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## RESEARCH ARTICLE

# WHAT WE TALK ABOUT WHEN WE TALK ABOUT 'LOCAL' PARTICIPATION IN INTERNATIONAL BIODIVERSITY LAW

## The changing scope of Indigenous peoples and local communities' participation under the Convention on Biological Diversity

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**ABSTRACT:** This article explores the meaning of participation by indigenous peoples and local communities' in the Decisions of the Convention on Biological Diversity (CBD) from the perspectives of civic and radical environmentalism. The first sees participation as key for just and effective decision-making. Radical environmentalism argues instead for fundamental transformation to address environmental crisis. The article contributes to discussions about the importance of indigenous peoples and local communities for better and more just policies, or whether a more radical approach is necessary. The research uses empirical findings to deepen our understanding of 'local' participation under the CBD and uncovers many meanings. Most describe mechanisms for participation, suggesting scope for civic environmentalism. Yet a closer look raises a range of questions, leading to suggestions for future action and research.

**KEYWORDS:** Participation, Environmental governance, Convention on Biological Diversity, Indigenous peoples, Local communities, Civic environmentalism

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## **1. Participation in the convention on biological diversity: room for manoeuvre or a case for transformative change?**

This article explores the meanings of indigenous peoples and local communities<sup>1</sup> participation in the decisions of the Convention on Biological Diversity (CBD). Participation in multilateral environmental agreements by local groups is argued by proponents of civic environmentalism to be crucial for fair and effective environmental policies (Bäckstrand and Lövbrand 2016, Sconfienza 2017). According to this reasoning, equitable environmental governance is delivered through participation in policy formation by a range of stakeholders. Civic environmentalism sees participation as more than simply what is due to affected stakeholders: it is necessary for just and effective decisions. One challenge to this view comes from so-called radical environmentalism, which argues the need to move beyond market economy models to protect the environment. Merely ‘tweaking’ the current system to accommodate environmental policy is not enough, as it cannot address the fundamental power imbalances that have brought humanity to the brink of disaster. This article will contribute to discussions about whether the types of participation for indigenous peoples and local communities outlined in the CBD could allow better and more just policies to emerge, as argued in civic environmentalism, or whether a more radical approach might be necessary. Though the findings are not sufficient to draw firm conclusions, they make a concrete contribution based on empirical findings, offering a broad overview of the meaning of ‘local’ participation under the CBD, and suggest directions for future action and research. Our findings invite further empirical research to spell out the opportunities and practice of participation under the CBD, for instance regarding the dissemination of calls for information. It also suggests ways to strengthen the meaningful participation of local stakeholders. The article also builds on previous work (Parks 2018a), which showed participation to be a key feature of the CBD’s discourse about indigenous peoples and local communities. It describes the different meanings of participation in CBD decisions, their frequency over time, and under which of the CBD’s thematic areas they fall. It also explores where participation is envisaged to take place – does the CBD see participation for local people as taking place at the local, domestic, or international level? Or a combination of the three?

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<sup>1</sup> The term ‘indigenous peoples and local communities’ is complex and problematic, amongst other reasons due to the attribution of homogeneity to a broad and heterogeneous collection of communities. It is used here since it is the term currently in use in the CBD. Issues around this language are discussed further later in the article.

The next section outlines our reasons for focusing on the CBD and provides a non-exhaustive review of the literature on indigenous peoples and local communities' participation. A separate section discusses our methodological approach to the analysis of the meanings of participation in CBD decisions, and an inductive frame analysis method. We then present our main findings and discuss the most common frames of participation in the CBD. In a final section, we reflect on what our findings contribute to the debate between civic environmentalism and radical environmentalism and outline areas for future research.

In more detail, our analysis uncovers 30 participation frames. Frames describing mechanisms for participation are the most frequent. Over time, there is an increase in talk about indigenous peoples and local communities' participation in the CBD, though a clear high point emerges at the 7<sup>th</sup> meeting of the parties in 2004 suggesting that there may have been a backlash against the idea of participation emerging here. In addition, many areas of participation remain confined to the cross-cutting issue of traditional knowledge. The levels for participation are more or less evenly split between the domestic and the international, while the local level is singled out only rarely.<sup>2</sup> This opens up a number of potential avenues for local voices directly at the international level, and provides leverage for them at the national level where the CBD has asked Parties to provide for participation. Nevertheless, while this bird's eye view of participation paints a positive picture for civic environmentalism, a range of questions about conditional and vague language emerges as we zoom in on the analysis. These questions lead us to identify areas for further research, including a need for more work on how the Parties to the CBD implement its decisions on participation and how the CBD disseminates information about calls for participation. Finally, we suggest some steps to strengthen the role of local participation within the CBD. For instance, relevant actors could formulate less ambiguous mechanisms for participation and choose more directive language. They could also build on a trend we identify by naming actors responsible for ensuring participation to strengthen accountability.

## **2. The convention on biological diversity, participation, and 'indigenous peoples and local communities'**

### **2.1 Situating Participation within environmental law: Why does it matter?**

<sup>2</sup> This lack of attention to the local level could be attributed to a combination of factors, including the CBD's deference to states and the decision to leave the local level to the domestic decision-making level, and the number of texts that identify no clear level for participation.

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One notable trend in multilateral environmental agreements is the tendency to push for more equitable and sustainable resource use. Despite this, *actual* progress in countering the deterioration of the world's natural environment has been judged limited to non-existent (eg. Metz et al 2007; CBD Secretariat 2010; UNCCD Secretariat 2011; Ajavon et al 2011). While some argue this is due to slow political negotiations between parties preoccupied with domestic concerns (see e.g. Koester 1997; Birnie et al 2009; Sands and Peel 2012), others locate the problem in the normative culture at the foundation of international environmental law. Natarajan and Khoday (2014), for example, argue that foundational concepts of the international legal regime such as sovereignty, development, property, and economy have evolved through understandings of nature that make it difficult, and often inconvenient, to recognise ecological limits. Efforts founded on enhanced financing, market-based instruments, and technological transfers cannot, in their view, lead to the transformation needed for greater equity and environmental sustainability (Natarajan and Khoday 2014, 574). Others argue that the perspectives underpinning environmental legal discourse have not only caused the failure to stem environmental degradation and harm, but have also led to unfairness in domestic and international representation (Prost and Camprubí 2012) and inequitable practices on the ground. These inequitable practices are clear in many policies for nature conservation and the use of biodiversity, historically rife with conflicts between environmental concerns and the interests and rights of local stakeholders, leading many to associate biodiversity protection and conservation with inequitable practices (Poirier and Ostergren 2002; Dowie 2011). Inequitable practices include the fact that most Indigenous communities still do not hold official rights to their lands, that many are dispossessed or have diminished access to their lands, and that this has sometimes followed violent acts of repression by both State and private actors (Gilbert 2016). Acts of biopiracy (the appropriation and commodification of traditional knowledge regarding the use of genetic resources) form another area of inequitable practices (Bavikatte 2014) addressed by the CBD through the Nagoya Protocol as discussed further below.

Inequitable practices such as these have brought a host of problems, and many stem from situations where policies are imposed on local realities by external actors that lack knowledge of local contexts. Although there has been a shift towards community-based natural resource management (CBNRM) over time, even where such schemes are introduced programmes have failed to transfer power as promised (Nelson 2010). Research on CBNRM shows many cases of political unwillingness to transfer authority over natural resources (ibid; Shackleton et al 2002), with reports of 'elite capture' (where a few key figures are 'bought' in some way in order for the original actors to re-

tain real power and the advantages that derive from authority over natural resources) reinforcing hierarchical structures and hampering the empowerment of historically marginalised stakeholders (Agrawal and Gibson 1991; Paudel 2006). These failures, and others that see agency denied to local communities and indigenous peoples, reinforce or reproduce power and capacity asymmetries (Bixler et al 2015) and fail to recognise and understand local particularities, epistemologies, and approaches to natural resource management that fall outside traditional conservation frameworks (Brand and Vadrot 2013; Martin 2017). A number of scholars highlight the reductive ways that the 'local' is represented within some policies: recognising the value of indigenous and local practices and knowledges sometimes results in recourse to stereotypes and homogenising notions of the 'traditional' and 'indigenusness' (Redford 1991; Agrawal 1995). This may constrain groups from participating on their own terms, not to mention effects on reifying identity politics that may contribute to conflict (Fraser 2000; Sen 2007; Fukuyama 2012). Though beyond the scope of this work, policy failures such as these can thus contribute to environmental conflicts in various ways. In the literature on contentious politics, policy impositions may be analysed as part of a disciplining political opportunity structure, shaping local responses along a continuum between repression and action (though how and to what extent is the subject of debate, see e.g. Caruso 2015, Vitale 2015). Work on how local campaigns respond to political opportunity configurations across the globe echoes the findings of empirical work on CBNRM (Nelson 2010), underlining that no policy can be properly interpreted 'on the ground' without attention to context – political, social and historical (de Nardis 2014). For the 'indigenous peoples and local communities' referred to by the CBD, histories of marginalisation and oppression have been found to have clear structural effects on political action in the present: for example by changing perceptions of 'development' (Bayrak, Tu and Burgers 2013), and by using reifications of identity politics as leverage in political actions (e.g. Johnson 2014; Koot, van Beek and Diemer 2016).

Multilateral environmental agreements can also be understood as products of and sites for the reproduction and reification of societal discourses, and sources of structural discipline, on local communities. Much literature on these international agreements focuses on discourse (e.g. Dryzek 2005, Gellers 2015 for an overview) To contribute to work that seeks to determine how far such discourses are complementary or opposed (Sconfienza 2017), we draw on discourse categories introduced by Bäckstrand and Lövbrand (e.g. 2016). These authors use the category of civic environmentalism to house two narratives – what we call civic environmentalism here refers to a 'reform-oriented version' where participation is key to 'increase the public accountability and legitimacy' of international environmental policy (van der Heijden 2008, 835), while

what we call the 'radical' narrative argues 'a fundamental transformation of Northern consumption patterns and abandonment of capitalism and state-centric sovereignty' (ibid, 835). These two narratives are argued to take root with the signature of the Rio Treaties (on climate change and biological diversity), a moment when preceding discourses of green governmentality and ecological modernization took a back seat (Bäckstrand and Lövbrand 2016). While green governmentality focused on ecological limits and the need for a professional bureaucracy for the rational management of environmental problems, ecological modernization built on this view, but recognised the complex and cross-cutting nature of environmental problems, and called for decentralised approaches to address problems at multiple levels. Civic environmentalism (in the reform-oriented narrative) is described as the next step from ecological modernization, in parallel with the growth of multilevel governance approaches that see policy networks rather than centralised systems as the best placed to solve complex policy problems (ibid). Civic environmentalism thus emphasises the participation element implicit in ecological modernization. As a complex set of problems, environmental questions can best be solved by the input of a wide range of governmental and non-governmental actors at different levels.

This version of civil environmentalism (or liberal environmentalism) is also seen as a response to radical arguments about the lack of justice in environmental governance that grew after the Copenhagen climate conference of 2009. Participation addresses these arguments while retaining the positive elements of green governmentality and ecological modernization: participatory decision-making is a 'win-win' that allows the most effective decisions, and ensures justice through the consideration of multiple voices. Radical environmentalists remain unconvinced however. For the reasons outlined above, they argue that since the international state system has produced environmental problems, it cannot make the radical moves required to overcome them. A complete change of system is thus needed if environmental solutions that are truly just to both people and the planet are to come about. The debate between these two discourses of civic environmentalism and radical critique is unresolved, and information on the nature of participation, particularly by smaller and/or marginalised groups including indigenous peoples and local communities remains scarce (although see de Chastonay 2018), as more attention has been paid to the role of transnational civil society (van der Heijden 2008).

The civic environmentalist emphasis on participation for efficiency and fairness is, as mentioned, based on a corresponding emphasis in international law. International treaties provide overarching conservation goals and guidance for national policy, and suggest that local stakeholder participation will help create better informed policies

(e.g. Pickerill 2008). Furthermore, international law and legal processes provide important avenues for indigenous peoples and local communities to strengthen and secure their rights in the face of threats from state or private actors.<sup>3</sup> Their participation has also been argued to lead to increased attention to issues faced regarding land and natural resources (Colchester 2004). On the other hand, some scholars of global environmental governance and law recall the radical environmentalist position and illustrate how dominant or hegemonic discourses shape decision making and restrict the possibility to accommodate other worldviews based on different conceptions of value and knowledge (e.g. Vermeulen 2017), though some see the CBD as a partial exception (e.g. Bavikatte 2014).<sup>4</sup>

The ongoing nature of the debate between civic and radical environmentalism is clear – the findings in the literature are contradictory, or at least differ in assessment of the real opportunities presented by international participation, motivating a closer look at the meaning assigned to participation for indigenous peoples and local communities. The wider literature on civil society mirrors and builds on this: while global civil society has been seen as a crucial part of a ‘humanitarian alternative’ to contention and conflict as states face up to global and complex problems (Kaldor 2003), the ‘NGOization’ argument sees international non-governmental organisations as having institutionalised, professionalised, depoliticised, and demobilized transnational civil society at the expense of radical movements for change (Choudry and Kapoor 2013). Essentially, investigating what participation really means at the international level can clarify whether this can be an avenue for empowerment. The CBD is an ideal place to start as the international environmental arena that many legal scholars describe as the most open to these groups. If the CBD’s concept of participation, and how and where it will take place, proves to furnish little real empowerment, the more general outlook could be considered bleak.

## 2.2 The CBD and its normative foundations

The UN Convention on Biological Diversity (CBD) opened for signature at the 1992 UN Conference on Environment and Development in Rio de Janeiro and entered into force in December 1993. With 196 parties it has nearly universal membership with the exception of the United States. It is a legally-binding framework treaty, meaning its

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<sup>3</sup> A well known example is the Endorois case. Here, the African Commission on Human and Peoples’ Rights ruled on the 1970s government-backed eviction of indigenous Endorois communities from their lands at Lake Bogoria in central Kenya to make way for a national reserve.

<sup>4</sup> See Parks (2018b) for a fuller discussion.

members (the Parties) must implement the obligations of the treaty, but may decide how to do so, leaving significant room for interpretation (and a role for national political structures and cultures). The decisions of the Parties, made at (usually) biannual Conferences interpret treaty obligations. The CBD's objectives are the conservation of biodiversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the use of genetic resources (CBD, Article 1). States are required to adopt national strategies and to integrate the conservation and sustainable use of biodiversity into relevant policy areas 'as far as possible and as appropriate' (CBD, Article 6).

The CBD is exceptionally broad in scope, reflecting its aim to provide a comprehensive and global approach to biodiversity conservation (Bowman et al 2010). Its framework character gives it a unique role within international biodiversity law, exemplified in its attempts to fill gaps in pre-existing regulations by identifying guiding principles and strategies developed within contemporary environmental conservation law (ibid, 594). However, its provisions contain many ambiguities and omissions, and highly qualified commitments (Birnie et al 2009). This has been attributed to the time constraints under which it was negotiated (Boyle 1994), its adoption by consensus (Koester 1997; Birnie et al 2009; Bowman et al 2010) and its near universal membership, which made common ground difficult to find and explains a preference for vague language (found to be preferred in international treaty bodies when dealing with unknown future scenarios (Guzman 2002)). These soft law approaches have both advantages and disadvantages – yet observers have noted that one benefit is increased scope for stakeholder participation. Among the disadvantages, the wide margin of discretion available in interpreting and implementing the treaty means it can be difficult to determine compliance (Birnie et al 2009). A final point is that, since Parties' decisions (COP decisions) are based on lengthy negotiations with wide input, and finally adopted by consensus, they have political and legal weight and can influence both the subsequent development of international and regional rules, and the interpretation of existing norms (Morgera 2017, 19-20). Given these qualities, investigating participation also informs discussion of how far any empowerment may allow indigenous peoples and local communities to shape the CBD and play a role in ensuring compliance.

### **2.3 Participation of indigenous peoples and local communities within the CBD**

CBD Article 8(j) and its associated provisions (Art 10(c), 17.2 and 18.4) deal with the participation of indigenous peoples and local communities. Articles 8(j) and 10(c) both recognise the need to respect and include these groups' knowledge and practices for



conservation, yet because of their qualified language, both fail to establish clear legal obligations about what this may entail (Bavikatte and Robinson 2011). Some important steps have been taken to address this, including the addition of the Nagoya Protocol to the CBD on the fair and equitable sharing of benefits arising from the use of genetic resources. This text establishes rights related to traditional knowledge, the self-governance of genetic resources through local laws and initiatives, and access to benefits from the use of traditional knowledge and genetic resources from third parties. In addition, several CBD Decisions explicitly address participation by indigenous peoples and local communities in biodiversity policy making and implementation, and CBD COP processes (including working groups) are always attended by representatives of these groups (Affolder 2017). As mentioned, this has led commentators to suggest, with certain reservations, that the treaty provides space for different views and approaches to biodiversity conservation (Parks 2018a, Bavikatte 2014; Reimerson 2013). Others challenge this, suggesting that participation gives limited space for the negotiation of fundamental meanings of nature and culture (Brand and Vadrot 2013; Suseeya 2014; Morgera, Tsioumani and Buck 2014). This debate clearly falls within that regarding the normative basis upon which international environmental law is founded (Natajara and Khoday 2014).

Finally, it is important to note linkages between biodiversity law and indigenous peoples' rights more broadly. The CBD identifies indigenous peoples and local communities as stakeholders with particular interests or capabilities that grant them special status. Aside from what such 'categorisations' mean for perceptions of these groups' involvement in conservation (discussed later), the use of the word 'peoples' has proven contentious, with Parties long reluctant to link CBD obligations with human rights provisions granting collective rights (Morgera, Tsioumani and Buck 2014; Morgera 2017) implied by consistent usage of the term. Nevertheless, after years of debate, the Parties adopted the term *indigenous peoples* in 2014, though simultaneously stating that this would not affect the legal meaning of Article 8(j), nor change the rights or obligations under the Convention (CBD COP Decision XII/12). Therefore, this change in terminology cannot itself be treated as indicating any significant shift towards embracing rights embodied in human rights law. Due to the reasons touched on so far, it is difficult to assess the extent to which the CBD promotes the rights and interests of indigenous peoples and local communities, and the debate is ongoing. In the CBD, the question of whether these groups are rights-holders, value-bearers or simply stakeholders is not insignificant, as this has implications for their role in various forums and their ability to impact policies and projects that impact on their lives. Further investigation of the

meaning of participation assigned to indigenous peoples and local communities in the CBD is useful in this view.

### **3. Excavating participation: methodology and method**

The starting point for our analysis is an assumption that the discourses underpinning multilateral environmental agreements are important, and that meaning is built over time in social interaction. Though we analyse framing here, we build on a discursive analysis of CBD decisions that revealed participation to be a central theme in talk about indigenous peoples and local communities (Parks 2018a). That analysis did not reveal the various meanings constructed about participation however. The aim of the current analysis is thus to uncover these meanings, drawing directly from the texts of CBD decisions to make a contribution to the debate about the possibilities inherent in civic environmentalism, for all the reasons outlined so far. Without detailed information about the forms, settings, locations and other minutiae of participation we cannot draw conclusions about whether participation by indigenous peoples and local communities can lead to fairer decision-making and, ultimately, more effective global environmental governance.

To guide our analysis of the meanings assigned to participation, and begin to discuss whether those descriptions may allow indigenous peoples and local communities to challenge power asymmetries, we draw on the concept of framing. Building on work by Goffman, frames can be understood as the keys we use to bring into focus different aspects of situations: a frame or 'a particular definition is in charge of a situation' (Gamson 1985, 686). Actors frame issues in certain ways to attach different characteristics to issues in space and time. Frames tell us how we should interpret some word, person, event or symbol - they build meaning. We will draw on particular ideas from the framing literature to aid our analysis. Benford and Snow (2000) distinguish between prognostic, diagnostic and motivational frames. Prognostic frames tell us about an actor's understanding of a problem - in this case why participation is important, and what problems it might solve. Diagnostic frames tell us an actor's view about how a problem should be solved - how and where should participation take place, whom exactly should be involved, and so on. Motivational frames, finally, urge action. Frames tend emphasise some features of an event or description and draw attention away from others, in order to hone their meaning. Our analysis will also consider which features of participation are highlighted by the CBD, and which are ignored or backgrounded.

The classification of frames into diagnostic, prognostic and motivational categories will then guide our discussions about the potential of participation in the CBD on the basis of the expectations of civic environmentalism. If participation by indigenous peoples and local communities is framed in line with this view, there may be scope for participation to lead to more just and efficient decisions. Civic environmentalism would, we believe, be supported by diagnostic frames arguing that better and fairer decisions will flow from the participation of indigenous peoples and local communities, seen as a stakeholder group of particular value. Prognostic frames would emphasise meaningful, direct participation by these groups in decision-making without gatekeepers such as state authorities. Participation would take place during decision-making rather than merely in implementation, since this can be equated with the problem of external imposition discussed earlier. Thus, frames underlining a role of indigenous peoples and local communities in implementing policies can only be read in line with civic environmentalism if the policy in question was developed with the participation of the same groups. We would also expect meaningful participation to be described in frames suggesting concrete methods and mechanisms at different levels, for example by attributing responsibility to ensure participation, and by providing resources to support it. Motivational framing would *per se* support civic environmentalism – active encouragement implies a commitment to make participation an effective element in decision-making and implementation.

Our analysis also looks at which cross-cutting issues participation frames correspond with. The CBD includes total of 24 cross-cutting issues and 7 different thematic programmes on major biomes, and decisions are mapped to these.<sup>5</sup> We believe civic environmentalism would be supported where frames of participation are spread across cross-cutting issues, particularly since previous analysis found that discourses linked to indigenous peoples and local communities are generally confined to the issue ‘traditional knowledge, innovations and practices – Article 8(j)’ (‘traditional knowledge’ from now on) (Parks 2018a). Finally, we also consider the levels at which participation is supposed to take place. Suggesting hypotheses in line with civic environmentalism here is challenging, as different interpretations exist (as discussed later). International level frames may allow indigenous peoples and local communities a direct path to participation, yet it may be in the domestic context that effective implementation takes place and support is available. Local participation can allow real agency, but may also confine local actors to a limited sphere of action, and allow situations of ‘elite capture’ as discussed earlier with reference to work on community-based natural resource manage-

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<sup>5</sup> See <https://www.cbd.int/programmes/> for details of these. In the rest of the article, we include biomes when we discuss cross-cutting issues.

ment. We thus limit ourselves to expecting fewer texts identifying no specific level for participation to indicate some support for civic environmentalism, along with fewer texts assigned the combination of domestic and international, since this indicates a gatekeeper role for state bodies (discussed below). We consider the levels assigned to participation in more detail in the contexts of specific frames. Frames in support of radical environmentalism, conversely, would be vaguely worded, identify no clear level for participation, and provide no information on its purpose or method. No motivational frames would be found, and participation would be restricted to the cross-cutting issue of traditional knowledge.

### **3.1 Method**

Our analysis draws on a database of text fragments (numbered paragraphs and sub-paragraphs in CBD decisions) identified as referring to indigenous peoples and local communities. We use CBD decisions, which are detailed texts adopted by consensus at meetings of the Parties, because they are used to implement the Treaty over time and represent the best source for understanding how its interpretation has evolved. The CBD Conference of the Parties had met 13 times when we did our analysis, but has since met again.<sup>6</sup> The database was built using keyword searches: keywords were supplied by experts on the CBD, then added to throughout the analysis wherever words appeared repeatedly linked to these groups.<sup>7</sup> This yielded 2151 pieces of text, 961 of which referred to participation (Parks 2018a). After splitting texts considered as single paragraphs in the original analysis into sub-paragraphs (to better differentiate between different framings of participation) we ended with a total of 973 texts for analysis.

Our approach was to uncover meanings of participation using inductive coding based on close readings of the texts and the progressive development of frame descriptions to classify them. This exercise yielded 30 different frames of participation. The frames were considered as cumulative, and one text fragment could be assigned multiple frames. However, analysis of the combinations of frames revealed no clear patterns. Even in the case of qualifiers (frames placing some caveat on participation, and thus always assigned in combination with another frame), no clear pattern emerged. Given this, and the fact that the majority of text fragments were assigned a single frame, combinations are not discussed further. A deductive approach was taken to interpret

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<sup>6</sup> A meeting was held in November 2018, this analysis does not include the decisions adopted at that meeting. Findings from this analysis were presented at the COP.

<sup>7</sup> The keywords were: local; indigenous; traditional; customary; community protocol; dependent; biocultural; community based; non-market; and mother earth.

the level at which participation was envisaged to take place in each text (local, domestic, international, unspecified). This proved a challenging socio-legal exercise, as discussed below. The results of the analysis were recorded in spreadsheets along with the year, meeting number, cross-cutting issue or major biome and the full text fragment, and the frames and levels where participation was expected. These spreadsheets were used to produce descriptive statistics for each of the frames showing their development over time, correspondence with cross-cutting issues, and the different levels of participation identified.

### **3.2 Where does participation take place? 'Levels' of participation**

The challenges met with when identifying the levels at which participation is to take place warrant some discussion. When beginning this exercise, we expected this to be unambiguous: instead, it quickly became obvious that the distinction between local and national levels was not. In some cases, no explicit reference was made to either level, yet because of references to specific actors, or the proposed action, a particular level was implied. This included, for instance, provisions related to the implementation of international rules, which may take place at either the local and/or the national level. Rules related to impact assessments and free, prior and informed consent also led to uncertainty, since both are often required for projects of national relevance, but stipulate local-level consultations. Finally, governance and monitoring within conservation management projects (in protected areas for instance) can involve actions at both the local and national levels, depending on institutional arrangements. The distinction between local and national was also unclear when references were made to local authorities, which may comprise a range of 'local stakeholders' (as opposed to government actors), including representatives of indigenous peoples and local communities, or be driven by local groups themselves.

Different coding approaches were possible. On the one hand, we needed to account for the fact that provisions can be interpreted differently in different countries. This suggests that texts leaving room for interpretation should be coded as 'not specified'. On the other hand, the lack of specificity in these texts reflects the nature of the CBD as a framework treaty. If we accept that the CBD seeks to accommodate variation but nevertheless insists on participation, coding should reflect the level of participation suggested by the text, even where only implicit. Our solution was to change our terminology to better reflect the nuances within the provisions. We thus use the term 'domestic' to encapsulate both the 'national' and some aspects of the 'local' level. 'Domestic' denotes the relevance of *national governance* bodies, emphasising the im-

portance of national laws and contexts in exploring participation at the national and sub-national levels. 'Domestic' thus includes references to local authorities. The 'local' level code is used to denote local bodies and groups that are separable from the state, and applies where texts refer to participation in these sites rather than in decentralized governance bodies. The code 'local' is only assigned where there is an explicit reference to participation at the local level understood in these terms.

Another discussion concerned what part of 'participation' we wanted to capture when coding levels: here we found it useful to distinguish the *process* endorsed within a provision from the ultimate *outcome* of that provision. Texts asking indigenous peoples and local communities to share information illustrate this. By way of example, many texts refer to local groups being consulted or asked to share their opinions or knowledge within national processes. We can consider this as participation on the 'domestic' level, both in relation to where groups will participate, and where information is used. A second type sees governments asked to compile accounts of the experiences of indigenous peoples and local communities and other stakeholders in a report to be shared at the international level. This participation occurs at two levels: first, it is 'domestic' as this is where participation takes place. Yet it is also 'international', as this is where the information ends up. These provisions thus see the knowledge shared by stakeholders as potentially influencing international level decision-making. Importantly, however, the 'domestic' part of the equation helps illustrate how such influence may be filtered at the domestic level, as States have power over who and what ends up in the report transmitted to the international level. Here, we code the text as both 'domestic' and 'international' to indicate indirect participation on the international level, filtered through domestic gatekeepers. In contrast, provisions inviting indigenous peoples and local communities to provide information directly to the international level are coded as 'international' only. Overall, combining levels in these ways helps to illustrate the nuances of participation frames.

#### **4. Framing local participation in the convention on biological diversity**

In this section we present the findings of the analysis: first we give an overview of the entire analysis, commenting on how the frames can be grouped and what this suggests for participation. We then focus on the most common frames that emerge from the analysis. For each, we discuss how groups of frames develop over time, levels where participation is envisaged, and correspondence with cross-cutting issues. We also include some reflections about frames that appear more rarely.

#### 4.1 Framing participation in the CBD – an overview

30 different frames of participation emerged from the analysis. Table 1 lists them along with brief explanations, and groups them according to the concepts detailed above. The first group are diagnostic frames. They advance some explanation about the need for participation by indigenous peoples and local communities. The second are prognostic frames, and detail mechanisms for participation to varying degrees. The third group of frames gathers texts that state which actor or group of actors should be responsible for or have power over the arrangements for participation. These frames may be prognostic and/or motivational. The fourth and final group of prognostic and diagnostic frames concerns the limits of participation.

**Table 1 - Descriptions of participation in CBD COPs 1-13**

1)	<b>GENERAL STATEMENTS:</b> General statements about the need to strengthen the involvement or participation of IPLCs and/or the need to involve IPLCs.	<b>EMPOWER</b> – A statement that uses the specific word ‘empower’ in relation to IPLC participation.
	<b>EXPERT:</b> A statement about participation that underlines IPLCs as experts, or traditional knowledge as an important source of information.	<b>PARTICIPATION FOR RESPECT:</b> Statement about effective participation that is or contributes to decisions that are respectful, culturally appropriate, sensitive, unintrusive etc. Includes idea that participation will be culturally dependent.
	<b>WOMEN:</b> Statement underlining the need for and/or importance of participation by IPLC women.	<b>YOUTH:</b> Statement underlining the need for and/or importance of participation by IPLC youth.
	<b>UNDRIP:</b> The text refers to the United Nations Declaration on the Rights of Indigenous Peoples.	
2)	<b>IMPLEMENTATION:</b> IPLCs are named or emphasised as actors in implementing the Convention in some way.	<b>INPUTS FROM IPLCs:</b> Invitations or statements encouraging IPLCs, amongst other actors, to provide information to the CBD.

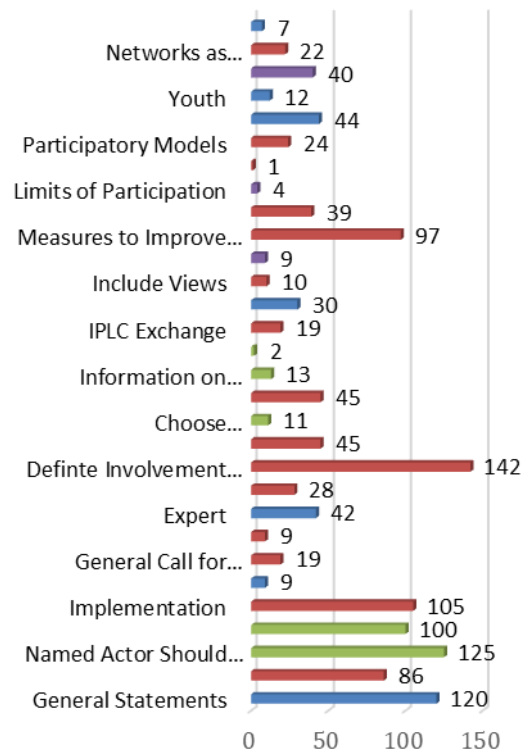
	<u>GENERAL CALL FOR NOMINATION</u> : A statement that names or encourages another actor to nominate IPLCs to some body or process of the Convention (not delegations).	<u>PARTIES SHOULD NOMINATE IPLCs</u> : A statements that encourages parties to the Convention to include IPLCs in their delegations.
	<u>FUNDS</u> : The text contains a statement about the need for funds to allow IPLC participation.	<u>INDIGENOUS ISSUES BODY</u> : The statement refers to participation via contacts with the United Nations Working Group on Indigenous Populations or another indigenous issues body or bodies where IPLCs participate.
	<u>DEFINITE INVOLVEMENT ON SPECIFIC MATTER</u> : IPLCs will definitely be involved in decisions on or a specific matter described. Includes statements about the involvement of the Ad hoc Working Group on Article 8(j).	<u>ENCOURAGE INVOLVEMENT ON SPECIFIC MATTER</u> : IPLCs should be invited and/or encouraged to be involved in decisions on or a specific matter described.
	<u>IPLC EXCHANGE</u> : Support or call for exchanges between IPLCs (information, consultation etc.)	<u>INCLUDE VIEWS</u> : Statement that views or information received from IPLCs will be reproduced in a report, decision or other document.
	<u>MEASURES TO IMPROVE PARTICIPATION</u> : Statement about implementing specific measures to strengthen or improve participation.	<u>CAPACITY BUILDING</u> : A statement about capacity-building, education or awareness building for IPLCs, framed as a mode of participation.
	<u>CBD AS BASIS FOR PARTICIPATION CLAIM</u> : The text invites or encourages IPLCs to use the CBD as the basis of or to strengthen requests for participation.	<u>PARTICIPATORY MODELS</u> : Statement calling for participation to take place through participatory models, implying meaningful dialogue.
	<u>NETWORKS AS PARTICIPATION</u> : IPLCs are named as actors in networks or partnerships through which they participate.	
3)	<u>NAMED ACTOR SHOULD ENSURE PARTICIPATION</u> : A particular actor is named and should act to ensure that IPLCs can participate in decision-making, some other forum, or be	<u>NAMED ACTOR SHOULD SUPPORT PARTICIPATION</u> : A particular actor should act in a way that supports IPLCs in their participation in decision-making, some other



	able to take action in a specific sector.	forum, or to take action in a specific sector.
	<u>CHOOSE REPRESENTATIVES</u> : IPLCs themselves should choose their representatives to some body.	<u>INFORMATION ON PARTICIPATION</u> : A request for information on IPLC participation.
	<u>CONTROL</u> : IPLCs have or should have control over some process.	
4)	<u>IMPROVE PARTICIPATION</u> : Text recognising that more work is needed to improve IPLC participation in the Convention.	<u>LIMITS OF PARTICIPATION</u> : Statement noting that levels of participation also depend on factors outside the control of the Convention.
	<u>QUALIFIER</u> : The text includes a qualifier on participation (e.g. 'as far as appropriate and possible' or 'in accordance with national legislation').	

Prognostic frames - mechanisms for participation - form the largest group and account for more than half of the texts (55%). This focus on mechanisms suggests that the need for indigenous peoples and local communities to be part of the CBD's work is taken as a given, supporting findings suggested in previous work (Parks 2018a) and the arguments of civic environmentalism as widespread in multilateral environmental agreements (Bäckstrand and Lövbrand 2016). Though 21% of the texts are frames on the need for participation, Figure 1 shows that the bulk of these are general statements, often found in paragraph headings, which explains their lack of detail. 20% of the texts frame power over participation processes, while just 4% refer to the limits to participation.

Figure 1 - Distribution of participation descriptions\*

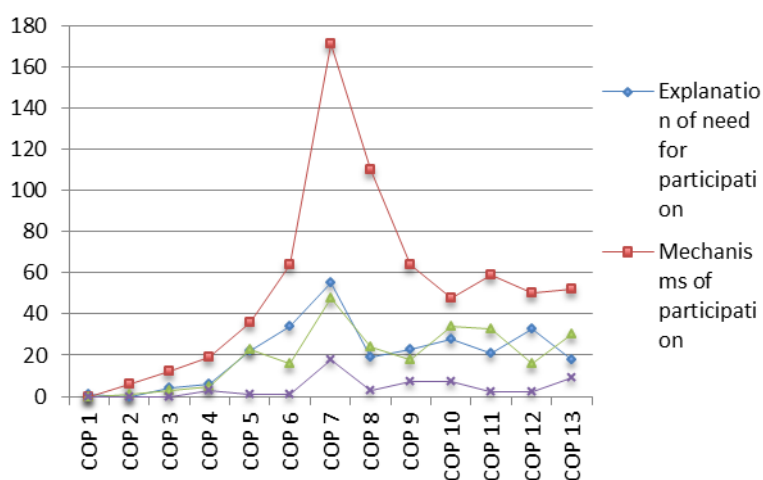


\*The total number of texts in this table exceeds 978 as combinations of different categories into consideration. Some frames are thus assigned for the same piece of text. Blue: Diagnostic frames on the need for participation. Red: Prognostic frames describing mechanisms for participation. Green: Prognostic/Motivational frames on the locus of power in mechanisms for participation. Purple: Diagnostic/Prognostic frames on the limits of participation.

Figure 2 shows trends for each group of frames over time. It reveals that three groups follow a similar trajectory with a clear peak in COP 7. The exception is frames on the limits of participation, which remain few throughout, though still peaking in COP 7. By COP 4 some talk about mechanisms for participation by indigenous peoples and local communities emerges, while other lines of discourse remain very limited, indicating support for the idea that participation is generally accepted as a given, and that this is

the case from an early point. The peak in COP 7 can be explained by a number of factors. Held in 2004, COP 7 saw the adoption of the Akwé: Kon Guidelines on socio-cultural and environmental impact assessments, and the Addis Ababa Principles and Guidelines for sustainable use. The former are a crucial instrument in the development and implementation of Article 8(j) of the CBD on traditional knowledge, innovations, and practices in the conservation and sustainable use of biological diversity. The Addis Ababa Guidelines are more generally concerned with sustainable use, but also address indigenous peoples and local communities.<sup>8</sup> COP 7 thus stands out as a high point for the discussion of the participation of indigenous peoples and local communities. Frames on mechanisms decline after COP 7, but remain higher than in the earlier years of the CBD, and more prevalent than any other group until COP 13. Frames on the need for participation follow a similar pattern, while statements about power over participation increase in COPs 10, 11, and 13, hinting at some shift towards allocating responsibility for participation in line with civic environmentalism.

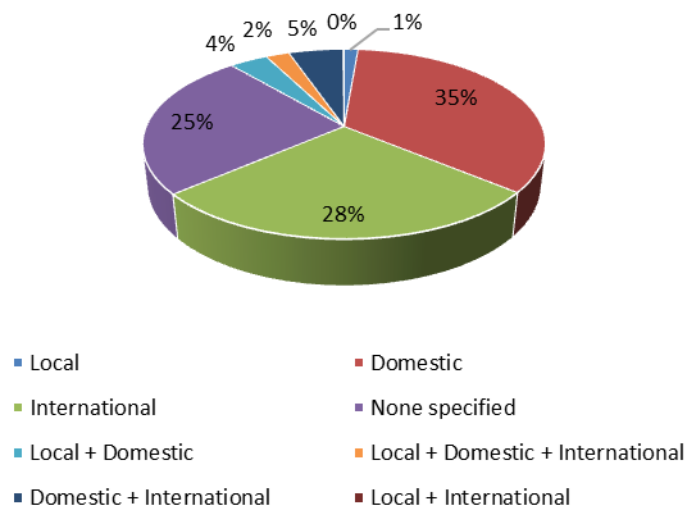
Figure 2 - Groups of participation frames - distribution over time



<sup>8</sup> All CBD guidelines are addressed to Parties, but also to other actors such as private developers, NGOs and indigenous peoples and local communities. Akwe: Kon Guidelines, available at <https://www.cbd.int/doc/publications/akwe-brochure-en.pdf>; Addis Ababa Principles and Guidelines, available at <https://www.cbd.int/sustainable/addis.shtml>

Figure 3 illustrates the levels at which participation is expected to take place for all frames. A quarter specify no level, revealing a vagueness in language about participation that moves beyond our reformulation of the 'domestic' category discussed earlier. 28% identify the international level, 35% the domestic level. Just 1% (13 texts) refer to the local level alone, while combinations with the domestic and/or international levels raises the share to 7%. This is likely due to the nature of the CBD as a framework Treaty, where Parties are responsible for implementation. The most common combination in the analysis is domestic and international, where state authorities pass on the views of indigenous peoples and local communities. Overall, Figure 3 shows that the CBD places participation at the international and domestic levels, or, less often, makes general statements that identify no specific level at all.

Figure 3 - All frames - participation levels



A closer look at frames concerning the need for participation reveals that the majority mention either no specific level (35%) or the domestic level (42%). The high number of texts that do not specify where participation should take place reflects the large share of general statements. The finding for the domestic level suggests that considering participation as a given does not extend to all national contexts, since referring to the need for participation on the domestic level can be read as an attempt to persuade Parties. As for mechanisms of participation, 37% refer to the domestic level, 30% to the

international, and a further 6% to the domestic and the international. Texts thus not only *remind* Parties about the need for participation by indigenous and local representatives, but tell them how to *achieve* that participation whether directly at the international level or by channelling domestic participation. The local level is paid the least attention. Frames on power over and responsibility for participation are dominated by two descriptions, where named actors either *ensure* or *encourage* participation. Considering these together changes little compared to discussions of each separately, and they are thus discussed later. Similarly, frames about the limits of participation are mostly qualifiers on participation. As no patterns emerged for this frame, it is not discussed further.

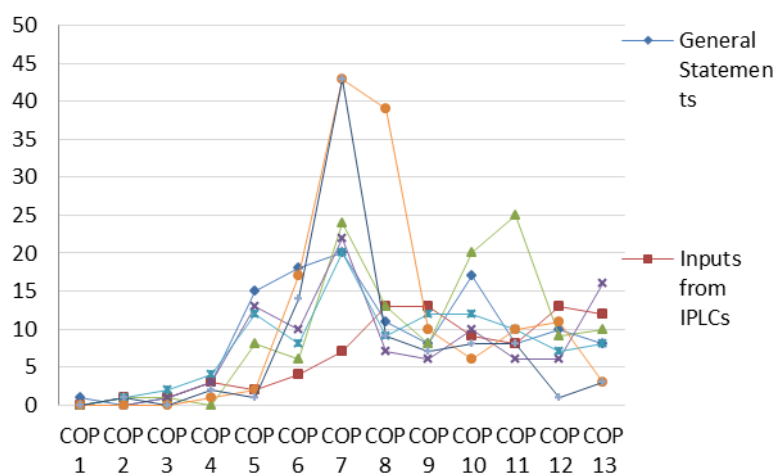
#### 4.2 Framing participation in the CBD – a closer look

Figure 4 shows the frequencies over time of the 7 most common frames emerging from the analysis. ‘General statements’ is the only diagnostic frame on the need for participation. Among the prognostic frames describing mechanisms for participation, ‘Inputs’, ‘implementation’, ‘definite involvement on a specific matter’ and ‘encourage involvement on a specific matter’ appear. Two frames on power over participation, ‘named actor should support participation’ and ‘named actor should ensure participation’ complete the list, as none of the frames on the limits of the participation is particularly frequent. The emphasis in CBD decisions is thus clearly on mechanisms for participation, and even more so on a prognostic approach confirming the idea of general acceptance of participation as a good thing.

The only diagnostic frame, ‘general statements’, appears mostly in declaratory heading texts that are rather formulaic and offer no real insights into the meanings of participation, in line with the interpretation about the CBD avoiding directive language about the domestic level. Less frequent diagnostic frames do however hint at some interesting developments: ‘participation for respect’, for example, is interesting from a social justice perspective. Though occurring only 30 times, all of these fall from COP 6 onwards, hinting at a developing sensibility in the CBD. Participation for respect indicates recognition of the role of participation beyond questions of efficiency, in its importance for valorising the worldviews of indigenous peoples and local communities. The Rutzolijirisaxik Voluntary Guidelines on the repatriation of traditional knowledge were adopted at the latest COP (not analysed here), confirming further development in this direction. The guidelines emphasise respect for traditional knowledge and its hold-

ers in rather strong terms, and also mention the importance of building trust, good relations and mutual understanding between relevant actors.<sup>9</sup>

Figure 4 - Most common definitions of participation - distribution over time



The most frequent frame, ‘definite involvement on specific matter’, conveys an impression of participation as something concretely occurring within a specific procedure or area of decision-making, delineating a clear space for participation. Texts containing this frame include those that refer to the CBD’s ad hoc working group on Article 8(j) on traditional knowledge, innovations and practices, which includes representatives of indigenous peoples and local communities. They account for 24 of the 142. Information on a concrete method for participation is missing from this frame however, and no clear pattern of combinations suggests further content in this line. The frame is concentrated in COPs 7 and 8, dropping in frequency both before and after, suggesting a possible negative reaction from Parties to the level of recognition being accorded to indigenous peoples and local communities. This recognition became particularly clear

<sup>9</sup> The guidelines refer, for example, to “respect for, *inter alia*, the values, practices, worldviews, customary laws, community protocols, rights and interests of indigenous peoples and local communities, consistent with international obligations and national circumstances”. Rutzolijirisaxik Voluntary Guidelines for the Repatriation of Traditional Knowledge Relevant for the Conservation and Sustainable Use of Biological Diversity, <https://www.cbd.int/doc/c/abac/dff3/cff7857dbeffc2eb8ee17654/wg8j-10-02-en.pdf>, accessed 8 February 2019.

in COP 7, as shown in the overall peak in talk about participation: the CBD may have been a victim of its own success in this sense, provoking a backlash. As discussed below, ongoing negotiations on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) may well have contributed to increased caution after this.

**Figure 5 - Definite involvement on a specific matter - participation levels**

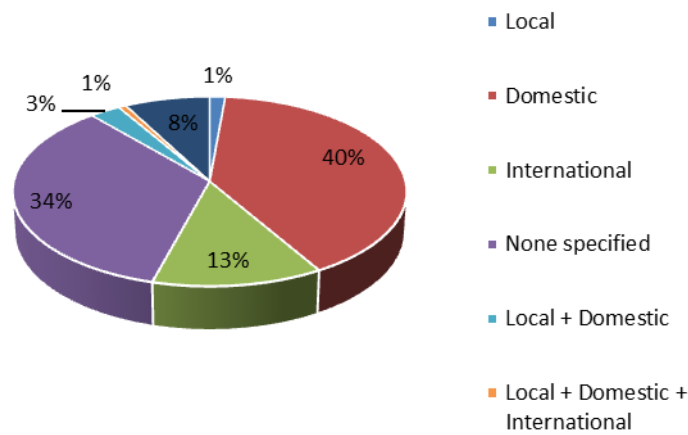
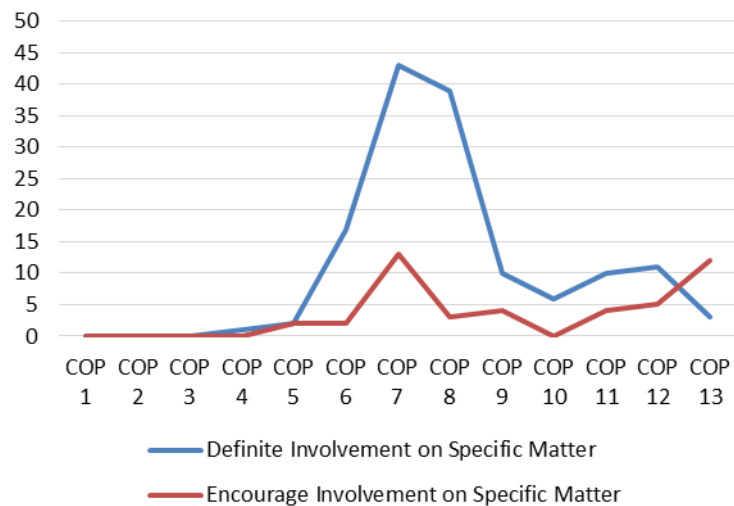


Figure 5 shows the levels where ‘definite involvement on a specific matter’ is to take place. 40% refer to the domestic level, 35% specify no level, and 13% place participation at the international level. In this last group of 18 texts, 7 refer to the ad hoc working group on Article 8(j), suggesting there are spaces for international level participation beyond this working group. The large share of frames identifying the domestic level challenges the idea discussed above that the CBD shies away from directive language for the domestic level, as it suggests the opposite. In this line, it is interesting to compare this frame with its conditional counterpart ‘encourage involvement on a specific matter’. Figure 6 presents the distribution of these two frames over time.

This comparison allows a look at participation framed as something *definite* as opposed to *encouraged*. The distinction points to stronger vs. weaker commitments, though the less directive language could also be read as underlining the need to provide support for participation given the costs and investment required. The ‘definite’ frame is more frequent until COP 9, when both frames drop off. In COP 13 the frames

change places, with those *encouraging* involvement become more numerous. The significance of this change in language is debatable, but shows a decrease in the use of *instructive* rights-based language, which supports the view of a backlash suggested earlier. It could also be a consequence of the frame's spread to cross-cutting issues beyond traditional knowledge, as such moves have been found likely to begin with softer language (Parks 2018a). In both scenarios the crossover would suggest a shift or re-framing that could indicate what Schön and Rein call 'frame reflection' (1994). It may be no more than a 'blip'. However, this crossover is reproduced for another pair of frames discussed below, suggesting a trend. As for the levels where participation is to take place, most 'encourage' frames identify the international level (83%), bolstering the interpretation above of a conscious move to avoid definite language. This would reflect recent findings about the ways that India, Brazil and Peru negotiate about participation at the CBD (de Chastonay 2018). It could also be a practical choice, reflecting the need for support: however none of the texts record other supportive frames such as 'funds' or 'empower'. It should be noted that most of the texts containing this frame and the international level are calls for information – invitations rather than demands.

Figure 6 - definite vs. encourage involvement on a specific matter - distribution over time

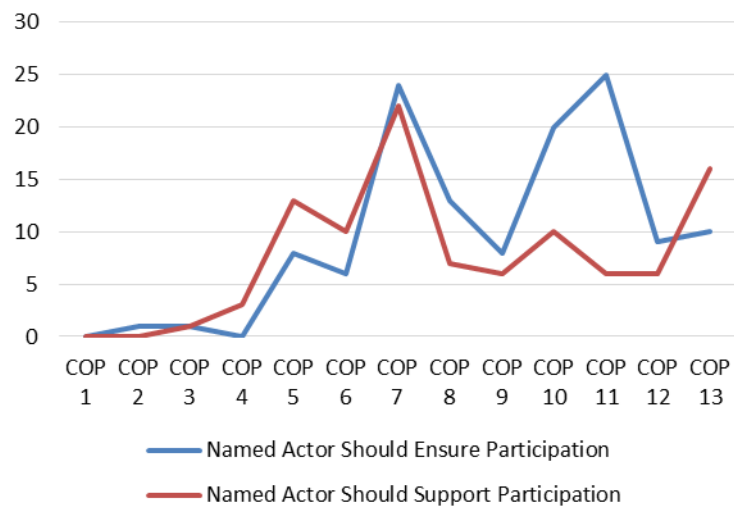


A final point to consider is the coverage of different cross-cutting issues. The 'definite' frames are more or less equally distributed between traditional knowledge and



sustainable use of biodiversity, with low presence elsewhere. The exception is COP 7, where most frames fall within the ecosystem restoration issue. Apart from this moment, the wider finding on confinement to the traditional knowledge issue is confirmed. For the ‘encourage’ frame, traditional knowledge dominates until COP 7, after which a wider range of cross-cutting themes are covered, including tourism, identification, monitoring, indicators and assessments, ecosystem restoration and technology transfer and cooperation. This supports the idea that spread across new cross-cutting issues may mean a switch to softer language.

**Figure 7 - Named Actors should ensure vs. named actors should support participation - distribution over time**



A second pair of counterpart frames, both among the most common in the analysis, add ‘named actors’ to the picture, and provide an interesting point of comparison for the pair already discussed.<sup>10</sup> The distinction is again between more and less definite language, an actor must either ensure or merely support participation, though again

<sup>10</sup> The relevant list of ‘named actors’ is highly diverse. It includes, for instance State Parties, Governments, Working groups, organisations, actors from particular industries (e.g. tourism) and agencies (e.g. international funding and development agencies), CBD bodies (e.g. Executive Secretary) and Indigenous and local groups themselves. Please note that the preceding list of not exhaustive.

the apparently weaker frame may be intended to reinforce the provision of much needed support. Figure 7 shows their distribution over time.

The first noteworthy feature is that the switch observed previously for the 'definite/encourage involvement' frames is reproduced, again suggesting a move away from more instructive frames. A comparison of Figures 6 and 7 also highlights the relative importance of the 'named actor' frames. Simple frequency counts inform us that the 'definite involvement frame' is more frequent, yet considering distribution over time reveals a more constant presence of the 'named actor' frames as opposed to concentration in COP 7. This is encouraging in that naming actors as responsible for (supporting) the participation of indigenous peoples and local communities implies the same actor can be held accountable. This can be seen as a crucial element for the kind of participation envisaged in civic environmentalism. Without accountability, participation cannot ensure that different voices and views are respected. Closer investigation of the content of the texts tempers this reading however. Though actors are named, most texts do not include clear details on how participation is to take place. If actors are named, but no specific area of participation is provided for, then accountability recedes as a realistic option.

Figure 8 - Named actor(s) should ensure participation - participation levels

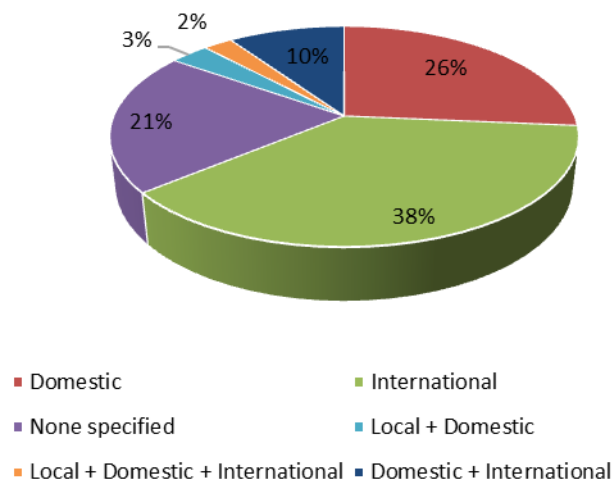
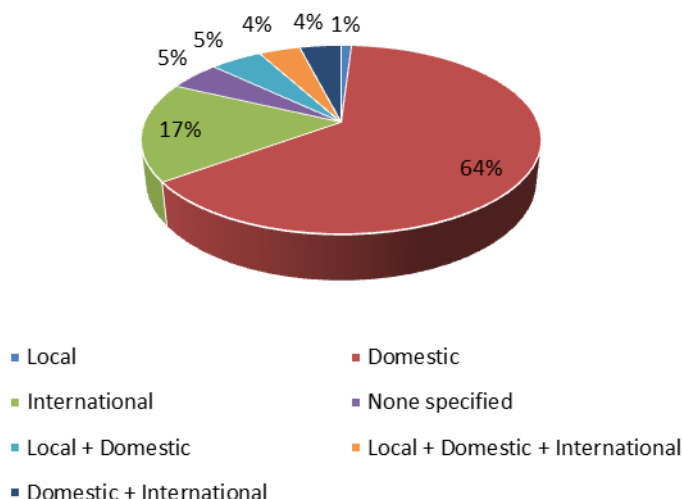


Figure 9 - Named actor should support participation combined with levels of participation



Figures 8 and 9 show the levels foreseen for participation under the ‘named actor’ frames. The link between more definite language and the domestic level, and less definite language and the international level suggested by the ‘definite/support involvement’ frames is now reversed. When an actor is named responsible for participation, the level referred to is international more often than domestic. Rather than avoiding more definitive language with regards to participation on the international level, here we see willingness to assign responsibility to actors in relation to enabling participation. Simultaneously, the prescriptive attitude detected towards participation on the domestic level is reduced, suggesting unwillingness to name actors responsible for *ensuring* participation within national contexts, though again this could be linked to domestic actors being understood to have more resources for support. Taking the findings on the two pairs of counterpart frames together suggests that, since indigenous peoples’ and local communities’ participation often occurs at the domestic level, CBD decisions emphasise that domestic participation should take place, but stop short of asking actors to take direct responsibility, which Parties could easily see as encroaching on their sovereignty. No such qualms exist for the appointment of actors responsible for ensuring international level participation, however. In this way, COP decisions may (whether they intend to or not) provide an international space that indigenous peoples and local communities may use for leverage in domestic politics in a ‘boomerang’

strategy (Keck and Sikkink 1998, on indigenous peoples and local communities see e.g. Robinson 2015).

Other moves at the international level may also open avenues in this direction. The frame 'indigenous issues body' refers to texts where the CBD mentions an international indigenous issues body as an interlocutor, fitting the view of the CBD as an international actor willing to bear scrutiny from indigenous and local bodies. This frame accounts for only 28 texts, most of which refer to the international level in line with this reading. The CBD's references to the UNDRIP could, arguably, also support this view. The CBD's discussions of the UNDRIP were controversial and bound up with the language used to refer to local and indigenous groups. Adopted by the UN General Assembly in 2007, the UNDRIP was first discussed at COP 9 the following year. No consensus emerged about accepting its language and referring to indigenous peoples, but this was finally agreed at COP 12. From that point on, the formulation 'indigenous peoples and local communities' was used instead of 'indigenous and local communities'. This was accompanied, as mentioned, by a statement noting that the legal meaning of Article 8(j), and CBD rights and obligations, remained unchanged. While the addition of 'peoples' brought the CBD in line with UNDRIP, it did not signal that the CBD had embraced specific rights embodied in human rights law. Nevertheless, the UNDRIP is a frequently cited source when indigenous peoples claim their rights at the international level, and thus suggests a move – whether intended or as a result of moral pressure – by the CBD Parties to provide a space for indigenous and local claims for inclusion. Though UNDRIP is only referred to 7 times, the change in terminology to include the formulation 'indigenous peoples' is significant. Indeed, Robinson (2015) points out that the CBD is used by indigenous peoples as an arena to push self-determination goals in various national contexts. The findings suggested by the analysis on international level accountability and references to indigenous rights bodies could be the result of such pressure, aimed at creating more space for indigenous voices in the CBD.

A brief consideration of cross-cutting issues completes the discussion on the 'named actor' frames (see note 5). For 'named actor should ensure participation', the majority of texts fall within the traditional knowledge issue until COP 7. After this, the texts are spread between many more issues, though traditional knowledge still accounts for the largest overall proportion until COP 11 when the cross-cutting issues ecosystem restoration and identification, monitoring, indicators and assessments account for comparable proportions. This smaller scale spread away from traditional knowledge does not hold for the frame 'named actor should support participation'. Here, the cross-cutting issue traditional knowledge remains important, with many of the texts, until COP 8, falling under it. After this point, with the exception of COP 11, texts cover a range of

cross-cutting issues, including: the global taxonomy initiative; implementation, identification, monitoring, indicators and assessments; and ecosystem restoration. The more conditional frame thus confirms the pattern seen previously where definitively worded frames remain more confined to traditional knowledge, and conditionally worded frames spread across more issues, providing more proof for the idea that as frames spread away from the traditional knowledge cross-cutting issue, conditional language makes them more palatable in new areas where participation is less frequently discussed.

Thus far we have discussed one prognostic frame on a mechanism for participation which furnishes little information on what form this might take beyond the role of the ad hoc working group on article 8(j) ('definite involvement on a specific matter', as well as its counterpart conditional frame), and two prognostic frames assigning power over and responsibility for participation to named actors. Two other prognostic frames amongst the most frequent provide more information about when participation is sought during decision-making processes. 'Inputs' and 'Implementation' refer to calls for information to be fed into decision-making, and to the participation of indigenous peoples and local communities in the implementation of CBD decisions. At first glance, this suggests that participation is sought for output legitimacy (more stakeholders feeding into decision-making will lead to better and widely accepted decisions) in line with civic environmentalism. Yet questions remain about whether real power is transferred to indigenous peoples and local communities.

Beginning with 'inputs', the distribution of this frame over time shows that it gains in frequency at more recent COPs. It is the only frame amongst the most frequent that does not peak in COP 7. Instead, it remains constant in COPs 8 and 9, dips somewhat in COPs 10 and 11, then returns to its previous frequency in COPs 12 and 13. This reveals that the search for inputs is not isolated within the talk about participation contained in COP 7, but a later trend, and perhaps a response to a tailing off in calls for definite involvement. The correspondence of 'inputs' with different cross-cutting issues shows that it is very much confined to traditional knowledge, suggesting support for the idea that it is a frame responding to the backlash from Parties mooted after COP 7, yet bolstering the 'ghettoization' argument none the less. When considering levels where participation is to take place, the 'inputs' frame reveals itself as one of the main paths for direct participation at the international level: 83% of texts refer to it. 12% refer to a combination of the domestic and international levels, meaning a relatively low share of inputs are compiled and thus controlled by state actors. The finding that most inputs are to occur directly at the international level appears positive in this sense, yet power can of course also be exerted in the CBD. Going back to the texts allows a deeper un-

derstanding of the nature of this form of participation, and points to where more work is needed to establish the extent to which it empowers indigenous peoples and local communities. Most of the provisions call on these groups to submit information, case studies, views, or perspectives, and to review and comment on CBD matters and processes.<sup>11</sup> While distinctions between these terms are not clear, the areas where information is called for are.<sup>12</sup> In addition, the texts often include indigenous peoples and local communities in the same breath as states, asking both to contribute in the same ways. Unsurprisingly, as already suggested by the confinement of this frame to the traditional knowledge cross-cutting issue, many of these provisions concern the recovery, promotion and protection of traditional knowledge. This remains a significant opportunity to make a direct contribution to processes on the international level however.

An important question concerns how far indigenous peoples and local communities are aware of this opportunity. To what extent do these calls actually reach these groups? The standard process sees the CBD issue notifications of calls for inputs on its website. Those groups that represent indigenous peoples and local communities and regularly attend and participate in CBD meetings are aware of them. However, what these groups, as well as other actors including the CBD itself subsequently do to disseminate calls and encourage submissions, including the support and resources they are able to, and do, provide. This is an important avenue for future research to allow a better understanding of real participation opportunities offered by these calls, and how they might be improved. There is a wealth of literature on the local effectiveness of transnational institutions via more institutionalised groups, yet much of the literature with positive findings about how struggles continue in 'latent' phases through these groups the EU context (e.g. Jacquot and Vitale 2014a, 2014b; Ruzza 1997), while the literature on traditionally marginalised groups at the international level remains more pessimistic (e.g. Choudry and Kapoor 2013). Nevertheless, the former body of literature may provide a useful source for considering this issue in more depth.

The frame on implementation follows the now familiar pattern of a peak in COP 7, albeit less marked than for the 'definite involvement' and 'measures to improve participation' frames.

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<sup>11</sup> Such as the implementation of the Convention, national actions, trends within decision-making, and their needs and priorities.

<sup>12</sup> "Information" for instance, is arguably a more vague term compared to that "case studies", "views", "perspectives" etc. Notably, there is a slight difference in the amount of times "information"(27) was called for as opposed to "case studies and perspectives" (35), yet these were the largest categories. Whether the distinction between the two is significant is uncertain.

**Figure 10 - Implementation - participation levels**

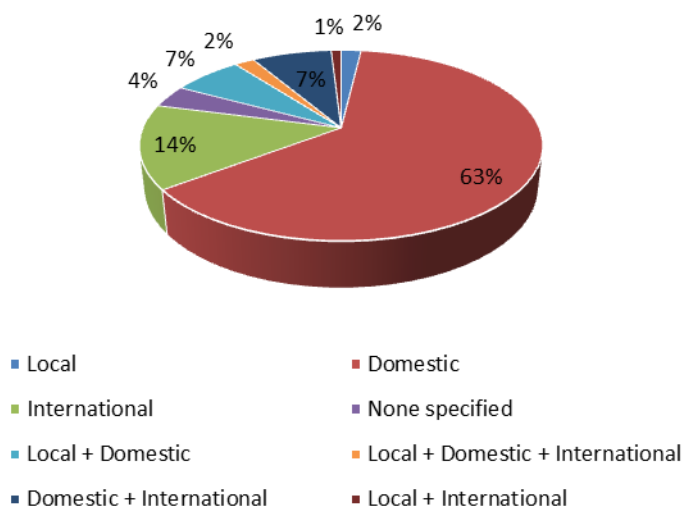


Figure 10 details the levels where participation in implementation is to take place: for the most part the domestic level. CBD decisions are usually implemented within states, and the CBD prefers to leave discretion on how implementation is achieved to its Parties. In contrast to ‘inputs’, which suggests a strengthened autonomous role for indigenous peoples and local communities at the international level, ‘implementation’ indicates stronger roles for state actors in shaping participation. Among the 14% of texts that place participation at the international level, most refer to places for indigenous peoples and local communities in expert working groups on implementation and monitoring. The local level is again conspicuous by its absence. Though in line with other findings, this is more surprising for implementation, given literature suggesting that local spaces where indigenous peoples and local communities can shape the implementation of the CBD is growing, for example through the recognition of community protocols (Bavikatte 2014) and indigenous community conserved areas (Jonas 2018). Our analysis suggests that such spaces are few, with further confirmation suggested by low frequencies for frames such as ‘participatory models’ (which occurs only 24 times with the usual peak at COP 7). A final point to highlight with regards to implementation is its spread over time to a number of cross-cutting issues beyond traditional

knowledge. Indeed, by COP 13, the most common correspondence was with communication, education and public awareness; technology transfer and cooperation; and economics, trade and incentive measures. This suggests recognition that participation in implementation is relevant outside issues linked to traditional knowledge, and may open up opportunities for the inclusion of new perspectives and knowledges in these areas. This is however tempered by the potential role of the state as gatekeeper. Further research on how indigenous peoples and local communities are involved in implementation is needed to shed further light on this potential opportunity.

In sum, 'inputs' and 'implementation' suggest a divide between international level inputs from indigenous peoples and local communities on the one hand, and domestic settings that filter their participation in implementation on the other. As mentioned, provisions regarding inputs often invite reflections on the nature of the CBD and its decisions. Many of the inputs called for appear to be intended for use in international level decision-making. Yet the real opportunities provided by these frames depend on how calls are disseminated and local stakeholders supported. Implementation was found to be dependent on national circumstances. Both frames require further research to be interpreted.

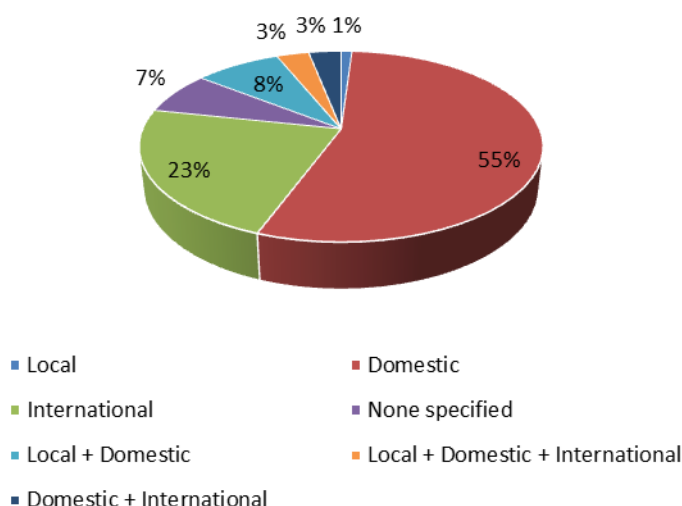
The final frame amongst the most frequent is 'specific measures to improve participation'. Like others, this frame could be considered alongside a counterpart calling on actors to *improve* participation. However, since they fall within different groups (mechanisms and limits of participation), and given the low frequency of the frame calling for improvements, we limit our discussion to the frame concerning specific measures. Figure 4 shows that this frame too peaks at COP 7. This time the peak and the drops on either side are steep and comparable to 'definite involvement on a specific matter'. This is a frame mostly confined to a single moment, COP 7, confirming that a good deal of talk about participation then was about identifying, or calling for the identification of, concrete measures to enable participation by indigenous peoples and local communities. 26 of the 43 frames recorded at COP 7 fall within the cross-cutting issue traditional knowledge, with the remaining half spread across a number of other themes: sustainable use of biodiversity; invasive alien species; technology transfer; protected areas; ecosystem restoration; and tourism and biodiversity. This is positive in that at this high point of talk about specific measures for improving participation there are clear moves beyond traditional knowledge, yet the steep drop after COP 7 suggests a backlash once more, limiting any idea about the impact of the frame.

Figure 11 details the levels where 'specific measures to improve participation' are to take place. The domestic level is identified for 55% of the texts, and the international level for 23%. Given the concentration in COP 7, we looked at how these were distrib-



uted over time, and found that 31 of the 43 texts falling in COP 7 refer to the domestic level. This finding echoes the earlier discussion of ‘definite involvement on a specific matter’. The domestic sphere is where action should be taken, painting a rosier picture of state Parties to the CBD directing one another to take steps towards this goal. Again, however, this is a finding limited to a specific moment that passed quickly according to the subsequent drop in frequency.

**Figure 11 - Specific measures to improve participation - participation levels**



## 5. Conclusions and future research agendas

This article presented findings from an analysis of texts drawn from decisions of the Convention on Biological Diversity (CBD) that mention the participation of indigenous peoples and local communities. If we accept that environmental policy is driven by discourses that may restrict the incorporation of local perspectives and knowledges, we must remain attentive to the ways that local stakeholders are to participate in international arenas. The aim of the analysis was therefore to uncover the framings of participation in terms of content, cross-cutting issues and major biomes in the CBD, and levels where participation is to take place. The results provide empirical information about how far the CBD may support the ideas of civic or radical environmentalism. Civ-

ic environmentalism is identified in the work Bäckstrand and Lövbrand as characterising recent developments in the international climate change regime (2016) and sees participation by a wide range of stakeholders as key for more effective and fairer environmental policy. This is challenged by radical environmentalism, which sees participation as unlikely to involve the real transformations necessary to address environmental problems. We hypothesised that diagnostic frames arguing that better decisions will follow from participation by indigenous peoples and local communities, prognostic frames providing unambiguous participation roles for these groups without gatekeepers, and clear responsibility for ensuring participation, as well as motivational frames, were posited as supporting the civic environmentalist approach. In addition, we argued that the presence of participation frames across larger numbers of cross-cutting issues, and lower proportions of frames identifying either no specific level or the combination of domestic and international, could provide some support for civic environmentalism.

We grouped the 30 frames of participation into: explanations of the need for participation, or diagnostic frames; 2) mechanisms for participation, or prognostic frames; 3) statements about who should be in charge of participation, or prognostic and/or motivational frames; and 4) the limits of participation, which may be diagnostic or prognostic. Although we allowed for more than one frame to be assigned to a text, no patterns emerged in terms of the ways in which frames combined – this is a function of the nature of legal texts, and the fact that our analysis was based on texts gathered in paragraphs and sub-paragraphs each of which make a single point. Even for the frame ‘qualification’, which always appeared as in addition to another frame and indicated that participation was limited in some way in the text, did not show any pattern. This is positive to the extent that there is no particular area of participation consistently curtailed within the CBD.

Mechanisms accounted for more than half of the analysis. This suggests a positive reading for civic environmentalism if we consider that most of the attention in talk about participation is on how participation should actually take place. Though no motivational frames were found, this may be more to do with the type of legal rather than public facing text under analysis. Almost all of the frames register a peak at COP 7, which was identified as a high point for talk about the participation of indigenous peoples and local communities due to the adoption of the Akwe: Kon and Addis Ababa Guidelines on socio-cultural and environmental impact assessment and the sustainable use of biodiversity respectively.<sup>13</sup> This contained moment is in line with a radical environmentalist critique, which sees talk of participation in multilateral environmental

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<sup>13</sup> See note 8.

agreements as 'cheap', with no real commitment to transformation. Nevertheless, considering the most frequent frames and the COP 7 peak shows that two frames, 'definite involvement on specific matter', and 'specific measures to improve participation', dominate. Other frames are more evenly distributed, providing some evidence of more constant talk over time about participation, again in support of the civic environmentalist discourse. Some of the less frequent frames in the analysis, such as 'participation for respect', 'empowerment' and references to more participation by indigenous women and youth, appeared only after COP 6 and increased from then on. These stronger frames would support the idea of civic environmentalism and respond to some of the contentions of the radical environmentalist discourse, since they suggest an understanding of the importance of participation beyond mere policy efficiency. 37% of frames in the group of mechanisms for participation refer to the domestic level, and another 30% to the international level, suggesting that mechanisms are seen as equally in need of development and specification at both, once more in line with civic environmentalism and taking participation seriously, also since fewer were assigned the domestic-international combination. In contrast, a quarter of all the frames identify no specific level for participation, pointing to support for radical environmentalism. The local level is seldom singled out as a standalone location for participation, though local level actions may also fall into the domestic category. This is in line with the CBD's character as a framework treaty, leaving a large role for its Parties in interpreting how to implement its obligations, and suggests some support for a radical environmentalist reading in that states may still act as gatekeepers in local participation scenarios. A sizeable proportion of the frames underline why participation from indigenous peoples and local communities is needed, but as most of these are declaratory types of frames from paragraph titles, this does not provide strong support for a civic environmentalist reading.

Seven frames were much more common than others, accounting for 80 or more texts. Amongst these, the most unambiguous finding in support of civic environmentalism relates to the pair of frames 'named actor should ensure/support participation', as a named actor may presumably be held accountable for ensuring or supporting participation by indigenous peoples and local communities. These frames follow similar trajectories and are relatively evenly spaced, suggesting a more constant theme and their continued relevance. The frame 'named actor should ensure participation' is more often associated with the international level, with the conditional 'should support participation' version associated with the domestic level. This bolsters a civic environmentalist reading at the international level, yet suggests some reticence about allocating responsibility for participation in domestic settings. This may flow from the character of

the CBD as a framework treaty, but nevertheless challenges the outlook for civic environmentalism at the domestic level – particularly if we consider other scholars' findings about a lack of real commitment to participation by indigenous peoples and local communities amongst some Parties to the CBD (de Chastonay 2018). Nevertheless, this frame does open up the possibility for indigenous peoples and local communities to use international participation as leverage for domestic political agendas, as they already do in other areas (see Robinson 2015). In a wider view, the naming of an actor responsible for participation procedure and the accountability this implies suggests that indigenous peoples and local communities could eventually exert power by denouncing instances where participatory mechanisms have failed. This has taken place, for example, where local communities have felt rules on consultation in environmental impact processes have failed (see for example Parks 2018b). This would be a confirmation of the civic environmentalist view and respond to radical environmentalist critique by demonstrating a real transfer of power to local actors. Other frames identified in the analysis on indigenous issues bodies and the CBD's response to the UNDRIP provide some more cautious support in this line. The named actor frames also suggest some spread away from the traditional knowledge issue, again in support of civic environmentalism and against a 'ghettoization' view.

Other findings are subject to an array of possible readings, and thus indicate future research agendas that could better inform an evaluation of the civic environmentalist discourse as far as the CBD is concerned. The named actor frames, for example, reproduce a crossover also seen in the pair of frames 'definite/encourage involvement on a specific matter', where the more conditionally worded frame overtakes the more strongly worded frame in COP 13, hinting at a move away from more directive frames. Further research is needed to see how this trend will evolve, but using more open language also corresponds with the spread of participation talk beyond the issue of traditional knowledge. The idea of frame reflection (Schön and Rein 1994) where conditional language can be read as a sign of conciliation and policy change, suggests a positive spin on this. The two frames that account for much of the peak at COP 7, 'definite involvement on a specific matter' and 'specific measures to improve participation' are ambiguous in their language. This could suggest support for radical environmentalism, or reflect the CBD's character as a framework treaty and indicate a pragmatic approach given that domestic actors are better placed to engineer involvement and measures for improving participation. The 'definite involvement in a specific matter' frame was also discussed alongside its more conditionally worded counterpart. The former was more frequent, yet associated with participation at the domestic level, while encouraged involvement was associated with the international level. Again, the findings are mixed,

since definite involvement at the domestic level is potentially subject to gatekeepers, while international participation is only encouraged, though this too could be given a positive spin with the frame reflection view. The 'specific measures to improve participation' frame complicates the picture further, as it refers mostly to the domestic level but in this context this implies that state actors need to take action to improve participation. All three frames provided some evidence of spread across cross-cutting issues, though traditional knowledge remains central, suggesting partial support for civic environmentalism. These results suggest that research is needed on how the Parties to the CBD provide for indigenous peoples and local communities' involvement (see de Chastonay 2018) before any conclusions about the prospects for civic environmentalism are drawn.

Inputs and implementation were also analysed as a pair. What these frames suggest for a civic environmentalist reading is again incomplete on the basis of the research presented here. The 'inputs' frame gains over time, suggesting it is a more steady trend, yet is very much limited to the traditional knowledge issue. In contrast, the majority of 'inputs' frames refer to the international level, which suggests no gatekeeper role for state actors. In line with our hypotheses, what this means for civic environmentalism will depend on further research about how calls for inputs are diffused, what happens to the inputs of indigenous peoples and local communities and how they feed into decision-making and, on the role of indigenous peoples and local communities in implementation. The frame 'implementation' follows the pattern of a peak in COP 7, albeit to a lesser extent than other frames, and it remains more constant over time. Unsurprisingly, implementation frames refer mostly to the domestic level, suggesting a possible gatekeeper role for state parties confirmed by a correspondingly low number of references to local level implementation. This may support radical environmentalist critiques, and appears to provide evidence against a view of the CBD as allowing for locally tailored implementation, for example through community protocols or indigenous community conserved areas. Once again, further research focusing on how local voices feed into international decision-making is necessary for an informed reading.

Overall, our research paints a complex picture of talk about participation by indigenous peoples and local communities in the CBD. As we 'zoom out' and look at talk about participation as a whole, the impression seems positive for civic environmentalism. More than half of participation talk is about mechanisms, with a smaller but meaningful numbers of supporting frames addressing power and responsibility. A decent proportion of the frames concern why participation is needed, and, despite a clear concentration at the seventh meeting of the CBD Parties, talk remains present over time if we consider trends within many of the most frequent frames. The levels where

participation is to take place are more or less evenly distributed between domestic and international levels, and fewer frames fail to identify a level where participation will take place, with few references to the local level. In addition, there is evidence of some spread beyond the issue of traditional knowledge. As we ‘zoom in’, however, this picture becomes more complex and suggests that more research is needed to inform the debate. With the exception of the frames naming actors responsible for supporting or ensuring participation, the most common frames emerging from our analysis could be interpreted as either supporting or detracting from civic environmentalism. To clarify which interpretation holds, more work is needed on how CBD Parties act to support and create mechanisms for participation by indigenous peoples and local communities, and on how information provided by these groups is dealt with at the international level. The low but growing numbers of stronger frames around concepts like respect do give hope for a positive interpretation. As is often the way, the devil is in the detail. In the meantime, though not unambiguous, our research does suggest some steps towards ensuring meaningful participation. First, relevant actors could seek to define mechanisms for participation, move to more directive language outside the traditional knowledge cross-cutting issue, and build on the trend for naming actors that can be held to account. They could also find ways to strengthen and diversify the ways in which calls for inputs from indigenous peoples and local communities are spread, and provide accessible information about how these inputs are used, creating the foundations for meaningful participation in implementation.<sup>14</sup>

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<sup>14</sup> On the point about spreading calls for inputs, the CBD could draw on its own advice about providing locally appropriate sources of information in processes for seeking prior informed consent, outlined most recently in the Mo’otz Kuxtal guidelines. Available at: [www.cbd.int/2Fdoc%2Fdecisions%2Fcop-13%2Fcop-13-dec-18-en.doc&usg=AOvVaw2H0GegZdDpjabwvlnzRA5G](http://www.cbd.int/2Fdoc%2Fdecisions%2Fcop-13%2Fcop-13-dec-18-en.doc&usg=AOvVaw2H0GegZdDpjabwvlnzRA5G), accessed 10 October 2018.

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