup> and 16<sup>th</sup> centuries. In addition, the local communities were allowed to cultivate in the ‘colonies’ – well-defined portions of land close to their settlements – after payment of a quota to the formal holder of the land title. The ‘colonies’, were entirely self-administered by the *universitas*, the ‘commune’ formed by all the inhabitants of the village. The land cultivated in common was called *demaniala universitatis* (‘the land patrimony of the commune’) in Latin, later changed into the Italian diction *demani universali* (‘land patrimonies of the community’) (Liberati 2004: 52-5). The secondary civic uses rights and the *demani universali* were assimilated into a common category when they were legally abolished during the Napoleonic time, along with the feudal system. But the customary collective uses did not disappear altogether. The post-Napoleonic governments of southern Italy resumed the systematic attempt to ‘liquidate’ the rights of civic uses with to objective to ‘rationalise’ agriculture, a policy that continued in the early phase of the unitary State. In compensation for the lost common rights, portions of the previously accessed lands were reserved for use by the local communities, but entrusted to the municipalities for their management. The implementation of this policy was a failure, having exposed the rural communities in southern Italy to various sorts of abuses. Not only it exacerbated poverty of the lower rural class, but the colonies – located in the most valuable lands close to the inhabited centres – were progressively alienated and privatised for the benefit of the most influential families (Liberati 2004: 46-52, 55-67). This policy, specific to the pre-unitary State in southern Italy, explains the absence in southern Italy of CPs self-administered by a community with legal personality, and the prevalence of variously administered *demani civici universali*. Large extensions of land have not yet been demarcated.

By the time of the Italian unification the secondary community’s rights and the inherent form of community governance were still very relevant in the Papal States (Pescosolido 1990). In

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the early phase of the unitary state they were officially recognised under the prevalent denomination of *università agrarie* (closest translation: ‘agrarian commune’), but only in the territory of the ex-Papal States (see below). Today they are well-established realities in the central and north-central Apennine tract, covering a diversity of climatic zones ranging from the cooler mid-elevation mountains to the slopes facing the Mediterranean. It has been estimated that only in the Umbria region there are more than 170 legally registered CPs and 40 municipalities directly managing land under civic uses, for a total extension of about 85,000 ha (Ciani and Ciani 2011a). In the northern part of the Lazio region, 99 *università agrarie* were registered, for a total land estimated over 50,000 ha. They include the two adjacent *università agrarie* of Allumiere and Tolfa, a pastoral-modified environment of high biodiversity value (Box 5). The recognition study implemented in Marche region in 1884 on governmental mandate revealed that most provinces had about 30% of the territory under civic uses. A recent study shows that those lands were CPs in a proper sense: they were governed by the assembly of the heads of family. Differently from the cultivated ‘colonies’ in the south, these CPs were mainly rangelands used for the pastoral component of the economy, forming an integral part of the productive system based in the *villa* (village) and including the private property under cultivation (Gobbi 2004).

b. The **Mountain type** is confined to the Alpine Arc. This is probably the most relevant ICCA category in term of total surface and political influence. It includes large, efficient, dynamic and wealthy CP/ICCAs such as the Comunanza of the Regole d’Ampezzo (RdA) (Lorenzi and Borrini-Feyerabend 2010; box 6) and the Magnifica Comunità di Fiemme (MCF) (box 3). The Mountain type is directly derived from the traditional Alpine economy, prevalent until the massive emigrations of the late 19<sup>th</sup> and the 20<sup>th</sup> centuries. The system of production was based on the need of a relatively isolated mountain community to establish efficient governance on a pool of diverse resources, distributed at different elevation. The valley bottoms hosted the villages with cultivation along the adjacent slopes, below 1,500 metres.



*Castello di Fiemme and woods owned by the Magnifica Comunità di Fiemme Cavalese*

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Above it, the subalpine zone was subject to common use for the extraction of timber for house construction and local consumption, and for gathering. Timber was also sold outside the community, with modalities that changed under the different historical circumstances (Tomasella 2001: 28-32). The income from sale of timber was anyway used for the primary needs of the community and maintenance of roads (Merlo 1991). Small villages and scattered houses were built in this climatic zone. They were mainly used in summer for hay production, contributing to keep clearings in the woods. Above the wood-line the alpine zone provided excellent pasture for free-range cattle during summer. The herds were kept in high mountain barns, where the animals that each household privately owned used to be gathered. Each household used to have a very limited number of animals, crucial to family's survival as a source of fat and protein. In winter the animals were kept indoor in a special section of the house in the bottom valley. They were fed with the hay collected during summer. The seasonal movements were constrained by the local orographic features, forging the boundaries of the communities that from different villages in the bottom valley were led to cooperate and to establish shared regulations for the use of the higher elevation common pool resources. Still today most of the territorial holding of the Mountain type CPs is at elevations corresponding to the alpine and subalpine climatic zones.

### **Box 3: Magnifica Comunità di Fiemme**

(Sources: Cattoi 2005; MCF)

The Magnifica Comunità di Fiemme (MCF) has just celebrated 900 years from the first written agreement recognizing the existence of the community with its own internal regulations. Through the centuries the Community administered its territory according to the customary rules. From the beginning of the 19<sup>th</sup> century the States that took control of the area tried to introduce administrative reforms that undermined the customary rights. The legal status of the land under common property and the role of the Community were contested until 1951, but the latter managed to maintain the management of the land through the period. The MCF legally administers nearly 20,000 ha. of land in Trentino-Alto Adige, in the eastern Alps. 11,000 ha. are woods, 2,000. ha are high elevation pastures and the remaining part consists in rocky mountain hills. It gathers 11 different village communities (*regole*), with a total membership of about 20,000 individuals or 7,500 *fuochi* ('fires', meaning families). The regulations of the human exploitation of the wood and pasture resources were first codified in the 13<sup>th</sup> century and were regularly updated thereafter. Since 1997 the eco-compatible use of the wood resources is internationally certified by the Forest Stewardship Council (FSC). In 2007 they also obtained the certification of the Programme for Endorsement of Forest Certification (PEFC).

The MCF runs its own sawmill for sale of timber and semi-finished wood products of outstanding quality, including the Fiemme Valley's famous tonewood used in the early 17<sup>th</sup> century by Stradivari for the construction of his violins. The regulations for the use of the high elevation pastures have been adapted to the changing circumstances. Each member family used to have right of access, but the economic shift to tourism and recreational services led to their underutilization. Access has been granted to small-scale livestock enterprises on the base of strict regulations updated on the base of a combination of local and scientific knowledge, with specific attention for ecological issues. Most of the high-elevation pastures are in fact also included in two Natura 2000 areas. The enterprises owned by MCF members have priority, but due to low demand access is more often leased to external actors. Members have also the right to collect timber for housing needs and they engage in eco-tourism activities based in the facilities owned and maintained by the MFC. The MFC also

participates in a European project for the efficient utilization of biomass derived from wood collection and processing.

Over the years, the MFC developed a very efficient central administration. It directly employs about 10 administrative employees, 10 forest guards, 35 sawmill workers, 40 seasonal workers for maintenance of the landscape. It is also a major contractor to local logger and transport companies. Its total budget ranges between 7 and 8 million Euros (estimation referred to 2005).

By the MCF Statutes, the profit is used to sustain the social and cultural wellbeing of the community as a whole, and valorise the valley's heritage. It preserves his 15<sup>th</sup> century palace in Cavalese with its valuable archive, library and painting collection. The palace will host the Museum of Fiemme Civilisation. During the 1950s the MCF contributed to construct the hospital, still sustained with provision of sanitary material. It provides scholarships for the needing students of the valley, contributes to the valley's voluntary association engaged in social and emergency work, in sport, folklore, tourism and culture. It also promotes expositions and various events on the culture and history of the Fiemme Valley and the Fiemme painting school. It provides incentives for the local livestock and agricultural sector. Only for the activities aimed to preserve and valorise the forests and pastoral patrimony the MCF spends above €1,5 million per year (referred to 2005).

c. The **Plains CPs** are located in areas characterized by high population density, intensive commercial agricultural and high level of industrialization. Their legacy is based on medieval grants given to specific communities by the Church or a feudatory, often given in return for the community's services in the work of drainage of wetlands in the Padan Plain (Dondarini 2004). Long-term leases of land were at some point changed into permanent ownership. Common ownership could survive despite the high commercial value of the land only where communities have actively struggled to demonstrate their rights, often in the context of several subsequent states. The process generated the historical documentation that led to their legal recognition under the unitary state. The plains CPs tend to be fewer in number and with smaller extension of land. Most of their land is usually cultivated by their members. However, some of plains CPs incorporate small-scale ecological systems kept in a semi-natural state, including riverine and lagoon wetlands.

### 2.2. Key ecological, cultural, socio-economic, and political of CPs/ICCAs

In the pre-industrial economy the CPs provided key livelihoods to the associated communities. With the modern transformation, waged labour has replaced subsistence derived from nearby natural resources. The most successful CPs proved to be capable of adapting to the transformation of the economy, while at the same time preserving the basic values of the community, particularly the inter-generational transmission of the natural resources. There is, however, a degree of diversity among CPs in relation to the socio-economic values, whose description requires the construction of a second classificatory axis on the base of the characteristics of the CP's central management board. A first distinction is between civic uses lands with their graduated management arrangements, and self-administered CPs with legal personality in terms of private law. In terms of governance and values these two categories cannot be neatly differentiated, since the civic uses lands under the 'Separate Administration' arrangement are similar to the self-administered CPs, both operating with a board having the management responsibility over the common land, financially responsible in legal terms and accountable to the CP's members. An element of difference lies in the composition of the members. The rights of civic uses are attributed to all the citizens living in a municipality or a fraction, anyway a formal administrative division.

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The relation between the board and this constituency is regulated by the regional law. On the other hand the members of the self-administered CPs are often only a legally recognized portion of the local residents (see below). Their relation with the board is regulated by the specific statutes of the association.

### *(i) Civic uses lands and CP/ICCAs with a low degree of central management*

Many CPs with legal personality in terms of private law do not have the conditions to establish an operative central board. Most CPs of the *università agraria* type, for instance, do not have a size and a constituency large enough to financially sustain an efficient central management. They are characterized by low central budget, often raised through self-taxation, and low central expenditure. Several CPs in the Alps whose governance capacity had declined over the centuries and are just now reviving also share these features. Such CPs are in many ways similar to lands under civic uses, being characterised by a low degree of central initiative. In economic terms, the common pool natural resource retains a prevalent complementary role for the CP's members, providing timber for domestic use and opportunities for leisure activities in the open air, such as excursion, gathering of wild plants, hunting and collective social events. They also provide a refuge economic niche as an alternative source of livelihoods to some of their members, who could continue to engage in the traditional activities, such as farming (mainly in the plain CPs), pastoralism and commercial gathering of mushrooms and truffle (Ciani, A. 2002; Gobbi 2004:111; Gios 2004:21).

### *(ii) CPs/ICCAs with a middle level budget*

Some of the largest CPs of the *università agrarie* type, most of the plains CPs and many CPs in the Alps are capable to maintain a fully operational management board by generating an internal budget. This is often associated to the monetary potential of the CP's natural resources, either for centralised fundraising by the management board or for the benefit of members of the CP.

The presence of a well-managed official protected area can be the element enabling low activity CPs to develop into more efficient ICCAs, as in the case of the Corno delle Scale regional park in Lizzano in Belvedere, a municipality with several small CPs of the *università agraria* type (box 4).

In the plains CPs the need to allocate plots to the members, often on rotational basis, imposes the establishment of a central board. The budget can also be generated by renting out portions of the productive land.

In the *università agrarie* type, size and potential for market integration are key factors. Tolfa and Allumiere base their success on the vitality of the traditional pastoral activity and the availability of a good niche market in the nearby capital town. This enables them to pay salaries to permanent employees and to engage in productive business capable to foster the business capacity of their members (Box 5). The same conditions are not met in Umbria, where depopulation has affected engagement in the pastoral sector. The available pastures are not fully claimed by the members, but the largest CPs have the possibility to rent them out to private livestock enterprises, an activity shared by most self-administered CPs in the Alps.

**Box 4: Natural parks as pull factor for common properties: Corno delle Scale**

(Source: Giacoia 2004)

Lizzano in Belvedere is in a hilly part of Emilia-Romagna region, at the limit of the historical Papal States. Since the 8<sup>th</sup> century the local community could claim territorial rights based on an official grant, but from the beginning of the 19<sup>th</sup> century the assembly of the heads of family lost authority due to the administrative re-organisation of the State under the Napoleonic influence. Law n. 5489 of 1888 gave the opportunity to regain full control of at least some portions of the territory previously accessed in common. At the turn of the century, the community formed some *consorzi di utilisti* ('consortiums of users'), based in fractions (*frazioni*) of the Lizzano in Belvedere municipality, and obtained the allocation of a total of 1,300 ha. For many decades the new associations were not really active, due to the market competition from industrialized farming in the nearby Padan Plain. Out-migration was intensive in the early 20<sup>th</sup> century. Only a few families continued to engage in traditional farming and pastoralism, but the most labor-intensive cultivations and the correlated food processing activities were abandoned, including chestnut production. The forest and pastures retained their outstanding biodiversity and landscape qualities. The area was therefore proposed for the establishment of a national park, but the initiative met the opposition of the local community. After the 1977 decentralization of administrative competences in agriculture and the environment, the community took the initiative to revitalize the old consortiums. In 1982-3 they obtained the authorization from the Emilia-Romagna Region, also in consideration of the active role they kept in preserving the forestry and pastoral patrimony. In 1988 the region instituted the Corno delle Scale, a small regional park of 5,000 ha. incorporating 1,000 ha. of land of the various consortiums. This time the administration did not meet the opposition of the community, since the latter could continue to engage in the traditional agroforestry and pastoral activities. Over time the natural park became a pooling factor for the development of the consortiums, creating new opportunities for the community and enhancing their management capacity. The management of the natural park systematically cooperates with the consortiums and attracts support from various government and private organizations for the activities promoted by the consortiums. The park supports the rehabilitation of rural buildings both inside and outside the park's boundaries, and attracted a growing tourism flow. Tourism not only creates jobs opportunities, but also provides a niche market for the local agrarian products. With the technical assistance facilitated by the park's management, the consortiums involved the local agrarian private enterprises operating outside their common property to promote the adoption of organic agriculture with certification. The park has also allowed them to use the park's logo as trademark. The certified products have an added value that allows them to compete with the imported products in the local market, and also to expand in the national market, a new activity promoted by the consortiums. In result the agro-pastoral sector – including the rehabilitation of the traditional chestnuts cultivation and processing – has revived with great attention for the traditional and environmental-friendly technics. The out-migration process has been reversed.

The lease of grazing grounds is only a marginal budget-generating item. Several CPs/ICCAs in central Italy and in the Alps with an operational central board need to integrate it with income derived from leases for the instalment of telephone and television towers, and, more recently, from small-scale plants in the green energy sector (Florian 2004). There are also several cases of rent fees imposed on illegal occupations occurred during the time the

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municipality has been administering the CP. In the Alps these occupations are often owned by the municipalities themselves, consisting in parking places, stores, and other public services (Florian 2004: 67). In central Italy they include privately-owned structures of relevant environmental impact, including in the extractive industry.

In the Alps timber extraction is a viable budget-generating activity for middle and large size self-administered CPs, especially when associated to wood certification. Smaller CPs may pull together resources to meet the management requirements, as in the case of the 3 *Regole* of San Vito di Cadore (<http://www.regolesanvito.it>).

The presence of an operational central board enables these CP/ICCAs to successfully engage in centrally-managed initiatives for the maintenance and rehabilitation of their territory, often entrusted to contracted private companies. It also enables them to formulate projects to participate in the European agricultural or environmental programmes, in most cases jointly submitted with the regional government, and access other funds and incentives provided by the local administration.



*Università Agraria of Allumiere, Lazio Region*

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The possibility to independently maintain an operative central board is the minimum standard for CPs to directly administer an official protected area or to submit proposals for the Natura 2000 network.

**Box 5: Agro-pastoral business in the Università Agrarie of Allumiere and Tolfa**

(Sources: Artebani and Capizzi 2005; UAA)

The two *università agrarie* based in the nearby villages of Tolfa and Allumiere are formed by all the citizens resident in their respective municipalities. Their territories, however, extend beyond the boundaries of the municipality, managing a combined territory above 13,000 ha. Each has an elective board that operates in line with the institutional objectives to protect both the community's interests in agro-pastoral business and the conservation of the ecological value. Specific to the area is a particular form of free-range cattle husbandry that led to selection of the Maremmana, a cattle breed only present in Lazio and Toscana regions. The Tolfa Horse is also endemic to the area. Out of a total of the about 6,500 ha administered by the Università Agraria of Allumiere (UAA), 14% is dedicated to organic farming, and the remaining part consist in an approximately equal share of woods and pastures. Access is allowed to the local small-scale and often family-based livestock enterprises. The small fees they are required to pay for the maintenance of the pastoral infrastructure and landscape maintenance are largely insufficient to cover the UAA expenses. In order to fill the financial gap the UAA has established its own agro-pastoral enterprise. It achieved the organic agriculture certification for both meat and the agricultural products, which include traditional fodder varieties for the livestock component. The market is exceptionally good, with a demand larger than the offer. The private enterprises benefit of the market opportunities, as well as of specific breeding services provided by the UAA enterprise. Management of the wood provides an additional marginal financial benefit, and timber and for the members' housing needs.

Relevant portions of the *università agrarie* of Tolfa and Allumiere have been included in the European Union Natura 2000 sites.

*(ii) CPs/ICCAs with a surplus budget*

A few CPs/ICCAs not only manage to maintain an efficient central administration, but are also capable to generate a relevant surplus that enables them to directly employ several labourers, run productive business, and engage in social and cultural initiative in behalf of their members and the local community at large. This is achieved by the long-established CPs that – for their favourable conditions – have achieved high market integration. The MCF (Box 3) and the RdA (Box 6), both in the Alps, are the two classic cases. They share a similar mountain environment with a relevant forest patrimony and the presence of a flourishing tourist industry, but they base the raising of the central budget on slightly different strategies, the first by a stronger engagement in a niche timber market and the second in tourism industry and official PA system. Both also provide to their members opportunities in the eco-tourism business based in their mountain huts and mountain barns.

*(iv) The indirect economic value*

The CPs/ICCAs produce relevant indirect economic benefit for the local community at large. The key role they play for landscape protection has important implications for the prosperity of tourism, ranging from small-scale family-based enterprises in places like Tolfa and Allumiere, to the elite tourism industry of Cortina. Attempts to quantify in monetary terms the indirect landscape and recreational benefit achieved by the traditional forestry and

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pastoral activities in the Alps showed that it exceeded by about ten times the value obtained by the direct use of the natural resources (Gios 2004: 28).



*Cortina d'Ampezzo with view on the Natural Park of the Ampezzo Dolomites. The park is managed by the Comunità delle Regole d'Ampezzo.*

© Stefano Lorenzi

The middle and, especially, the high budget CPs/ICCAs create employment by contributing to the local enterprises, either in the form of direct contracting for the proper maintenance of the territory, or in specific sectors such as wood processing and trade.

### **Box 6: Comunanza delle Regole d'Ampezzo**

(Main sources: Lorenzi 2005; Lorenzi-Borrini Feyerabend 2010; RdA)

The *Comunanza delle Regole d'Ampezzo* (RdA) federates 11 different *Regole* in the municipality of Cortina d'Ampezzo, in the Dolomite section of the Alps, Veneto Region. Cortina is a renowned touristic centre for the beauty of its mountain picks and the landscape. It attracted international tourists since the 19<sup>th</sup> century.

Early documents of written 'rules' – *laudi* – governing the community's life date back to the 13<sup>th</sup> century, but recognition of political autonomy was formally established in the 14<sup>th</sup> century as part of the broader Magnifica Comunità del Cadore. In 1511 the Holy Roman Empire separated Ampezzo from Cadore, conquering it from the Republic of Venice. The RdA managed to maintain a relevant degree of self-governance until the 19<sup>th</sup> century.

Today the RdA collectively own about 16,000 ha. of forest and mountain pastures. Since the 1980s they rented the rocky mountain picks from the State to assure a more comprehensive landscape management. In 1990 they succeeded in establishing the Natural Park of the Ampezzo Dolomites, obtaining from Veneto Region the mandate to manage it. The park includes large portions of the land owned by the RdA, but also other territories privately owned or belonging to the state and the municipality. The RdA thus further extended their responsibility to assure that the whole territory is preserved in an appropriate state with regards to both landscape and biodiversity. Given the extremely high price for housing and

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the commercial demand for tourism infrastructure, this is a real challenge. The RdA themselves sought to achieve an optimal balance between income opportunities and conservation, as evident from their budget. The traditional financial sources based on sale of timber and on the livestock sector have lost relevance. Wood is still cut and sold, but mainly for the sake of appropriate environmental management and for the domestic needs of the RdA's members. For the same environmental reasons, the use of the high elevation pastures is leased to enterprises bringing cattle from the nearby valleys. The largest budget share is today provided by both recurrent and project-specific transfers of budget from the region for the management of the park, and by a comparable amount derived by leases of slopes to the skiing industry and other rents. The third largest budget item consists in funds obtained for projects co-financed by the EU and the region. The RdA thus strategically allocate their territories into commercially productive zones and areas of integral biodiversity conservation in the park. Their management, however, assure a balanced protection of the entire territory to preserve the landscape value, the real wealth of the RdA's members as well as of all the inhabitants of the valley. By far, the largest budget expense is on the management of the entire territory, followed by the expenses for permanent and seasonal personnel, including the employees specifically required for the park.

Engagement in the social and cultural life of the valley is an integral component of the RdA. They directly manage the paleontological museum, the ethnographic museum, and modern art museum. They promote various cultural activities supporting events and publications, particularly if related to the local cultural identity and language. Cortina d'Ampezzo is in fact part of the *Ladino* speaking community in the Alps, an officially recognized minority language of the Romance group. Great attention is paid for the generational turnover, as shown by their numerous initiatives with the schools and the students.

### *(v) Social and cultural value*

As well elucidated by Pietro Nervi, a leading scholar on CPs in Italy, the prominent feature of the land under CP is not its market value, but its social and symbolic meaning, its value as a knot of relations between individuals. In this sense, the CPs are better analysed by adopting an institutional rather than economic approach. The management of the community's common patrimony is not and cannot be informed by short-term gains as in private property, but is rather dominated by consideration for inter-generational equity and the long-term preservation. The long-term perspective has its roots in the sense of being a specific community with a past and a future, hence in feelings of identity and solidarity that the common patrimony has highly contributed to keep alive (Nervi 2007: 254, 262, 265).

Not only the CPs/ICCAs stimulate common action in name of shared values for the appropriate governance of the natural resources, but the common territory is also a meaning-generating place that fosters the community's common belonging. The surplus budget CPs/ICCAs go far beyond this by directly investing in social and cultural initiatives for the benefit of the local community at large (Boxes 3 and 6).

### *(vi) Ecological value*

The ecological value of the CPs is evident where official PAs overlap with the CP. Unfortunately no systematic study has so far been implemented. As mentioned, there are known case studies of CPs directly administering regional and provincial protected areas, and many other CPs having territories included in official protected areas, playing no major management role, as in the cases of the Gennargentu Massif (box 1) and of the National Park of Abruzzo. The RdA belong to the first category (Lorenzi and Borrini-Feyerabend 2010;

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box 6). Other cases are recorded in connection to the Plain CPs. The latter, in fact, tend to incorporate pocket ecosystems particularly valuable because they are remnants of the original ecosystems. They are landscape monuments, and also provide refuge to wild biodiversity in regions deeply transformed by the anthropic action. Over the centuries, the *Partecipanza dei Boschi di Trino* managed to conserve the woods of *Sorti della Partecipanza*, a green island in a sea of paddy fields. These 570 ha. are the only surviving sample of the extensive woods that used to cover that part of the Padan Plain, in Piedmont Region. In 1991 a regional law gave status of regional park to the woods and assigned its management to the *Partecipanza* (Ferrarotti and Crosio 2005; Parks.it). The *Partecipanza Agraria di Nonantola* provides an example of wet area conservation in the Emilia Romagna Region, again in the Padan Plain. With small funds from the region and other local institutions, since 1985 it engaged in activities aimed to rehabilitate the ecological value of the wetland constituting 10% of its 760 ha. territory. This small wetland is an important refuge for 21 species of birds of relevance for the EU. Most of the portion dedicated to biodiversity conservation has now been mapped and officially accepted in Italy for inclusion in the Natura 2000 network (Serafini 2005; *Partecipanza Agraria di Nonantola*; ER).

As the review of ICCAs progresses, it gets clearer and clearer that many CP/ICCAs have demarcated relevant portions of their territory for inclusion in the EU Natura 2000 network, a programme apparently highly compatible with livelihoods and recreational orientation of the CPs/ICCAs. Inclusion in the list of the Natura 2000 sites is by itself a biodiversity certification of the ecological value assured over time by the CPs' governance, even where the local communities openly rejected the conservationists' attempts to establish an official protected area (boxes 1, 3, 4 and 5).

Several CPs also include and properly maintain key catchment area and water resources, an ecosystem service for the larger community. The vigilant attention of the members combined with CP and civic uses land's legal protections prevented occurrence of abusive occupation and construction, as well as engagement in destructive leases and agreements with private companies. This role can also be absolved by communities having civic uses rights in land formally administered by the municipality and apparently under no effective ICCA governance. In a sort of 'dormant ICCA' mode, the community only activates itself in case of abuses. In the course of its mobilisation and with the objective to produce historical documentation for advocacy and as court cases' evidence, it may build self-awareness and eventually turn into a fully shaped self-administered ICCA. This was the case of the small *Abutinato del Boschetto di Gualdo Tadino* in Umbria Region, which mobilised with the neighbouring CPs against the attempt to privatise the water stream crossing its lands for mere commercial gains (Ciani and Ciani 2011b; Maiarelli 2011).

Informal governance in CPs with weak central management and in the *demanio civico universale* should not be under-estimated for biodiversity conservation, even if no major management initiative takes place (Box 1).

The ecological value of the CPs as a whole is perhaps best illustrated by the recent establishment of the Dolomites World Heritage in the area that probably has the highest CP density in Italy, in Veneto and Trentino-Alto Adige regions. Most of the sites of the Dolomites World Heritage are within the autonomous territories of the 15<sup>th</sup> century Magnifica Comunità del Cadore, regulated by a common Statute and internally structured into *regole* (Zanderigo Rosolo 1982). Today only in the mountain part of Veneto region there are 52 registered *regole* (Gatto 2011). The World Heritage includes lands of the RdA

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(Lorenzi and Borrini-Feyerabend 2010: 2), but the full range of intersection with the other CPs/ICCAs has not yet systematically been investigated. A preliminary check we made only on the two *regole* of Vodo di Cadore and the three *regole* of San Vito di Cadore reveals that all have portions of territory within the World Heritage sites.



*Regola included in the Unesco Dolomites World Heritage, Veneto Region.*

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### 2.3. Main threats to CPs/ICCAs

The CPs/ICCAs and the civic uses lands are subject to two classes of threats, one directly affecting their territorial asset, the second their capacity to establish good governance.

The territorial threats include:

- a. Illegal processes, such as abusive occupation and construction;
- b. Legal commercial initiatives, often quarries and extractive industry, and privatization of water sources;
- c. Expropriation of community land for development and infrastructure;
- d. Legislation contradicting the key legal principles contained in legislation on CPs and civic uses, particularly inalienability, indivisibility, and protections against adverse possession and change of the agro-forestry use.

(a) and (b) mainly occur in association with weak or absent management, hence in civic uses land not yet demarcated or under the administration of the municipality.

The threat of expropriation of community land for the development of infrastructure of national relevance (c) was the reason that led the RdA to engage with the region for the establishment of a natural park. The RdA's constituency rightly considered that an official protected area would have given a higher legal protection. The external threats explain why, differently from most other CPs, the RdA have shown a positive attitude towards official conservation. It should, however, also be stressed that the RdA demanded and obtained the establishment of a natural park only on condition that they would be the main administrators (Lorenzi and Borrini-Feyerabend 2010).

Contradictory legislation (d) often forces the CPs to engage in costly court cases to defend their rights. It includes:

- Regional legislation in the CP and civic uses sector; and
- National and regional legislation bypassing the CP and civic uses sector legislation.

The regional laws promulgated in Lazio and Abruzzo regions in the 1980s illustrate the first item. They are in fact too flexible in accommodating change of land use and land alienation in subordination to urban planning or in case of adverse possession (Tomasella 2001: 79). More concern has however been raised in relation to the second item. Contradictory legislation is often justified by the need to promote business in strategic sectors or to contrast exceptional financial challenges, but a closer analysis shows that it is rather the outcome of specific lobbies. In fact it mainly operates by facilitating private investments in derogation of the existing protections and procedures. The regulation recently approved by Veneto Region to liberalise the instalment of new hydroelectric plants is a case in point brought to public attention by the *Veneto Coordination of the Consulta Nazionale della Proprietà Collettiva* (CNPC 2011). Small hydroelectric plants provide opportunities for CPs/ICCAs to generate their own budget by entering into partnership or through leases. The CP/ICCA's constituency can build on local knowledge to evaluate the potential environmental impact of a project against the proposed cost-benefit within the CP's overall management strategy. The new regulation removes a previous prescription preventing the expropriation of land without the prior consent of the CPs (CdR 2012: 3-4).

Quite similar – but at national scale and with a devastating potential impact – is the recent attempt by many municipalities to sell the civic uses lands under their administration. This is happening in result of the application of a recent governmental decree authorizing the municipalities to sell their land asset to reduce the local public debt (CNPC 2012). While public debt has locally grown in result of the recent financial policies, the solution to locally sell public asset suits strong interest groups at the expense of the environmental function and heritage value of all the categories of *demanio*. As in the past, in absence of explicit protection in the text of the decree, the public administration tends to disregard the fact that 'civic uses' land is formally owned by the community. The problem is particularly acute on lands not yet officially recognised, where community are scarcely aware of their rights, and in demarcated civic uses lands administered by the municipality. These conditions prevail in the south of the country (Lorizio and Marian 2004: 201).

On the governance side, many CPs/ICCAs are facing problems with the generational turnover. This is especially happening in result of depopulation in the rural areas, but it is also due to a perceived lack of economic opportunities. The failure by the youths to engage in the social life and in the deliberative assemblies reduces the capacity of the CPs/ICCAs to reformulate their operational modalities in the direction of more efficient market integration.

### **3. Governance and management of CPs/ICCAs**

The Italian ICCAs are closely linked to CPs and Civic Uses Lands, that, as shown in the classification proposed in table 2, respond to a large variety of governance and management solutions. This section focuses on the self-administered CPs, being the category providing the best cases of ICCAs.

The governance of self-administered CPs/ICCAs is influenced by two factors. The first is the homologating effect of the current legislation implying a common legal status that imposes a

similar management model. The second is the diversity of environment and history that generated differences in governance, still reflected in their legally required statutes.

### **3.1. The overall legal model**

The CPs in Italy have been treated either in terms of public or private property, but ended up in a hybrid legal category. Common property, in fact, is not explicitly recognized under the 1947 Constitution. The public utility in behalf of the local community contributes to qualify them in the realm of public property. However, their legal personality, in many cases already established in the pre-unitary states, came to be acknowledged through several court cases engaged by the stronger CPs against the public administration (see below). Through the development of legislation they progressively came to be recognized as subject to private law, but with the ownership attributed to the group as a whole for the common goods. Accordingly, the land is inalienable and cannot be disposed by the single individuals. In order to be legally registered, the CP needed to develop its Statute and submit it to the public authorities in accordance to the relevant national and, from the 1970s, regional law. The law requires that the individuals or families forming the group are legally registered as members. They exercise the control over the common land through a management board elected in the general assembly of the registered members. The legal personality in terms of private law implies that the CP can enter into contractual agreements as any private business, and it is financially accountable according to the standard legal mechanisms.

### **3.2. Close and open membership**

There is a range of flexibility in the composition of the management board, in the internal regulations established by the Statutes and in the composition of the members of the group. Although generalizations are difficult to make, it is nevertheless possible to broadly differentiate between CPs whose legal existence was established from the Middle Ages up to the pre-unitary states and those recognized in the early phase of the unitary state. The Mountain and the Plain types CPs tend to follow within the first category. At some point in history they codified in writing the customary regulations or the rights they had acquired for use in the negotiations, appeals and court cases engaged with the dominant authorities. These old statutes and collections of customary regulations were key to achieve recognition in the state arena. As such they acquired both symbolic and juridical value as the element legitimizing the existence of the common property even under unitary state. This is probably the reason why the current statutes reflect the old ones and still retain features that appear to be in contrast with modern principles of citizenship and the open society. A first element is the ascriptive character of the membership. Membership is often restricted to those who can prove direct descent from the ‘original’ inhabitants of the area, thus excluding the recent newcomers despite their legal status of resident in the same locality, a restriction described in terms of ‘close membership’ in the Italian literature. Descent is often evaluated through the exclusive patrilineal line, thus excluding the families of daughter who have eventually married from outside the local community. Until recently the decisional capacity, including voting at the general assembly and eligibility, was restricted to male members of the community. Most CPs/ICCAs have recently changed these features – typical of the traditional society – by amending their statutes. They have granted equal rights to women and introduced openings to include the non-member after a certain time of residence in the same local community.

Most CPs of *università agraria* type have instead a membership open to all the residents of a municipality or its fraction, having developed an entirely new statute as a requirement for legal recognition under the early unitary state (see below).

### 3.3. Customary and current governance

#### (i) *The ancient constituency*

As previously described, the mountain type CPs/ICCAs are derived from a model of governance based on the need of the bottom valley communities to establish a shared set of norms for the common use of the resources at higher elevation. The old mountain communities were self-regulated polity with a full range of institutions ranging from the deliberative to the judicial functions, working according to the local power structure based on the direct participation of the head of each homestead. The inclusive assembly of the heads of family was also the main governing organ of the CPs in central and southern Italy, both in their historical phases of formal and informal existence. In the Middle Ages literacy was extremely low, hence there was no need to codify the rules governing the use of the commons in written form until the external circumstances forced the communities to provide evidence of their capacity to self-rule. In the eastern Alps Giacomini (1990) has found more than 300 *carte di regole* (written documents listing the rules of the community's daily life) in the archives, dating from the 13<sup>th</sup> century, but especially from the 15<sup>th</sup> and 16<sup>th</sup> centuries. This is the period when a certain number of village communities could federate to achieve recognition of political autonomy by the regional rulers, as in the case of the Magnifica Comunità of Fiemme and the Magnifica Comunità of Cadore. Formal recognition required the development of statutes and book of rules based on customary law. In Cadore they are often called *laudi*, while the term *regola* came to identify a village community, the lowest administrative unit with common holdings (Pertile 1975; Tomasella 2001: 24-6). Still today the MCF and the RdA are federations of smaller communities (*regole*) that pooled resources together to keep a viable administration (boxes 3 and 6).

#### (ii) *Accountability and 'fuoco' (fire)*

The current management requirements in terms of private law have obviously radically changed the governance mechanisms. The management board operates as a business enterprise, but it is strictly bound to the statutes that incorporate the values of the older codified regulations. The description of the governance of the RdA by Lorenzi and Borrini-Feyerabend (2010) shows the accuracy of the mechanism of the management board's accountability to the general assembly and the efforts to fully involve the *regolieri* (members) in the social life of the RdA. The mechanism is so accurate that the constituency exercises an effective check even on the decisions concerning the ordinary management of the natural park. Another detailed description of the internal governance mechanisms strictly derived from the ancient statutes is provided by Cattoi (2005) for the MCF. Even in this case the CP shows unique syncretic elements, considering that the MCF consists in four administrative units. The institutional unit manages the artistic, historical and architectonic heritage, and deals with the social and cultural activities. The sawmill is a registered joint-stock company, entirely owned by the MCF. The other two registered companies deal with wood and landscape management in the common lands (the CP proper) and with the non-heritage real estate owned by the MCF outside the common land (MCF).

The RdA, the MCF and other CPs of Veneto and Trentino-Alto Adige regions attribute the voting capacity to the *fuoco* (fire). The *fuoco* does not refer to the individual as one would expect by modern law, but rather to the nuclear family. Attention to the nuclear family responds to the families' modern transformation, having replaced the rural homestead symbolized by the fireplace and represented in public meetings by the head of an extended, localised family. Gobbi (2004: 106-12) has highlighted how in Marche region in central Italy the old *fuoco* organisation contributed to protect the common pool of natural resources. Use rights in the common pool was in fact allocated by *fuoco*. Each extended family could only claim one *fuoco* quota over the generations, forcing it to self-impose mechanisms of birth control.

### *(iii) Continuity and innovation in management*

The modern transformation has changed the patterns of interrelation between humans and natural resources. In relation to CPs this is often expressed in terms of shift from their direct productive function to provision of services. Studies made mainly in the Alps suggest that the high value they retain in terms of ecosystem services is anyway dependent upon the consolidation of the links between the natural resources and the local community and the maintenance of the customary activities that have assured their conservation over the centuries (Gios 2004: 25, 30, 36). Good result can be achieved on condition that the special CP's management requirements are properly understood, considering the balance that is today required between activities planned by the central management board and implemented by the members themselves. The rights and duties of the members of self-administered CP/ICCAs are accurately spelt out by statutes. The land is subject to the customary use with priority accorded to the members, and only secondarily opened to eco-compatible market opportunities. The board should be capable to seek the appropriate balance, and centrally promote initiative to enable members to successfully engage in the customary eco-compatible activities (boxes 4 and 5) or intervene with direct environmental management (boxes 3 and 6). Despite the fact that the board is financially accountable as any other business enterprise, the protections attached by law or by custom to CPs and civic uses lands determine some key differences in management. Nervi (2002: 53, 56, 63; 2007: 248, 251, 265; 2008: 76-77) has outlined a number of specificities differentiating the management of CPs from the management of either private or public land, or from the management of any other capital:

- CPs have an institutional objective that is different from and prevails over the individual interests of their members;
- The notion of 'patrimony' requires that the natural resources will be transmitted to the future generation, with specific protections for their long-term conservation;
- CPs do not respond to the objective to produce profit, but rather job opportunities to their members and services to the community at large; in this sense management should be dynamic and innovative, aimed to produce benefits within the institutional limits; the eventual profit should be utilised for initiative of public utility or to increase the patrimony itself for the common good;
- Given the above mentioned features, management should explicitly differentiate between the monetary and the non-monetary aspect, the economy on the one hand and the social, cultural and environmental implications on the other;
- Rational choices need to be based on a scale of values of which market considerations are only one element, to be evaluated on the background of the natural cycles of renovation of the natural resources; other elements to consider are based in the ethical sphere and include synchronic solidarity among CPs' members and intergenerational equity.

### 4. Recognition and support to ICCAs

ICCAs in Italy came to be recognised over a long time span under different denominations in the framework of sectorial legislation different from biodiversity conservation.

#### 4.1. Legal history under the unitary state

In the medieval time, common or multiple use of the land was a common feature in the peninsula, and several Alpine communities enjoyed a relevant degree of political autonomy. In Italy the earliest systematic attempts to ‘modernize’ the state’s administrative setup took place under the Napoleonic domination (1802-1814). The areas that were enjoying a degree of autonomy in the management of the natural resources were put under the direct control of the state and the municipalities. In line with the primacy of ‘private property’, the various states have since promoted a policy aimed to reduce multiple use of land. Despite these attempts, in the early phases of the unitary state these activities were still common and considered by some influential political actors to be of primary importance for the livelihoods of the local communities.

##### *(i) Agrarian legislation under the early unitary state*

The political debate between the communitarists and those who have attempted to nullify collective rights in name of agricultural rationalization is reflected in the late 19th century laws, promulgated with the objective to overcome low intensity cultivation under the latifundiums, a condition prevalent in the ex-papal State and in the south of the country. The law n. 5489 of 1888 (Legge 5489/1888) was promulgated with the specific purpose to abolish the community rights to access pastures, collect wood and grasses and cultivate in land owned by others – the ‘civic uses’ – in the ex-Pontifical Province. However, it already contained a provision for the community to get full control of the land if used by customary law, or of a portion of the property to compensate the abolishment of their secondary rights.

This possibility was fully regulated by the law n. 397 of 1894 (Legge 397/1894) on collective domains in the ex-pontifical Province and Emilia, better known as ‘Legge Boselli’. This is the first time the *università agrarie*, *comunanze* and *partecipanze* were recognized as having legal personality in the unitary state, with the status of association, for the enjoyment of their collective title over the land. This law established the procedure for recognition, requiring the existence of an old or an *ex-novo* statute as pre-condition.

This early agrarian legislation paved the way for recognition of the CPs of the *università agrarie* type, but only in central and north central Italy.

##### *(ii) The fascist time and the liquidation of civic uses*

The Law n.1766 of 1927 (Legge 1766/1927) on liquidation of civic uses and the implementing regulation by Royal Decree n.332 /1928 tried to rationalize at national scale the diverse situations inherited from the pre-unitary State with the objective to progressively eliminate the civic uses. The civic uses were supposed to be recorded and liquidated under the responsibility of a new officer, the Commissioner for Civic Uses. The compensation to the community was planned to be paid in the form of a portion of the territory, to be entrusted to the municipality for its administration.

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According to this important law, land was classified into two categories:

- a. Rangelands (woods, scrublands and grasslands). This category was supposed to remain undivided and to be inalienable; the law introduced innovation on its management, with the plan to progressively assign it to the State Forest Agency as regulated by the law n. 3267 of 1923 (Legge 3267/1923), commonly known as ‘Legge Serpieri’.
- b. Land potentially productive for intensive agriculture, to be allocated and divided among those claiming rights.

This law favoured recognition and registration of the land under civic or common uses, a process that is still ongoing, although reframed according to the current regional decentralisation. Its application, however, is considered to have failed due to the attempt to bring under a common category, derived from the southern pre-unitary legal tradition, all the different realities of the countries (Cervati 1990). This law was also criticized because it adopted the southern legislative model on liquidation of common rights and civic uses, and for the classification of the CPs in term of public law (Grossi 1998: 22-3). The CPs that in various ways had already achieved legal recognition during the pre-unitary phases were generically assimilated to the ‘civic uses’, with the only explicit exception of the associations recognized under law 397/1894 in the ex-Papal States (Legge Boselli). The consequence was that over the following decades the management of the ancient CPs was entrusted to the municipalities for the benefit of all residents. This forced the long established and self-aware CPs/ICCAs of the Alps, particularly in Trentino and Cadore, to revive their struggle for recognition, as they had already done under the previous state formations. The judicial dispute opened by the *Vicini* (‘Neighbours’) of Fiemme is probably the most complex (Box 7).

### **Box 7: The MCF and the ‘Spartiò’ question in response to Law 1766/1927**

(Main source: Casatta 2003: ch. 2)

The Napoleonic phase ended the Bishopric of Trent under which the inhabitants of Fiemme Valley enjoyed a relevant degree of self-government. In 1803 the area was annexed to the Kingdom of Bavaria, in 1810 it passed to the Napoleonic Kingdom of Italy. The Congress of Vienna (1814-5) assigned it to the Austrian crown land of Tyrol. In result of World War I (1919) it became part of the independent Kingdom of Italy. All these states failed to recognize the prerogatives that the *Vicini* (‘neighbors’), the old inhabitants of the valley, had enjoyed in relation to their territory. The old ‘*regole*’ were abolished and replaced by the municipalities. A dispute arose about the allocation of the territory that was previously administered as an indivisible patrimony of the Magnifica Comunità di Fiemme to the different municipalities. This is the *Spartiò* (‘division’) question, which engaged the *vicini* in an outstanding sequence of formal appeals, demonstrations and court cases under the different States that took control of the valley since 1803. Key to the dispute was the status of the MCF, regarded by the governments as a public body with the role to assist the municipalities in managing the territory.

Under the Italian unitary State the *Spartiò* question resumed in application of Law 1766/1927 on the liquidation of civic uses. In 1934 the Regional Commissioner sentenced that the MCF land holding was co-owned by the municipalities of the valley and should be disposed according to law 1766/1927. In 1935 a new Statute was enforced on the MCF, allocating among the municipalities the profit generated by the CP’s management. At a second judicial level, in 1935 the Court of Appeal of Rome confirmed the Commissioner’s sentence, which was adverse to the community. Meanwhile, an appeal against the 1935 Statute was discussed by the *Consiglio di Stato* (a Constitutional administrative and judiciary

organ). The sentence was delivered in 1936. It defined the MCF an ‘undetermined institution’, finding no correspondence in Italian public law. The community again appealed to the *Corte Suprema di Cassazione*, hoping to be recognised in term of private law. This appeal was rejected in 1937. A new appeal against the 1935 Statute led in 1939 to a second sentence by the *Consiglio di Stato*. This second sentence established that the land was not owned by the MCF nor by the municipalities, but by all the inhabitants of the valley; it also recognised the title of the MCF to administer it in behalf of the larger valley community, and confirmed the Community to be subject to public law, giving the possibility to develop a new Statute.

After the conclusion of the Second World War, the series of appeals engaged by the MCF resumed. New sentences were delivered in 1948 by the Court of Appeal of Rome, in 1950 again by Court of Appeal of Rome – Section for Civic Uses, and in third judicial level by *Suprema Corte di Cassazione* in 1950. This series of sentences linked the MCF common holding to the category of *demanio civico universale* (civic uses land). By implication it was declared inalienable, definitively excluding the municipalities as legal owners, but making the municipalities still eligible as legal administrators. On the base of the ancient documents the legal personality of the MCF was recognised, but subject to public law. The sentence allocated the management responsibilities between the municipalities and the MCF. The latter was entrusted to oversee compliance with the civic uses regulations for the benefit of all the inhabitants of the valley, with no special prerogative for the MCF members. Following on the two 1950 sentences the MCF adopted new Statutes in 1951. The issue of the MCF’ status and prerogatives of the *vicini* was again modified according to the recent national and regional legislation, which again paved the way for the adoption of the new Statute in 1993.

*(iii) Agro-forestry legislation in the Republican phase*

The post-fascist phase was more conducive for the CPs/ICCAs. The pluralistic orientation of the post-war constituent period persuaded the activists of the Alps’ CPs to engage in advocacy to reverse the effects of the Law n. 1766/1927. Based on the old statutes, they particularly targeted the recognition of common property as a legal category separate from the land generically subject to civic uses. The implication was the possibility to regain the decision-making power that in the meanwhile had been transferred to the municipalities, and to rehabilitate the practice of close membership to assure a more restrictive use of the natural resources. Building on some provisions contained in the forestry law 3267/1923 (Legge Serpieri), already in 1948 the Legislative Decree n. 1104 (D.L. 1104/1948) recognized the legal personality of the Regole della Magnifica Comunità Cadorina – including the RdA and several other *regole* in Veneto Region –, still in terms of public law, for the sake of the conservation of the agro-pastoral and forestry patrimony. As in the case of the Legge Boselli, this decree required the *regole* to register the list of the members, seek the approval of their statutes and be subject to financial accounting. The land needed to be clearly demarcated, it was inalienable, indivisible and its use could not be changed (Tomasella 2001: 56-76).

The mentioned Decree n. 1104 on the *regole* in Veneto Region and the juridical debate stimulated by the court cases of the MCF (Box 7) and several other CPs in Veneto and Trentino regions – including the RdA – paved the way to the 1952 general law on Mountain Territories (Legge 991/1952) (Romagnoli et al. 1992; Grossi 2002: 20). Art. 34 of Law 991/1952 and Art. 30 of the implementing regulation (DPR 1979/1952) recognize the autonomy of the *comunioni familiari* (family communions) for the administration of their forestry and agro-pastoral patrimony in accordance with their statutes or *laudi*, as recognized

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in previous jurisprudence or by custom. The application of law 991/1952 proved to be difficult for the ambiguity of some of the new legal definitions. They tended to be interpreted on the ground of the established legal tradition, based on the notion of the secondary rights of 'civic uses' rather than exclusionary community's governance as was the case in the Alps.

The juridical specificity of the mountain CPs was confirmed by Law n. 1102/1971 on new norms for the development of Mountain Areas. Art. 10 explicitly differentiates the 'family communions' from 'civic uses', confirming the legal value of their statutes. Art. 11 for the first time introduces the term *patrimonio* (patrimony) for the property of those communities, stressing its indivisibility and inalienability, and again binding it to the agro-forestry and pastoral use. Law 1102/1971 comes at a time when the country was engaging in a process of administrative devolution, implementing the constitutional provisions to assign to the regions a primary role in agricultural policy. The competence to emanate regulations for the 'family communions' was accordingly devolved to the regions.

In 1997 the Law n. 97 (Legge 97/1997) on New Directives for Mountain Zones gave full legal personality to those CPs: differently from the 1948 Decree, it defined them as subject to private law on the base of their statutes and considering the ancient customs. It finally brought under a common categories the CPs defined by the 1952 law on the Alps with the associations formed according to law 397/1894, hence the *università agrarie* type in central Italy. It specifically delegated to the regions the competence to regulate their activities.

The regions were rather slow to legislate in this sector, but some did an outstanding job.

### *(iv) The interlink with legislation on landscape and protected areas*

The 1947 Republican Constitution fails to explicitly refer to both biodiversity conservation in a strict sense and to common property. There are however, a number of constitutional provisions that provide the legal basis for the following constitutional jurisprudence and legislation (Di Genio and De Vita 2005: 151-4). Di Genio (2004) has elaborated about the strong juridical analogy between natural parks and civic uses lands. According to Postiglione, (2007: 75) the 'Legge Galasso' of 1985 (Law 431/1985) marks the entrance of CPs and civic uses lands into the specific legal category of environmental patrimony. Indeed the Law n. 431/1985 and the Code on Landscape and Heritage (Legislative Degree n. 157/2006) explicitly bound both CPs and land under civic uses to the *vincolo paesaggistico*, a measure of landscape protection in planning. The Sentence of the Constitutional Court n. 391/1989 is another keystone bringing CPs and civic uses lands from agroforestry law to the legal domain of environmental protection. It claims that under the changed Constitutional circumstances the productive function of civic uses land established by the 1927 law is now subordinated to environmental conservation and ecological valorisation. This legitimises their inclusion into the boundaries of natural parks, but only on condition that the customary utilisation by the entitled community will not be radically changed (Tomasella 2001: 94-5; Di Genio 2004: 127).

In 1990 the RdA went even further when by Regional Law n. 21/1990 they obtained from Veneto Region the establishment and, short later, the management of the Dolomite Natural Park.

These are the important legal antecedents that paved the way to the mentioned Framework Law n.394/1991 on Protected Areas, fully acknowledging the link between CPs and environmental protection, opening up new opportunities for the CPs to engage in official protected areas according to regional legislation. The same Framework law (art. 11) and the

subsequent Law n. 426/1998 on New Interventions in the Environmental Field also contain provisions for recognition and support of civic uses within the national parks, the protected areas established by the central government and managed according to the modalities outlined in the Framework law (Di Genio, 2004: 127-8). Unfortunately, these provisions may remain unattended in practice. The rigid composition of the park's Directive Council, excluding representation of the Separate Administrations of civic uses lands, has been identified as a main constraint to the effective community's participation to decision making (Di Genio 2004: 126-8).

At regional level Veneto Region has approved the outstanding Law n. 26/1996. It favours the reconstitution of the *Regole* that had become inactive and lost their management capacity, while simultaneously binding them to measures of environmental protection. It proved to be very effective (Florian 2004; Gatto 2011).

The legislative cluster specifically focusing on the environmental value of CPs and civic uses lands can be considered the bulk of recognition of ICCAs in Italy, although still under official denominations that differ from the one prevalent in the context of IUCN and the CBD.

### **4.2. Government and EU recognition and support to ICCAs**

The CPs/ICCAs did never enjoy any relevant financial or management backing. The government did not develop financial instruments specific to either CPs or other ICCAs, and did not provide technical inputs. The main support came in terms of legal recognition and empowerment, a condition that enabled them to self-generate their budget through market integration. This process generated an enabling environment that put some of the CPs/ICCAs in condition to improve their capacity to operate in a complex economic and policy environment and to access to the EU and regional incentives as any other enterprise.

Over the last decade the EU system of incentives has acquired an increasing relevance. As discussed, the CPs/ICCAs in Italy have first been recognized in the agroforestry sector and, indeed, many of them have accessed the Rural Development Programme under the 2007-2013 EU Development policy. The 'improving the environment and the countryside' thematic axe was particularly relevant. It was used to a large extent by the Italian CPs/ICCAs to co-finance the costly interventions needed to properly preserve and rehabilitate the environmental qualities of their lands. This program is financed with the European Regional Development Fund (ERDF) (2007-2013).

The Life+ program, designed to finance the initiatives in line with the EU environmental policies, provided a second opportunity. As mentioned, many CPs/ICCAs have developed proposals for the Natura 2000 network.

The European Union Forest Action Plan is also highly relevant to CPs/ICCAs, given its specific interest in agroforestry systems. Like other European policies, it pursues a full integration of biodiversity and environmental conservation with the development needs of the communities. The ERDF and Life+ are again the relevant financial mechanisms.

The EU financial instruments require high technical inputs for the formulation of proposals and accounting. Their cost is often covered by the project itself after approval. The proposals are usually submitted by the regions and they require local co-financing. These incentives can accordingly be accessed only if two preconditions are met:

- a. The CP/ICCAs has an operational management board;

- b. The local government organisations are efficient and keep a good interaction with the CPs/ICCAs.

When these conditions are met, the CPs/ICCAs have the potential to engage in a virtuous cycle with single projects financing the activity of the central board and improving the overall capacity of the CP/ICCA.

Thus even in absence of specific policies and incentives, hence without additional financial costs for the public administration, the EU incentives can be obtained, but they require that the public administration adapt itself to the needs of the CPs/ICCAs. The recent regional laws on either CPs or lands under civic uses – often they are not differentiated – are the pre-condition for this responsive adaptation to take place. A case in point is the good communication established by the Veneto Region with the RdA in the early 1990s and with the *regole* institution as a whole from the mid 90s. The regional legislation of Tuscany, Marche, Campania and Umbria regions in central Italy have a slightly different approach, with more emphasis on the productive use of the CPs and civic uses lands in an attempt to make their management compatible with the EU agrarian policies. For instance, the Regional Law 1984/1 in Umbria does not differentiate between common properties and civic uses. It provides for a first phase of recognition and it requires the submission of an economic development plan based on the formation of cooperatives in large CPs. Small CPs can choose between an economic strategy of leasing out land to private enterprises, or to associate to form a viable management unit (Ciani, A. 2002: 173-4). The same law also provides for some financial instruments, but they are considered largely insufficient.

### **4.3. The role of self-help and other non-governmental agencies**

The recognition of CPs/ICCAs was not granted from above, but achieved by the CPs/ICCAs in result of their initiative. They especially succeeded where cohesive and self-aware local communities successfully struggled to maintain or to re-gain autonomy, not through violent confrontation, but with long negotiations, appeals and court cases, often repeated under the governments of the different states that have taken control of their area in historical sequence. In this struggle the communities had to present evidence of their corporate existence and their title over the claimed land, thus building the history of specific CPs, recovering written documents often dating back to the medieval time. The same holds in the final phase: recognition under the unitary Italian state was the result of advocacy in its earliest phase, heavy engagement in court cases under the fascist regime, both advocacy and court cases in the Republican phase. Good results were achieved through self-help organizations that successfully engaged in the national and regional arenas, challenging the dominant ideology and the prevalent legal tradition. This action was also facilitated by the large extension and the value of the total land under civic uses and common properties, a good motivation for institutions to be responsive. This explains why in Italy there are several well-organized and fully functioning research centres, associations and networks, addressing both common properties and land under civic uses. Since CPs are not formally acknowledged as ICCAs, it is worth recalling that none of these centres and associations are specific to ICCAs, nor even to conservation of biodiversity, but all address the conservation function of the CPs.

#### *(i) Research centres*

The *Centro Studi e Documentazione sugli Usi Civici e le Proprieta Colletive* (Centre for the Study and Documentation on Civic Uses and Common Properties) is specific to CPs issues. It

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was established in 1995 by the University of Trento on the initiative of the Faculties of Economics and Jurisprudence. It promotes theoretical and applied research for policy with an interdisciplinary approach. The *Riunione scientifica* – a yearly scientific symposium – has become the main national scientific forum on the subject. So far 17 gatherings have been organised. They built the basic understandings for improvement in policy, the background knowledge to promote research as well as relevant scientific outputs gathered in several edited volumes, monographs and in the *Archivio Scialoja-Bolla – Annali di studi sulla proprietà collettiva*, a specialised scientific journal. This centre has developed an online bibliography and other instruments. It actively cooperates and networks with other active university departments and scholarly associations in central and southern Italy and in Sardinia, including the University of l'Aquila, the University of Sassari, and the Centro Studi sugli Usi Civici e i Demani nell'Italia Meridionale (Center for the Study of Civic Uses in Southern Italy) (CESDUCIM).

The *Dipartimento Territorio e Sistemi Agro-forestali* (TeSAF) (Department Land, Environment, Agriculture and Forestry) is a large department under the Faculty of Agriculture of Padua University. It focuses on sustainable use of renewable agricultural and forest resources. It produced several researches of high relevance for the CP/ICCAs in northern Italy.

The *Centro Studi di Estimo e di Economia Territoriale* (Ce.S.E.T. – Research Centre for Appraisal and Land Economics; see [http://www.deistaf.unifi.it/ceset/\\_eng/Home\\_.html](http://www.deistaf.unifi.it/ceset/_eng/Home_.html)) is based at the Economic and Appraisal Section of the Faculty of Agriculture, University of Florence. It has organised relevant meetings on CPs and civic uses in Italy.

### (ii) Main associations and networks

There are several associations and networks on CPs, operating at national and local scale.

#### **Box 8: Examples of regional and local associations of CPs**

- Associazione Regionale delle Università Agrarie del Lazio (ARUAL): [www.universitagrarie.org](http://www.universitagrarie.org);
- Consorzio Comunelle del Carso;
- Consorzio Comunalie Parmensi: [www.comunalie.com](http://www.comunalie.com);
- Associazione Provinciale delle Amministrazioni Separate di Uso Civico di Trento.

The *Consulta Nazionale della Proprietà Collettiva* (National Advisory Body for Common Properties - CNPC) was established in 2006 to interact with the public administration with the objective to valorise the common properties and rights, and promote best practices. It is based at the *Centro Studi e Documentazione sugli Usi Civici e le Proprieta Collettive* (University of Trento), but the organisation is a federation of regional units, each coordinating the CPs and other government and non-government organisation in the regional territory. The federal structure responds to the need to advocate at both national and regional levels, given the current decentralisation in the agro-forestry and environmental sector. This structure also allowed building on the pre-existing region-based or local associations (box 8) and informal networks. However, regions that have not an established tradition of civic engagement in CPs and civic uses continue to be under-represented and inefficient in their advocacy efforts.

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The *Associazione per la Tutela delle Proprietà Collettive e dei Diritti di Uso Civico* (Association for the Protection of Common Properties and Civic Uses Rights), is a cultural association formed in 1989 by a group of jurists interested in the civic uses and committed to environmental issues at national scale. Its website provides an online Guide to civic uses in a juridical perspective, with full text access to the main regional legislations (A.pro.d.u.c).

The *Associazione Nazionale Usi Civici e Proprietà Collettive* (National Association on Civic Uses and Common Properties) (<http://www.usicivici.it/>) provides several services to the CPs.

Other associations and network are relevant to non-CP ICCAs (Box 9).

### **Box 9: Examples of networks and associations relevant to non-CP ICCAs**

- Ecomusei: [www.ecomusei.net](http://www.ecomusei.net);
- AGER – Agenzia Internazionale per la Protezione dei Paesaggi Bioculturali e per la Nuova Ruralità: [www.ager-landscape.org](http://www.ager-landscape.org)
- Associazione Identità Mediterranee: [www.identitamediterranee.org](http://www.identitamediterranee.org).

### *(iii) Foundations and other sponsors*

The above-mentioned organisations are mainly self-sponsored, but they are also sustained by other organisations. For instance, the founding members of the *Centro Studi e Documentazione sugli Usi Civici e le Proprietà Collettive* include the Foundation of the *Cassa di Risparmio di Trento e Rovereto* – a local bank – and the Federazione Nazionale dei Consorzi Forestali a delle Collettività Locali – now renamed Federazione Italiana delle Comunità Forestali (FEDERFORESTE). The centre operates in close association with the Guido Cervati Association, active in raising funds for specific initiatives and research.

Where CPs are deeply rooted, the local governmental organisations and the financial enterprises with strong local interests often sponsor specific public initiatives, and finance on-ground activities connected the CPs. The social value and the high consideration locally enjoyed by CPs can in fact generate relevant gains in terms of either political support or public image.

## **4.4. Key issues for the recognition and support to ICCAs**

Recognition of ICCAs in Italy occurred in result of the intersection of CP and PA legislation. These two legislative sectors developed in response to their own internal dynamics and social processes, with only occasional acknowledgments and no systematic attempt to generate a coherent and integrated normative resolution. The 1991 Framework Law on Protected Areas, for instance, does not provide for an adequate mechanism of community involvement in decision-making, even in relation to civic uses lands included in national parks. This generates community's opposition to PA of the type identified for the Gennargentu (box 1). Although some regions have developed outstanding legislation as the one on the *regole* in Veneto, in most regions legislation on civic uses lands is still influenced by the old 1927 law on liquidation of civic uses, being not updated to the latest environmental jurisprudence and international law, and not sufficiently responding to the current policy of administrative decentralisation (Di Genio 2010: 14). Even in Veneto, where CPs are considered for their intrinsic environmental value, the adopted legal terminology mismatch with the one prevalent in international discourse.

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The identification of CPs as *de facto* ICCAs leads to the conclusion that strengths and weakness affecting CPs simultaneously affect the strengths and weaknesses of ICCAs. In this perspective the uneven distribution and performance of the CPs and civic uses lands must be considered the main problem. Geographically speaking, the south of the country – where civic uses lands prevails – has remained cut out from the progress achieved in central and, especially, northern Italy.

In terms of performance, too many CPs are too small or have unfavourable conditions to meet the management requirements demanded by the current legislation and to engage in the virtuous cycle that enable them to access EU incentives. Many difficulties are generated by the fact that the EU legislation and policy do not directly recognise the environmental values of CPs and civic uses lands (Di Genio 2010: 15). The self-administered CPs, having legal personality in terms of private law, can receive EU funds, but in the case of civic uses lands variously administered by the public administration this is only possible in favour of the legal entities operating within the CP according to the development plan, mostly in the agricultural sector. Under this financial arrangement private interests are likely to prevail over the ethical and environmental motivations discussed in the management section of this report. Similar constraints are met by the legally recognized CPs whose central budget is too small to support an efficient central management.

The weak management/governance capacity of most CPs, and the municipalities still administering lands under civic uses are all elements preventing the efficient exploitation of the outstanding social and environmental capital available in the country. The international financial crisis and the policy adopted to reduce public debt are major elements of concern for the most vulnerable CP/ICCAs, particularly lands under civic uses administered by the municipalities.

### *(i) Key lessons/learning from the Italian case*

- Legal recognition is a key element for the success of ICCAs. Legal recognition does not necessarily need to take place in the field of protected areas and biodiversity conservation, but at some point environmental legislation needs to take them into account.
- The relevant historical process is not limited to legacy of the current state, but may involve several prior state formations on the same territory.
- Issues of self-awareness, identity and social cohesion are key factors for recognition.
- Violent confrontation is never constructive, but court cases can greatly contribute to highlight the legal bottlenecks and the principles that need clarification. Even if the political settings are not conducive for court case to have a positive outcome, the juridical discussions are likely to result in appropriate legal developments under subsequent favourable political phases.
- Advocacy and lobbying by communities themselves, achieved through associating and networking, are key elements of success.
- Scientific research to foster the understandings of ICCAs in the national context is crucial.
- ICCAs' potential for recognition is greater when they can demonstrate that the asset they can mobilize for public ends is relevant.
- Financial viability is essential to the success of ICCAs, ensuring autonomy.

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- Good working relations with the local governmental organisations are key to success, especially in complex policy environments such as in Europe.
- ICCAs have opposed the establishment of new national parks on their territories, but have favoured regional parks more respectful of traditional land use, local decisional processes and local livelihoods.
- ICCAs have actively promoted the establishment of official protected areas, provided that they could play the main management role.
- Small ICCAs can improve their management and advocacy capacity by associating into local associations, federations or consortiums of ICCAs.
- Niche markets, international agro-environmental certifications and a shift towards the ecological service sector are key to the financial viability of the ICCAs.

### *(ii) Non-CP ICCAs*

Community-based biodiversity conservation also occurs in result of initiatives not connected to common holding of natural resources. As mentioned, the possibility to frame them in the international understanding of ICCAs requires further studies. As mentioned, some are recognised under international treaties or regional law with main reference to cultural heritage or landscape. Others, connected to international environmentalism, may not be formalised. A third category connected to sacred sites and ritual in general is the least acknowledged and known.

## **5. The Future**

### **5.1. Future activities planned by the communities, the government, and the civil society; especially in relation to issues of recognition and support**

Nearly two decades of scholarly attention promoted by the *Centro Studi e Documentazione sugli Usi Civici e le Proprietà Collettive* led to a sharp identification of the legislative weaknesses concerning CPs. Much of the juridical debate has been revolving around the ambiguous definitions of the land held in common, in-between the private or public status, which is derived by lack in the Italian 1947 Constitution of a specific recognition of common property as a separate category (Grossi 1981; Grossi 1998: 24). This exposes all CPs and the lands under rights of civic uses to the territorial threats above discussed. The CNPC is specifically addressing this problem at both national and regional level. It supports the approval of a new national law for the specific recognition of common property with the objective to assure a stronger protection to both CPs proper and lands under civic use rights (Senato 2011). The key characteristics shared with international understandings of ICCAs are specifically recalled, including management of the natural resources, conservation and valorisation of the natural patrimony for inter-generational transmission and stronger landscape and environmental legal protections. The proposed law would therefore comply with the Italian obligations under the CBD. However, the legislative text submitted to the Italian Parliament does not make explicit reference to ICCAs or to the Italian obligations under the CBD.

**5.2. Recommendations**

*(i) Terminological recognition of ICCAs in Italy*

In order to comply with the CBD Programme of Work on Protected Areas, Italy should provide support to ICCAs. The first and easier step is simply to acknowledge what in Italy already features as ICCA, albeit differently called in the country.

This review has identified a class of CPs fully performing according to the international understandings of ICCAs. They include:

- Middle level and surplus budget CPs directly managing official protected areas;
- Middle level and surplus budget CPs that have demarcated Natura 2000 sites;
- Middle level and surplus budget CPs that have territories overlapping with the UNESCO natural World Heritage and with other areas of protection under international law;
- CPs with legal personality whose environmental value is established by law, as in the case of the *regole* in Veneto Region.

It should be noted that no registry has so far been compiled of any of these 4 sub-groups. They all feature as protected areas in a full sense by international standards, and should accordingly be also recorded in the national registry of protected area. The fact that they variously overlap with other PA categories requires some attention for their classification. For this reason, it might be difficult to include them under the official list of the protected natural areas (MATTM), whose structure is rigidly defined by the 1991 Framework Law. However, even under the current legislative provisions it is possible to integrate them under the initiatives of the Region, in line with the devolution of environmental competences (Postiglione 2007: 77).

There are other CPs that can be considered weak ICCAs for one or the other reason, hence needing specific policy to support them. Table 3 summarises the different on-ground realities. The suggested actions are not exclusive, but cumulative from up to down in the table.

**Table 3: Potential or weak ICCAs in Italy – recommendations for action**

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

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Given the prominence of CPs in Italy, the non-CPs ICCAs can be considered a separate class of ICCAs, however keeping in mind that it encompasses diverse realities, often intertwined to either official protected areas (box 2) or lands under civic uses (box 1).

### *(ii) Required initiatives*

The outstanding response of CPs to favourable national environmental law and European environmental policy compatible with the communities' livelihoods indicates that CPs provide the best platform to implement the CBD Programme of Work on ICCAs in Italy and possibly elsewhere in Europe.

With regards to CPs the following elements need to be given high attention:

- ✓ Terminological recognition of ICCAs and compilation of a registry (including the non-CP ICCAs);
- ✓ Need to provide a stronger protection against the territorial threats through new sector legislation;
- ✓ Improve CPs/ICCAs' management performance and their capacity to articulate plans and projects in the field of conservation of biodiversity;
- ✓ Increase the number of CPs/ICCAs directly managed by the community;
- ✓ Favour the process of registration of land currently under generic civic uses rights and the progressive transfer of the administrative responsibilities to the local communities, especially in the south of the country.

The important role that the EU has acquired needs to be fully taken into account. The EU already implements integrated programs combining sustainable use of natural resources with biodiversity conservation. Most of them, however, are coming to an end. The relevance of ICCAs need to be explicitly taken into consideration in the formulation of the new programs, and particularly aim to an explicit recognition of the environmental role of CPs and lands under civic uses rights, developing appropriate financial instruments. The formulation of new EU policy requires the implementation of comparative country analysis at European level, and a coordinated advocacy effort at European level. The comparative studies and the advocacy efforts can potentially be co-financed with the standing EU financial instruments.

The north-south gap in Italy needs to be addressed with specific policy, whose formulation requires additional studies. Due consideration should be given to the fact that the *universitates* were the prevalent formal governance structure at some historical stages, and that relevant legislation and jurisprudence already exists (Di Genio 2010: 15; Di Genio and De Vita 2005: 149).

The formulation of policy for non-CPs ICCAs also needs further studies. The potential of the 'cultural landscape' approach at the intersection with biodiversity conservation should further be investigated, with the objective to identify constructive ways to integrate the relevant international law into national legislation.

### *(iii) Legislation*

Besides the ongoing legislative initiative promoted by the *Consulta*, additional legislation is required in the biodiversity and PA sectors with the objective to:

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- ✓ Establish the equivalence between the international and the Italian terminological categories;
- ✓ Harmonise existing national and regional legislation with reference to protected areas and CPs;
- ✓ Update, integrate and harmonise CPs and PAs legislation, with special attention for the current devolution policy and the EU policy;
- ✓ Explicitly recognise the role that the Italian ICCAs play in conservation of biodiversity, independently of the official PA categories, thus enabling them to confront the territorial threats;
- ✓ Develop the required enabling legal environment for CPs and civic uses lands to properly develop into ICCAs; and
- ✓ Adopt into national legislation the relevant provisions of international law signed and ratified by Italy.

### *(iv) Institutional requirements*

The need to coordinate a wide range of activities suggests that a unit should be made responsible for coordination at national level. Such unit could be established at MATTM with the following responsibilities:

- ✓ To develop a registry of ICCAs in Italy, in coordination with the ICCA Registry – an initiative at the international level – and with the Italian research centres that have already started this work with reference to CPs;
- ✓ To liaise between the ICCAs and their associations and the EU;
- ✓ Providing information and technical advice to ICCAs, promoting capacity building workshops, and developing best practices, in coordination with the ICCA Consortium, IUCN-CEESP, and IUCN TILCEPA;
- ✓ To co-fund initiatives or facilitate co-funding when this is a EU requirement, in coordination with the regions;
- ✓ To develop a strategy to assure stronger legal protection against the territorial threats and further develop national and regional PA legislation;
- ✓ To promote studies in gap areas in coordination with the existing research centres in Italy and relevant research networks in Europe.

It is highly recommended to implement activities 2, 3 and 5 in close coordination with the CNPC. This association is, in fact, already structured in regional units, but it needs to be strengthened in the region where it is weak. This can be achieved by applying for capacity building EU funds.

Most studies in gap areas (activity 6) have a European comparative relevance and should be designed to address the EU policies. It is therefore advisable to develop them in coordination with the recently established ‘European Discussion Group on Research on Indigenous and Community Conserved Areas (ICCAs)’ (ICCA Consortium 2011).

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