Spaces for the commons? A discourse analysis of the decisions of the Convention on Biological Diversity

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*** Work in progress ***

Introduction

This paper comes to questions of the commons via the literature on political ecology, and an interest in global environmental governance. Political ecology, and indeed other critical literature on global environmental governance, often discusses and shows the different ways in which dominant or hegemonic discourse shape decision-making, defining what are considered sensible or even possible policy choices. Discourses that shape global environmental governance are argued to be rooted in a particular dominant worldview, stemming notably from a capitalist view of value: this, it is argued, precludes discursive spaces for approaches to protecting 'the environment' that are rooted in other types of worldviews, where understandings closer to commons views exist. The aim of the paper is to look more closely at the discursive structure of one arena of global environmental governance – the Convention on Biological Diversity (CBD) - in order to see whether there is any discursive space for other worldviews and thus other approaches, or whether the assessments advanced in much literature drawing more pessimistic conclusions are correct. The intention is to link the local – since commons approaches are locally based – to the global, and to see how fare local voices might find spaces in global arenas. This is done through a discourse analysis of the texts of all of the decisions taken by the CBD since its beginnings and including the most recent meetings held in late 2016.

The CBD entered into force in late 1993. With 193 signatories, it is one of the most widely subscribed global environmental governance instruments. Its aims are 'the promotion of 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' (Convention on Biological Diversity). These aims mean that the CBD is a clear choice for an analysis seeking to uncover discursive spaces for local level voices. Decisions taken to implement conservation, sustainable use, and benefit-sharing have led some scholars to argue that this global arena hosts spaces that allow for the recognition and valorization of different ways of organizing the use and care of natural resources. In particular Bavikatte (2014) has written about the recognition of community protocols in the Nagoya protocol on access and benefit-sharing of the CBD (Nagoya), and argues that this recognition in the area of traditional knowledge and bioprospecting has opened a space for local voices that

will increase. Community protocols are documents (written or otherwise recorded) developed by communities (as they wish to define themselves) to record what information they feel should be known by any external actor wishing to engage with them. They may outline the ways in which communities engage with natural resources and the environment including commons arrangements, customary law and institutions, worldviews and ideas of what constitutes 'development', lay down instructions on how the community be consulted, detail what the community seeks as benefit in any agreement that might be reached, or any other information considered important by the community in question. In this sense, community protocols may refer to, but are not the same as, customary law – making their recognition by states party to the CBD politically easier. To furnish an example, the Kukula Traditional Health Practitioners Association of Bushbuckridge, South Africa, developed a community protocol to govern the use of their valuable traditional knowledge of medicinal plant properties thus creating a knowledge commons (though some knowledge remains secret by custom) (Sibuye et al 2012). Community protocols, as recognized in Nagoya, therefore open up the potential for a bridge for local voices into the power-laden discursive arena of the CBD. This may take place so long as they have been developed in inclusive ways at the local level with attention taken to deliberate and come to collective decisions (Parks 2016). Nevertheless, if community protocols, or other expressions of local voices, are to address power structures outside local spaces, there is a need to investigate more fully the discursive spaces available to them. This investigation of the CBD – understood by some as the most open forum for global environmental governance to indigenous peoples and local communities (Affolder 2017, Reimerson 2013) – forms a starting point.

The investigation will try to give both a broader and a more finely detailed view of the discursive shape of the CBD insofar as is relevant for local communities as environmental stewards. Of the more hopeful existing analyses mentioned thus far are based more specifically on the recognition of community protocols in Nagoya (Bavikatte 2014) and the text of the Treaty (Reimerson 2013). Other scholars do not share a more optimistic view of the CBD, but here again the focus is on a particular Conference of the Parties (COP) rather than over time. Legal scholars have shown that, in line with a constructivist view of the law, COP decisions have been used to extent the scope of the original CBD treaty and move forward with innovative interpretations (Morgera and Tsioumani 2011). Therefore, an analysis of the evolution of the discursive space accorded to local voices in the decisions produced by the CBD treaty body will be informative as to the potential for community protocols – and local voices more generally - to be recognized and bolstered by global arenas. Although the immediate interlocutors for local communities are local, regional and national authorities, appeals to the global level can be of much use, allowing references to internationally agreed norms to act as leverage at lower territorial levels (Keck and Sikkink 1997). An analysis of the CBD COP decisions also adds to the existing literature by providing a longitudinal view covering the period from both before and after the recognition of community protocols that formed the basis for optimistic views and by moving beyond the strict text of the treaty to its dynamic interpretation. Such an analysis also leaves scope to look past often fraught

and politically charged negotiations to the texts adopted. This means that rather than focusing on the politics of negotiation, the different possibilities for the interpretation of those texts underlined (which may not have been foreseen by those involved in drafting) can be explored.

The paper proceeds as follows. Since the discourse analysis is based on discourse categories derived from the existing literature, the next section presents a brief and non-exhaustive review of the broad field of work on local communities and global environmental governance, including work from socio-legal studies, environmental politics and sociology, and political ecology. This yields a fairly clear view of the powerful discourses that are generally seen to shape global environmental governance and undermine the possibility for commons and other non-capitalist approaches. The following section outlines the methodology used for the discourse analysis, including a discussion of the strengths and limits of the approach. The results of the analysis are then presented and discussed. The paper concludes with a summary of findings and some first thoughts about what they might mean for spaces for commons and other local community approaches in international arenas.

Literature review

Political ecology refers to a broad and multi-disciplinary body of work much influenced by studies on the commons (Robbins 2004) that seeks to understand the ways in which people and societies interact with natural resources. Natural resources, like other social relations, are understood as embedded within fundamentally political, power-laden discourses. The discourses surrounding processes of nature conservation thus exclude some ideas and explanations as a result of promoting others. These dominant discourses can often be read in political economy explanations of practices of the social relations of production with an emphasis on access and control over resources (Svarstad 2004, Ribot and Peluso 2003). The focus of political ecology literature in the field of biodiversity is therefore on the production and power of dominant discourses, and the asymmetrical relations between dominant and minor discourses.

The dominant discourses identified as forming the basis of constraints on environmental governance in much work on political ecology are colonialism and capitalism. In an early consideration of the CBD's obligations regarding bioprospecting, for example, Mulligan (1999) describes rules as firmly rooted in a colonial discourse where raw materials from the global South are acquired for processing into expensive products in the global North. Adger et al (2001) also touch on the continued importance of colonial views in their analysis of the CBD's work on bioprospecting as a 'win-win' discourse, partnered by a dominant opposition discourse around 'biopiracy'. Their work also evidences the close link between colonialist discourses and capitalist discourses, often used interchangeably since colonial expansion was driven by the will to further enrich metropoles. Bioprospecting is traced to colonial searches for useful plants and a contemporary rise of European botanic and zoological gardens, with the export of plant material underpinning colonial and economic expansion and continuing in the North-South exchange described above. The similarities between colonial and capitalist discourses

are also discussed in work on the 'valorisation of nature', that is the idea fundamental to the green economy of placing a monetary value on environmental resources. Wilkinson (2014) explores payments for ecosystem services through an eco-feminist framework, and finds that the underlying problem of attaching economic worth to 'nature' is that resulting schemes are underpinned by a discourse that threatens the way of life or system that produced the 'good' (such as sustainable forest use or the production of useful traditional knowledge) sought in the first place[1]. Work on bioprospecting also provides evidence about the increased worth attached to western science, where traditional knowledge underpinning products developed by western scientists goes unacknowledged.

Literature on global policies also underlines problems related with external imposition, specifically the difficulties of addressing local specificities. This issue of externally imposed solutions is similarly taken up in work focusing on the local level. Vermeylen (2007), for example, looks at issues arising following the conclusion of a benefit-sharing agreement on Hoodia and dispersed San communities (2007). The creation of institutions that did not reflect the breadth of this international community caused various issues, not least the ineffective communication of information about the agreement throughout the group. Literature focusing on experiences of community-based natural resource management echoes these more specific findings across a range of national cases. The link to colonial discourses is again made clear, as models of 'fortress' natural resource management are linked to colonialists equating indigenous peoples with 'wild' nature and thus removing their agency in shaping landscapes to justify their removal (e.g. Jones 2006). Poor policy decisions are tied to this external imposition: though fortress conservation models have increasingly given way to participatory approaches, their origins in this discourse can translate into, for example, corruption and a lack of real power transfer (ibid). Bixler et al (2015) also provide recent comparative examples of difficulties in local level benefit-sharing and conservation schemes linked to power and capacity asymmetries silencing minority voices. The findings from work at the local level thus underline the various problems emanating from solutions imposed by external actors with colonial/capitalist understandings of the world that do not take sufficient account of local specificities, including power structures.

Also pertinent is work considering spaces for local and/or indigenous voices at the global level. Reimerson (2013) considers the echoes of a colonial discourse in the CBD in this line. She argues that the text of the CBD perpetuates some colonial discourses that limit the scope of local and indigenous groups to draw on the treaty in order to protect themselves from threats, particularly to their lands. She notes a particular element of colonial discourse linked to the 'othering' of local communities and indigenous peoples to be present in the CBD. Colonial forces not only 'othered' nature, allowing nature to be defined as wilderness to be tamed, but also 'othered' residents, denying their agency also in terms of shaping lands and waters (as also noted above). Colonial discourse also includes, therefore, a 'nature-culture dichotomy' linked to the distinction made between nature and the role of man in its

[1] Another example here would be intellectual property law, which raises similar questions around the destabilization of systems based on different legal concepts of ownership (e.g. Posey 2004, Tsioumani et al 2016).

management.[2] Although she deems this discourse to be 'less apparent' in the CBD, leaving room, albeit narrow, for the agency of local communities and indigenous peoples (ibid: 1005), the nature-culture divide as a consequence of underlying capitalist-colonial discourses shaping legal and policy is another common theme in the literature. Broad observations about the consequences of the definition of what is 'natural' and how this is understood as separate from 'culture' are advanced by Uggla (2009). The CBD is argued to be unique in its recognition of the intrinsic value of biodiversity and the various meanings of nature[3], and thus seen to allow holistic approaches combining environmental protection with human rights to proceed more easily.

The idea that the CBD allows spaces for other worldviews that are not characterized by a 'nature/culture divide' to be expressed is also echoed by other scholars (including Escobar 1998 with reference to Article 8(j) and Reimerson 2013). Jonas et al (2010) and Bavikatte (2014) discuss this in detail, and link this possibility to community protocols. Local and indigenous communities must contend with bodies of law that reify hegemonic, capitalist discourses, and produce and place Lockean conceptions of private property at the centre of legal regimes. Nevertheless, progress against this dominant discourse has been made, with the most prominent examples lying in the achievements of the representatives of local communities and indigenous peoples in the negotiation of Nagoya. The latter, Bavikatte argues, creates a space for a wider interpretation of property, and is thus a concrete challenge to the practices arising from hegemonic discourses (2014). This was achieved through the recognition of community protocols as a means of allowing the recognition of different property regimes based, in turn, on different understandings of the world lying outside the nature/culture dichotomy. Community protocols are seen as an opportunity that 'empowers communities to challenge the fragmentary nature of state law, and instead to engage with if from a more nuanced and integrated perspective' (ibid 2014: 234). Yet other scholars dispute this more positive view of the CBD as an arena: Marion Suiseeya's (2014) work, based on a collective ethnography at the negotiations for Nagoya, suggests that they were dominated by debates over instruments, which severely limited space for negotiating fundamental meanings of nature and culture. Brand and Vadrot (2013) argue that 'epistemic selectivities' in the CBD impose limitations about which arguments are admissible, excluding, for example, traditional knowledge outside the requirements of Nagoya.

This brief overview of the literature can be condensed into a number of clear themes. The acknowledgement of the power of discourse is a common trait, where dominant discourses are seen to exercise power by shaping worldviews and thus the limits of what may be considered rational solutions to environmental problems. The dominant discourses identified are rooted in capitalism and colonialism. According to this reading, colonial powers in the global North exploited the raw materials of the global South for capitalist gain, exalting the role of western science and denying the part played by traditional knowledge. These relations are perpetuated in the present in solutions proposed for global environmental problems, which are top down, favour

[2] Ibid, at 995. A similar dichotomy is also implied or discussed in the other literature discussed here. Given the colonial roots of the discourse, 'man' as opposed to 'humans' is appropriate.

[3] The first paragraph of the preamble to the CBD states that Parties are conscious 'of the intrinsic value of biological diversity and the ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values of biological diversity and its components.'

western actors and seek to assign economic value to environmental goods. The latter demonstrates another consequence of capitalist discourse, an understanding that 'nature' or 'the environment' and 'society' or 'culture' are dichotomous. This dichotomous perspective is not present in the worldviews of many of the indigenous peoples and local communities who have, in addition to their traditional knowledge, been recognised as key to environmental protection and conservation (Vermeylen 2017). Because of this mismatch, current policies are argued to threaten the societal systems that produce the goods they aim to protect. Some scholars see the CBD as hosting spaces for resistance, and community protocols as allowing a direct challenge from the local level (e.g. Bavikatte 2014). This is to some extent confirmed in literature on community based natural resource management (e.g. Nelson 2010), if and when effective power is accorded to local levels in inclusive ways. Others challenge this view, seeing little effective space in the global arena of the CBD albeit without referring to local levels (e.g. Marion Suiseeya 2014).

Methodology – analyzing the discourses of CBD decisions

The methodology for the discourse analysis that forms the central focus of this paper flows from this literature. Discourse is considered as central to the way global institutions exercise power over the formation of policy: it shapes both in more obvious and direct ways, as well as delimiting the thresholds of what is deemed sensible and possible (Lukes 2004). The decisions of the Conferences of the Parties (COP decisions) are selected as the most thorough resource for uncovering the discursive structure of the CBD. While work analyzing the discursive meaning of the text of the CBD treat exists (e.g. Reimerson 2013), COP decisions can be argued to form the fine detail of the treaty, and move the CBD beyond its treaty text to be implemented in a dynamic way. Thus, looking at COP decisions allows an overview of how the CBD's discursive landscape has evolved over time. The analysis covers all 13 COPs held since the beginning of the CBD (dates available in table 1).

As the literature is characterized by clear consensus about the general qualities of discourses underlying global environmental governance – notwithstanding some disagreement about how far spaces for different discourses are hosted by the CBD – the discourse analysis proceeds by coding the COP decisions deductively on the basis of pre-defined categories. Opposite categories for the discourses suggested by the existing literature are constructed to test whether there is indeed any discursive space for non-dominant discourses within the CBD. The categories suggested by the literature, and the opposites generated (also with reference to literature with a more optimistic view of the CBD arena) are as follows:

1. **Exclusion** of indigenous peoples and local communities (IPLCs) and **Participation** of (IPLCs).4 These categories flow from work that highlights

[4] The reason for this terminology is that it is used by the CBD – although this body took some time to be persuaded to use the term 'indigenous peoples'. For ease of reference in the analysis, this language is therefore reproduced here.

problems flowing from the denial of agency and the exclusion of certain groups in a colonial view.

2. Also related to exclusion/participation discourses, more proactive discourses around **Internal (or own) Initiatives** and **External Imposition** are coded. These codes flow from the work on community protocols in particular, where the growth of recognition for methods developed and undertaken by IPLCs is noted. This is distinct from participation either in discussions or the implementation of policies decided outside communities. The external imposition code reflects the latter – where communities are seen as passive as passive recipients of policies or programmes.
3. A central role for Modern/Western science vs. the recognition of the importance and role of **traditional knowledge**, customary sustainable use, and other comparable local community practices in support of biodiversity. These coding categories flow from the work around colonialism and bioprospecting, particularly relevant to the CBD as this falls within its remit.
4. **Capitalist/Market** reasoning vs. **Valorization of other worldviews**. These codes attempt to capture both the fundamental claim in much of the literature that capitalism, understood in conjunction with colonialism, underpins global environmental governance by placing price tags on nature and favouring private property regimes as exclusive access. This also has the effect of splitting nature and culture. The opposite category attempts to capture any evidence of discourse acknowledging worldviews that are not based on such a dichotomy, for example expressions of the intrinsic worth of nature, commons approaches, and other expressions giving value to or recognition of the validity of other worldviews).

Given the amount of text the analysis deals with, keyword searches were conducted to narrow down the text to be coded to only those parts of COP decisions that are relevant to IPLCs. The keywords were chosen in consultation with international legal experts well versed in the history and terminology adopted by the CBD, and added to throughout the discourse analysis process where certain terms were seen to be linked to the area of interest. The resulting keywords were: local; indigenous; traditional; customary; community protocol; dependent; biocultural; community based; non-market; and mother earth. All repetitions gathered as a result of overlapping from the keyword searches were removed. The paragraph or sub-paragraph (depending on length) containing the keyword was then recorded. Any irrelevant pieces of text were removed as coding progressed. The keyword search yielded a total (after removal of repetitions and irrelevant lines) of 2150 pieces of text for analysis. The distribution of the pieces of text is recorded in Table 1 in the next section.

To facilitate the analysis, Excel was used to record the pieces of text along with the number of the COP, the year it was held, the presence of keywords, the title of the section the text was found in and the cross-cutting theme the text related to. The

latter is particularly interesting in terms of tracing the shape of the discursive field, since most of relevant decisions emanate from a single cross-cutting theme: Traditional Knowledge, Innovations and Practices - Article 8(j). Recording correlations with cross-cutting themes allows an analysis of how discourses in the CBD have spread from this theme to other areas of the Convention in addition to recording the shape and quality of the discursive arena more generally.

To code the pieces of text, a coding guide was first developed to ensure consistency. The coding guide provided detailed explanations of when to code the different discourses, which may of course occur in various combinations in one piece of text. Inter-reliability tests were then performed on randomly generated text lines from a variety of COPs by the two coders carrying out the analysis until a satisfactory level of consistency was achieved. Nevertheless, the inter-reliability tests showed that the two coders tended to diverge on particular codes. It was therefore decided that whenever a coder felt it possible that one of these codes should be recorded that the two coders should discuss. In addition, whenever a coder felt at all unsure about how to code a piece of text, this was discussed and a mutual decision reached. As the coding progressed, the coders held regular meetings that allowed further guidance on coding to be developed and mutual coding decisions to be reached. These procedures address the inherent weakness of discourse analysis: researcher subjectivity. Although such subjectivity cannot be entirely avoided, the development of clear rules for coding, the involvement of more than one coder, and the mutual decision-making for more challenging codes goes some way to address the problem.

The strength of this type of discourse analysis is in the breadth of the exercise compared to existing discursive work on the CBD: it covers all pieces of text of relevance to the question of spaces for local community approaches to environmental governance, across the entire lifespan of the CBD to date. In addition, different combinations of discourse codes can quickly and simply illustrate complex positions taking form within the CBD arena. For example, where modern/western science and the recognition of traditional knowledge are coded, this can be taken as evidence for the development of some dialogue or mutual recognition between two discourses. By drawing discourse codes from the wide literature around global environmental governance and local communities, the analysis also provides a very different picture to accounts rooted in legal and socio-legal literature, concentrating on the underlying politics that shapes decisions in this arena. However, some limitations are clear. These are related to researcher subjectivity as discussed above, but also to the deductive approach. By drawing pre-defined codes from the literature, the analysis is necessarily limited to testing these, and may be argued to miss underlying discourses that have not yet been suggested by the literature (or are discussed in literature not covered here). This limitation is undeniable, yet given the large amount of work converging around arguments on these codes, the worth of the exercise is still clear. In the future, some inductive coding will be carried out to get a more precise idea of the exact content of discourses surrounding ideas of participation to further strengthen the analysis in this direction.

Results & discussion

This section will present the findings uncovered by the discourse analysis of CBD COP decisions, and discuss their potential meaning for local community voices in this international arena. Before illustrating and discussing the meaning of the results of the discourse analysis, however, it is important to note the distribution of pieces of text across the COPs analyzed (Table 1) since these explain in turn the distribution of discourse codes to some extent. The distribution of the texts of relevance to the analysis starts slowly, with a significant peak in COP 7, followed by a return to levels similar to COPs 5 and 6 thereafter. COP 7, held in 2004, most likely forms a peak in terms of texts of relevance to indigenous peoples and local communities because of the adoption of the Akwé: Kon Guidelines for cultural, environmental and social impact assessments and the Addis Ababa Principles and Guidelines for sustainable use. This COP has been argued to stand out as the pinnacle of work around Article 8(j) and rights-based language in the CBD.

Table 1: Distribution of texts across COPs (text sections coded)

COP Year	1 1994	2 1995	3 1996	4 1998	5 2000	6 2002	7 2004	8 2006	9 2008	10 2010	11 2012	12 2014	13 2016
Text lines	5	17	36	53	144	257	499	238	157	216	179	147	202

Moving to the content of the discourse analysis, Figure 1 summarizes the distribution and frequency of each of the discourse codes over time.

Figure 1: Overview of total discourse code counts by COP

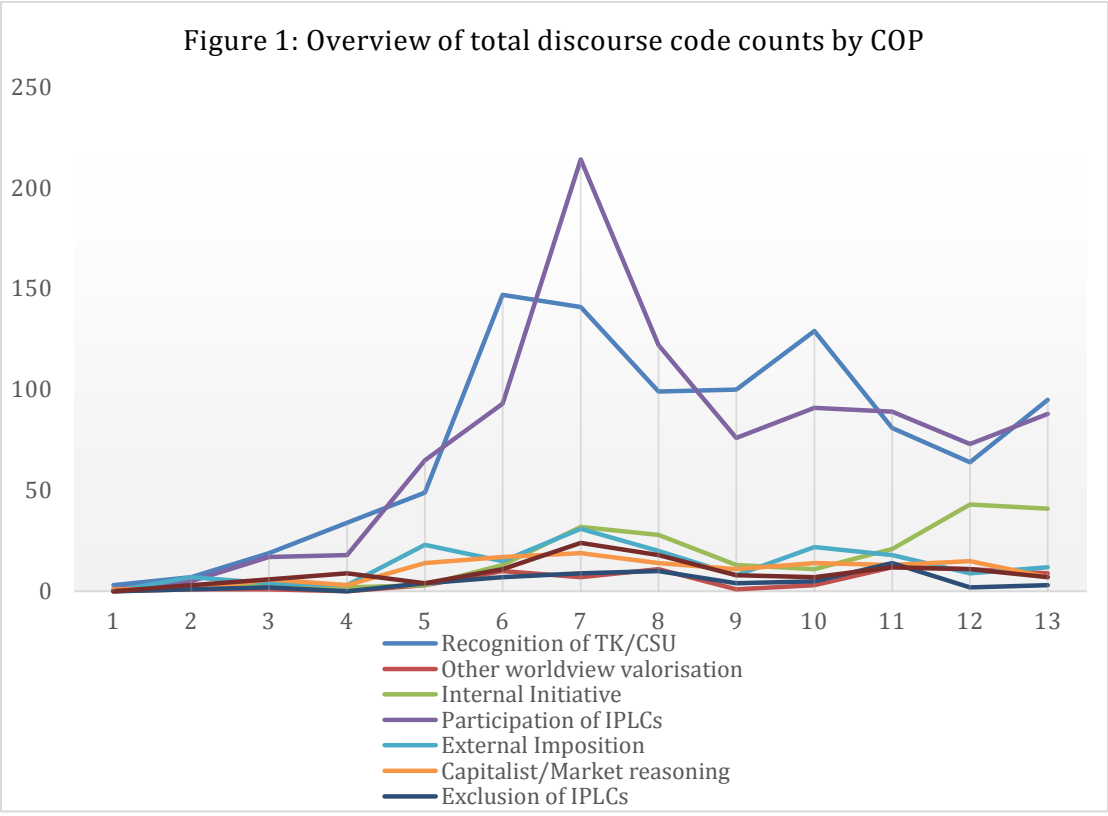


Figure 1 shows that when COP decisions use language that refers to local communities and indigenous peoples, the overwhelming discourses underpinning that language are around the recognition of the role of traditional knowledge and/or customary sustainable use and participation by these groups or their representatives in the Convention's business. The prevalence of the recognition discourse code is in line with findings about the increasing acknowledgement of the role of local communities and indigenous peoples in environmental stewardship underlined by the inclusion of texts to that effect in a number of agreements and treaties, not least the recent Paris agreement on climate change. Over time, recognition rises and stays at a fairly stable level across COP decisions, indicating that this is by now a generally accepted position. This is indicated by the fact that many of the statements coded for this discourse are linked to the cross-cutting theme of traditional knowledge, innovations and practices (discussed further below), and formulaic statements of recognition based on treaty language are common. While statements recognizing the fundamental contributions of traditional knowledge and customary sustainable use (including communing) to environmental protection are positive for local voices and local methods of using and maintaining natural resources, they are thus relatively cheap words that express a generally entrenched position but, crucially, entail no specific commitments. The discourse codes indicating support for internal initiatives and the valorization of other worldviews could, in contrast, be argued to be linked to a need to support such initiatives and respect approaches based in other worldviews that move beyond cheaper statements of recognition. Indeed, as discussed below, these two codes are much less prevalent.

Participation, the second most frequently recorded discourse code, shows a clear peak in COP 7, coinciding with the adoption of the Akwé: Kon Guidelines for cultural, environmental and social impact assessments and the Addis Ababa Principles and Guidelines for sustainable use. This peak at COP 7 is nevertheless preceded in COP 6 and followed up by high numbers of codes comparable to those for recognition (as discussed below, these are often combined). The information provided by a participation code proves rather weak given the strength of showing: what exactly do the statements around participation mean? Are they calls for more participation, steps towards allowing participation to take place such as through funding, or other more restrictive calls for input? Inductive coding will be conducted to generate a fine-grained list of detailed codes for participation generated from the actual texts to investigate this.

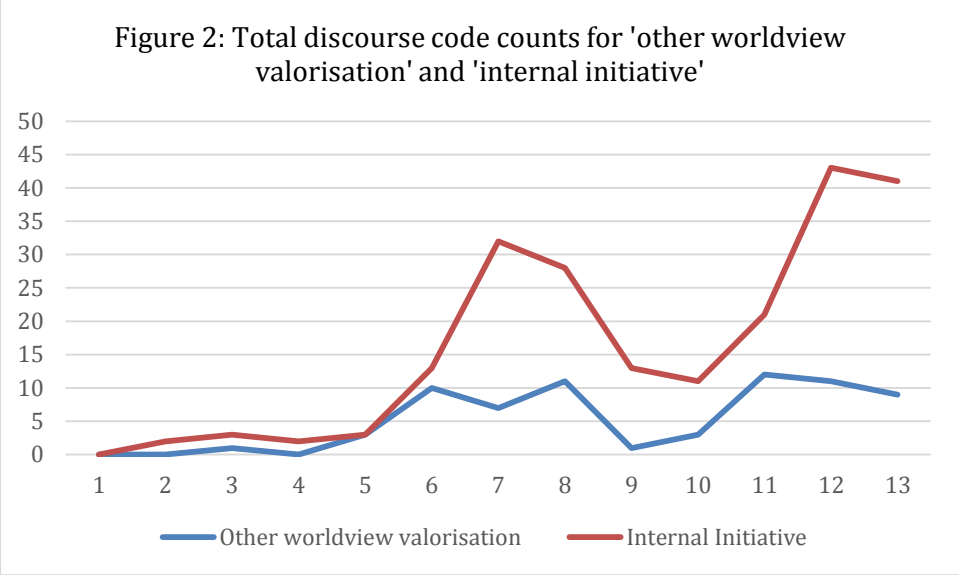


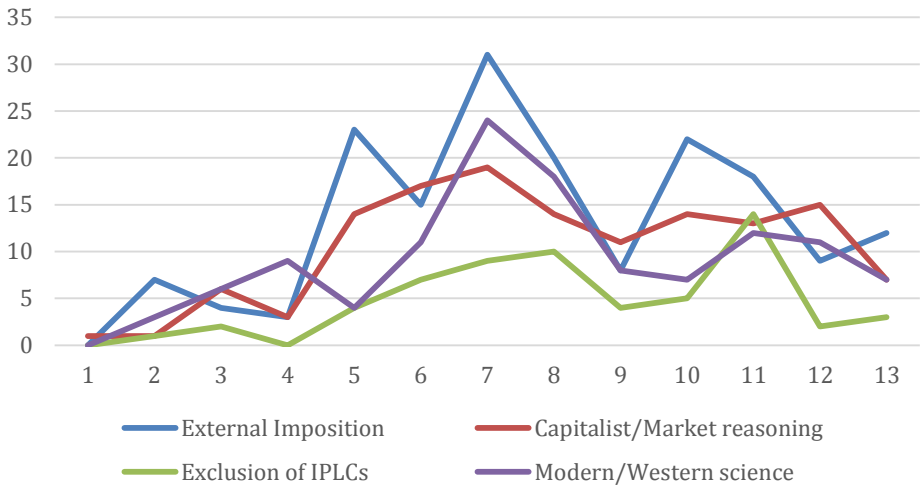
Figure 2 shows the counts by COP for the remaining positive codes for the sake of clarity. As already mentioned, the counts for these two codes are significantly lower compared to recognition and participation, which may be due to their costliness as discussed. It is however interesting to note that there is a general upward trend in 'internal initiative' codes from COP 10 onwards, with only a slight decrease in COP 13 compared to COP 12. Internal initiative is coded where a statement supports or encourages community-based programmes including community protocols and indigenous peoples' and community conserved territories and areas – thus making them more costly statements in terms of pushing actual policies and programmes as suggested above. The general increase after an initial drop following COP 7 indicates that this position of support for community-led initiatives that may include approaches based on commons may be becoming discursively entrenched and generally accepted in the CBD arena. This provides a more concrete discursive opportunity for local communities where they may be able to frame their approaches in similar language to gain recognition and galvanize support for their efforts.

The picture for the code 'valorization of other worldview' is less easy to read. The numbers remain generally low throughout all COPs, and although the highest numbers appear to be stabilizing by the three most recent COPs these are still only around 10-12 mark. As already discussed, while other positive statements may be politically less costly, similar statements recognizing the validity of worldviews may well challenge those that underpin the CBD, and thus be more difficult to adopt. It may be that comprehending even the existence of such other worldviews is a challenge for many delegates. Given the low numbers in the codes, however, it is possible to conduct a more qualitative overview of their content. The first coding in COP 3 is a statement encouraging the 'adequate incorporation of the market and non-market values of biological diversity into plans, policies and programmes'. Moving to COP 7, this trend of a rather weak acknowledgement of other worldviews or systems of value that are not based in economic gain continues, with codes focusing once again on 'non-monetary' measures for the worth of biodiversity, albeit mentioning traditional knowledge this time.

By COP 8, however, there are clearer statements demonstrating some understanding of the link between the 'good' sought (the protection of biodiversity) and the worldviews underpinning the social systems that produced it: 'In terms of cultural diversity, a number of islands, including arctic islands, are also the home to unique cultures that have developed traditional resource-management methods that have, in many cases, enabled people to develop and live in harmony with biodiversity.' This develops further by COP 10 and its adoption of the Tkarihwaié:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities Relevant to the Conservation and Sustainable Use of Biological Diversity, which states, for example, that 'Traditional guardianship/custodianship recognizes the holistic interconnectedness of humanity with ecosystems and obligations and responsibilities of indigenous and local communities, to preserve and maintain their traditional role as traditional guardians and custodians of these ecosystems through the maintenance of their cultures, spiritual beliefs and customary practices.' In COP 13 we find references calling for respect for other cosmologies, as well as references to a dialogue held at the body's ad hoc open-ended working group on Article 8(j) on 'challenges and opportunities for international and regional cooperation in the protection of shared traditional knowledge across borders for the strengthening of traditional knowledge and the fulfilment of three objectives of the Convention, in harmony with Nature/Mother Earth'. While the trend in terms of the quantity of statements that might be understood as valuing and recognizing other worldviews is not clearly increasing and numbers remain low, then, there is some evidence of positive qualitative change in the content of such statements becoming more meaningful over time.

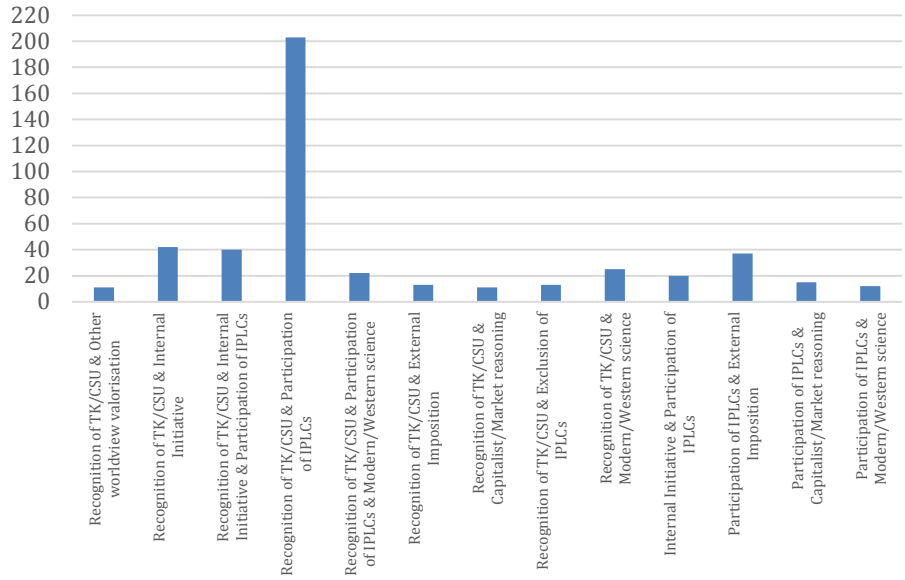
Moving to discuss the more negative codes generated from the brief literature review, figure 1 shows that the general trend among statements about indigenous peoples and local communities is that they are not clearly underpinned by the 'negative' discourses suggested in the literature. For the sake of clarity, figure 3 shows only the negative codes drawn from the literature to show their various trajectories in more detail.

Figure 3: Total discourse code counts for 'negative' codes



The clear trend amongst these code counts, which are overall similar in terms of their lower frequency in comparison with discourses of recognition and participation in particular, is that they peak around COP 7 and then register a general fall moving towards the most recent COP 13. There are some increases, but the general trend is downward. This appears to confirm the more rosy picture suggested by the discussion of the positive codes above, both in terms of generally low frequency and a tendency to be lower. Nevertheless, this view of single codes only tells part of the story. Where codes for capitalist or market reasoning, or for modern or western science are found in conjunction with codes for recognition or for the valorization of other worldviews in particular there may be grounds for clear dialogue between groups advocating different approaches to environmental protection and conservation. With this in mind, figure 4 shows the most frequent combinations of codes found in the analysis.

Figure 4: Most common discourse code combinations
(more than 10 instances, all COPs)



Beginning with code combinations that can be seen in a more positive light in terms of discursive spaces for local communities, the most common combination by far is recognition and participation. This combination occurs over 200 times in comparison with the next most frequent combination (recognition and internal initiative), which occurs just over 40 times. This frequency is unsurprising given the discursive domination of these two codes, which may be attributed to their 'cheap' nature as discussed above. The combination of recognition and internal initiative is more meaningful, and its occurrence among the most common combination of codes seems a positive sign that the generalized recognition of the importance of traditional knowledge for achieving the aims of the CBD is in many instances backed up with more weighty policy commitments. Similar observations also apply to the combination of recognition of traditional knowledge, internal initiative and participation. The recognition of traditional knowledge alongside codes for modern or western science as well as

participation also register, albeit in lower numbers, among the most common combinations. These are particularly interesting in terms of combining so-called 'positive' and 'negative' codes to provide evidence that traditional knowledge is being placed on a similar level to modern or western science, thus acknowledging traditional knowledge as an equally important source for achieving the aims of the Convention or, in discursive terms, creating a space for co-existence between discourses. Combinations of participation and modern or western science could, depending on the specific type of participation referred to, be interpreted in similar sorts of terms. The remaining positive combination – recognition of traditional knowledge with valorization of other worldview – is perhaps the strongest indicator of discursive spaces for local voices, though occurring only 11 times.

Other code combinations registering amongst the most frequent paint a more negative picture. This is the case for participation coded alongside external imposition. Texts coded in this way speak of participation, but this is clearly curtailed with IPLCs expected to participate only in the implementation of decisions already taken, or to provide information on highly circumscribed issues. Other combinations that may be damaging to the chances of local community voices pair the recognition of traditional knowledge with apparently contradictory discourse codes (capitalism, exclusion, and external imposition in various combinations, sometimes alongside participation) that may be interpreted as rendering recognition rather redundant. It should be noted, however, that an alternative reading could be argued for the combination participation and capitalism, as the text may be asking for input on livelihoods. In addition, the numbers of negative combinations are altogether lower than combinations allowing a generally positive reading.

The discussion so far has focused on the discourse codes and different combinations. Of still more interest perhaps is the analysis of how these different codes and combinations map to the different cross-cutting themes of the CBD. These correlations will tell us whether discourses that create discursive spaces for indigenous peoples and local communities are spreading from their original source in the cross-cutting theme of traditional knowledge, innovations and practices. Figure 5 gives an overview of the single discourse codes and their correspondence with the CBD's cross-cutting themes.

Figure 5: Discourse code counts by cross-cutting theme

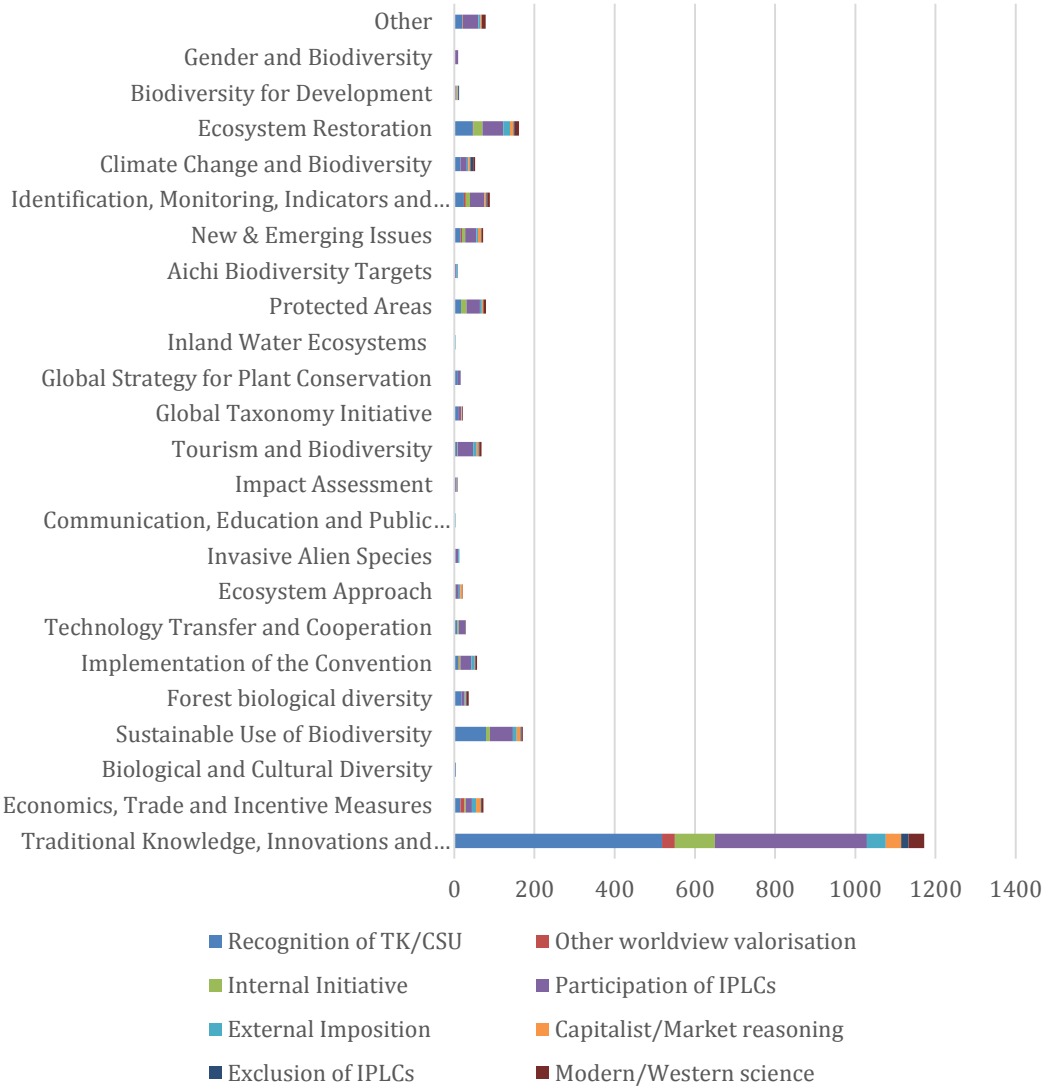
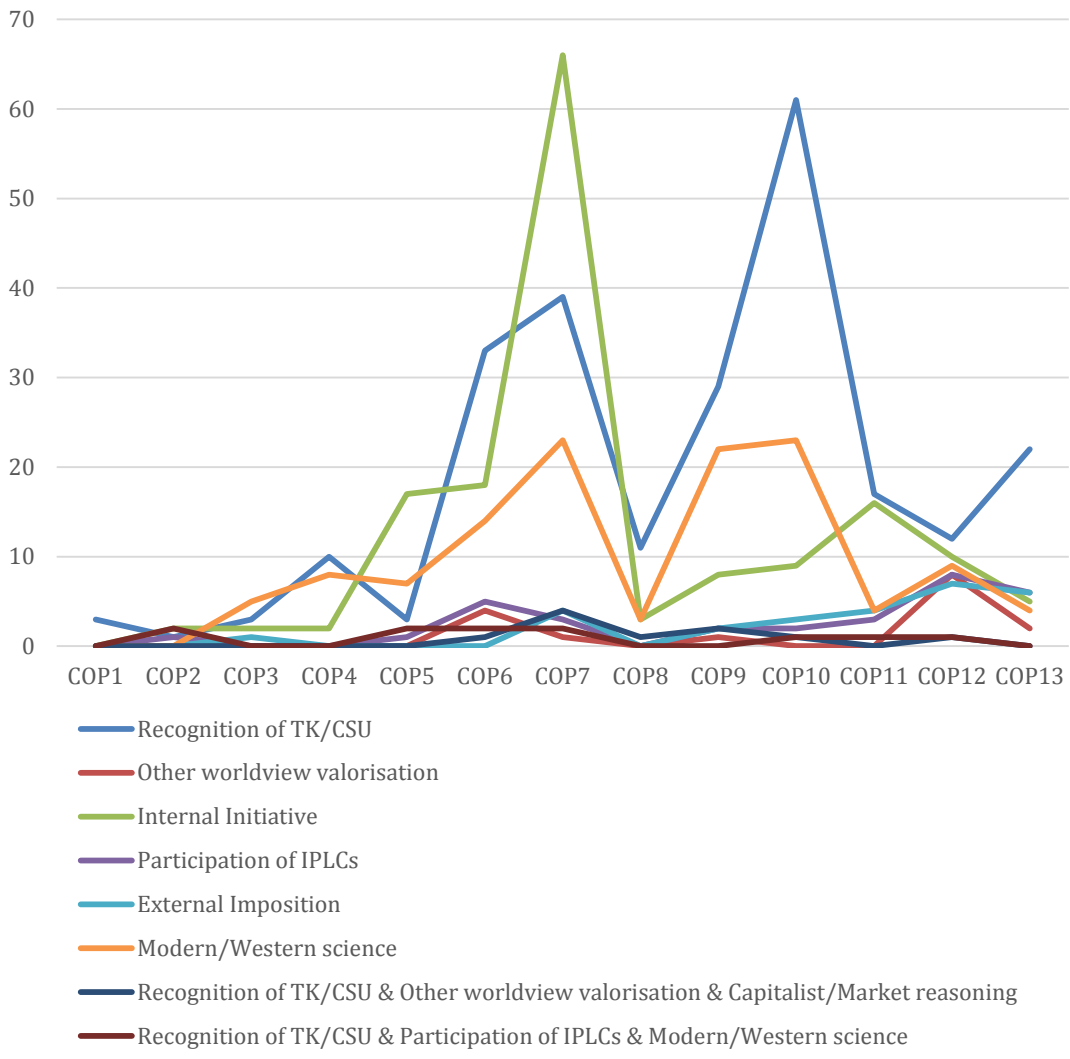


Figure 5 shows that the short answer to this question is no. Mapping the different discourse codes to cross-cutting themes clearly shows that the vast majority of discourses concerning indigenous peoples and local communities – both positive and negative – remain within there has not been not much movement out of a single cross-cutting theme of traditional knowledge, innovations and practices. This is a clear indication that any discursive space available to these groups remains mainly confined to this single area. There is a more encouraging side however, if we consider the fact that traditional knowledge, innovations and practices is a cross-cutting theme within the CBD is in itself encouraging. There is also some evidence that the CBD executive recognizes that there is some degree of ghettoization occurring around this theme, as evidenced by the decision to couple meetings of ad hoc working groups on Article 8(j) and the Access and Benefit-Sharing working group prior to the adoption of Nagoya in 2010, and thereafter in the decision to pair meetings of the ad hoc working group on Article 8(j) with the Subsidiary Body on Scientific, Technical and Technological Advice. The logic behind these decisions

is, presumably, to give added access to those representatives of indigenous peoples and local communities attending the Article 8(j) group to other treaty bodies.[5] A closer look at the cross-cutting theme of traditional knowledge, innovations and practices is provided in figure 6, which gives an overview of how the discourse codes falling within this theme have evolved over time, including code combinations occurring more than 10 times.

Figure 6: Total discourse counts for cross cutting theme Traditional Knowledge, Innovations and Practices - Article 8(j) (single codes and code combinations with frequency of 10 or more)



The trends displayed in figure 6 show some notable differences when compared with the overview of all codes presented in figure 1. Within this cross-cutting theme, the discourse codes show two separate peaks: for modern or western science and for recognition of the importance of traditional knowledge in COPs 7 and 10. These peaks thus correspond with the adoptions of the the Akwé: Kon Guidelines and the Addis Ababa Principles at COP 7 and with the adoption of Nagoya at COP 10. While these two discourses are not often mentioned in the

[5] My thanks to Elsa Tsioumani and Elisa Morgera for drawing my attention to this argument.

same pieces of texts (since this would result in a combined code line showing on the chart), this does suggest that within this cross-cutting theme the recognition of traditional knowledge as being on the same playing field as modern/western science is present to some extent, and beginning to become more commonplace from around COP 5. Another peak displayed in figure 6 is for the discourse code internal initiative, falling at COP 7 and this corresponding once again with the Akwé: Kon Guidelines. Participation, which registers very strongly in the overall view of the discourse analysis provided in figure 1, is much less present in the cross-cutting theme of traditional knowledge, innovations and practices. This is not necessarily a negative, however, if we accept the argument presented above that calls for participation may be considered relatively cheap talk, while internal initiative codes could be understood as entailing policy follow-ups, and thus a stronger form of participation in the achievement of the objectives of the Convention. This view is bolstered by the findings, presented below, that participation is far more prevalent within other cross-cutting themes, which only adopt the discursive patterns of the cross-cutting theme on traditional knowledge to a low extent. These observations underline the need for further coding within the participation discourse to reveal more meaning within calls for participation by IPLCs.

Although it is undeniable that there has not been any significant discursive spread to other areas covered by the CBD, it is worth looking more closely at those cross-cutting themes that show some evidence of a small-scale adoption of similar discourses, namely: protected areas; sustainable use; ecosystem restoration; identification, monitoring, indicators and assessment; new and emerging areas; tourism; implementation of the Convention; and economics, trade and incentive measures. The figures discussed below show the evolution of discourse codes within these cross-cutting themes, grouped by similarity in general trends. Figures 7 to 11 show the distributions of discourse codes and combinations over time for the themes sustainable use, tourism, implementation, protected areas, and ecosystem restoration, which display some overall similarities.

Figure 7: Total discourse code counts for cross cutting theme Sustainable Use of Biodiversity (single codes and code combinations with frequency of 10 or more)

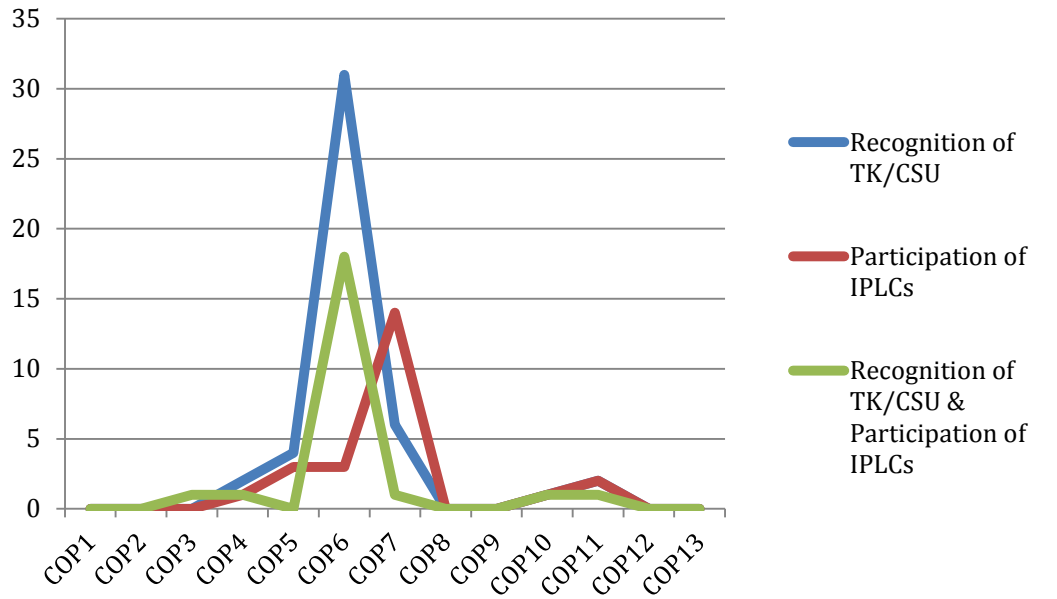


Figure 8: Total discourse code counts for cross cutting theme Tourism and Biodiversity (single codes and code combinations with frequency of 3 or more)

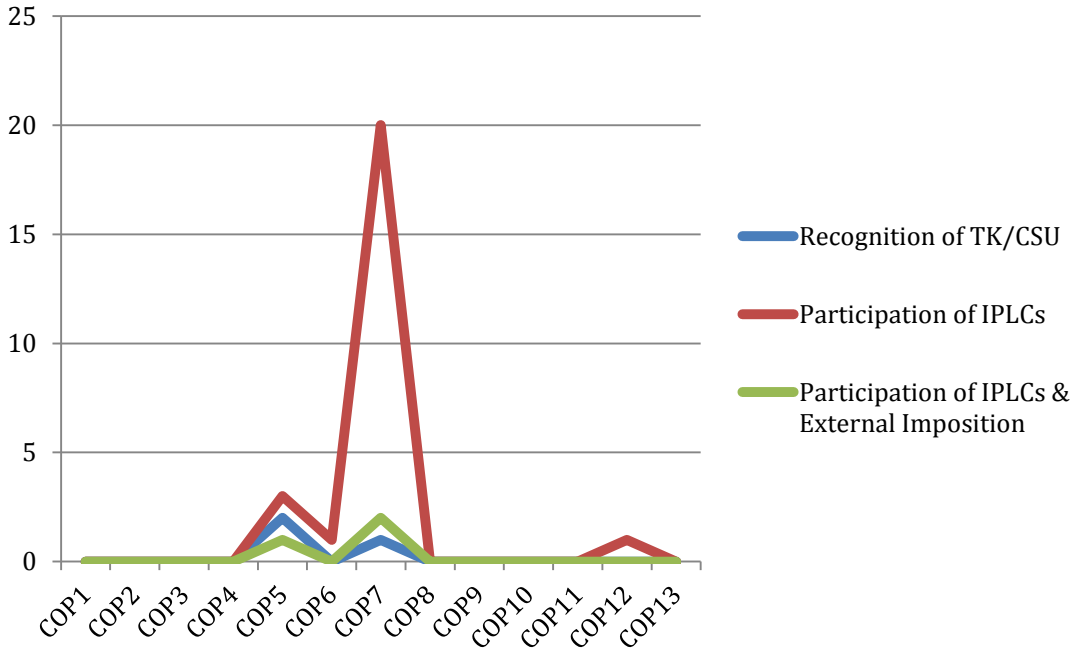


Figure 9: Total discourse code counts for cross cutting theme Implementation of the Convention (single codes and code combinations with frequency of 4 or above)

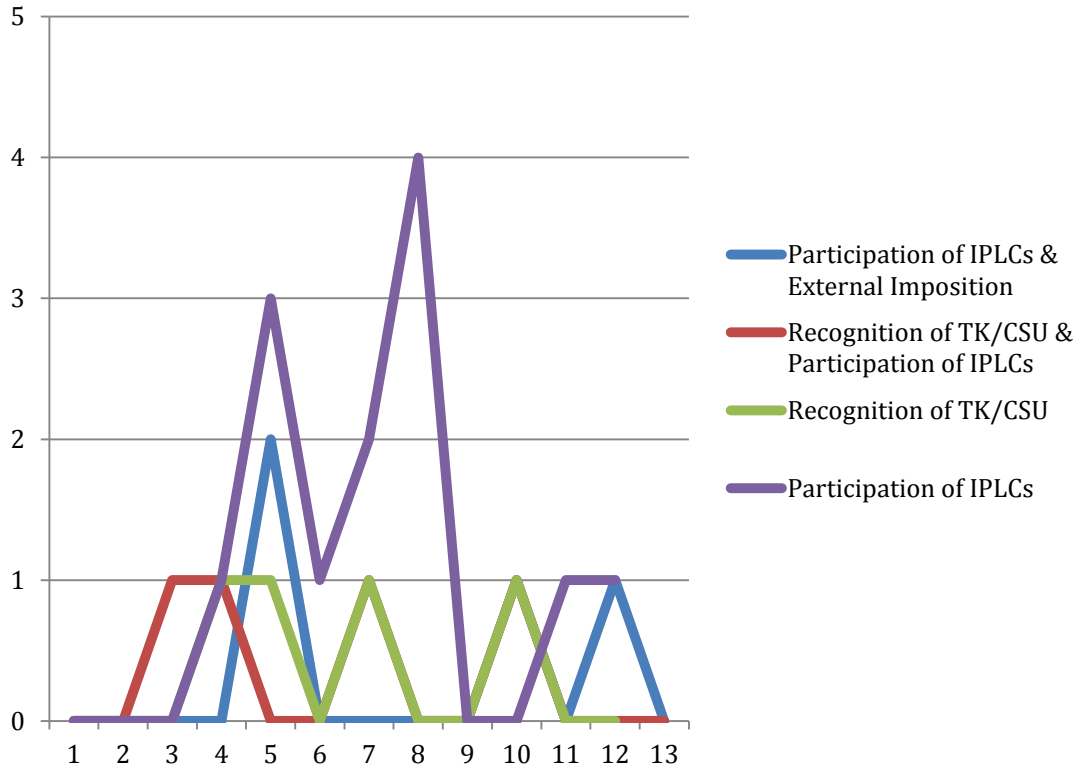


Figure 10: Total discourse code counts for cross cutting theme Protected Areas (single codes and code combinations with frequency of 3 or more)

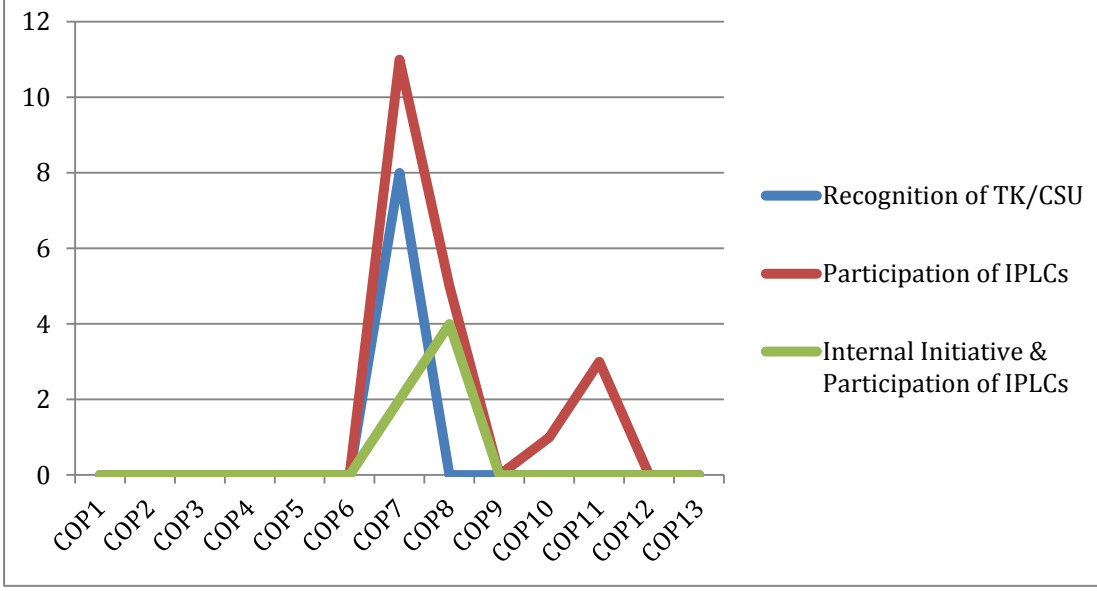
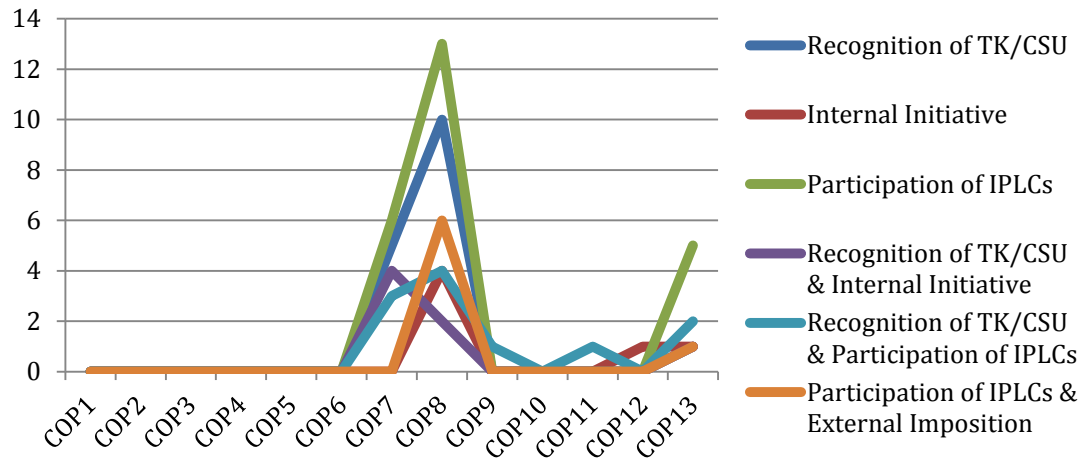


Figure 11: Total discourse code counts for cross cutting theme Ecosystem Restoration (single codes and code combinations with frequency of 5 or more)



The discursive structures of these cross-cutting themes all reproduce the pattern seen in the general overview of codes provided in figure 1 in terms of overall trajectories which show peaks around COPs 6 to 8. The numbers of codes are low however, and numbers decrease in more recent COPs. Given the generally low numbers of codes in all of the cross-cutting themes with the exception of traditional knowledge, the suggestion that there is some generalized acceptance of discourse recognizing the value of traditional knowledge and the participation of IPLCs is not confirmed. As a result, there may be more significance to attach to the fact that these codes decrease in more recent COPs. Indeed, these findings challenge claims about the logical spread of discourses to other areas of the Convention (Bavikatte 2014), including protected areas (Jonas 2017). In that cross-cutting theme, the more discouraging pattern noted for participation also holds for the internal initiative discourse. It is also worth noting the presence of the combination of participation and external imposition recorded for the cross-cutting theme implementation of the Convention – here this combination is unsurprising since calls for participation here are linked precisely to the implementation of existing decisions. A similar point applies to this combination within the ecosystem restoration cross-cutting theme, though here this is offset by a more significant presence of discourses around internal initiatives as well as some indications of an upward trend in codes for participation, recognition and internal initiative at the most recent COP.

The picture for the cross-cutting themes of identification, monitoring, indicators and assessment and new and emerging areas is different, albeit for different reasons. Figures 12 and 13 below show the distribution of single codes and combinations of codes with counts higher than 5.

Figure 12: Total discourse code counts for cross cutting theme Identification, Monitoring, Indicators and Assessments (single codes and code combinations with frequency of 5 or more)

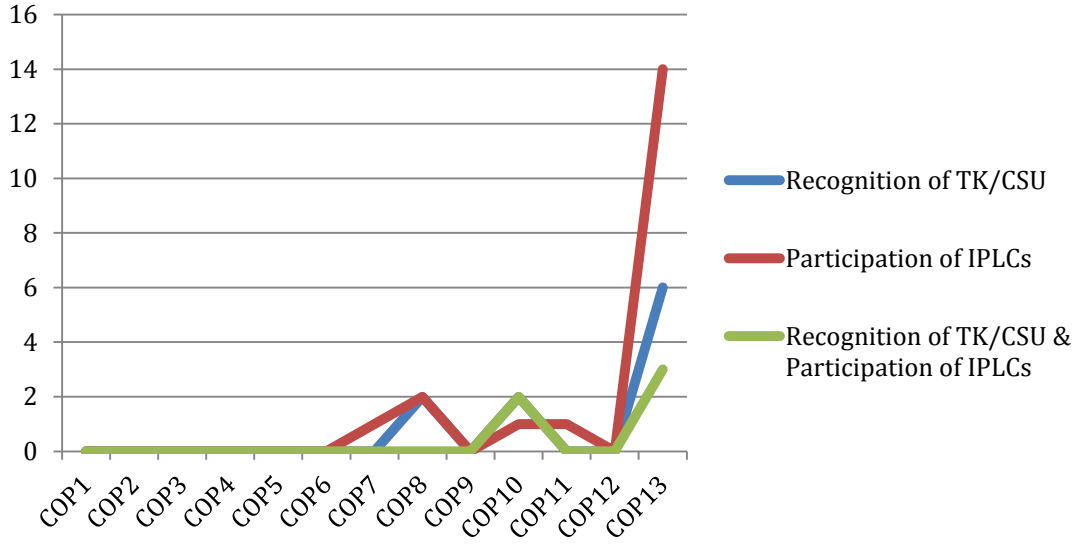
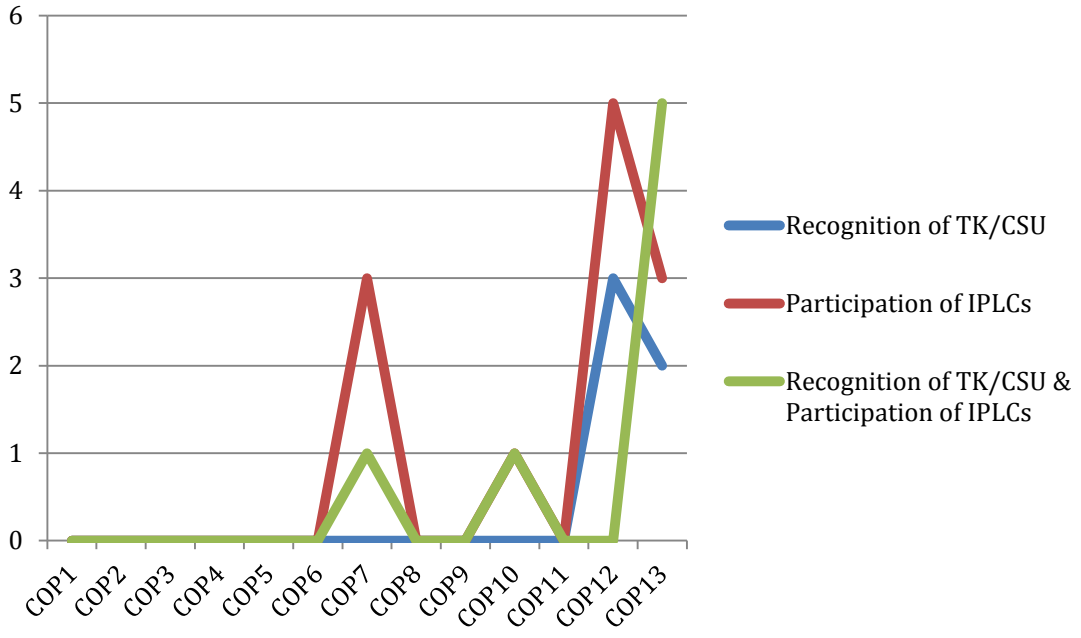


Figure 13: Total discourse code counts for cross cutting theme New and Emerging Issues (single codes and code combinations with frequency of 5 or more)

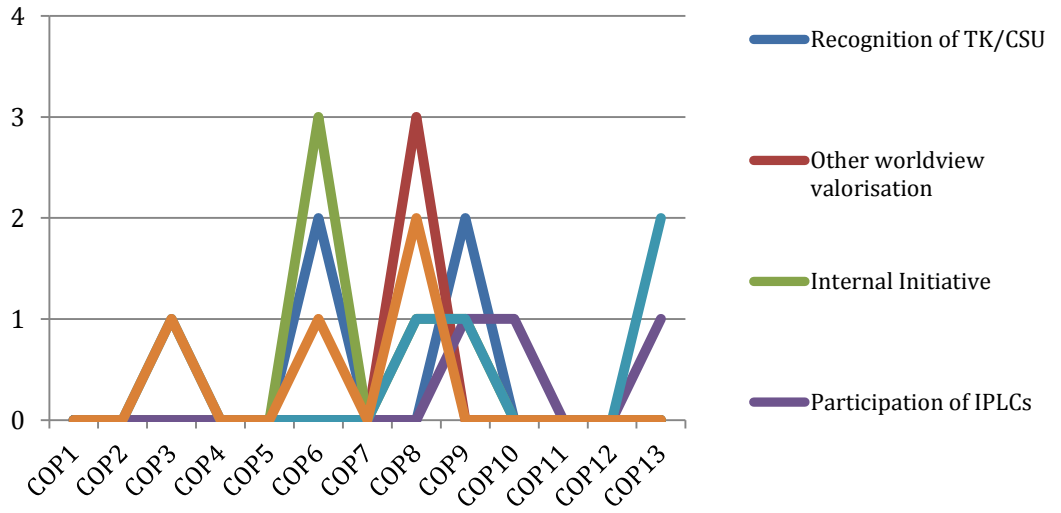


Once again, the numbers of coded discourses in these areas are low, but interesting in that both show rather low to non-existent discourses around participation and recognition until the most recent COPs. In the case of new and emerging areas, this is because this cross-cutting theme did not exist at the earlier stages of the CBD. Nevertheless, these small trends in both of the themes illustrated may still be considered to indicate some initial take up of these discourses that may, over time, lead to a similar adoption of internal initiative

discourses. This would be particularly pertinent for identification, monitoring and assessment, since traditional knowledge and skills are important in reading changes in the environment and local communities may have systems in place that regulate their customary sustainable use levels. A future take up of internal initiative discourses may be predicted if the general indication of a slow spread from the theme of traditional knowledge is accepted. Only further similar analyses of future COPs will allow any confirmation or otherwise of this.

The final cross-cutting theme that suggests some level of discursive spread from the traditional knowledge theme, albeit only to a low extent, is that of economics, trade and incentive measures, illustrated in figure 14 below.

Figure 14: Total discourse code counts for cross cutting theme Economics, Trade and Incentive Measures (single codes and code combinations with frequency of 3 or above)



Again, the numbers here are very low, but given the focus on economics and trade, the fact that the most frequent codes are internal initiative and the valorization of other worldviews is rather surprising. As discussed earlier, these discourses may be considered to be stronger that those of participation and recognition since they may entail more concrete policy consequences. In addition, this cross-cutting theme carries a logical expectation of more capitalist or market discourses. These to register to some extent, but notably only in conjunction with the valorization of other worldview codes, often expressed as a nod to the equal value of 'non-market' values. This suggests that to at least a small extent care is being paid at times to underline the existence and validity of approaches that do not value economic gain as the most important aim within this theme. However, these stronger positive codes do disappear in later COPs, and recognition and participation codes only remain more or less stable in the most recent meeting. Generally, this is small evidence for positive discourse, but nonetheless noteworthy.

Summary and preliminary conclusions

This paper sought to investigate whether or not there might be any discursive space for commons and other local community driven approaches to the conservation of natural resources at the global level of environmental governance. The question was investigated through a discourse analysis of decisions taken by the conference of the parties to the Convention on Biological Diversity (CBD). Since local and commons approaches are found in the literature to be based in rather different understandings of the world and the aims of conservation and environmental protections than those argued to underpin instruments of global environmental governance, the discourse analysis looked for evidence of these discourses and their constructed opposites in CBD decisions over time. Although there are clear limitations to this methodology, linked for the most part to issues of research subjectivity, there are also clear advantages since this method allows a comprehensive overview of CBD decisions over time that does not yet exist in the literature.

The discourses searched for in the analysis consisted in the exclusion of indigenous peoples and local communities or calls for their inclusion; discourse relating the imposition of certain policies or approaches by external actors or instead statements supporting initiatives internal to and driven by local communities; statements giving primacy to modern or western science as opposed to statements recognizing the role and worth of traditional knowledge; and finally texts betraying capitalist or market reasoning behind policy decisions as opposed to statements revealing some valorization and recognition of the existence and worth of differing worldviews or cosmologies.

The overall picture revealed by the discourse analysis can be summarized as follows. First, when CBD decisions make statements that are relevant to local communities, these statements are clearly characterized by positive discourses much more than they are characterized by negative discourses. The detail of the picture is more nuanced however. The most common discourses, the analysis revealed, are around participation and recognition of the worth of traditional knowledge. These may be thought of as rather weaker or cheaper talk when compared to discourses around internal initiative and the valorization of other worldviews, which may have heavier policy consequences. The latter two discourses were found in the analysis, but at lower levels comparable to the frequencies uncovered for the negative codes – though a small upward trend was noted for internal initiative codes over time. This finding challenges the claims made in some literature about the lack of space for local voices and approaches in global arenas, but only to some extent. In addition, the frequency of participation codes revealed the need for more detailed work on the different meanings attributable to this discourse code: more analysis will be undertaken to refine these findings.

There is also more nuanced meaning to be considered where codes combine: while negative codes alone may spell discursive closure for local communities, where negative and positive codes co-occur this may be a basis for increased dialogue between differing approaches. The analysis showed that the most

common code combination was recognition and participation. However, some positive/negative combinations did register amongst the most common combinations, albeit at levels much lower than those for recognition and participation. Given that the overall analysis of discourse in the CBD decisions also revealed a spike in positive statements at COP 7, seen as the peak of rights-based approaches in the CBD followed by a rise in market-based approaches (cite ENB?), such combinations of discourses as evidence of spaces for dialogue may be the best way forward for local voices. The analysis did not reveal such combinations to be very frequent, nor was any clear upward trend in such combinations revealed however.

The paper also looked at how the discursive terrain of the CBD has changed over time within the separate cross-cutting themes that apply to the body's work. Specifically, some literature has posited the likelihood that discursive spaces for local voices will expand over time both within the CBD and to other arenas of global environmental governance (e.g. Bavikatte 2014). The analysis showed that the vast majority of all discourse codes fall within the cross-cutting theme of traditional knowledge, innovations and practices. As this is a cross-cutting theme this is not necessarily either surprising or necessarily limiting. However, the spread of discourses around internal initiative and the valorization of other worldviews to other themes would be more encouraging when evaluating the discursive spaces available to local voices. There was some rather limited evidence of spread to the themes on sustainable use, tourism, implementation, protected areas, ecosystem restoration, identification monitoring and assessment, new and emerging issues, and finally economic and trade incentives. Generally, the evidence is that this spread is limited to the weaker positive codes around participation and the recognition of the importance of traditional knowledge, but that this disappears or becomes much lower in more recent CBD decisions.

The analysis overall challenges the existing literature to some extent. First, as mentioned, when the CBD speaks about indigenous peoples and local communities, it tends to be in a positive way. Nevertheless, the talk tends to be cheap and in that sense the existing literature may still find confirmation in the sense that the CBD may speak positively of these groups yet do relatively little in concrete terms to include their voices and, importantly, their approaches in global environmental governance. This view is bolstered by the relative confinement of discourses about indigenous peoples and local communities to their own cross-cutting theme – a more encouraging picture would see general positive discourses taken up within other cross-cutting themes across the CBD. While there is some basis to think that discursive spaces are opening up within the CBD for local voices and approaches, then, there is also much evidence to show that these spaces are clearly delimited.

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