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What we talk about when we talk about ‘local’ participation: Indigenous Peoples and local communities’ participation under the Convention on Biological Diversity

**Louisa Parks
Mika Schröder**

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1. Introduction

This article explores the meanings attached to the participation of indigenous peoples and local communities¹ articulated in the decisions of the Convention on Biological Diversity. Participation in multilateral environmental agreements by local groups is argued by proponents of civic environmentalism to be crucial in achieving fair and effective policies for environmental protection (Bäckstrand and Lövbrand 2016, Sconfienza 2017). According to this reasoning, equitable environmental governance can only come about through participation in policy formation by a range of stakeholders whose standpoints and ideas are taken into account. Thus, civic environmentalism sees participation as more than simply what is due to stakeholder affected by a decision, and posits that participation is also necessary to make decisions just and effective. This view of participation in environmental governance does not go unchallenged however. For instance, market-based ideas of environmental governance view problems of environmental protection as stemming from the failure to properly assign value to nature, suggesting solutions such as ecosystem services which account for the capacity of a forest to absorb carbon dioxide. Another challenge stems from more radical schools of environmentalism that posit the need to move beyond market economy thinking in order to protect the environment. In this reading, merely 'tweaking' the current market system to accommodate the value of the environment will not save the planet since it cannot address the fundamental power imbalances that have brought humanity to the brink of disaster in the first place. These power imbalances exist not only between different states and societal groups, but between anthropocentric and ecocentric worldviews (Sconfienza 2017).

By exploring the meanings of participation, this article will contribute knowledge to discussions about whether the types of participation outlined in the CBD would allow better and more just policies to emerge, as suggested in the civic environmentalist approach, or whether a more radical approach to overcoming power imbalances might be necessary. Though the findings of the paper are not enough to draw firm conclusions on this wide-ranging debate, they make a concrete contribution based on empirical findings, and suggest promising avenues to direct future research. The focus on unpacking participation also flows from previous work on the discursive underpinnings of the CBD (Parks 2018a). This work showed that participation was a key feature of the CBD's discourse about Indigenous peoples and local communities, but did not provide details about what exactly participation was taken to mean. This article builds on that work by analysing the range of descriptions and ideas linked to these groups' participation in the CBD. It looks at the different descriptions present in CBD decisions, how they change over time, and under which of the CBD's different thematic areas they fall. In addition, the article explores the various levels where participation is envisaged to take place. This last feature is particularly revealing - does the international community see participation for local people as taking place at the local, the domestic or the international level? Or in some combination of the three? This detailed mapping of the evolution of participation over time will contribute empirical grist to the debate over the question of how the meanings of participation within the CBD support radical critiques and whether they contain some potential for addressing power asymmetries and creating paths to fairer policies.

¹ 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. Originally, the CBD used the term 'indigenous and local communities', a decision attributed to states' reluctance to adopt the word 'peoples' given the common reading that this attributes certain rights and recognition. Though this term has now been added, discussion about its appropriateness continues. We reproduce the term here since it is to this grouping that the CBD refers when it speaks about the participation of any group that might belong within this very broad definition.

The article is structured as follows. In the next section, we outline our reasons for focusing on the CBD as the arena best suited for a first close examination of participation by indigenous peoples and local communities in the field of global environmental governance. In the same section, we also review in short the literature around local stakeholder participation and its importance which underpins the civic environmentalist and radical environmentalist positions. A separate section provides an outline of our methodological approach to analyse the meanings of participation in CBD decisions. We then move on to present our main findings, and describe both the different definitions ascribed to participation, how they change over time, the thematic areas they belong to, and the levels at which participation is envisaged to take place. In a final discussion and conclusions section, we begin to reflect on what our findings contribute to the debate between civic environmentalism and radical environmentalism.

Our analysis uncovers 30 different frames for participation, amongst which frames describing mechanisms for participation are the most frequent. Over time, there is an increase in talk about participation, though a clear high point emerges at the 7th meeting of the parties in 2004. The levels foreseen for participation are more or less evenly split between the domestic and international levels, yet the local level is singled out very rarely, and usually alongside other levels.² While an overarching, ‘zoomed out’ perspective of our findings suggests a positive trend in terms of the steady increase in provisions mentioning or more directly addressing participation by indigenous peoples and local communities, our more detailed assessment in light of frames, cross-cutting themes and levels through a civic environmentalist lens gives rise to a more cautious conclusion given the nuanced and complex picture that emerges. We were able to identify areas requiring more research, and suggest a number of steps that can be taken to strengthen the role of this particular group of local stakeholders within the CBD. For instance, relevant actors involved in the CBD processes should turn their attention towards the formulation of less ambiguous mechanisms for participation and seek more directive language. They can also build on the trend identified in this research towards naming actors that are responsible for ensuring participation, so to strengthen accountability in this regard. This finding is central for reflections on civic environmentalism, as it gives indigenous peoples and local communities the possibility to hold an actor accountable for any failings in supporting or ensuring participation. Also, little is known about the ways actors ensure that calls for inputs from indigenous peoples and local communities are disseminated, or how the information shared is used in decision-making. That this avenue for participation is a prominent one under the CBD provisions suggests that more work is needed in this regard, both on the practical level, but also within the research community, since the meaning of participation in implementation relies directly on how far indigenous peoples and local communities views have been included in the decisions they are asked to help implement.

2. The Convention on Biological Diversity, participation, and ‘Indigenous Peoples and Local Communities’

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

Over the last couple of decades, a number of multilateral environmental agreements have arisen seeking to address emerging and ongoing issues related to the environment, including stemming climate change and desertification, protecting biodiversity and the ozone layer. A notable trend within these has been the push for more equitable and sustainable patterns of resource use. Despite this public effort on the international level, the *actual* progress in seriously countering the deterioration of the world’s natural environment has been very limited, and in some areas non-existent (eg. Metz et al 2007; Secretariat of the CBD 2010; Secretariat of the UNCCD 2011; Ajavon et al 2011). While some practitioners argue that this is due to the painstakingly slow nature of these political negotiations, in which parties are first and foremost concerned with domestic priorities (see for instance literature on the north-south divide, e.g.

² 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.

Koester 1997; Birnie et al 2009; Sands and Peel 2012), others have argued that this issue stems from a broader and more deep-seated issue, namely the normative culture upon which international environmental law is founded. For instance, Natarajan and Khoday (2014) have argued that foundational concepts found within the international legal regime, such as sovereignty, development, property, and economy have evolved through understandings of nature that make it difficult, and sometimes not favourable, to perceive or observe ecological limits. In this regard, efforts founded upon enhanced financing, market-based instruments, and technological transfer, cannot prompt the type of transformational change needed to move towards greater equity and environmental sustainability (Natarajan and Khoday 2014, 574). Having such perspectives underpin environmental legal discourse has not only failed to stem environmental degradation and harm, it has also led to unfairness in the representation of actors on the domestic and international level (Prost and Camprubí 2012), and inequitable practices on the ground, causing serious damage to the rights, cultures and livelihoods of local peoples.

This is particularly true in the case of nature conservation and/or the use of biodiversity, which has historically been fraught with perceived conflicts between environmental concerns and the interest and rights of local stakeholders. In many areas this manifested itself through the development of exclusionary and restrictive policies, leading to biodiversity protection and conservation being associated with inequitable practices (Stevens 1997; Poirier and Ostergren 2002; Riseth 2007; Dowie 2011; Tauli-Corpuz 2018). In this regard, most Indigenous communities do not hold official rights to their lands, and many are still experiencing dispossession or diminished access to their ancestral territories, sometimes through violent acts of repression against groups protecting their lands from State and private actors (Gilbert 2016). Issues surrounding biopiracy has also arisen in relation to appropriation and commodification of traditional knowledge regarding the use of genetic resources (Bavikatte 2014), and has been addressed by the CBD through the Nagoya Protocol, discussed further below.

Beyond the issue of the distribution of benefits, such practices, and others related to the protection and use of natural resources, have often brought problems stemming from the imposition of policies by external actors lacking knowledge about local contexts. Moreover, there are concerns that governance reforms incorporating policies of community-based natural resource management have not delivered as promised. Core issues include political unwillingness to fully divest authority over natural resources (Shackleton et al 2002; Nelson and Agrawal 2008; Nelson 2010), with reports of 'elite capture' reinforcing hierarchical structures and power imbalances, hampering the possibility for successful empowerment of historically marginalised stakeholders (Agrawal and Gibson 1991; Agrawal and Gupta 2005; Paudel 2006). Failures can also be traced back to discourses that prioritise modern policies that deny any real agency to local communities and indigenous peoples. For instance, this can come about through power and capacity asymmetries (Bixler et al 2015), and a lack of recognition and understanding of local particularities, epistemologies, and approaches to natural resource management falling outside of traditional conservation frameworks (Brand and Vadrot 2013; Martin 2017). Also, a number of scholars have highlighted with concern the way that the 'local' is represented within some approaches: recognising the value of indigenous and local practices and knowledges sometimes results in relying on stereotypes and homogenising notions of 'traditional' and 'indigenusness' (Redford 1991; Agrawal 1995). This risks restraining the voices of groups to participate on their own terms, not to mention the effects that such simplifications, and 'miniaturisation' has on reifying identity politics, potentially leading to conflicts within and between groups (Fraser 2000; Sen 2007; Fukuyama 2012).

Multilateral environmental agreements are also understood as the products and sites for the reproduction and the reification of discourses. While certain discourses are perceived as underpinning agreements, other critical discourses oppose these. The most detailed work on these discourses is by Dryzek (2005), who distinguishes between 9 different environmental discourses. In line with and with a view to contributing to work that seeks to determine how far environmental discourses that fall into more broadly defined camps are complementary or opposed (Sconfienza 2017), we draw here instead on discourses described by Bäckstrand and Lövbrand (2006, 2016). These authors trace the discourse of labelled civic environmentalism here to preceding discourses of green governmentality and ecological

modernization (ibid, 2016). Summarising and simplifying, Bäckstrand and Lövbrand (2016) argue the following. Green governmentality focuses on the idea of ecological limits and the need for a proper and rational management of environmental problems through a professional bureaucracy. Ecological modernization builds on this, but recognises environmental problems as complex and involving many different areas of decision-making, and thus calls for decentralised approaches to solve problems at multiple levels, moving away from centralized management as seen in the former discourse. Civic environmentalism emphasises the participatory 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. In particular, this version of civil environmentalism (or liberal environmentalism) is seen as a way of responding to radical arguments about the lack of justice in environmental governance that grew after the Copenhagen climate conference of 2009. Participation is posited as a way of retaining the positive elements of green governmentality and ecological modernization while overcoming negative effects in terms of justice. Participatory decision-making is thus argued to end in both the most effective decisions, and to ensure justice through the consideration of multiple voices. Radical critique, however, has continued to see the entire system of global environmental governance as part of the problem. Since the international system has produced environmental problems, or at least the States that form it have, this system cannot make the radical moves required to overcome them. Radical critiques thus posit that a complete change of system is 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).

Civic environmentalism's emphasis on the importance of participation for both efficiency and fairness are echoed in socio-legal literature. International treaties provide overarching conservation goals and guidance meant to influence national conservation policy, thus having a clear impact upon the perceived role of stakeholders including local groups in these matters, and their participation within the processes is argued to help create better informed policies (see for instance Pickerill 2008). Furthermore, international law and legal processes can provide important avenues through which stakeholders can strengthen and secure their rights if facing restrictive or exclusionary policies by state or private actors, also increasing awareness of breaches of existing rights (see for instance Endorois case;³ Kaliña and Lokono case;⁴ Ogiek case⁵). Also, their participation within this framework has meant increased attention on issues facing indigenous peoples and local communities in relation to land and natural resources, illustrating their potential positive influences in this regard (Colchester 2004). Nevertheless, several scholars of global environmental governance and law have illustrated the way that dominant or hegemonic discourses shape decision making processes in ways that restrict these spaces' ability to accommodate other worldviews based on different conceptions of value and knowledge (Bavikatte 2014; Vermeylen 2017). As discussed in the first paragraph of this section, overarching narratives driving international environmental protection policies are grounded upon western modern values and

³ This was a case decided by the African Commission on Human and Peoples' Rights concerning the government-backed eviction of Endorois communities, an Indigenous Peoples, from their lands at Lake Bogoria in central Kenya in the 1970s to make way for a national reserve and tourist facilities. See 2010 Judgement at African Commission on Human and Peoples' Rights, *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya*, Comm. No. 276/2003 (25 November 2009)

⁴ This case was decided by the Inter-American Court of Human Rights in 2015, concerning the establishment of three separate natural reserves on the ancestral land of the Kaliña and Lokono peoples, adversely impacting on their access to the lands. State-sponsored economic activities that took place within the reserves also led to the degradation of the areas' ecosystem. See 2015 Judgement at Inter-American Court of Human Rights, *Case of Kaliña and Lokono Peoples v Suriname*, Judgement (Merits, Reparations and Costs) 25 November 2015

⁵ This case, decided by the African Court of Human and Peoples Rights, concerned the forced evictions of Ogiek communities from their ancestral lands and the restriction of their access to natural resources by the Kenyan government citing the need to conserve the environment. See the 2017 judgement at African Court on Human and Peoples' Rights, *African Commission on Human and Peoples' Rights v Kenya*, App. No. 006/2012 (Judgement 26 May 2017)

perspectives about the role of the environment in economic development, and the role of economics in environmental protection. The participation of local actors provides important opportunities for new discourses to emerge in relation to human-nature relations.

2.1 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 (also known as the Rio Summit) and entered into force in December 1993. With 196 parties, it is one of the most widely subscribed multilateral environmental agreements, holding nearly universal membership, with the exception being the United States. The CBD is a legally-binding treaty, but also a Framework treaty, meaning that its members (the Parties) must implement the obligations contained in its text, but may decide how to do so, leaving significant room for interpretation. The decisions of the Parties interpret these treaty obligations. The CBD's principal 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). To these ends, States are required to adopt national strategies, plans or programmes, and integrate 'as far as possible and as appropriate' the conservation and sustainable use of biodiversity into relevant sectoral or cross-sectoral plans, programmes and policies (CBD, Article 6).

The CBD has an exceptionally broad scope of work, reflecting its aim to provide a comprehensive and global approach to the conservation of biodiversity (see for instance CBD Preamble; Bowman et al 2010). This framework character means that it holds a unique role within international biodiversity law, exemplified in its attempts to fill gaps of pre-existing regulations, and identifying guiding principles and strategies developed within contemporary environmental conservation law (Bowman et al 2010, 594). However, its provisions contain significant ambiguities, omissions, bland language and highly qualified commitments (Birnie et al 2009). This can be attributed to a number of factors: the conditions⁶ under which it was negotiated (Boyle 1994), that it was ultimately adopted by consensus (Koester 1997; Birnie et al 2009; Bowman et al 2010) and now holds near universal membership. Wide membership and the need for consensus can lead to vague language due to a variety of reasons, including the difficulty for states to find common ground and a preference for vague language as a mechanism to deal with unknown future scenarios (Guzman 2002). Although soft law approaches have both advantages and disadvantages, observers have noted that one benefit is an increased scope for input from a range of stakeholders. It is also argued that CBD decisions use language that leaves space for interpretation which, combined with the open-ended nature of CBD obligations, means that States have a wide margin of discretion in interpreting and implementing the treaty, thereby allowing for a variety of approaches at domestic level as well as flexibility and adaptability to local level. This comes with a price, in that it is more difficult to determine when CBD obligations have not been respected by Parties (see e.g. Harrop and Pritchard 2011; Birnie et al 2009). Also, that COP Decisions derive from lengthy negotiations and drafting, including deliberations with input from ad hoc committees and working groups, and are finally adopted by consensus, lends them important weight (both political and legal, deriving from the global nature of its membership and negotiations) and the potential to influence both subsequent development of rules on the international and regional level, and the interpretation of existing norms within current regimes (Morgera 2017, 19-20).

2.3 Participation within the CBD

CBD Article 8(j) and its associated provisions (Art 10(c), 17.2 and 18.4) are those strongest associated with the participation of Indigenous Peoples and Local Communities within biodiversity conservation and the sustainable use of 'components of biological diversity'. Both Article 8(j) and Article 10(c)

⁶ For instance, the negotiations were carried out under serious time constraints in order for the text to be ready for signature at the Rio Summit, with debate on substantive issues still taking place during the days of the Conference (that is, very days before it opened for signatures). See Boyle (1994, p. 35).

recognise the need to respect and include indigenous peoples and local communities' knowledge and practices within conservation practices, yet, because of their qualified language, both fail to establish clear legal obligations on what this may entail (Bavikatte and Robinson 2011). Notably, the *Nagoya Protocol*, a supplementary agreement under the CBD, aims to set out terms for the fair and equitable sharing of benefits arising from the use of genetic resources. It establishes rights related to traditional knowledge, the self-governance of genetic resources through local laws and community protocols, and the access to benefits from the use of traditional knowledge and genetic resources from third parties. As mentioned above, the protocol was a response to the practice of biopiracy in which private actors, for instance, within agriculture, cosmetics and pharmaceuticals, used the traditional knowledge of indigenous peoples associated with genetic resources, to further corporate interests without ensuring that benefits are dispersed amongst the communities (Bavikatte 2014). However, despite it being recognised as an important step towards the recognition of Indigenous peoples self-determination, scholars have drawn attention to the ways that its practice has led to the repression of Indigenous peoples and their customary laws, in part through the commodification of knowledge and culture, echoing criticisms introduced above (Vermeylen 2013).

Nevertheless, that several CBD Decisions explicitly address participation of indigenous peoples and local communities in biodiversity policy, along with the fact that the CBD COP processes is always attended by their representatives, has led commentators to suggest, with certain reservations, that the treaty provides a particular space for accommodating different views and approaches to biodiversity conservation (see for instance Affolder 2017; Bavikatte 2014; Reimerson 2013). Others have challenged this, suggesting that limited space has arisen for the negotiation of fundamental meanings of nature and culture, and the exclusion of certain themes, including traditional knowledge (see for instance Harrop 2011; Brand and Vadrot 2013; Suiseeya 2014; Morgera, Tsoumani and Buck 2014). Opinions vary amongst scholars, yet the debate clearly falls within that mentioned above regarding the normative basis upon which international environmental law is founded and the potential inherent limitations that such discourses hold in addressing ecological degradation and environmental justice concerns (see for instance Natajara and Khoday 2014).

Finally, it is important to note the ongoing debate on the linkages between biodiversity law and that of Indigenous peoples rights more broadly. The CBD identifies Indigenous peoples and local communities as stakeholders holding particular interests or capabilities that grants them special status within the regime. Notwithstanding voiced concerns as to what such 'categorisations' means with regards to the way that these groups are perceived within the conservation paradigm (see for instance discussion below), the use of terminology has proven contentious, with Parties seeking to distance themselves from linking CBD obligations with human rights provisions granting *Indigenous Peoples* collective rights (Morgera, Tsoumani and Buck 2014; Morgera 2017) by avoiding the consistent usage of the term. Nevertheless, after years of debate at CBD COPs, the Parties adopted the term *Indigenous Peoples* in 2014, although simultaneously stating that this would not affect the legal meaning of Article 8(j) and its related provisions, nor change the rights or obligations under the Convention (CBD COP Decision XII/12). Therefore, despite clear overlaps, the change in terminology itself cannot be treated as indicating any significant shift towards the CBD embracing specific rights embodied in human rights law. However, this is not to say that obligations confirming procedural or other rights cannot emerge in relation to these stakeholders by other means (see for instance Morgera 2017; 2018). Due to the reasons explored here and in the paragraph above, 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. Specifically within the CBD, the question of whether indigenous peoples and local communities are rights-holders, value-bearers or simply stakeholders is not insignificant, as such positioning can have implications for the role awarded those stakeholders within a given forum, and the ensuing ability they have on impacting policies and projects that impact on their lives.

3. Excavating participation: Methodology and Method

The starting point for the analysis of participation presented in this paper is the fundamental importance of the discourses that underpin multilateral environmental agreements. Although the analysis we present is not a discourse analysis, it builds on a discursive analysis of CBD decisions (Parks 2018a), and in that sense departs from the assumption that meaning is not innate, but built over time in social interactions. This previous deductive analysis revealed the centrality of a discourse or narrative of participation as central to talk about Indigenous peoples and local communities in CBD decisions. Amongst other drawbacks, this previous analysis did not furnish much knowledge about the actual content of the word 'participation' – that is about the interactively built meaning of participation as constructed over time in CBD decisions. The aim of the analysis we present here is thus inductive rather than deductive – we are seeking to uncover the different meanings attached to participation directly from the texts of CBD decisions in order to add flesh to the finding that the discourse of indigenous peoples and local communities' participation is important in the CBD. Uncovering the meaning of participation in detail is important to contribute to the debate about the possibilities inherent in civic environmentalism. Without detailed information about the forms, settings, locations and other minutiae of how participation will take place, we cannot draw any conclusions about the possibility that participation by indigenous peoples and local communities could lead to more just decision-making and ultimately more effective global environmental governance.

To interpret the different descriptions and meanings assigned to the idea of participation and begin to discuss whether those descriptions and meanings 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' (Garnson 1985, 686). Thus, actors frame issues in certain ways to attach different characteristics to issues in space and time. Frames perform the role of communicating to us how we should interpret the significance of some word, person, event or symbol - they build meaning. We will draw on some concepts from the framing literature to aid our analysis. Benford and Snow (2000) distinguish between prognostic, diagnostic and motivational frames. We draw on these to guide our analysis: prognostic frames tell us about an actor's understanding of a problem - in this case why participation by Indigenous peoples and local communities is important, and what problems it might solve. Diagnostic frames tell us about an actor's view about how a problem should be solved - in this case, where and how participation should take place, whom exactly should be involved and so on. Frames often emphasise some features of an event or term and draw attention away from others in order to hone their meaning. We will also consider which features of participation that are highlighted by the CBD, and what features are skimmed over. These concepts will guide our discussions about the eventual potential of Indigenous peoples and local communities participation in the CBD on the basis of hypotheses about what 'ideal' civic environmentalist frames might look like. If their participation is framed in ways that fall into line with the arguments of civic environmentalism, then the potential for participation to lead to more just decisions may be present. In line with the arguments of civic environmentalism, we would expect diagnostic frames about why participation is needed to argue that better decisions can be taken with effective participation by Indigenous peoples and local communities. Prognostic frames in line with this argument should emphasise meaningful participation in decision-making without gatekeepers such as state authorities. It should also take place at moments of decision-making rather than the implementation of decisions already taken, since this can be equated with the problem of external imposition discussed earlier. Meaningful participation would also point to frames that suggest actual methods and mechanisms of participation at different levels, for example attributing responsibility to actors for ensuring that participation takes place, giving funds and taking other types of concrete action. A prognostic frame that might support the radical environmentalist argument would instead be more vaguely worded, speaking about participation in some general manner without providing an idea of its actual purpose or method. Finally, motivational framing of participation would in general be considered as falling in line with civic environmentalism – actively encouraging participation would imply commitment to making it an effective element in decision-making. These concepts are used to guide our reflections in concluding the article. We turn now to describe the method used to identify the frames.

3.1 Method

To identify the framing of participation, we drew on a database of text fragments identified as referring to Indigenous peoples and local communities and themes closely connected to these groups taken from all of the CBD's decisions. We use CBD decisions, which are detailed in texts adopted by consensus at meetings of the CBD's Parties, because these are the texts that are used for the progressive implementation of the Treaty over time, and represent the best source for understanding how the Treaty's interpretation has evolved. The CBD Conference of the Parties has met 13 times at the time of writing, and will next meet in November 2018. The database was built with keyword searches developed on the basis of advice from CBD experts, and were added to throughout the process wherever certain terms were seen to be repeatedly linked to these groups.⁷ The keyword search yielded a total of 2151 pieces of text for analysis (after the removal of repetitions and irrelevant lines) (see Parks 2018a for further details). Of this original database of text fragments, which are numbered paragraphs and sub-paragraphs within the COP decisions, 961 referred to participation in some way. After separating out some text fragments considered as single paragraphs in the original analysis into sub-paragraphs, in order to better differentiate between different framings of participation, we ended up with a total of 973 text fragments for analysis.

We took an inductive approach to identifying the frames of participation, developing frame descriptions directly from the texts and adjusting these as the process continued. This exercise yielded 30 different frames of participation. The frames were considered as cumulative, and one text fragment could be assigned multiple frames as needed. However, analysis of the combinations of different frames revealed no clear patterns. Even in the case of qualifiers placing some caveat on participation, a frame designed as an 'add on' and always assigned to texts in combination with another, no clear pattern or correspondence with a particular frame emerged. In addition, as Figure 1 shows, qualifiers are not amongst the most frequent frames. Given this lack of patterns in combinations, and the fact that the majority of text fragments were assigned a single frame, combinations are not discussed any further in this article. A more deductive approach was taken to add information on the level (local, domestic, international, unspecified) at which participation was envisaged to take place. This proved to be a challenging socio-legal exercise (see next section).

For ease of analysis, the frames were recorded in Excel sheets. These sheets record the year, meeting number, cross-cutting issue or major biome and the full text of the fragment, along with codes for each frame present as well as codes for the level at which participation is expected. As the discussion below includes reflections on how texts assigned different frames correspond with different cross-cutting issues, a line on these are warranted. A total of 24 different cross-cutting issues and 7 different thematic programmes on major biomes are used in CBD decisions, and 'correspond to the issues addressed in the Convention's substantive provisions'.⁸ As these cross-cutting issues are to be addressed throughout all relevant decisions of the Parties, the presence of different frames of participation by indigenous peoples and local communities within the various issues may indicate a wider or narrower scope where participation is accepted. In addition, previous work has indicated a more general trend of 'ghettoization' within the issue 'traditional knowledge, innovations and practices – Article 8(j)' ('traditional knowledge' from now on) in CBD decision discourses about indigenous peoples and local communities. Investigating whether this finding also applies to participation is thus important.

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

⁸ 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.

This method of recording the analysis allows us to produce descriptive statistics for each of the frames in order to report the findings more effectively, as well as allowing us to look at trajectories for each frame over time, without losing the close link between text and ensuing analysis.

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

In addition to looking for the meanings attributed to participation in the CBD's decisions and their development over time, the level at which participation was envisaged as taking place was also recorded. Determining the level at which participation is supposed to take place is important because it gives more information about the role imagined for indigenous peoples and local communities and thus to what extent participation is envisaged as a mechanism to influence decision-making in line with the civic environmentalist discourse. Combined with the inductive coding analysis on provisions related to participation, determining the level at which participation is to take place gives insights in this direction – is participation more about local implementation; national level information-gathering and position preparation; or is there a more meaningful view of local participation in international decision-making?

While creating the different descriptive labels for types of participation in the texts was relatively straightforward, involving little research subjectivity since meanings were derived from the text, the exercise of determining levels proved more complex. When beginning, we expected the level at which participation was to occur to be clear in the text, and thus set out with simple categories of local, national and international, as well as 'not specified'. However, it became clear early on that the distinction between the local and national levels was not so obvious within the provisions themselves. In some cases, no explicit reference was made to either level, yet because of factors such as references to particular actors, or the proposed action, a particular level was heavily implied. This included for instance provisions related to the implementation of international rules, which may well take place at either the local and/or the national level, especially where the participation of indigenous peoples and local communities is involved. Rules related to impact assessments and free, prior and informed consent also gave rise to uncertainty, since these will often be required for projects of national relevance, but stipulate local-level consultations. Finally, governance and monitoring within conservation management projects (for instance related to protected areas) could be made up of action taken both on the local and national level, depending on national circumstances and institutional arrangements. On a more terminological level, the distinction between local and national also became less clear when references were made to decision-making by local authorities, which can be made up of a plethora of actors considered 'local stakeholders' (as opposed to government actors), including representatives of indigenous peoples and local communities, or indeed be driven by local groups themselves.

Different coding approaches were possible. On the one hand, we needed to consider that these types of provisions can be interpreted differently in various countries: what would be implemented through participatory policies in one setting could be carried out through more exclusionary policies in another, thus not guaranteeing any particular level at which participation would take place. This uncertainty would suggest that texts leaving room for interpretation should be coded as participation level 'not specified'. On the other hand, the lack of specificity in these texts reflects the country-driven approach of the CBD in terms of the space accorded to Parties in implementing treaty obligations. Here, if we accept that the CBD seeks to accommodate variation but nevertheless insists on participation, the coding should reflect the level of participation endorsed by the CBD text even where implicit.

In line with this reasoning, we changed the terminology of our codes, hoping that this better reflects the nuances within the provisions. Rather than 'national', we use the term 'domestic' to encapsulate both the 'national' and some aspects of the 'local' level. 'Domestic' denotes the relevance of *national governance* bodies in line with the CBD's country-driven approach, emphasising the importance of national laws and contexts in exploring the extent and nature of stakeholder participation at the national and sub-national levels. This level thus also includes explicit references to local authorities. Meanwhile, the 'local' level code recognises and highlights, in line with international law, that there are local bodies

and groups that are separable from the state, and applies where text refers to participation at these sites as opposed to decentralized governance bodies. The code 'local' is only assigned to a text where there is an explicit reference to participation on the local level understood in these terms. One important exception was made here where a text refers to the creation of community protocols, as community protocols denote a local and sub-governmental level of action and organisation, yet this exception required further qualification, described below.⁹

Another discussion concerned what part of 'participation' we wanted to capture by coding the level of participation. We found it necessary to draw a distinction between the *process* endorsed within a provision and the ultimate *outcome* of that provision. Some examples of how indigenous peoples and local communities are asked to share information through CBD provisions illustrates this. Typically, calls for information take three different shapes. The first is where local groups are consulted, or asked to share their opinions or knowledge, within national processes. This we consider as participation on the 'domestic' level, both in terms of where groups will participate, and in relation to where the information is used. The second type is where governments are asked to compile accounts of experiences in indigenous peoples and local communities, and other stakeholders, in a report to be shared at the international level.¹⁰ This participation occurs at two levels: first, it is 'domestic' as this is the place where participation takes place. Yet it is also 'international', as this is where the information ends up, thus reflecting the fact that under these provisions, it is envisioned that the knowledge-sharing by indigenous peoples and local communities may influence negotiations and decision-making on the international level. Importantly, however, the 'domestic' code in this instance helps illustrate how such influence may be hampered by virtue of action on the domestic level, in that States are provided with some discretion in terms of determining who and what to include/exclude from the final report that reaches the international level. In this situation, we code the text as both 'international' and 'domestic', to indicate the enabling of (indirect) participation on the international level, yet a potential qualification of this through domestic action. The 'domestic' therefore denotes the role of the state party as a *gatekeeper* between the local actors and international forums. The information about the description of participation gives more complete information to interpret these levels. This may be contrasted with those provisions inviting indigenous peoples and local communities to provide information directly to the international level, which are coded as 'international' only.¹¹

Combining the level codes therefore helps to illustrate the nuances of stakeholder participation provided by the CBD provisions. Another example where this is used is the aforementioned example of 'community protocols'. As explained, provisions encouraging community protocols are coded as 'local' (though noting that a local community may be located across national territories or in several regional areas within a state). Yet, if the provision provides for the use of community protocols within particular decision-making settings, or in the development of certain projects, these will *also* be coded as 'domestic', partly to reflect the level at which these will be used to influence decision-making, but also to reflect the potential discretionary power of states, or other relevant actors, to determine the extent of its use, depending on national legislation. This is not to downplay the clear potential of participation on the domestic level. Indeed, if done sincerely this can arguably have powerful results, both in terms of symbolic recognition of the relevant groups' interests and contributions to debates, but also to improve

⁹ Community protocols are documents developed by local communities as sources of information on their beliefs, customary law and institutions, views and aspirations, amongst other themes. They have been used to empower communities in relations with external actors in a variety of settings. See Parks 2018b.

¹⁰ See for instance Decision VIII/5. Article 8(j) and related provisions, A: Implementation and in-depth review of the programme of work for Article 8(j) and related provisions and integration of the relevant tasks of the programme of work into the thematic programmes, A3; Decision VIII/28. Impact Assessment: Voluntary guidelines on biodiversity-inclusive impact assessment, Annex Voluntary Guidelines on Biodiversity-inclusive Environmental Impact Assessment, para 31; and Decision IX/13. Article 8(j) and related provisions, A.3.

¹¹ See for instance Decision XII/12. Article 8(j) and related Provisions, A.4; Decision XIII/1. Progress in the implementation of the Convention and the Strategic Plan for Biodiversity 2011-2020 and towards the achievement of the Aichi Biodiversity Targets, para 15 and 22 and 34.

the quality of decision-making through diversified and more reflective decisions. Nevertheless, these good intentions are best tempered with keeping in mind the power-relations at play.

4. The meanings of local participation in the Convention on Biological Diversity

In this section we present the findings of the analysis on how participation is framed in CBD decisions as far as indigenous peoples and local communities are concerned. A first sub-section provides an overview of the entire analysis, commenting on how the frames can be grouped and what this indicates for the idea of participation, how groups of frames develop over time, and the levels of participation envisaged for each of the groups. A second section then focuses on the most common frames that emerge from the analysis, again including discussions of evolution over time and levels at which participation is expected to take place. In addition, this section will provide discussions on which of the CBD's cross-cutting themes these participation frames correspond to, and introduce reflections about frames that appear more rarely in the analysis and what this rarity suggests for the overall picture of participation by indigenous peoples and local communities in the CBD.

4.1 Framing participation in the CBD – an overview

30 different descriptions of participation emerged from the inductive analysis. They are listed in table 1 along with their short-form labels used in other figures and brief notes about their meanings and application.

The descriptions are grouped according to the framing concepts detailed above. Descriptions in ordinary text are diagnostic frames. They advance some explanation about the need for participation by indigenous peoples and local communities. Descriptions in bold text are prognostic frames. They detail, to some extent, mechanisms for participation. Although the level of detail provided varies, these frames all indicate mechanisms or paths for participation. Another group of frames, in bold and italicized text, gathers texts that state which actor or group of actors should be in charge of participation, that is who should have power over the arrangements for participation. These frames can be understood as prognostic for the main part, but also in part as motivational frames if they are read as seeking to encourage some transfer of power. A final group of frames in italicized text concerns the limits of participation. This group includes qualifications in the text that limit participation in some way (e.g. 'subject to national legislation, as far as possible'), statements on why participation in the CBD is limited at present, and why participation needs to be improved (in purple). This group can also be described as prognostic in terms of frames that indicate how participation should be carried out, but also diagnostic for those that indicate why participation is low.

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

<p>GENERAL STATEMENTS: General statements about the need to strengthen the involvement or participation of IPLCs (indigenous peoples and local communities) and/or the need to involve IPLCs.</p> <p>These statements do not mention how participation should be achieved, nor what form it should take.</p>	<p>EMPOWER - A statement that uses the specific word 'empower' in relation to IPLC participation. Other descriptions are assigned in addition to this where the statement gives details about the method of empowerment.</p>
<p>EXPERT: A statement about participation that underlines IPLCs as experts, or traditional knowledge as an important source of information.</p>	<p>PARTICIPATION FOR RESPECT: 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.</p>

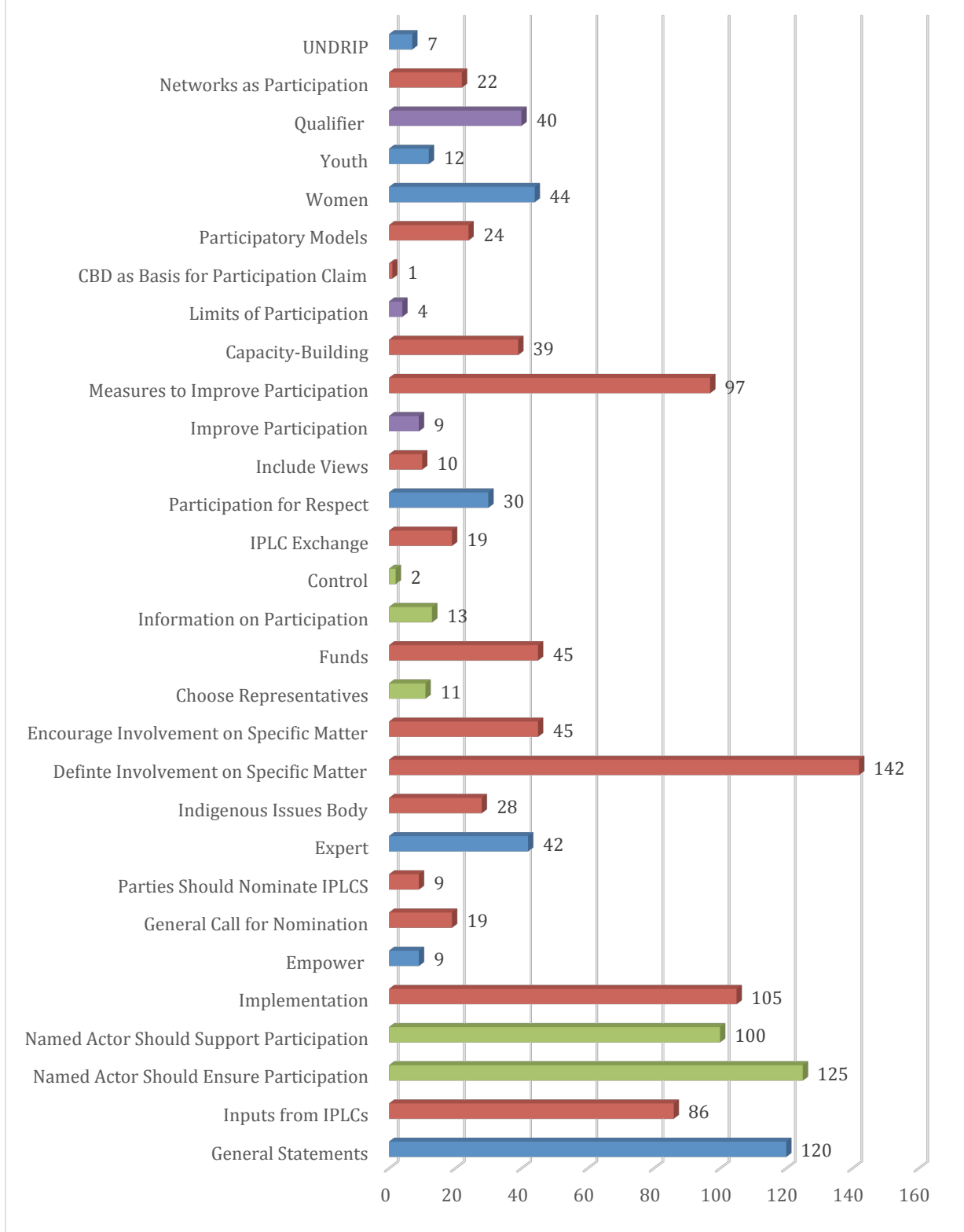
<p>WOMEN: Statement underlining the need for and/or importance of participation by IPLC women. Texts underlining women's participation more generally are NOT assigned this description.</p>	<p>YOUTH: Statement underlining the need for and/or importance of participation by IPLC youth. Texts underlining youth participation more generally are NOT assigned this description.</p>
<p>UNDRIP: The text refers to the United Nations Declaration on the Rights of Indigenous Peoples.</p> <p>References to UNDRIP have a bearing on participation, since the CBD took some time to change its language to refer to indigenous <i>peoples</i> in line with this Declaration rather than only indigenous <i>communities</i>. References to UNDRIP thus imply a recognition of IPLCs' rights as a motivation for their participation.</p>	
<p>NAMED ACTOR SHOULD ENSURE PARTICIPATION: A particular actor is named and should act in a way to ensure that IPLCs can participate in decision-making, some other forum, or be able to take action in a specific sector.</p> <p>In these statements the actor is named and the language implies this actor is responsible for ensuring participation.</p>	<p>NAMED ACTOR SHOULD SUPPORT PARTICIPATION: A particular actor should act in a way that supports IPLCs in their participation in decision-making, some other forum, or to take action in a specific sector.</p> <p>In these statements the actor is named and the language implies that they should support (rather than ensure or be directly responsible for) IPLC participation, for example by developing a strategy.</p>
<p>CHOOSE REPRESENTATIVES: The text expresses the idea that IPLCs themselves should choose their representatives to bodies.</p> <p>The bodies in question vary.</p>	<p>INFORMATION ON PARTICIPATION: The text includes a request for information on IPLC participation.</p> <p>The request may concern any kind of actor.</p>
<p>CONTROL: The text emphasises that IPLCs have or should have control over some process.</p>	
<p>IMPLEMENTATION: <i>IPLCs are named or emphasised as actors in implementing the Convention in some way.</i></p> <p><i>Statements may include details of how this takes place, for example through action or management plans & Indigenous Community Conserved Areas.</i></p>	<p>INPUTS FROM IPLCs: <i>Invitations or statements encouraging IPLCs, amongst other actors, to provide information to the CBD in some way.</i></p> <p><i>These are essentially calls for information.</i></p>
<p>GENERAL CALL FOR NOMINATION: <i>A statement that names or encourages another actor to nominate IPLCs to some body or process of the Convention.</i></p> <p><i>The actor may be a government or another actor, but does NOT include statements encouraging parties to include IPLCs in their official delegations.</i></p>	<p>PARTIES SHOULD NOMINATE IPLCs: <i>This description is recorded for statements that encourage parties to the Convention to include IPLCs in their delegations.</i></p> <p><i>This includes delegations to working groups and other bodies as well as Conferences of the Parties.</i></p>
<p>FUNDS: <i>The text contains a statement about the need for funds to allow IPLC participation.</i></p> <p><i>This includes statements that allocate funds, that underline a general need, or name an actor or actors that should find funds to support or allow IPLC participation.</i></p>	<p>INDIGENOUS ISSUES BODY: <i>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.</i></p> <p><i>These bodies are seen as either interlocutors for the CBD, or as actors in decision-making.</i></p>

<p><u>DEFINITE INVOLVEMENT ON SPECIFIC MATTER:</u> <i>The text conveys the idea that IPLCS will definitely be involved in decisions on or a specific matter described.</i></p> <p><i>These texts use verbs conveying certainty rather than verbs encouraging participation and involvement.</i></p> <p><i>This description Includes statements about the involvement of the Ad hoc Working Group on Article 8(j), a body which includes active participation by the representatives of IPLCs.</i></p>	<p><u>ENCOURAGE INVOLVEMENT ON SPECIFIC MATTER:</u> <i>The text conveys the idea that IPLCs should be invited and/or encouraged to be involved in decisions on or a specific matter described.</i></p> <p><i>These texts use verbs conveying encouragement rather than verbs conveying certainty about involvement.</i></p>
<p><u>IPLC EXCHANGE:</u> <i>Support or call for exchanges between IPLCs (information, consultation etc.)</i></p>	<p><u>INCLUDE VIEWS:</u> <i>A text that makes a specific statement that views or information received from IPLCs will be reproduced in in a report, decision or other document.</i></p>
<p><u>MEASURES TO IMPROVE PARTICIPATION:</u> <i>Statement about implementing specific measures to strengthen or improve participation.</i></p> <p><i>This includes texts indicating capacity-building where explicitly directed at strengthening participation, references to incentives for participation, and measures to strengthen IPLCs' own initiatives relevant for participation.</i></p>	<p><u>CAPACITY BUILDING:</u> <i>A statement about capacity-building, education or awareness building for IPLCs, framed as a mode of participation.</i></p>
<p><u>CBD AS BASIS FOR PARTICIPATION CLAIM:</u> <i>The text invites or encourages IPLCs to use the CBD as the basis or a factor strengthening requests for their participation in various processes.</i></p>	<p><u>PARTICIPATORY MODELS:</u> <i>Statement calling for participation to take place through participatory models, implying deliberation among equal actors, meaningful dialogue and the like.</i></p>
<p><u>NETWORKS AS PARTICIPATION:</u> <i>IPLCs are named as actors in multi-actor networks or partnerships through which they participate in some way.</i></p>	
<p><u>IMPROVE PARTICIPATION:</u> <i>A text that includes a reference recognising that more work is needed to improve IPLC participation in the Convention.</i></p> <p><i>This includes texts that recognise the limited nature of or other weaknesses in existing participation strategies.</i></p>	<p><u>LIMITS OF PARTICIPATION:</u> <i>Statement noting that levels of participation also depend on factors outside the control of the Convention. The statement expresses awareness about the limits of participation.</i></p> <p><i>Factors outside the Convention's control include interest, culture, will etc.</i></p>
<p><u>QUALIFIER:</u> <i>The text includes a qualifier on participation.</i></p> <p><i>This may be, for example, 'as far as appropriate and possible', or a reference to the need to stay in line with national legislation.</i></p> <p><i>This is a purely additional description recorded alongside at least one other.</i></p>	

Framings referring to mechanisms of participation – prognostic frames – account for the largest number of different descriptions, indicating that there is a varied view about how participation should be achieved rather than a dominant view. This is underlined by the fact that frames describing participation mechanisms are assigned to more than half (55%) of the texts. Thus, the main subject of talk about participation of indigenous peoples and local communities in CBD decisions is how participation should

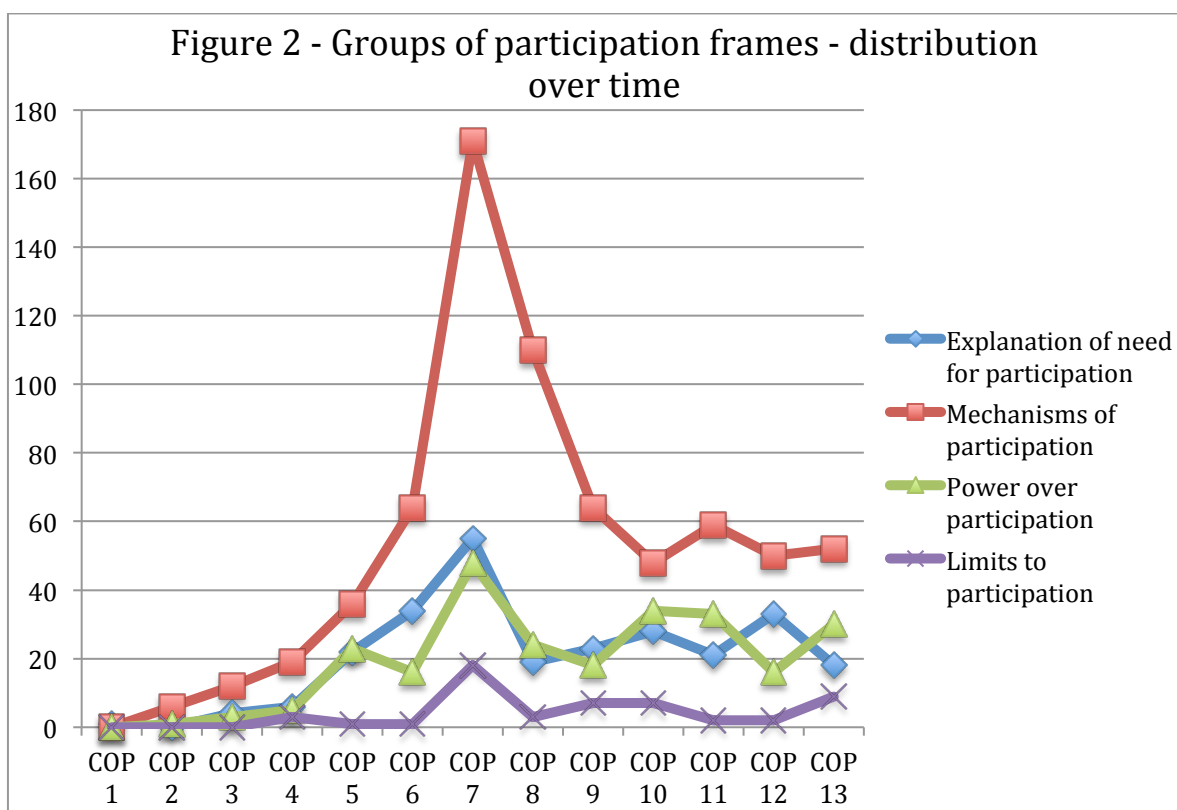
be achieved in more concrete terms. This suggests that the need for indigenous peoples and local communities to be part of the work of the Convention is often taken as a given, supporting findings suggested in previous work (Parks 2018a) and the view of civic environmentalism as a general discourse driving the logic of multilateral environmental agreements (Bäckstrand and Lövbrand 2016). Though 21% of the texts are frames that discuss the need for participation, figure 1 below shows that the bulk of these are general statements about the need for indigenous peoples' and local communities' participation, or the need to strengthen it, contained in headings of paragraphs and correspondingly lacking in detail about what participation means. Other frames are recorded for more detailed statements below these titles. Another 20% of the texts are coded as containing frames about who should have power over participation processes. Only 4% of the texts refer to the limits to participation, and amongst these the bulk are qualifiers designed to place some limit on 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 of frames follow a fairly similar trajectory until COP 8, increasing steadily then jumping to a peak in COP 7. The exception is the small group of frames linked to the limits of participation which remains low throughout, though still recording a peak in COP 7. Considering the idea that participation is a generally accepted feature, 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 that the acceptance of participation was accepted from early on. The peak in COP 7, when all frames about participation hits a high point, is explained by a number of factors. COP 7, held in 2004, saw the adoption of the Akwé: Kon Guidelines for cultural, environmental and social impact assessments, and the Addis Ababa Principles and Guidelines for sustainable use. The Akwé: Kon Guidelines are viewed as a crucial instrument with regards to the development and implementation of Article 8(j) of the CBD which concerns traditional knowledge, innovations, and practices in the conservation and sustainable use of biological diversity. The Addis Ababa Guidelines, on the other hand, are more generally concerned with sustainable use, but cite indigenous peoples and local communities as addressees.¹² COP 7 has thus been argued to stand out as the pinnacle of work specifically concerning indigenous peoples and local communities and their participation in various processes. Frames on mechanisms of participation decline after COP 7, but remain higher than in the earlier years of the CBD, and more prevalent than any other group of frames until COP 13. Explanations of the need for participation, including general statements, follow a similar pattern. Statements about power over participation increase in COPs 10, 11, and 13, hinting at some shift in the framing of discourse as explored below. Overall, the evidence is that participation by indigenous peoples and local communities is a generally accepted feature of the CBD's work, particularly after COP 7.



¹² All CBD guidelines are addressed not only to Parties but also to other actors such as private developers, NGOs and others. They may include indigenous peoples and local communities as addressees – i.e. they may benefit from actors following such guidelines. 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 - All frames - participation levels

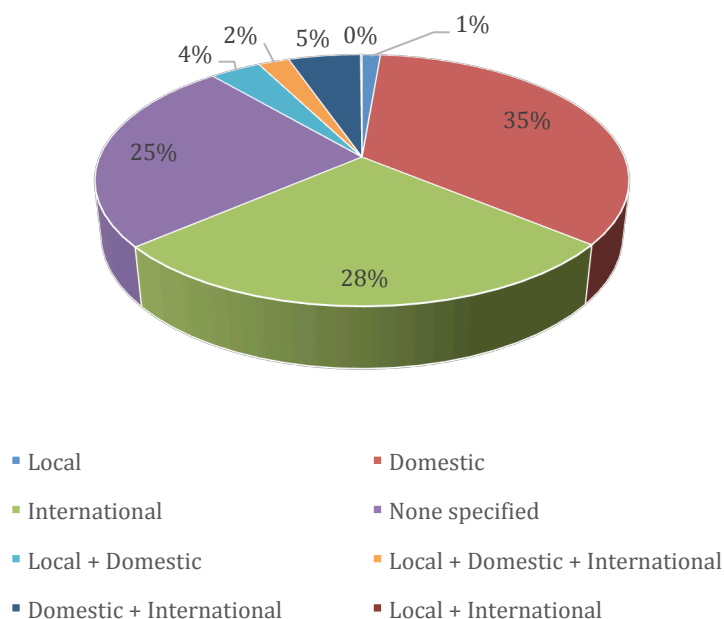


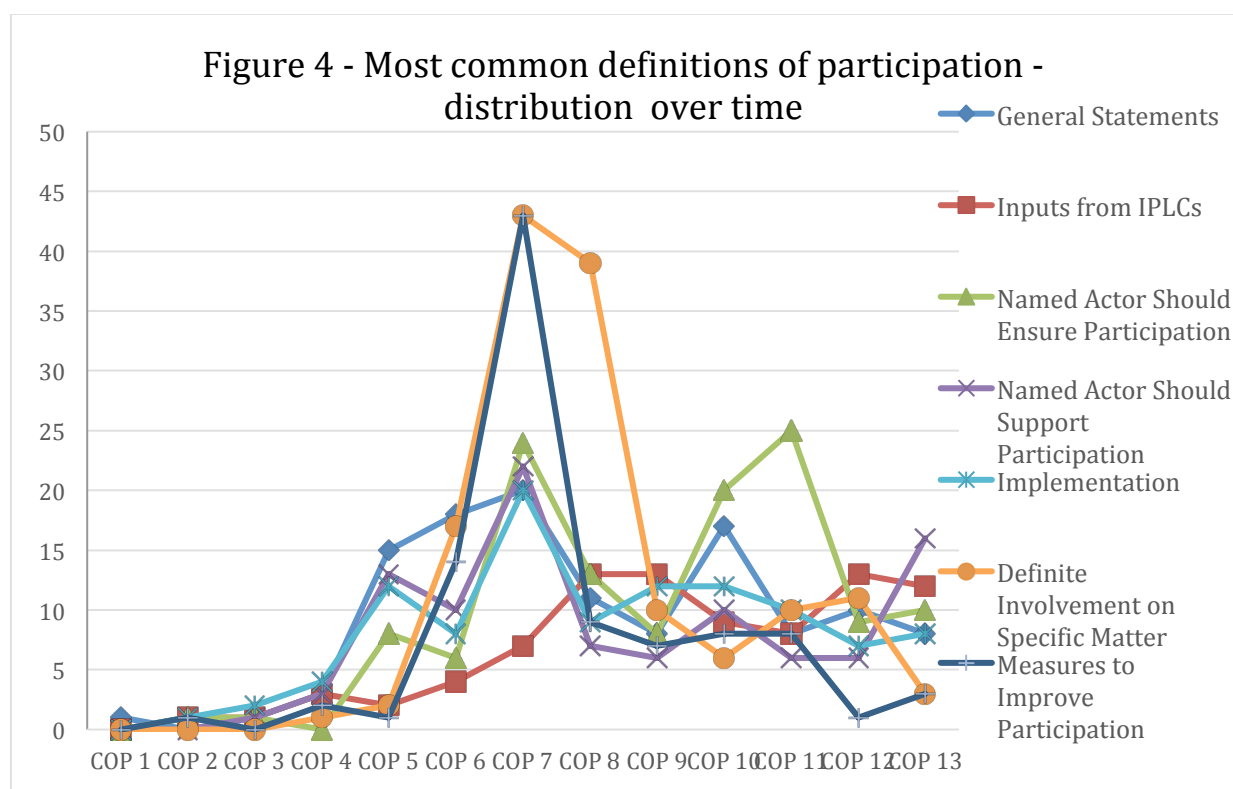
Figure 3 illustrates the levels at which participation is expected to take place. A quarter of the texts do not specify any level for participation – a figure which betrays a level of vagueness about participation beyond our reformulation of the ‘domestic’ category, which accounts for the level of linguistic elasticity needed to account for different national arrangements as discussed above. 28% of the texts identify the international level as the stage for participation, while 35% name the domestic level. A small amount, 1% (13 texts) refer to participation at the local level alone. Generally, local level participation tends to be combined with participation at the domestic and/or international levels. Including these combinations raises the total share of texts placing some participation at the local level to 7%. The reason for this combination of levels where local participation is concerned is likely in the nature of the CBD as a framework Treaty whose Parties are responsible for implementation. The most common combination in the analysis is domestic and international. This refers to texts that call for national authorities to act as bridges to indigenous peoples and local communities as discussed above. Overall, the analysis shows that the CBD has a tendency to place participation at the international and domestic levels, or to make general statements that identify no specific level at all.

Taking a closer look at the category of frames concerning the need for participation and their associated levels, the majority of these frames mention either no specific level at all (35%) or the domestic level (42%). The high number of texts that do not specify where participation should take place makes sense since this category of frames includes ‘general statements’, which indeed account for just under half of the texts where no level is specified. This suggests that the idea of participation being taken as a given does not extend to all national contexts, as a significant number of texts adopt a more persuasive approach by referring to the need for participation on the domestic level (compared to the international level where this seems more established). Considering the category of frames describing mechanisms for participation (the largest category of frames, in red in Figure 1), 37% of these frames refer to participation at the domestic level, another 30% to the international level, and a further 6% combine the domestic and the international. The international and domestic levels thus account for well over half of all the frames that describe mechanisms for participation. What we can draw from this is that the relevant texts not only *remind* parties about the need for participation of indigenous and local representatives, they also make statements about mechanisms for *achieving* that participation, as well as how to channel domestic participation to the international level. The amounts of frames describing mechanisms for participation at

the domestic and international levels are more or less equal, meaning the same amount of attention is paid to participation at these two levels. The local level is again paid the least attention when considered as a discrete category (though local level actions may be subsumed into the domestic level as discussed above), and is implied in a total of around 15% of the frames in various combinations. 18% of the frames have no specified level for participation. In the smaller group of frames discussing power over participation the bulk of the sample is assigned to two frames where named actors *ensure* or *encourage* participation by indigenous peoples and local communities in some specific process. The levels concerned in frames outlining power over participation do not change much in the group as a whole, and are thus discussed with reference to these two frames below. The smallest group of frames about the limits of participation includes 53 texts of which 49 are all qualifiers on participation. It thus makes more sense to focus on this frame alone. Since the qualifier frame is always attributed in combination with at least one other frame, it will be discussed later in conjunction with the content of those frames that most commonly see qualifiers attached.

4.2 Framing participation in the CBD – a closer look

Figure 4 shows the evolution over time in the frequencies of the 7 most common frames that emerged from the analysis. ‘General statements’ is the only diagnostic frame on the need for participation. In the groups of prognostic frames describing mechanisms for participation, ‘Inputs’, ‘implementation’, ‘definite involvement on a specific matter’ and ‘encourage involvement on a specific matter’ appear. For the group of prognostic frames on power over participation we find ‘named actor should support participation’ and ‘named actor should ensure participation’. None of the frames on the limits of the participation appears in the list of the most frequent frames. Generally, the emphasis in the texts of the CBD decisions is therefore on mechanisms for participation and who or what body has power over and/or responsibility for participation, and firmly in the realm of a prognostic approach which suggests general acceptance of participation, and of participation as something that is good.



The only diagnostic frame, ‘general statements’, is mostly populated with declaratory types of texts that fall within paragraph titles within CBD decisions. These headings are by nature formulaic and repetitive, and do not offer any real substantive insight into the meanings of participation beyond the fact that their

number suggests that participation is generally declared as something necessary with regards to indigenous peoples and local communities and the CBD, in line with a civic environmentalist reading. The levels assigned to these texts confirm this interpretation, since 42% do not specify any level at all. Another 38% refer to the domestic level, where it might be expected that the CBD is more likely to use less definitive or prescriptive language about the shape participation should take, given its soft law nature. Stronger diagnostic frames such as 'empower' and 'participation for respect', along with frames about the need for more input from women and youth as well as recognising the expertise of indigenous peoples and local communities have much lower frequencies. This fits in with a general view that emerges from our analysis that the CBD decisions tend not to use more detailed or definitely worded frames about participation to the same extent as more woolly, more conditionally worded and less directive frames. Nevertheless, these less frequent diagnostic frames do furnish some interesting insights. The frame 'participation for respect', for example, is particularly interesting from a social justice perspective in a civic environmentalism approach. Though only found in 30 texts overall, all of these frames occur from COP 6 onwards, suggesting there may be a developing sensibility about the purpose and need for participation in this sense.

The most frequent frame, 'definite involvement on specific matter', assigned where a text states that indigenous peoples and local communities should be involved in decisions on a specific matter, is more informative. The grammar of this frame conveys that participation is something that is definite as opposed to something merely to be encouraged. Furthermore, this frame refers to a specific procedure or other area of decision-making, suggesting a more targeted area where participation must take place. In terms of the areas for participation, texts assigned this frame include those referring the involvement of the CBD's ad hoc working group on Article 8(j) in decision-making, which we know includes representatives of indigenous peoples and local communities. These texts account for 24 out of a total 142, and 8 of them also mention additional areas for participation by indigenous peoples and local communities. Missing from this frame, despite its generally prognostic stance, is a concrete method for participation. Looking at other frames recorded in combination with this one, no clear pattern emerged to suggest further content. The frame is very much concentrated in COPs 7 and 8, dropping in frequency both before and after, suggesting that there may have been a negative reaction from Parties to the level of support accorded to indigenous peoples and local communities. This support became particularly clear in COP 7 and may have led to the CBD being a victim of its own success by provoking a backlash. As discussed below, ongoing negotiations on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) may have contributed to the increase in caution among CBD Parties after COP 7.

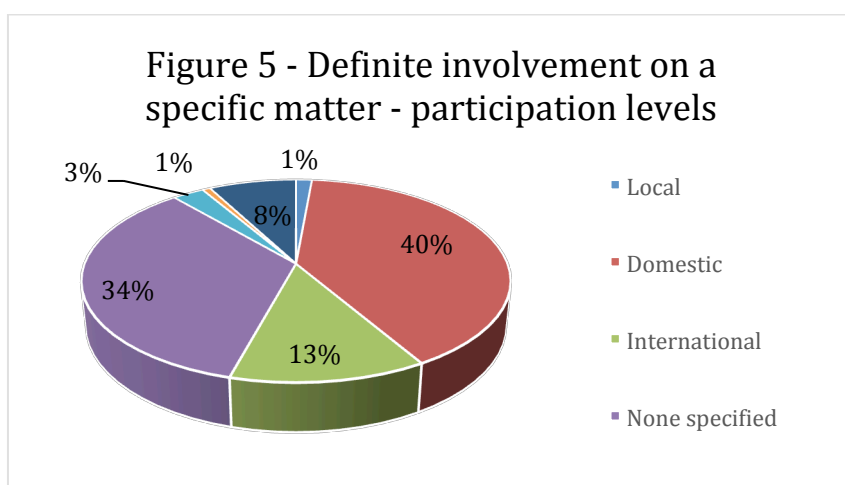
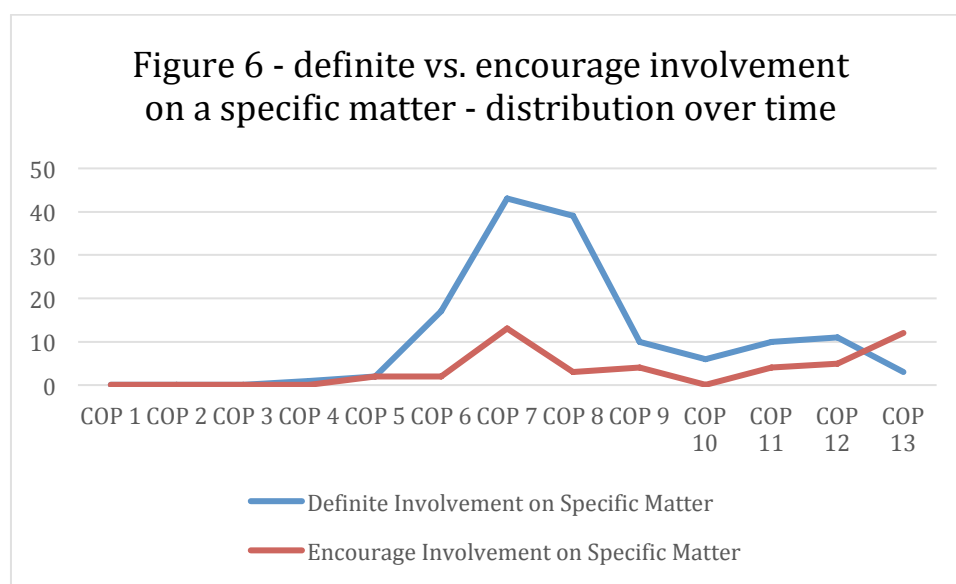


Figure 5 shows the levels at which this definite involvement on a specific matter is to take place. 40% of the texts identify the domestic level, 35% do not specify any particular level, while 13% place participation at the international level. In this last group, which accounts for 18 pieces of text, 7 refer to the ad hoc working group on Article 8(j), showing that some small spaces for international level participation are available outside the 8(j) working group. The large share of frames identifying the domestic level shows the CBD does not shy away from using unconditional language for these contexts.

Although less frequent, it is interesting to compare the frame of 'definite involvement on a specific matter' with its more conditional sister frame, 'encourage involvement on a specific matter'. Figure 6 presents the evolution of these two frames over time.



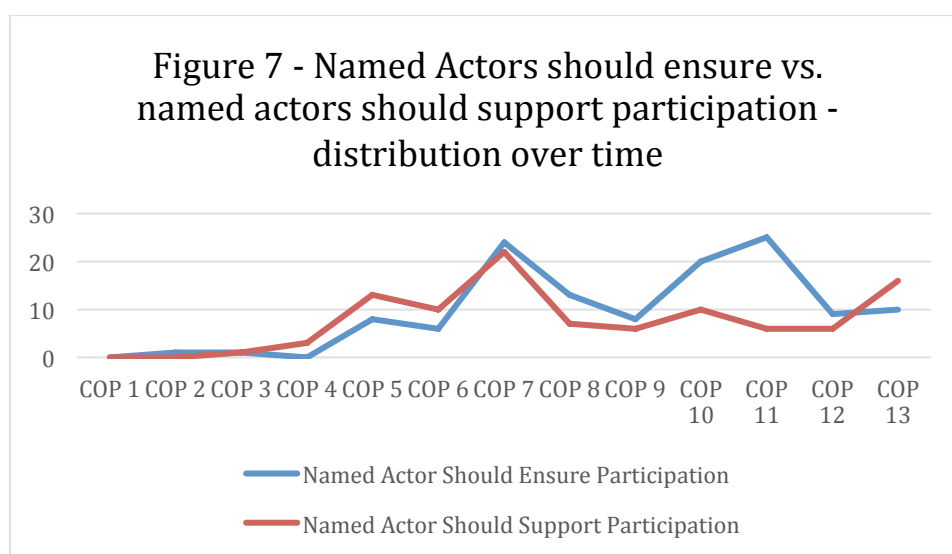
The relationship between these 'sister' frames is interesting for comparing where participation is something seen as *definite* as opposed to something to be *encouraged*. The distinction here may have to do both with stronger vs. weaker commitment, but an added interpretation for the less directive language of 'encourage' participation may also reveal an emphasis on the need to provide support to make use of participation opportunities, as well as recognition of the costs and investment participation requires. From the outset, the more definite version of the frame is much stronger (hence its inclusion among the most frequent frames), and dominates until COP 9, when both frames become much less frequent. In COP 13 a change in positions takes place, with *definite* involvement frames reduced to 3 compared to 12 *encouraging* involvement. What the significance is, if any, of this change in language is debatable. It may be due to several factors: it could indicate a decrease in the use of *instructive* rights-based language at the CBD, which could suggest states shying away from more instructive language in this regard. It could also be due to the spread of this frame to other cross-cutting issues beyond matters related to Art 8(j), as such developments have been found likely to start with softer language (Parks 2018a). This crossover is reproduced with another pair of frames discussed below, hinting at an overarching trend.

'Encourage involvement on specific matters' frames are overwhelmingly placed at the international level (83%). This suggests that the Parties of the CBD prefer gentler language in relation to participation from indigenous peoples and local communities at the international level. This may simply be practical, a reflection on the fact that most participation by these groups is likely to be filtered through domestic processes, or the above-mentioned recognition of the need for supportive action. Alternatively, it may be that there is a conscious move to avoid definite language about direct involvement at the international level by these groups, in line with findings on India, Brazil and Peru by de Chastonay (2018). The actual texts assigned this combination are, for the most part, calls for information directed to indigenous peoples and local communities from international bodies, and the less demanding grammar flows from the fact

that these are invitations, not demands. Nevertheless, the fact that there is no clear place for these groups remains. These types of calls for information are discussed further in relation to the 'inputs' frame.

A final point to consider for these two frames is where they fall in terms of coverage of different cross-cutting issues in the CBD. For the frame 'definite involvement on a specific matter', texts are more or less equally distributed between the traditional knowledge and sustainable use of biodiversity cross-cutting issues, with small numbers elsewhere. In COP 7, texts fall predominantly into the ecosystem restoration issue rather than traditional knowledge, before changing again in COP 8, where traditional knowledge accounts for the majority, then all texts until COP 13. Apart from a presence in the ecosystem restoration issue, the wider finding that discourses on indigenous peoples and local communities are often confined to the traditional knowledge issue is confirmed. For 'encourage involvement on a specific matter', most texts fall into the issue of traditional knowledge until COP 7. After this point a wider range of cross-cutting themes come into play. Tourism emerges as important in COP 7, while identification, monitoring, indicators and assessments takes a considerable share of texts in COP 13 along with ecosystem restoration, technology transfer and cooperation, and various others. The less directive frame reveals more spread to other issues, but also shows that in other issues softer language is more common.

A second pair of 'sister' frames, both of which are among the most common frames emerging from the analysis, add named actors to the picture.¹³ The frames 'Named actor should ensure participation' and 'named actor should support participation' provide an interesting point of comparison for the pair already discussed. Once again, the distinction is between more and less definite language, an actor who must ensure participation, against one who must simply support it in some way – though the same caveat discussed earlier, where another possible interpretation of the apparently weaker frame is that conditional language is used to underpin the provision of much needed support for participation. Figure 7 shows the evolution of their importance over time.



The first noteworthy point about the distribution of the more and less definite or instructive frames over time is that a switch from more to less definite language takes place again in COP 13. Again, this concerns a small number of frames, albeit in a more general context of a reduction in frames about participation, yet this provides more evidence for a move away from more instructive frames. A comparison of figures 6 and 7 also highlights the relative importance of frames that name actors responsible for ensuring or

¹³ 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.

supporting participation. While simple frequency counts suggest that the frame 'definite involvement in a specific matter' is the most important, investigating the distribution of frames over time shows a more constant presence of the 'named actor' frames as opposed to a single moment of importance for the former. This is encouraging in the sense that naming actors responsible in stronger or weaker ways for the participation of indigenous peoples and local communities implies that the same actor could ultimately be held accountable for any failures. This could be argued as a crucial element of the kind of participation envisaged in the civic environmentalism discourse. Without accountability, participation cannot be expected to ensure that different voices and views are respected. Further investigation of the content of the frames tempers this reading somewhat, as it reveals that though actors are named, these provisions do not contain, in most cases, clear details on where or how participation is to take place. If actors are named, but no specific area of participation is provided for, then accountability as a realistic option fades, placing the traditional, vertical approach to governance in the foreground.

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

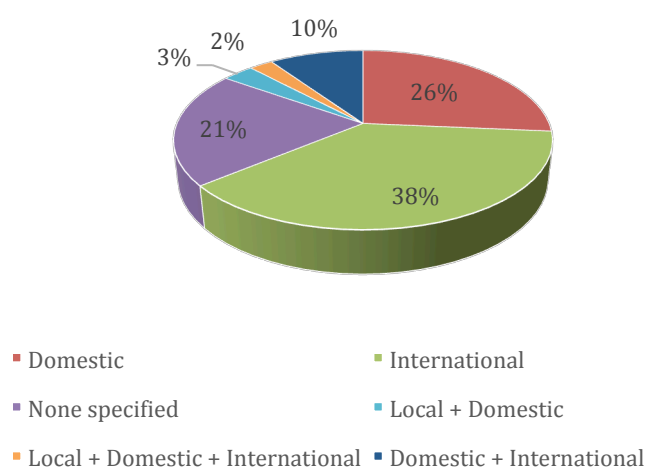
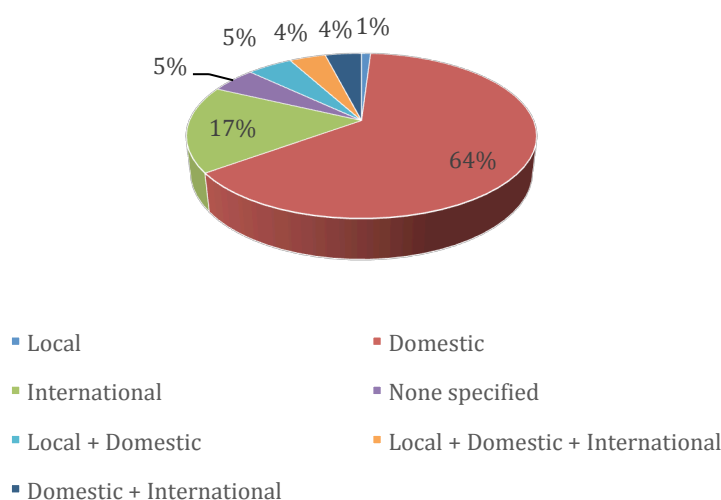


Figure 9 - Named actor should support participation combined with levels of participation



Figures 8 and 9 show levels of participation for the paired descriptions of named actor should ensure / support participation. The picture of the relationship derived from the discussion of definite involvement and support for involvement, which showed a link between more definite language and the domestic level on the one hand, and less definite language and the international level on the other, is now reversed. When an actor is named responsible for participation, the level referred to is international more often than domestic. This complicates the picture painted so far. 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 a greater unwillingness to name actors responsible for *ensuring* (as opposed to *supporting*) participation within national contexts, though again this could be linked to an understanding that domestic actors have more resources to pour into support for participation. When it comes to naming actors and questions of accountability, the Parties to the CBD are thus happier to assign responsibility for participation at the international level compared to the domestic. Taking these two findings together, this suggests that since indigenous peoples and local communities' participation often occurs at the domestic level before passing to the international, CBD decisions are keen to emphasise that domestic participation should take place, but stop short of asking for actors to take direct responsibility, which could indeed be seen as encroaching on national sovereignty. By assigning actors responsibility for ensuring international level participation, however, the COP decisions may (whether they intend to or not) provide the grounds for what Keck and Sikkink name a 'boomerang' mechanism (Keck and Sikkink 1998). By naming an actor as accountable, they provide an international space that indigenous peoples and local communities may use as leverage for their domestic political agendas, a tactic identified in work on the politics of these groups (e.g. Robinson 2015) as well as many others, including government departments.

Other more explicit moves at the international level may also open avenues in this sense. The frame 'indigenous issues body' refers to frames of participation where the CBD mentions an international indigenous issues body as an interlocutor, which fits with the picture of an international level more willing to stand up to scrutiny from indigenous and local actors. This frame does account for a small number of texts – it is coded 28 times, but from COP 3 through to COP 12. 22 of the 28 texts assigned this frame refer to participation at the international level. On a smaller scale, we can also consider the CBD's references to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The discussions of UNDRIP within the CBD were controversial and bound up with the language used to refer to local and indigenous groups. Adopted by the UN General Assembly in 2007, UNDRIP was first discussed in COP 9 the year after. There was no consensus at that point to accept the language of UNDRIP and change references in the CBD to refer to indigenous peoples, but this was finally agreed in COP 12. From that point on, the CBD used the formulation 'indigenous peoples and local communities' rather than the previous 'indigenous and local communities'. However, as mentioned in the introduction, this change in terminology was also accompanied with a statement noting that this would not affect the legal meaning of Article 8(j) and its related provisions, nor change rights or obligations under the Convention. Therefore, although the addition of 'peoples' brings the CBD in line with the language of UNDRIP, the change in terminology is not enough to constitute a significant shift towards the CBD embracing specific rights embodied in human rights law. That said, considering that UNDRIP is a very frequently cited source for indigenous peoples' claims at the international level in bringing their rights into national contexts, it does suggest a move – whether intended as such or as a result of moral pressure – by the CBD Parties to provide space for indigenous and local claims for inclusion. Notwithstanding the explicit attempt at 'de-linking' biodiversity law with international human rights obligations, CBD provisions can still, by virtue of their very wording, give rise to, or confirm the participatory or other rights of indigenous peoples within matters related to biodiversity conservation. Thus, though UNDRIP is only referred to 7 times, the change in terminology to include the formulation 'indigenous peoples' may denote a larger (though perhaps unintended) shift in biodiversity governance towards a more rights-based approach (Tauli-Corpuz et al 2018). This too fits suggestions by Robinson (2015) that the CBD is used by indigenous peoples as an arena they can then draw on to push self-determination goals in various national contexts. Thus, this finding could be read as a move to seek to apply pressure about UNDRIP to force the beginnings of a move towards a logic of

appropriateness or moral position in the CBD (Checkel 2005). This would lead to a semantic expansion that, even if unintended, could be used in national struggles despite the legal construction of the CBD remaining intact.

To complete the discussion on the frames 'named actor should support/ensure participation', we can consider how they fall within the different cross-cutting issues in the CBD. For 'named actor should ensure participation', the majority of texts fall into the cross-cutting theme of traditional knowledge, innovations and practices until COP 7. From that point on, the texts are spread between many more cross-cutting themes, though traditional knowledge, innovations and practices accounts for the largest overall proportion. This changes in COP 11, when ecosystem restoration and identification, monitoring, indicators and assessments account for proportions comparable to traditional knowledge. This recalls the pattern seen for the more conditionally worded frame 'encourage involvement on specific matter' and suggests a wider spread among cross-cutting issues for this frame. The picture changes again for the frame 'named actor should support participation'. Here, the cross-cutting theme of traditional knowledge, innovations and practices remains important, but not as dominant as in the case of the 'sister' frame. This theme accounts for large shares of texts assigned this description until COP 8, though tourism and biodiversity also accounts for a large share of texts in COP 7. From COP 9 onwards, with the exception of COP 11, texts cover a range of cross-cutting themes. The global taxonomy initiative appears as important in COPs 9 to 11, for example, while in COP 12 implementation accounts for the majority of texts, and in COP 13 identification, monitoring, indicators and assessments, along with ecosystem restoration and new and emerging issues together cover the majority of texts together. Overall, the conditional frame here confirms the pattern seen previously, where more definitively worded frames on participation are more confined to the issue of traditional knowledge, and conditionally worded frames are spread across more cross-cutting issues. Moves to open up to indigenous peoples and local communities are, considering the evidence so far, more cautious once exported outside the cross-cutting issue of 'traditional knowledge, innovations, and practices' up until COP 7, where an initial spread in more definitively worded frames towards other cross-cutting issues begins. The evidence on how both this pair of frames on named actors and the previously discussed pair of frames on involvement in specific matters correspond with cross-cutting themes also suggests an explanation for the frequency of conditionally worded frames overtaking that of the definitely worded frames in COP 13. For all, this crossover corresponds with a spread away from issue of traditional knowledge into other cross-cutting issues, providing a reason for an upswing in more cautious wording as ideas of participation settle in new areas.

Thus far we have investigated one prognostic frame on a mechanism for participation that furnishes little detailed information on what form participation might look like apart from the role of the ad hoc working group on article 8(j) (definite involvement on a specific matter as well as its 'sister' frame), and two prognostic frames assigning power over participation to (a wide range of) named actors. Two other prognostic frames in the list of the 7 most frequent provide some more information about the parts of the decision-making process where participation is most sought after. The frames 'Inputs from IPLCS' and 'Implementation' refer respectively to calls for information to be fed into the decision-making process, and to the participation of indigenous peoples and local communities in the implementation of decisions of the CBD once these have been taken. At first glance, this suggests that participation is sought for the purposes of output legitimacy (more stakeholders informing the decision-making process will lead to better decisions that are more widely accepted). This is exactly in line with the view of civic environmentalism, but begs questions about real power transfers to indigenous peoples and local communities.

Looking more closely at the frame 'inputs from IPLCS', the distribution of this frame over time shows that this is a frame that gains in frequency in later COPs. It is the only frame amongst the most frequent that does not show a peak in COP 7. Instead, its frequency remains constant in COPs 8 and 9, then dips somewhat in COPs 10 and 11 before returning to the same frequency in COPs 12 and 13. This suggests that the idea that input legitimacy from indigenous peoples and local communities is not a function of the high point in talk about participation registered in COP 7, but a later trend, perhaps in response to the

vaguer calls for definite involvement and measures to improve participation. The correspondence of the frame of inputs with different cross-cutting issues shows that it is very much confined to the traditional knowledge, with low numbers of frames scattered amongst other issues without ever reaching any noteworthy presence. Despite the confirmation of a 'ghettoization' argument about the participation of indigenous peoples and local communities, the frame remains an important one when considering levels where participation is to take place. Indeed, the 'inputs' frame is one of the main ways for indigenous peoples and local communities to participate on the international level. The vast majority of the texts assigned this frame - 83% - refer to participation at the international level. Another 12% refer to a combination of the domestic and international levels. This combination, as discussed above, suggests that the participation itself occurs on the national level, with the relevant information then shared at the international level. An important difference in power relations may arise here, as the collation and dissemination of information is in the hands of state actors, who choose what information to include and exclude from their reports to the international level. The finding that most inputs are to occur directly at the international level thus appears positive. Yet power can of course also be exerted in the international arena. It is useful to look directly at the texts assigned this frame to gain a deeper understanding of the nature of this form of participation, and provide some points where more work is needed to establish to what extent this enables an empowered approach to participation at the international level. Most of the provisions call on indigenous and local actors to submit information, case studies, views, or perspectives, and to review and provide comments on certain matters and processes related to the Convention¹⁴. While it is not always clear what distinction there is between some of these terms¹⁵, there is clear indication of what is being called for, seemingly placing these groups on an equal footing with State parties in that they are asked to contribute in the same way as opposed to one actor either leading outright, or collating and passing on the inputs. Unsurprisingly, a number of these provisions concern providing views, and relaying experiences about the recovery, promotion and protection of traditional knowledge. Notably, 16 provisions (of a total 86) invite indigenous peoples and local communities to provide views on elements of the international regime, such as a code of ethics, documents before meetings, programme priorities, indicators, draft guidelines, and instruments for achieving their own effective participation. These are significant despite their low numbers, as they provide spaces for indigenous peoples and local communities to make a direct contribution to processes on the international level, including the shape of their own participation.

An important outstanding question about texts asking for inputs from indigenous peoples and local communities at the international level, is the extent to which these calls actually reach these groups. The standard process is that the CBD issues notifications concerning calls for input on its website. Those groups that represent indigenous peoples and local communities and attend and participate in CBD meetings are aware of them. However, what these groups, as well as other actors then do to disseminate calls for input, and to encourage submissions including through providing support or other resources remains unknown. Whilst beyond the scope of this research, this would be an important avenue for the future to understand the real participation opportunities offered by these calls.

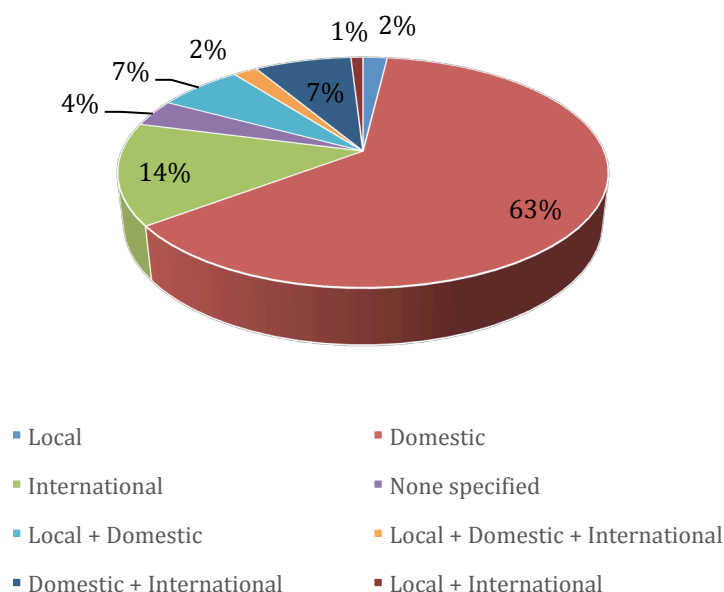
The frame of implementation, which describes the participation of indigenous peoples and local communities at the moment where decisions of the CBD are applied, follows the pattern of a build up to a peak in COP 7, then a reduction to similar levels as those recorded in COP 5. The peak is less marked than the 'definite involvement in specific matter' and 'measures to improve participation' frames, but still represents a jump from 8 frames in COP 6 to 20 in COP 7. Its trajectory resembles that of the frames

¹⁴ For instance related to implementation of the Convention/national action, on trends within decision-making, and the needs and priorities of actors, including IPLCs.

¹⁵ "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.

‘named actors should ensure / support participation’, remaining present in the COP decision texts after a peak in COP 7 albeit at lower frequencies.

Figure 10 - Implementation - participation levels



Turning to look at the levels where participation in implementation is to take place, as might be expected, this is mostly envisaged at the domestic level. CBD decisions are for the most part implemented within states, in line with the preferred soft law approach of the convention (Harrop 2011). In contrast to the frame of ‘inputs’, which suggests a strengthened autonomous role for indigenous peoples and local communities at the international level, the frame ‘implementation’ thus indicates stronger roles for state actors in shaping indigenous peoples and local communities’ participation in implementation. Figure 10 provides further detail. The majority of texts refer to the domestic level alone (63%), a share which rises to 80% if we consider all combinations that include the domestic level. This emphasis is contrasted with 14% of frames which place participation in implementation at the international level. The texts assigned this frame mostly refer to the participation of indigenous peoples and local communities in expert working groups on various aspects of implementation and monitoring. Similarly to other frames, the local level is conspicuous by its absence. Only 2% of frames place implementation at the local level. Though in line with other findings, this is still lower than might be expected for this frame, since some literature suggests that spaces accorded to indigenous peoples and local communities to give locally-adapted shape in the implementation of the CBD is growing, for example through the recognition of community protocols (Bavikatte 2014) and indigenous community conserved areas (Jonas 2017). Yet this analysis suggests spaces for local implementation remain highly constrained, and is confirmed by low frequencies for frames giving even more of a role to indigenous peoples and local communities, such as ‘participatory models’, which only occurs 24 times with the usual peak and COP 7.

A final interesting point to highlight with regards to the frame on implementation, is the fact that this frame has, over time, spread across a number of cross-cutting themes other than traditional knowledge. Indeed, at COP13, participation through implementation was most common in the themes on ‘Communication, Education and Public Awareness’, ‘Technology Transfer and Cooperation’ and ‘Economics, Trade and Incentive Measures’. On the one hand, this is a positive step suggesting some recognition that participation by indigenous peoples and local communities should also occur outside the traditional knowledge debate, and is being streamlined into other areas of environmental governance, opening up opportunities for the inclusion of new perspectives and knowledges within implementation in

these areas. That said, this optimism must be tempered with the findings on the roles of the state as a gatekeeper for this form of participation in most cases.

In sum, the two frames of 'inputs' and 'implementation' do suggest a certain 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 above, a number of the provisions regarding inputs invite reflections and commentary on the nature of the CBD itself, and the decisions being taken under it. Also, a number of the inputs are to be collected and used in the process of decision-making at the international level. In this light, provisions of this nature can be said to enable some participation within international decision-making itself, though of course limited both in that states are the only Parties to the treaty directly responsible for decision-making, and in that these provisions remained within the cross-cutting issues of traditional knowledge for the most part. The frame concerning participation in the implementation of these rules was dependent on national circumstances, and in any case concerns decisions already taken and mostly without participation from indigenous peoples and local communities. The potential of this form of participation is thus entirely dependent on national circumstances, and may be empowering in itself only if truly incorporating local perspectives and knowledges. Overall for a civic environmentalist reading to be confirmed or disproved further research on what is done with inputs is needed.

The final frame in our list of the most frequent descriptions of participation is 'specific measures to improve participation'. Like others discussed earlier, this frame can also be considered in tandem with a 'sister' frame calling on actors to *improve* participation. However, since these two frames belong to different overall groupings (mechanisms and limits of participation respectively), and given the very low frequency of the frame calling for improvements in participation, we limit the discussion to the frame concerning specific measures. As shown in Figure 4, the frame – like others - reaches a clear peak at COP 7 in line with the general peak in talk about participation at this meeting. The peak, and the drops on either side, are steep and comparable to the 'definite involvement on a specific matter' frame. The concentration of this frame is thus firmly rooted in a single moment, COP 7, where 43 of 97 frames are recorded. This indicates that a good deal of talk about participation at this meeting was about identifying, or calling for the identification of, concrete measures to get participation by indigenous peoples and local communities moving. Remaining with an analysis of COP 7 as the clear high point for this frame, 26 of the 43 frames in COP 7 fall within the cross-cutting theme of traditional knowledge, with the remaining half spread across a number of other themes, specifically the sustainable use of biodiversity, invasive alien species, technology transfer, protected areas, ecosystem restoration, and, finally, tourism and biodiversity. This indicates that this high point of talk about specific measures for improving participation moves beyond the area of traditional knowledge, though not to any other cross-cutting theme in particular or to a large extent overall.

Figure 11 - Specific measures to improve participation - participation levels

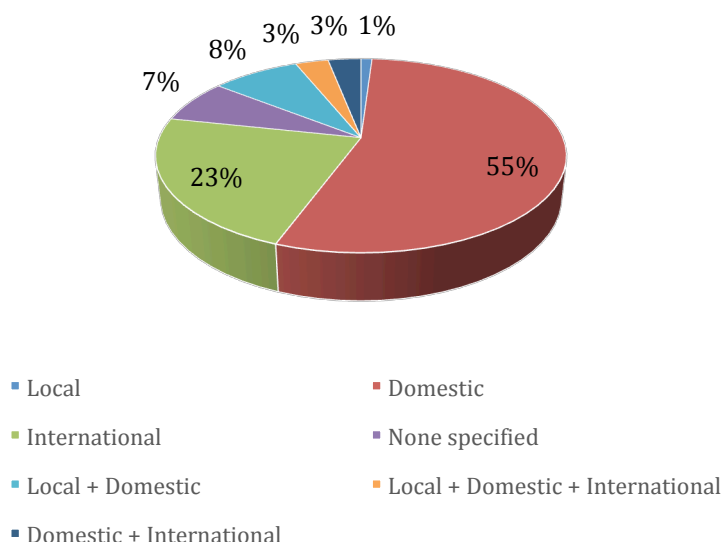


Figure 11 shows the levels for texts assigned the frame 'specific measures to improve participation' for the all COPs. These measures concern the domestic level alone for 55% of the texts, and the international level alone for 23%. Another 3% refer to a combination of domestic and international levels. Further investigation into distribution over time reveals that of the 43 texts falling in COP 7, 31 refer to the domestic level. This finding complements the discussion for the frame 'definite involvement on a specific matter' discussed earlier, which was also found to be more frequently directed at the domestic level. The frame on specific measures to improve participation also identifies the domestic sphere as an arena where action needs to be taken, painting a rosier picture of state parties to the CBD directing one another to take steps towards this goal. Nevertheless, this finding is tempered by the very specific moment that this frame belongs to, a moment that appears to pass quickly with the subsequent reduction in the frequency of this frame.

5 Conclusions – future research agendas

This article presented findings from an inductive analysis of texts drawn from the decisions of the Convention on Biological Diversity (CBD) that mention the participation of indigenous peoples and local communities in some way. If we accept that environmental protection management is driven by discourses that may restrict the incorporation of local perspectives and knowledges not falling in line with the agendas of dominant actors, we must remain attentive to the ways that local stakeholders are invited to participation within the implementation of international rules. The aim of the analysis was therefore to uncover the different meanings, or framings, of participation in terms of general content, position in reference to different cross-cutting issues (and major biomes) in the CBD, and the levels where participation is envisaged to (eventually) take place. The results of the analysis can provide further empirical information about how far the CBD may support the ideas of civic or, on the other hand, radical environmentalism. The discourses of environmental governance identified in the work of Bäckstrand and Lövbrand as characterising recent developments in the international climate change regime (2016) identifies participation by a wide range of stakeholders as key for more effective and fairer policy making in global environmental governance. This view continues to be challenged, however, by more radical environmental discourse, which sees participation as unlikely to involve the real transfer of power to groups including indigenous peoples and local communities necessary to address environmental problems. In this view, institutions of environmental governance like the CBD are the outcome of global

processes rooted in capitalist and colonialist thought which are themselves the cause of the our impending environmental disaster, and are therefore ill-equipped to offer adequate solutions (see e.g. Bavikatte 2014). Those frames considered by us to support the civil environmentalist approach would be diagnostic frames arguing that better decisions will follow if indigenous peoples and local communities participate in decision-making, prognostic frames prescribing unambiguous participatory roles to indigenous peoples with limited control given to gatekeepers (such as state authorities) and attributing clear responsibility to relevant actors for ensuring this kind of participation, and motivational frames encouraging wide participation from these groups.

The principle findings and discussions that emerged from the analysis can be summarised as follows. We grouped the 30 frames of participation found in our analysis into: (1) explanations of the need for participation (diagnostic frames); (2) mechanisms for participation or prescriptions of how participation is to be achieved (prognostic frames); (3) statements about who should be in charge of/have power over participatory processes (prognostic and/or motivational frames)¹⁶; and 4) the limits of participation, which may be diagnostic or prognostic. 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 talks about participation is on how participation should actually take place. Over time, both these groups of frames and all of the most frequent frames bar 'inputs' 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. This contained moment is more in line with a radical environmentalist critique, which sees talk of participation in multilateral environmental agreements as cheap, with no real commitment made for the transfer of power to stakeholders. Nevertheless, 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. 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 the call for participation to be taken seriously. 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 remain gatekeepers for the participation of indigenous peoples and local communities in many 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 emerged from the analysis as much more common, accounting for 80 or more texts each. Amongst these, some provide firmer findings for civic environmentalism than others. The most unambiguous finding relates to the pair of frames 'named actor should ensure/support participation'. Their presence amongst the most frequent frames provides some support for a civic environmentalist reading, 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 over time, and are more evenly spaced out, suggesting a more constant theme and the continued relevance of both frames. With respect to the levels where participation is to take place, the frame 'named actor should ensure participation' is more often associated with the international level, with the conditional version associated with the domestic level. This bolsters support for a civic environmentalist reading at the international level, yet suggests there could be some reticence about defining responsibility for participation in domestic settings. This may simply flow from the character of the CBD as a framework treaty, but nevertheless challenges the outlook for civic environmentalism where the domestic level is concerned – particularly if we consider other scholars findings about a lack of real commitment to participation by

¹⁶ Although no motivational frames were amongst the most common ones discussed in this paper.

indigenous peoples and local communities amongst some Parties to the CBD (de Chastonay 2018). Nevertheless, this frame does open up the possibility that indigenous peoples and local communities may be able to use this international opportunity for participation as leverage for their domestic political agendas, as they already do in other areas (see Robinson 2015). Other frames identified in the analysis in relation to indigenous issues bodies and the CBD's response to UNDRIP provide some cautious support in this line. The named actor frames also suggest some spread away from the traditional knowledge issue, again in support of a civic environmentalist reading. A number of stronger diagnostic frames on empowerment, respect, and participation by indigenous women and youth also emerged from the analysis. Though not particularly frequent, all of these frames appeared only after COP 6, hinting that sensibility about the purpose and need for participation has grown.

Other findings from the analysis suggest an array of possible readings, and in this sense suggest 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'. For both, the more conditionally worded frame becomes more frequent to a small extent in COP 13, hinting at a move away from more directive or strongly worded frames. Further research is needed to see how this trend will evolve over time. Turning to the two frames that account for much of the peak recorded in COP 7, 'definite involvement on a specific matter' and 'specific measures to improve participation' are not unambiguous in their language. This could suggest a lack of support for a civic environmentalist reading, or it could merely reflect the CBD's character as a framework treaty as well as 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 'encourage involvement on a specific matter'. 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. The 'specific measures to improve participation' frame further complicates the picture, as it also refers mostly to the domestic level, but with the implication that state actors are the ones that need to take actions to improve participation. All three of these frames provided some evidence of spread across cross-cutting issues beyond traditional knowledge, though this remains central, suggesting partial support for civic environmentalism in that the value for participation is moving beyond a single issue. These results from the analysis suggest that research is needed on how the Parties to the CBD act to provide for indigenous peoples and local communities' involvement in matters related to the CBD before any real conclusions about the prospects for civic environmentalism can be drawn.

Inputs and implementation form another natural pair amongst the most frequent frames. What these frames mean for a civic environmentalist reading is once again incomplete on the basis of the research presented here. The 'inputs' frame gains ground over time, suggesting it is a more steady trend, yet is very much limited to the traditional knowledge issue. In contrast, the large majority of these frames refer to input at the international level, which suggests there is no gatekeeper role for state actors in the collection and selection of inputs from indigenous peoples and local communities. Nevertheless, the meaning for the civic environmentalist frame will depend on further research about how calls for inputs are diffused. Research is also needed into what happens to the inputs of indigenous peoples and local communities, as support for a civic environmentalist reading of this frame depends on how these inputs feed into decision making. In turn, the significance of the role of indigenous peoples and local communities in implementation also depends on the significance of their participation in the original decisions. Briefly, the frame 'implementation' follows the pattern of a peak in COP 7, albeit to a lesser extent than other frames meaning it remains more constant over time. Unsurprisingly, implementation frames refer mostly to the domestic level, suggesting a possible gatekeeper role for state parties that is confirmed by a correspondingly low number of references to local level implementation. It may be that this supports radical environmentalist critiques, and also 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, avenues for further research are suggested by the analysis, with a focus on how local voices feed into international decision making necessary to a fully informed reading of the significance of local participation in implementation.

Overall, our research paints a complex picture of talk about participation by indigenous peoples and local communities in the CBD. The more we ‘zoom out’ and look at talk about participation as a whole, the more positive the impression in terms of a civic environmentalist reading. More than half of the talk is about mechanisms for participation, with a smaller but meaningful number of supporting frames talking about power and responsibility for participation. A decent proportion of the frames also speak about why participation is needed, and despite a clear concentration of talk at a single moment in time – COP 7 – talk does remain more constant over time if we consider trends for 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, although this is complicated by the relative absence of references to a discreet local level. Even if much local work may be subsumed within the domestic, more specific references to the local level would arguably underpin a stronger positive message for indigenous peoples and local communities. In addition, there is evidence of some spread away from the issue of traditional knowledge and into other areas of the CBD’s work. From a distance, much of this talk of participation seems to favour a civic environmentalist reading where indigenous peoples and local communities have a meaningful role in decision-making. Upon closer inspection, however, this picture becomes more complex and makes clear that more research is needed to draw proper conclusions. With the exception of stronger findings on the frames which name actors responsible for supporting or ensuring participation, the common frames emerging from our analysis suggest a number of different possible interpretations that may support either a civic environmentalist reading or radical environmentalist critique. In particular, the analysis revealed the need for more work on how Parties to the CBD act to support and create mechanisms for participation by indigenous peoples and local communities, and for more work on how information provided by these groups is dealt with at the international level. As is often the way, the devil is in the detail.

In the meantime, though not unambiguous, our research does suggest some steps that could be taken to ensure meaningful participation. First, relevant actors could seek to define mechanisms for participation, and use more directive language, building 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 more information about how these inputs are used in decision-making. This could give more positive scope to participation at the point of implementation.¹⁷

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¹⁷ 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: , accessed 10 October 2018.

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