



Convention on
Biological Diversity



Policy and legal tools to achieve Aichi Targets 5, 11 and 15

Sub-regional Workshop for Eastern and Southern Africa
on ecosystem conservation and restoration to support
achievement of the Aichi Biodiversity Targets

Livingstone, Zambia
12 to 16 May 2014



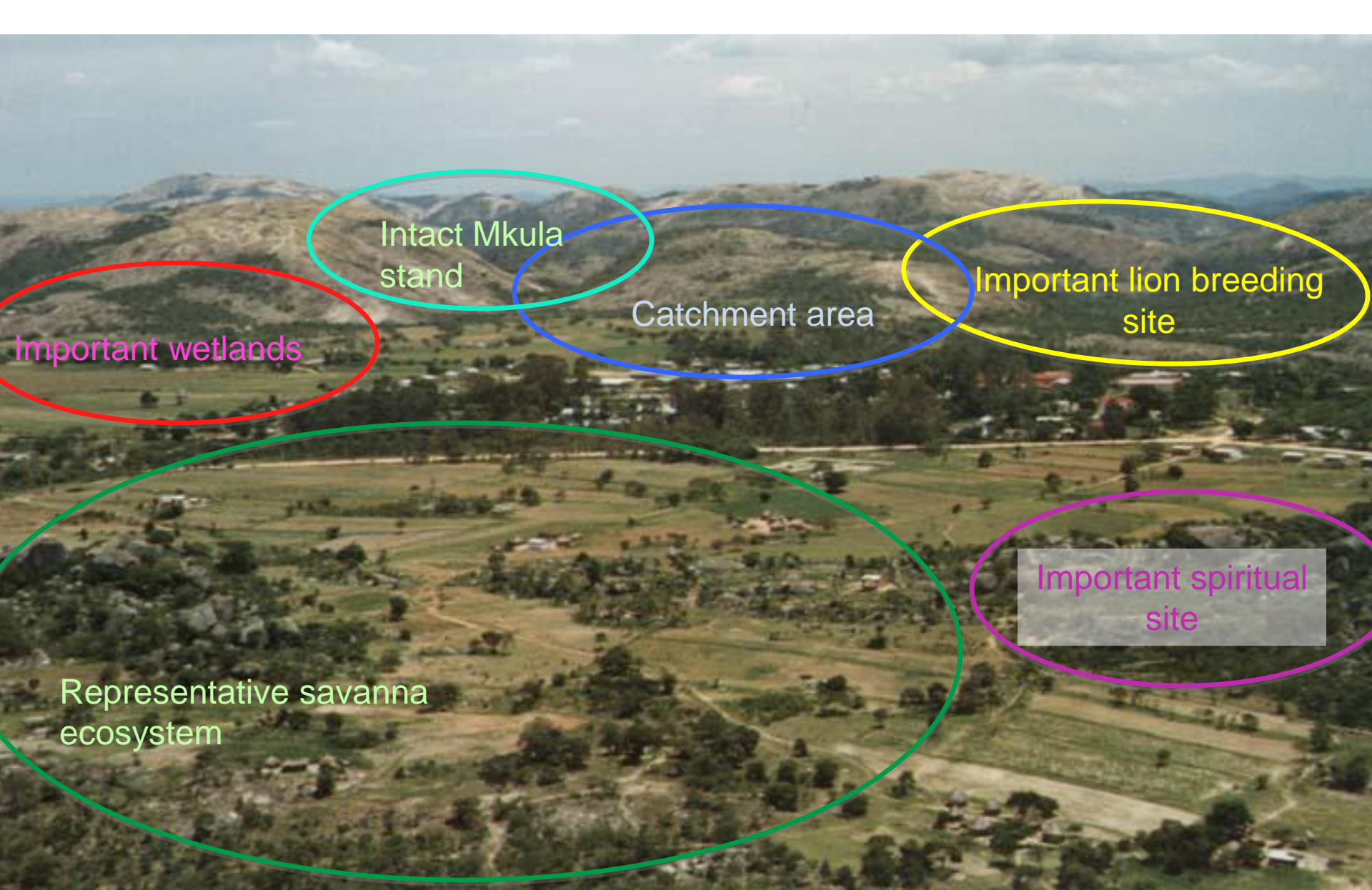
An integrated approach to the area-based Aichi Targets



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Intact Mkula stand

Catchment area

Important lion breeding site

Important wetlands

Representative savanna ecosystem

Important spiritual site

**Mining
concession**

Rangelands

**Forest
reserve**

Settlement

**Commercial arable land
(biofuels)**

Protected area

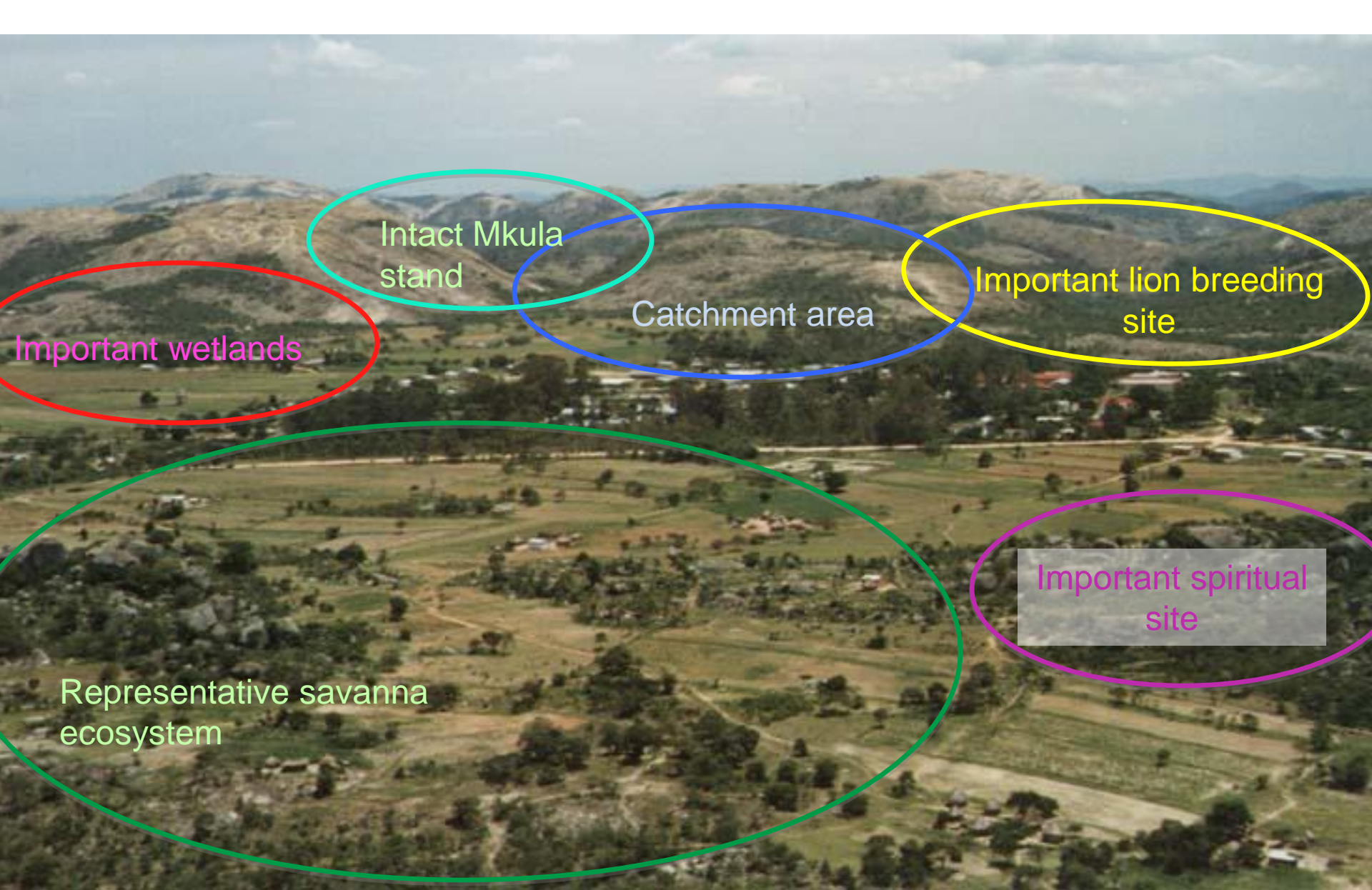
Subsistence agriculture

GDD

Policy approaches



- A policy is a formal course of action that a government decides on for managing a certain issue or guide
- It sets out how an issue will be dealt with
- It is usually an option, selected amongst different other, sometimes competing options
- Usually selected after an analysis of other policy options, and based on best available options
- Not developing a policy is also a decision so even inaction is a policy
- A policy is not usually binding on citizens
- Examples of policies relevant for achieving the Aichi Targets are forest policy, environment policy, wetlands policy



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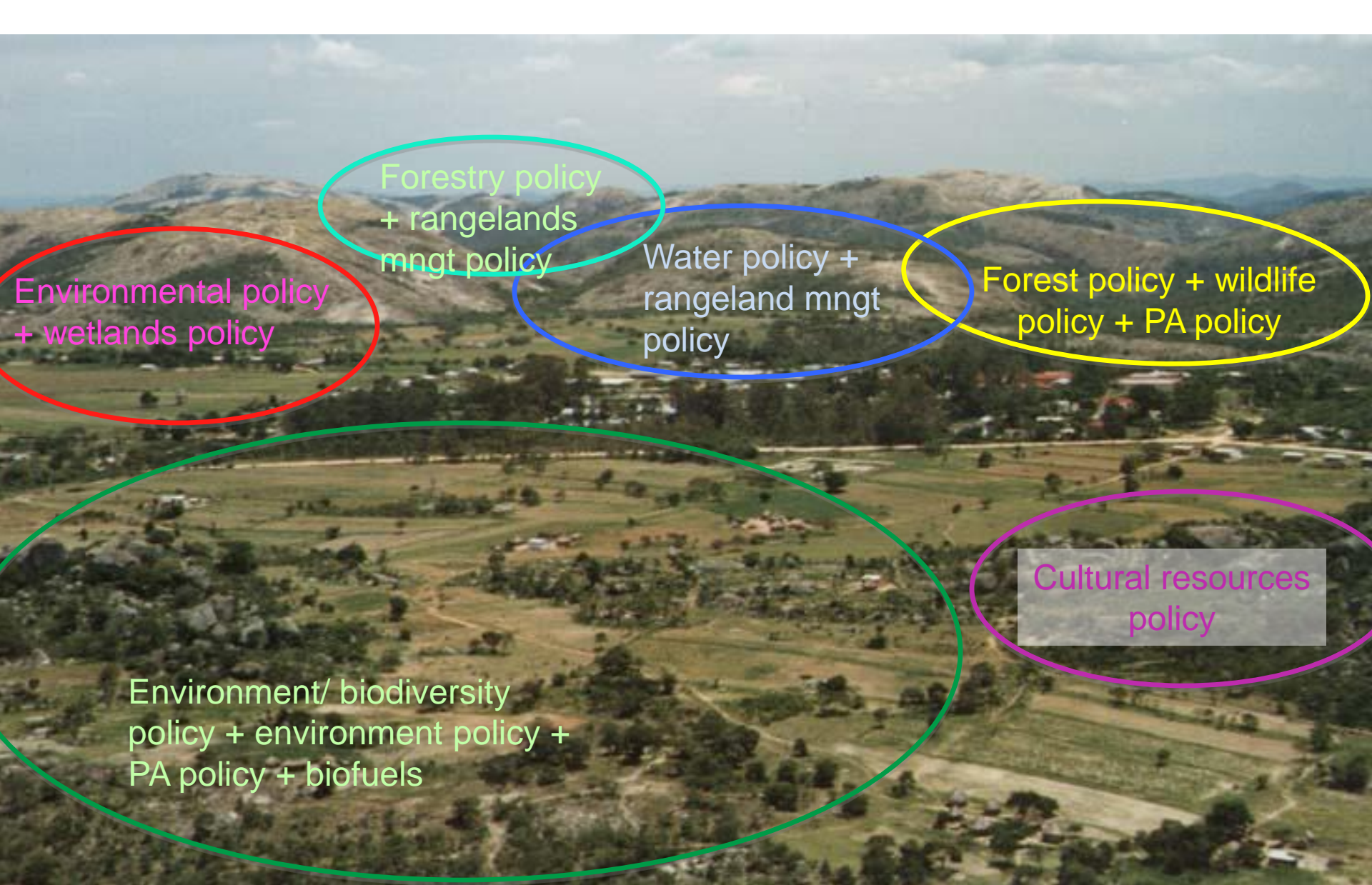
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Environmental policy
+ wetlands policy

Forestry policy
+ rangelands
mngt policy

Water policy +
rangeland mngt
policy

Forest policy + wildlife
policy + PA policy

Cultural resources
policy

Environment/ biodiversity
policy + environment policy +
PA policy + biofuels

How can policy be used to promote restoration, conservation and sustainable use of this landscape?

Legal approaches



Legal frameworks are important for reducing the rate of loss of biodiversity, conservation of biodiversity and restoration of ecosystems

Legal frameworks usually contain the following elements:

1. Constitution – Bill of Rights

2. National level legislation: laws and regulations

3. Sub-national level legislation: by-laws

4. Customary law

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1. The constitution



- A constitution is a set of fundamental principles according to which a country will be governed
- It is the fundamental law of the land – it is the basis of all law, and no law or practice can run contrary to the constitution
- It is binding on all in the country, including governments and private entities
- Many newer constitutions contain a basic right to a healthy, productive environment not harmful to people

African Charter on Human and Peoples Rights (1981):

Article 24:

All peoples shall have the right to a general satisfactory environment favourable to their development

South Africa (1996):

Article 24: Everyone has the right:

- a. to an environment that is not harmful to their health or well-being; and
- b. to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that
 - i. prevent pollution and ecological degradation;
 - ii. promote conservation; and
 - iii. secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development

Kenya (2010):

Article 42: Every person has the right to a clean and healthy environment, which includes the right—

- (a) to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69; and
- (b) to have obligations relating to the environment fulfilled under Article 70.

2. National level legislation



Legislation includes primary legislation (statutory law) and delegated legislation (e.g. regulations)

The purpose of legislation is to to regulate, to authorize, to proscribe, to provide (funds), to sanction, to grant, to declare or to restrict

Historically, many countries have had different pieces of legislation covering different aspects of the environment, e.g. forest, wildlife, protected areas, fisheries, etc

This led to fragmentation in the legislative framework: gaps, overlaps and many times contradictions

Countries are increasingly putting in place framework environmental legislation that seeks to regulate management of the environment holistically (i.e. address the gaps, overlaps and contradictions)

2. National level legislation



- Some countries do not have environmental rights within their constitutions, nor do they have framework environmental legislation,
- nevertheless, the existing sectoral legislation can, and does, work well together to achieve positive results for reducing habitat loss, conservation of biodiversity, and restoration of ecosystems
- What is important is to evaluate the existing legislation, assess whether the Aichi Targets (reducing loss, conservation, restoration) are adequately covered in existing legislation, what gaps exist and how to overcome them
- It is important to ensure that the framework, in whatever form, provides for effective landscape level integration reduction of biodiversity loss, biodiversity conservation and sustainable use, and ecosystem restoration

Other legal elements



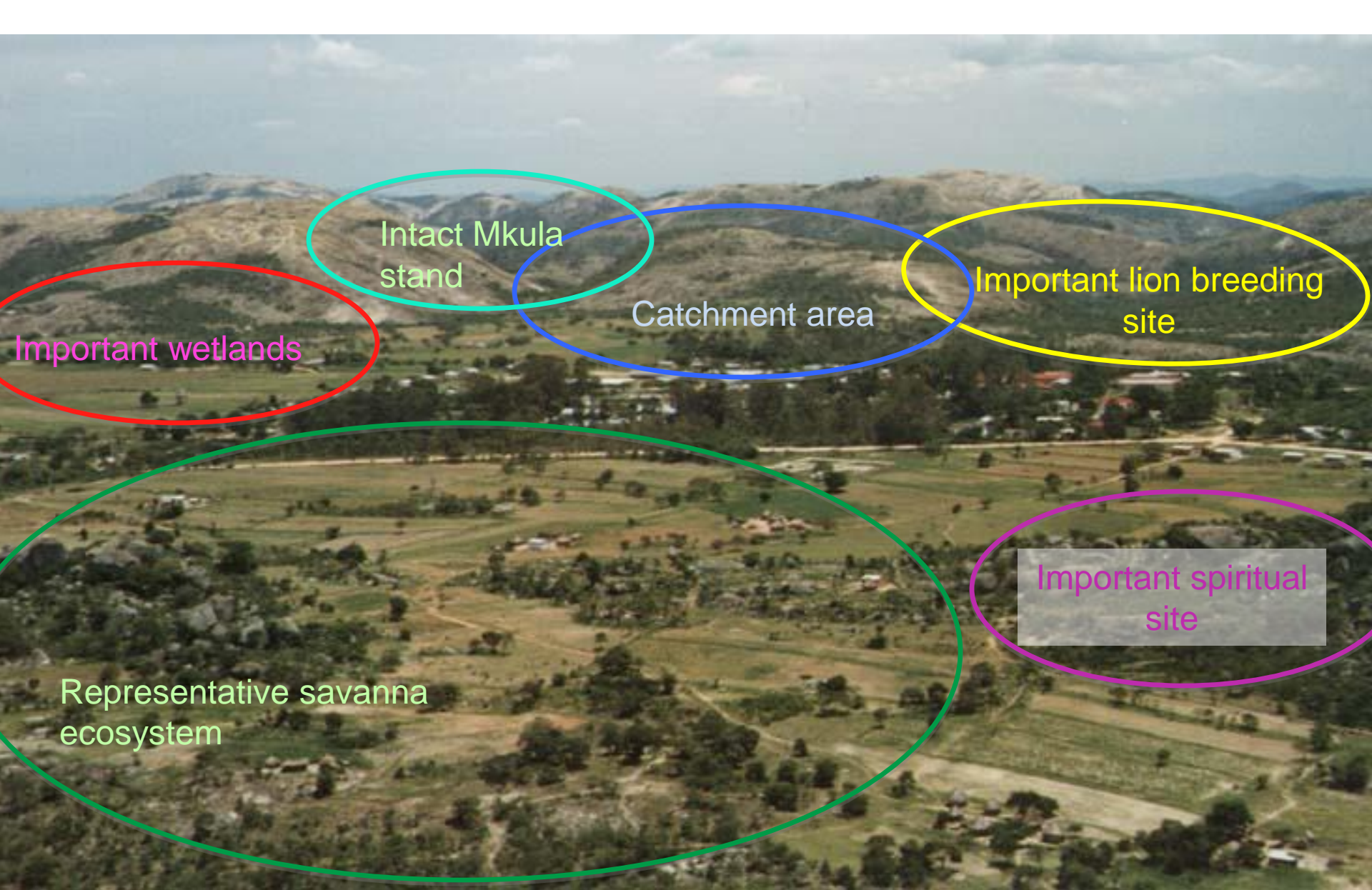
3. Sub-national legislation

- In many countries, provinces and local municipalities have jurisdiction over certain elements of the environment
- They create by-laws (codes, ordinances) to regulate matters within their borders

4. Customary law and practice

Even though many modern legal frameworks have taken away management of natural resources from customary law, it is still relevant for conservation and restoration

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EM
regulations

Environmental/ biodiversity
laws + forest regulations

Forest
law

By-laws

Agric + Biodiversity law +
regulations

Cultural
reg's +
law

Protected area

Agriculture law +
regulations



Thank you for your attention!

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