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# Between nature and culture: Exploring space for indigenous agency in the Convention on Biological Diversity

Elsa Reimerson

[elsa.reimerson@umu.se](mailto:elsa.reimerson@umu.se)

*Department of Political Science, Umeå University, Umeå, Sweden*

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**Abstract** The goals of nature conservation have changed over the last decades, but setting aside areas for nature protection is still a major part of environmental efforts globally. Protected areas often include traditional lands of indigenous peoples, and although indigenous rights have been strengthened through international treaties, conflicts over land entitlement are still common. This paper analyzes indigenous people's role in nature conservation, focusing on the discursive construction of indigenous subject position in the UN Convention on Biological Diversity and using postcolonial theory to situate the discussion in its historical and political context. The paper discusses what subject positions are made available to indigenous people, and what political agency they can be assumed to entail. The analysis shows that limits to indigenous space for agency are embedded in the CBD discourse – the analyzed texts present a narrow recognition of indigenous people's role in the context of the CBD, with a heavy focus on indigenous subjects as holders of traditional knowledge, and a clear influence from colonial notions and postcolonial power relations.

Keywords: conservation; protected areas; CBD; indigenous; discourse; post-colonial

## Introduction

Many indigenous peoples still reside in remote, sparsely inhabited areas, with relatively unspoiled nature rich in natural resources (Stevens 1997a, Allard 2006, p. 15). In many cases, indigenous peoples still rely on natural resources for their livelihood. Furthermore, the very definition and essence of 'indigenous peoples' ties closely to traditional territories and land use (Stevens 1997a, p. 20). The concentration of traditional nature conservation on preserving

and maintaining 'wilderness' in its pristine condition has often led to conflicts between national interests of protection and conservation and local or indigenous utilization of nature and natural resources (cf. Stevens 1997a, Poirier and Ostergren 2002, Riseth 2007). Over the last decades, the arguments and ideologies underpinning nature conservation have changed. The goals of nature conservation are now formulated in terms of 'protecting biodiversity' or 'sustainable development', and often emphasize local participation, but setting aside areas for nature protection is still a major part of environmental efforts globally (Wilshusen *et al.* 2002, Zachrisson 2009).

The increased focus on local participation in natural resource management could make it easier for indigenous communities to influence nature conservation policy locally. The development within international frameworks for environmental policy and nature conservation has also meant increased focus on issues of indigenous peoples' influence over the use of natural resources in their traditional areas, including nature conservation and protected areas (Colchester 2004). Nature conservation can be seen as helpful in safeguarding indigenous traditional lands from other encroachment (Riseth 2007), and there is increasing recognition that the environmental knowledge and land management practices of indigenous peoples can benefit conservation outcomes (Pickerill 2008).

But nature conservation can also be conceived as a threat to indigenous rights, if it restricts indigenous use and management of land and natural resources (Stevens 1997a, Stevens 1997b, Riseth 2007). The material grounds for indigenous culture are protected through international human rights law and have been strengthened through other international conventions and agreements (Anaya 2004), but indigenous peoples' right to land and position in nature conservation is still often contested, and national fulfillment of international commitments does not always come easy or quick (Colchester 2004, O'Faircheallaigh and Corbett 2005, pp. 629-633). The legal prerequisites and conditions for

land tenure do not always correspond well with the way indigenous peoples have made use of land and natural resources (Allard 2006, pp. 271-282), and indigenous peoples often have a weak political position within nation-states (Anaya 2004, p. 110). Strengthening the local level in environmental policy making might not always mean strengthening indigenous rights – local interests and resource uses are not necessarily homogenous, and there are numerous examples of conflicts over natural resources on the local level (cf. Riseth 2007, Zachrisson 2009, Hovik *et al.* 2010). Nature conservation goals often takes precedence over indigenous rights, or indigenous land rights might get recognized only if they correspond with nature conservation goals (Adams 2003, Langton 2003, Heikkilä 2004, Riseth 2007). The increased recognition of indigenous traditional practices might make it easier for indigenous peoples to protect their knowledge and practices, but representing ‘indigenous’ or ‘traditional’ in particular ways also means potentially privileging these representations over others, as well as maintaining stereotyping and homogenizing notions of ‘indigenusness’ or ‘tradition’ (Redford 1991, Agrawal 1995, Conklin and Graham 1995, Conklin 1997).

The aim of this paper is to analyze indigenous people’s role in nature conservation, focusing on the discursive construction of indigenous subjects and using postcolonial theory to situate the discussion in its historical and political context. The paper will analyze the construction of indigenous subject positions in and through the Convention on Biological Diversity, one of the most important international instruments for nature conservation. What subject positions are made available to indigenous peoples, and what political agency they can be assumed to entail?

### **Postcolonial perspectives on nature conservation**

‘Colonialism’ can be defined as ‘the conquest and control of other people’s land and goods’ (Loomba 2005, p. 8). It is not, however, a unified or unambiguous concept – it concerns the

subjugation of one people by another, but the historical and geographical diversity is enormous and colonial experiences differ considerably (Young 2001, pp. 16-17). Although colonial rule in terms of 'direct political control by European powers' (Adams and Mulligan 2003) has been brought to an end in most of the world, there is an ideological legacy of colonialism within nature conservation discourse and policy that to a large extent remains today (Adams 2003, Torgerson 2006). The same can be said for indigenous peoples (Smith 1999). I argue that a postcolonial perspective is necessary to understand and analyze discourses and power relations within nature conservation, especially in relation to indigenous peoples' claims to rights or influence over land use and management on their traditional territories. Postcolonial theory can contribute to the understanding of the discourses on indigenous peoples and nature conservation, as a means of deconstructing prevailing notions of indigenesness and indigenous rights in relation to the environment and the conservation of nature.

The 'postcolonial' can denote a historical condition, emerging after the termination of actual (territorial) colonialism but where the colonial past still serves as the basis for power relations and exploitations. It can also refer to perspectives of power and power relations based on race and ethnicity. In this sense, and drawing on poststructuralist perspectives, it focuses on the relation between power and knowledge, the production of knowledge and agents of knowledge (or knowledgeable subjects), and the 'othering' of non-white, non-European subjects (Said 1978, Young 1991, 2001, Spivak 1999, Loomba 2005).

The use of the prefix post-, with the indication of a terminated (historical) epoch, can be seen as problematic. The inequalities of colonial rule remain to a large extent today, and some even hold that colonialism is not a terminated enterprise, but continues in new forms (Young 1991, Spivak 1999, Loomba 2005, p. 12). The 'postcolonial' has also been criticized for being homogenizing, universalizing, and lacking in historical specificity (Shohat 1992). I

do, however, find ‘the postcolonial’ useful to describe and understand power relations and the effects of the colonial historical experience of both colonizing and colonized peoples, and I will use it as such. ‘The postcolonial’ or ‘postcolonialism’ can be thought of as a ‘contestation of colonial domination and the legacies of colonialism’ (Loomba 2005, p. 16), and as a ‘name that works to produce effects in the organization of knowledge’, bringing subjects into existence (Ahmed 2002, p. 571, n574). These perspectives will guide my use of the concept.

### *Colonized nature, colonized people*

The practice of conserving nature by setting aside areas for protection, thereby limiting human access to those areas and their natural resources, is grounded in ideas about wilderness – untouched, pristine, and uninhabited – which have their roots in colonial notions of nature, humans, and the relation between them. These ideas assume an original state of nature, free of human influence and valuable precisely because of that – and in doing so, tends to ignore any human presence or impact. They are underpinned by a Cartesian dualism between nature and culture, and a belief in the possibility for humans to restructure and re-order nature in order to serve human (or, more specifically, white, Western men’s) needs and desire (Poirier and Ostergren 2002, Adams 2003, Pickerill 2008, Ugglå 2010). The ‘Yellowstone model’, based on the idea of strict protection of uninhabited wilderness, limiting or eliminating all human use other than tourism, has been replicated across the globe, and the wilderness ideal is still present in contemporary definitions of protected areas (Stevens 1997a, Poirier and Ostergren 2002, Adams 2003). Although dominant views of nature have changed – from a wild and dangerous ‘other’ that needed to be tamed, via instrumental views of nature as a resource to be exploited and used, to nature as having intrinsic values and rights to be protected, and perhaps even to a more holistic view of humans as part of nature (Gross 2008, Skoglund and Svensson 2010) – the nature-culture dichotomy remains visible in contemporary

understandings of what management of natural resources and protection of nature and the environment should look like (Uggla 2010).

The concept of 'internal colonialism' has been used to describe exploitations of distinct cultural groups within a country (e.g. indigenous peoples), analogous to the forms of economic and social domination in classical colonialism. Without claiming that the relationships between indigenous peoples and majority populations are identical to the ones between colonizing and colonized peoples within, for example, the British Empire, one might argue that they stem from the same ideological basis of racism, separation and exclusion, homogenizing and stereotyping of 'others', denial of the 'others' history and specificity, and instrumental treatment of 'others' (Blauner 1969, Hind 1984, Plumwood 2003, p. 54-59). Other critical similarities include geographical intrusion and political control of indigenous peoples by nation states, and the undermining of indigenous social and cultural structures and organizations (Blauner 1969). Linda Tuhiwai Smith (1999, p. 7) comments that indigenous peoples have been subjected to 'the colonization of their lands and cultures, and the denial of sovereignty, by a colonizing society that has come to dominate and determine the shape and quality of their lives, even after it has formally pulled out'.

The colonial view of indigenous people portrayed indigenous people as closer to (or part of) nature, and as such backwards, primitive, and inferior. More recent images of indigenous people stress their close relationship to nature in a different way, emphasizing their knowledge and practices as prime examples of sustainable use of natural resources and their important role as stewards of natural resources or biological diversity. It has been argued that such images are stereotypes in line with colonial notions of indigenes (the stereotype of the 'ecologically noble savage'), and perhaps as limiting in terms of possible space for political action (Redford 1991, Conklin and Graham 1995, Conklin 1997, Stevens 1997a, Nadasdy 2005).

Indigenous peoples are, by definition, linked to territories and to a history of colonialism (Anaya 2004, p. 110, Johansson 2008, p. 109). The view of indigenous people in colonial ideology was similar to that of nature. Indigenous peoples, in this view, were not as much people as they were a part of nature (Redford 1991, Adams 2003, Plumwood 2003, p. 52). Indigenous land and resource use, knowledge, and practices have been ignored or suppressed, as they have not been understood to transform the landscape or leave significant marks (Stevens 1997a, Adams 2003, Pickerill 2008). The notion of indigenous lands as untouched wilderness is, however, largely inaccurate. Indigenous peoples have to a great extent altered and modified the environment according to their needs (Redford 1991, Nadasdy 2005).

Indigenous peoples' rights have been strengthened through international human rights legislation, much as a result of indigenous peoples' political mobilization (Anaya 2004, p. 56-58). Indigenous people have articulated a discourse centered on their status as *peoples*, as referred to in the first articles of the United Nations International Covenant on Civil and Political Rights (ICCPR; United Nations 1966a) and International Covenant on Economic, Social and Cultural Rights (ICESCR; United Nations 1966b), thus having a right to self-determination and, accordingly, a collective right to land, water, and natural resources. This discourse has been countered by states wary of the consequences of increased rights of indigenous peoples, stressing instead indigenous peoples' position as ethnic minorities, protected by Article 27 of the ICCPR from oppression regarding their practicing of their culture, language, and religion (Anaya 2004, ch. 3, Johansson 2008, p. 144). During the latter part of the 20<sup>th</sup> century, the attitude of many states has shifted, and the acceptance for more far-reaching rights for indigenous peoples has increased – as demonstrated with the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP 2007) in 2007. However, the actual impact of this shift, and the scope of indigenous rights in principle



and practice, is still debatable and a sensitive issue for many states (Johansson 2008, pp. 144-145).

### **Framework for analysis**

Discourse theory, as formulated by Ernesto Laclau and Chantal Mouffe, starts off with the notion that the meaning of social phenomena can never be finalized or irreversibly fixed (Laclau and Mouffe 1985, pp. 110-111). This opens up for constant social struggles on definitions and meanings of society and societal identities. Social phenomena, or the world as a whole, are given meaning through language – by connecting concrete subjects or objects with specific linguistic signs, defined by their relation and difference to other signs. Such fixations of meaning are both possible and necessary, but always partial and never final or inevitable – they are always challenged, and have to be reproduced in order to maintain their stability (Laclau and Mouffe 1985, p. 112-113). The aim of discourse analysis can be understood as mapping the processes, or struggles, through which meanings are established (Howarth 2000, p. 129, Winther Jørgensen and Phillips 2002, pp. 25-26). This also means critically interrogating the power relations underlying and inherent to these processes.

As language allows for multiple versions of social reality, which version wins legitimacy (or is seen as more meaningful than others) is always a process of power and politics (Howarth and Stavrakakis 2000, Hall 2001, Wetherell 2001). Drawing on Michel Foucault, power can be understood not as working only from top to bottom, or coming from a single source, but as functioning through net-like organizations, circulating, and spread through all levels of social existence (Foucault 1980, p. 98). Power it produces realities and truths, and by doing so excludes other possible descriptions of reality (Foucault 1980, p. 119, Johansson 2008, p. 18). The understandings or notions of an area of politics are both a condition for and a result of its policies, and the space for agency of political actors is both

limited and rendered possible by established notions and understandings (Mörkenstam 1999, Tornhill 2010).

Discourse creates subjects and entails them with certain characteristics. The subject is not an autonomous or sovereign entity, but is decentered, unstable, and changeable (Laclau and Mouffe 1985, p. 115). Discourse also produces subject positions that shape the space of subjects' agency and what identities are possible and/or legitimate for subjects, individually and collectively. An individual's structural position within social, cultural, political, and economic systems is shaped by the forces and institutions of those systems, but it can only be experienced or interpreted through discourse (Smith 1998, pp. 55-59). As described above, discourse guides for example what political claims are seen as meaningful, or possible – but they also govern who can make those claims, and on what grounds (Foucault 2002, pp. 55-61).

Discourses on indigenous rights and nature conservation govern what is possible to say and know about indigenous interests and needs, political claims, culture, and traditions, as well as the purpose of setting aside protected areas, what such protection should mean in terms of restrictions of use, the relationship between indigenous and majority population land use and interests, and so on. The subject positions of indigenous people in nature conservation discourse can be assumed to have an impact on policy design and implementation as well as indigenous people's political agency, the claims they can make, and what influence they are able to exert with regards to land and natural resource management (cf. Conklin and Graham 1995, Conklin 1997, Mörkenstam 1999, Hames 2007, Green 2008, Johansson 2008). The discourses in focus for this paper thus have very real political implications. They are also the effect of political processes and power relations – the subject positions made available to indigenous people can be assumed to be a result of power relations and discursive notions about nature, different groups of humans, and the relationships between them.

### *Analytical tools*

In the discursive struggle over interpretations of reality, the formulation and representation of (collective) problems, and the proposed solutions to them, is central (Mörkenstam 1999, p. 57). Policies articulate and shape problems, and in doing so fixate elements within discourse in accordance with some interpretation of the world (Bacchi 2009, pp. 25-32). The construction of problems shapes subject positions by attributing identities to individuals or groups, thereby also determining their authority as knowledgeable or political actors (Bacchi 2009, pp. 16-17). Conceptions of groups often lie at the base of problem and policy formulations, and notions of group identities explain and legitimize certain solutions to problems. By problematizing and critically interrogating the formulations and representations of problems, the assumptions underlying these representations, and the effects of particular problem formulations, the relationships between and mutual conditionality of policy and constructed group identities can be elucidated and examined (Mörkenstam 1999, pp. 57-58, Bacchi 2009, pp. 2-21).

Subject positions, or identities, can also be understood as discursively constructed through *chains of equivalence*, where signs are sorted and linked together in chains that define how the subject is, and how it is not, in opposition to other chains (Laclau and Mouffe 1985, pp. 127-130, Winther Jørgensen and Phillips 2002, p. 43). People are constituted as groups in much the same way as individual identity is constituted – through a process which makes some possibilities of identification relevant or privileged while others are ignored, and which takes place through the establishment of chains of equivalence. Discursive group formation is a political process, as it excludes alternative identifications and ignores differences within the groups, thereby also excluding other ways in which groups could have been formed (Winther Jørgensen and Phillips 2002, p. 44). Conceptions of groups and concrete political actions

mutually condition each other, as notions of groups are used both to formulate and explain problems and to justify solutions (Mörkenstam 1999, p. 57).

This paper will use these two tools for analysis – problem formulations and chains of equivalence – to investigate the discursive construction of indigenous subjects and subject positions within nature conservation discourse. The analysis also needs to be carried out with respect to how overarching discourses and power relations inform and affect them. Above, I have discussed the colonial discourse still shaping contemporary discourses on both nature conservation and indigenous rights. To sum up, its core features include:

- The concept of nature as separated from culture – or, in other words, the ‘othering’ of nature. Nature, and natural resources, have certain values to humans and can be used to serve human needs. These values can be expressed in terms of economics or conservation, but still hinge on the nature-culture dichotomy.
- The ‘othering’ and subjugation of non-white, non-Western subjects – e.g. indigenous people. Indigenous people are stereotyped and homogenized, be it as backwards and inferior or as ‘ecologically noble savages’.
- The failure to recognize indigenous land use and land rights and the view of indigenous lands is as untouched and wild.
- The reluctance to recognize indigenous people as *peoples*, with rights to self-determination and collective rights to land, water, and natural resources.

### **The Convention on Biological Diversity**

The United Nations Convention on Biological Diversity (CBD) (United Nations 1992) was opened for signature at the 1992 United Nations Conference on Environment and Development in Rio de Janeiro (UNCED; also known as the Rio Summit, Rio Conference or Earth Summit) and entered into force on 29 December 1993 (SCBD n.d.-a). It is a legally

binding treaty, which means the 193 state parties to the convention must implement decisions made by the Conference of the Parties (COP). The CBD has three main objectives: 1) The conservation of biological diversity; 2) The sustainable use of the components of biological diversity; and 3) The fair and equitable sharing of the benefits arising out of the utilization of genetic resources. To conserve biodiversity, parties to the convention commit to conserve genes, species, and ecosystems in their natural surroundings (*in-situ conservation*) by, among other measures, establishing protected areas. The governments of state parties report implementation and progress to the COP (SCBD 2000).

The main provision for issues regarding indigenous peoples in the context of the CBD is Article 8(j) and its related provisions (Articles 10(c), 17.2 and 18.4) (COP-CBD 1996).

Article 8(j) states that:

Each contracting party shall, as far as possible and as appropriate (...)  
Subject to national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.

Indigenous peoples were initially concerned with certain aspects of the CBD – some of which will be discussed below, such as the omission of the word ‘peoples’ after the term ‘indigenous’ and the affirmation of state sovereignty over natural resources (Fourmile 1999, p. 227). Discussions and decisions on Article 8(j) and related provisions have been lobbied intensely by representatives of indigenous peoples and local communities, and indigenous participation in the work under the CBD has increased and led to results in terms of demands and suggestions met by the COP (Oldham 2001-2002). Indigenous representatives attending meetings held under the CBD form a caucus referred to as the International Indigenous Forum

on Biodiversity (IIFB), which was formed at the third COP in 1996 to help coordinate indigenous strategies, provide advice, and influence decisions and interpretations (IIFB n.d.). The fifth COP in 2000 acknowledged the participation of IIFB in advising the COP on the implementation of Article 8(j) and related provisions (COP-CBD 2000).

The CBD has become a major focus for advancing indigenous peoples' environmental claims, and is an important instrument through which indigenous people can seek protection for their natural resources (Posey 1996, Fourmile 1999, Richardson 2001). Although the impact and implementation of the CBD has been subject to critical discussion, it remains one of the main international frameworks for nature conservation legislation and policy (cf. Chandra and Idrisova 2011, Harrop and Pritchard 2011, Morgera and Tsioumani 2011). The position and influence of the CBD makes it an important area of critical study, and its discourse can be assumed to affect nature conservation policy and practice on different levels.

The texts used for this analysis is the text of the CBD regarding indigenous people, with a specific focus on the preamble to the convention and Article 8(j). The text of the convention form the basis of further texts and statements, and can be assumed to represent broad tendencies in the CBD discourse on indigenous rights and nature conservation. Additionally, texts from the website of the Secretariat of the Convention on Biological Diversity (mainly regarding Article 8(j) and the Programme on Traditional Knowledge, Innovations and Practices (SCBD n.d.-c)) have been used to exemplify and clarify the discussion and conclusions.

### ***Problem formulations***

The preamble of the CBD recognizes

(...) the close and traditional dependence of many indigenous and local communities embodying traditional lifestyles on biological resources, and the desirability of sharing equitably benefits arising from the use of traditional knowledge, innovations and

practices relevant to the conservation of biological diversity and the sustainable use of its components,

The first part of the preamble paragraph acknowledges a connection between indigenous peoples and biodiversity and natural resources. Article 10(c) somewhat connects to this recognition, as it regards the protection of customary use of natural resources. However, the convention text focuses mainly on traditional knowledge and indigenous and local communities' role as holders of such knowledge.

There are no explicit definitions of 'traditional knowledge' in the convention text, but on the website of the Secretariat of the Convention on Biological Diversity (SCBD) traditional knowledge is defined as knowledge of indigenous and local communities which has been developed over a longer period of time, is locally specific, orally transmitted and collectively owned, and is of a practical nature (SCBD n.d.-c). This corresponds with commonly accepted definitions of traditional (ecological) knowledge<sup>1</sup>, although the concept is continuously contested, problematized and subjected to critical discussion (cf. Berkes 1993, Agrawal 1995, Berkes *et al.* 2000, Martello 2001).

The second part of the preamble paragraph establishes the importance of equitable sharing of the benefits arising from the use of traditional knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity and its components. Traditional knowledge is ascribed a role as valuable (producing benefits) to those who depend on it in their daily lives, to modern industry and agriculture, and as a

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<sup>1</sup> For example, Berkes, Colding and Folke (2000) define traditional ecological knowledge (TEK) as 'a cumulative body of knowledge, practice, and belief, evolving by adaptive processes and handed down through generations by cultural transmission, about the relationship of living beings (including humans) with one another and with their environment'.

potential significant contributor to sustainable development (SCBD n.d.-c). The SCBD website makes references to indigenous and local communities' contributions to sustainable development based on their sustainable cultivation and use of biological diversity, and on those of their practices that have been proven to 'enhance and promote biodiversity at the local level'. Indigenous and local communities are put forward as role models; their skills and techniques providing 'valuable information to the global community and a useful model for biodiversity policies' (SCBD n.d.-c).

Much of the work on Article 8(j) and related provisions centers on the participation of indigenous and local communities and the equitable sharing of benefits arising from the use and application of traditional knowledge (cf. COP-CBD 2000, SCBD 2004). The SCBD website states that 'indigenous and local communities have a direct interest in the work of the Convention' (SCBD n.d.-c). The text also describes how representatives of indigenous and local communities 'have been invited to participate fully in the working group on traditional knowledge', and refers to actions that have been taken to 'facilitate the participation of indigenous and local communities in meetings held under the Convention' and to 'ensure the effective participation of indigenous and local communities in decision-making and policy-planning'. The first statements could be read as a verification of the connection between indigenous peoples and biodiversity and natural resources, and perhaps also as a positioning of indigenous and local communities as more active parties in relation to the CBD and its objectives. The text refers to *effective* participation, indicating a will to avoid token representations and make actual influence possible. The formulation in Article 8(j), providing for the *approval* and *involvement* of the holders of traditional knowledge also contains notions of active participation and the power to disapprove of and resist the wider application of their knowledge.



The problem formulations of the analyzed text are centered on the connection between indigenous and local communities embodying traditional lifestyles on biological resources, the traditional knowledge, innovations and practices they hold, and the assumed value of such knowledge, innovations and practices. The solution to these problems, as presented in the texts, is to respect, preserve and maintain the traditional knowledge of indigenous and local communities embodying traditional lifestyles, to promote the application of such knowledge, and to ensure equitable sharing of the benefits arising from that utilization. The convention text thus defines the indigenous (and local) subjects that are of interest to, and protected under, the convention as indigenous and local communities living ‘traditionally’ and holding traditional knowledge relevant to the conservation and sustainable use of biological diversity. After initially recognizing the dependency of many indigenous and local communities on biological resources, the convention mainly refers to these subjects as *holders of traditional knowledge* that is assumed to contribute to the convention’s objectives (cf. Mörkenstam 1999, pp. 57-58, Bacchi 2009, pp. 2-9, 16-17).

### ***Chains of equivalence***

The convention text refers to indigenous and local communities ‘embodying traditional lifestyles’ (Preamble and Article 8(j)) and their ‘close and traditional dependence’ on biological resources (Preamble). This could be interpreted to mean that the recognition does not apply to indigenous or local populations as a whole, but is limited to those living ‘traditionally’; and it does not recognize territorial ties other than the dependency on biological resources. Article 8(j) specifies the definition of traditional knowledge protected under the convention as that of ‘indigenous and local communities embodying a traditional lifestyle’ and that which is ‘relevant for the conservation and sustainable use of biological diversity’. Knowledge that meets the criteria of ‘traditionality’, but is not deemed relevant for the conservation and sustainable use of biological diversity, or knowledge that is held by

indigenous and local communities leading a lifestyle that is not ‘traditional’ (enough), cannot be considered to be protected under the convention. It could be argued that this opens up for arbitrary interpretations of what constitutes a ‘traditional lifestyle’, or which knowledge is considered relevant for the purposes of the convention. It could also be taken to mean that indigenous or local communities not holding ‘relevant’ knowledge have no protection under the convention to influence or participate in the conservation of biological diversity or the use of biological resources.

The convention consistently refers to indigenous (and local) *communities*, not *peoples*. This wording was a deliberate choice, following states’ rejection of previous drafts where reference was made to indigenous *peoples* (Woodliffe 1996, pp. 265-266) and is the subject of ongoing debate and critique from indigenous representatives (cf. International Alliance of Indigenous-Tribal peoples of the Tropical Forest & International Work Group for Indigenous Affairs 1996, p. 106, IIFB 2011). The recognition of peoplehood has commonly been an important goal for indigenous peoples’ political mobilizations and struggles (cf. Mörkenstam 2005, Johansson 2008, Ch. 1, 3). With status as a people comes the right to self-determination, and the grounds to claim rights to manage own lands and natural resources – which, in this case, would problematize the states’ sovereign rights over natural resources within the states’ territory (as stated in the preamble of the CBD and affirmed by Article 15.1 of the convention) and possibly mean that indigenous peoples could be entitled to status as parties to the convention.

Throughout the texts, indigenous subjects relevant for the conservation of biological diversity and the sustainable use of its components are discursively positioned as *holders of relevant traditional knowledge*, where such knowledge is defined as *held by indigenous and local communities living traditionally and relevant for the conservation and sustainable use of biodiversity*. The connection between indigenous peoples and nature conservation in the

discourse of the CBD, and the role of indigenous peoples in nature conservation as constructed by the CBD discourse, can thus be understood through a chain equating *indigenous – traditional lifestyles – traditional knowledge – relevant for conservation and sustainable use of biodiversity*. Following this logic, indigenous peoples *not* embodying traditional lifestyles, or *not* holding relevant traditional knowledge, are not relevant (in the role of ‘indigenous’) for the conservation and sustainable use of biodiversity under the CBD. Both ‘traditional lifestyles’ and ‘relevance for biodiversity conservation’ as concepts open up for arbitrary interpretations – they can be considered nodal points within this discourse, and contestations and struggles over their exact meaning could be expected in the implementation of the convention’s provisions (cf. Laclau and Mouffe 1985, pp. 127-130, Mörkenstam 1999, pp. 58-60, Winther Jørgensen and Phillips 2002, pp. 43-44).

### ***A narrow recognition***

The texts present a rather narrow space for political agency for indigenous people regarding the influence over and participation in the management of biological resources. The concept of nature as separated from nature is less apparent, but at least three of the main features of the colonial discourse described above are visible in the analyzed texts, and consequently inform the discursive construction of indigenous subject positions within the context of the CBD.

The recognition of indigenous people’s role in nature conservation borders on the notions inherited from colonial discourse – imagining indigenous people as being ‘closer to nature’, and their knowledge and practices being somehow inherently sustainable or automatically positive for biological diversity conservation. This corresponds to the ‘othering’, stereotyping, and homogenizing of non-white, non-Western subjects within colonial discourse. The explicit focus on *traditionality* (traditional lifestyles, traditional knowledge) throughout the texts resonates notions of indigenusness within colonial

discourse, where ‘traditional’ has been imagined as an opposition to ‘modern’ and interpreted through the eyes of European colonizers. While it could be argued that the focus on the positive contributions of indigenous traditional knowledge to the conservation of biological diversity may allow indigenous people certain leverage in nature conservation policy and management, and a possible role as important contributors to the conservation of biological diversity, the use of stereotypes still makes for considerable constraints of the space for political agency for indigenous people (cf. Conklin and Graham 1995, Conklin 1997, Nadasdy 2005).

The inclusion of indigenous subjects seems to be based mainly on the possible contributions they can make to the objectives of the convention and the work of the state parties to the convention, not on their possible rights as peoples to self-determination and collective rights to land, water, and natural resources, or as possible parties in their own right. The focus on state’s sovereignty over their biological resources indicates a failure to recognize indigenous land use and rights. Measures have been taken to facilitate the participation of indigenous and local communities in the work of the CBD, such as the acknowledgement of IIFB as an advisory body to the COP on the implementation of Article 8(j) and related provisions (COP-CBD 2000) and initiatives of financial and logistical support to enable indigenous and local communities to attend meetings (SCBD n.d.-b). However, indigenous representatives still point to important goals and targets not being met, and call for greater influence of indigenous peoples in the decision-making process of the CBD as well as for full recognition of their rights to land, territories and resources (cf. IIFB 2008, IIFB 2010, IIFB 2011).

Article 8(j) provides some protection of indigenous subjects as holders of traditional knowledge, but it is conditioned by the first sentence of Article 8 (‘Each Contracting Party shall, **as far as possible and as appropriate**’ [emphasis added]) and by the first part of

section (j) ('Subject to its national legislation...'). The reluctance to recognize indigenous peoples as *peoples* is evident in the choice to omit the word 'peoples' in any reference to indigenous subjects, and in the failure to distinguish between indigenous and non-indigenous local communities. Recognition of peoplehood continues to be among the most important goals of indigenous peoples' struggles in the context of the CBD, and the IIFB has repeatedly expressed their concern and disappointment over the current terminology and policy (cf. IIFB 2008, IIFB 2010, IIFB 2011).

### **Conclusions**

The CBD is one of the most central international agreements concerning nature conservation, and its discourse can be assumed to influence indigenous space for agency not only on a global level but also nationally, as states implement the convention, and locally, as the convention emphasizes local participation. The convention's provisions are of great importance for global environmental governance – but the CBD runs the risk of conserving colonial power structures along with biodiversity.

This paper set out to discuss the role of indigenous people in nature conservation, analyzing the discursive construction of indigenous subject positions within the context of the CBD. The analysis shows that the discursive construction of indigenous subject positions within the CBD can be considered to include colonial notions and power relations, and that such constructions may affect the space for agency of indigenous peoples within the context of the CBD. There is considerable space for arbitrary interpretations of central concepts in the provisions relevant to indigenous peoples. As experiences of colonialism and postcolonial power relations influence these interpretations, less powerful groups or subjects are left with a limited space for agency, unable to present their 'truth' as legitimate or valid.

As discussed above, concerns about indigenous people's role in and influence in nature conservation have been raised before, and the CBD has also been criticized from this

perspective – not least by indigenous representatives and activists. The results of this analysis confirm these concerns, and show that the limits to indigenous people’s space for agency are embedded in the discourse of the CBD. The results also confirm the need for further critical scrutiny, both of the CBD and of nature conservation policy in general on international, national and local levels. The postcolonial perspective situates the critique in a wider discursive context and links it to issues and struggles beyond the conservation of biodiversity or the protection of traditional knowledge, thereby allowing for a more progressive discussion on indigenous people’s roles and rights in relation to issues of land, resources, and the conservation of nature.

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