

# **Adaptation and Indigenous Peoples in the United Nations Framework Convention on Climate Change**

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**Abstract:** Indigenous peoples are uniquely sensitive to climate change impacts yet have been overlooked in climate policy, including within the United Nations Framework Convention on Climate Change (UNFCCC). We identify and characterize the discourse around adaptation in the UNFCCC, examining implications for Indigenous peoples based on a critical discourse analysis of the original Convention and decision texts from subsequent Conference of the Parties (CP). CP16 in Cancun (2010) was a critical juncture after which adaptation emerged as a central component of climate policy in the Convention, with a shift from a purely scientific approach to adaptation to one where local, Indigenous, and traditional knowledge are also valued. Since CP16, the discursive space for incorporating the voices, needs, and priorities of Indigenous peoples around adaptation has expanded, reflected in decision texts and engagement with Indigenous issues in the work streams of relevant bodies. We outline opportunities for greater engagement of Indigenous issues in the UNFCCC post-Paris Agreement, noting the underlying State-centric nature of the Convention limits what can ultimately be achieved.

**Keywords:** UNFCCC, adaptation, Indigenous peoples, climate policy

## **1. Introduction**

Concern over climate change first emerged as an issue of public and policy interest in the 1960s and 70s, culminating with the negotiation of the United Nations Framework Convention on Climate Change (UNFCCC or ‘the Convention’) at the UN Conference on the Environment and Development (UNCED) in 1992. Ratified by 195 countries (known as Parties to the Convention), the UNFCCC’s role in international climate governance has been described as part of a regime complex, characterized by a system of overlapping international institutions (or regimes) that relate to climate change, and characterized by a loose network of linkages between them (Betsill et al 2015, Keohane and Victor 2011). While various international regimes and organizations deal with different aspects of climate change, the UNFCCC forms the central component of global climate governance, in which the rules, norms, institutions, networks and decision-making procedures established have facilitated cooperative action, affected behaviour through customary and binding forms of law, and have facilitated action through the establishment of funds for climate action (Ayers et al. 2010, Gehring and Faude 2013; Gupta 2010a).

Scholarship on the UNFCCC is diverse, and has characterized the nature of the Convention and its evolution over time (Khan & Roberts 2013), examined whether the UNFCCC is the most appropriate mechanism for addressing climate change (Jordan et al. In press), proposed ways to strengthen the international climate regime (Eckersley 2012), and evaluated how certain components of climate policy—primarily mitigation—have been tackled (Gampfer et al. 2014). Where adaptation has been examined in this work, the focus has been on evaluating funding trends or examining interest in adaptation (Schipper 2006, Khan & Roberts 2013). Few studies have examined the discourse around adaptation in the UNFCCC or how this discourse frames certain countries, populations, or groups, contrasting to work on mitigation (Brugnach et al in press). This gap in understanding is significant given that international organizations, and the discourses and cultures that they create and perpetuate, help define the problems to be governed, shape the perceptions and behaviours of actors, and help to regulate new norms, interests, and shared social tasks (Barnett 2004; Smith and Sharp, 2012).

This paper catalogues the emergence of adaptation within the UNFCCC by reviewing decision texts from the Conference of the Parties (CP) to the UNFCCC from 1992 until CP20 in 2014 (Lima). Using critical discourse analysis, we then examine how Indigenous rights, practices, and knowledge have figured in the emerging adaptation discourse as embodied in decision texts, and outline the implications of discursive trends around adaptation for Indigenous peoples. The focus on the UNFCCC reflects its catalytic role in establishing and reinforcing norms, principles, and priorities for adaptation; legitimizing the importance of adaptation to state and non-state actors; exerting pressure on national governments to make commitments on adaptation; and, distributing resources for addressing climate change impacts (Karlsson-Vinkhuyzen & McGee 2013, Betsill et al. 2015). While we acknowledge critiques of the UNFCCC, the Convention continues to exert significant influence on climate policy, including in determining its main stakeholders and beneficiaries—a process that is particularly important for the powerless and marginalized (Betsill et al. 2015, Cole 2015).

## **2. Methodology**

### ***2.1. Critical Discourse Analysis***

Discourse refers to any coherent shared understanding, narrative, or storyline about a given reality, phenomenon, or issue (Dryzek 2005). It pertains to knowledge systems that give meaning to the world and from which specific norms, values, power structures, and rules of knowledge validity are created and reinforced (Waitt 2010). The premise of critical discourse analysis (CDA) is that it is through language that we constitute the world around ourselves, giving some realities meaning while silencing others, influencing how people perceive and understand specific problems, defining appropriate solutions to address them, and structuring spaces of interaction (Hansen 2006). The approach has a strong foundation in Foucauldian understanding of social power dynamics and the construction of knowledge, according to which discourses are not only shaped by the broader social context in which they occur, but also contribute to shaping the behaviours and norms that help constitute the social context itself (Foucault 1982).

In this paper, we take the first steps in examining the discursive system of representations in the contemporary global climate change governance regime that works to establish what counts as valid knowledge with respect to adaptation, by focusing specifically on the official discourse on adaptation in UNFCCC Conference of the Parties decisions. In this context we define adaptation

as “the process of adjustment to actual or expected climate and its effects, in order to either lessen or avoid harm or exploit beneficial opportunities” (IPCC 2014). Adaptation encompasses a variety of strategies, actions, and behaviors that make households, communities and societies more resilient to climate change, and can be diverse, ranging from specific responses to climate change impacts to the targeting of underlying socio-economic drivers of vulnerability (e.g. decolonization, cultural preservation and promotion, poverty alleviation etc) (Ford 2012; Maru et al. 2015).

Our methodology uses in-depth textual analysis of key decisions in the UNFCCC process, complemented by two tiers of contextual research (*see supplementary Figure 1*). The textual analysis gives attention to the constitutive effects of discursive and linguistic elements such as narratives, wording, tone, framing, and themes in official decision texts, while being receptive to inconsistencies and discursive frames that privilege some approaches or forms of knowledge over others. The contextual information is then used to provide a basis for interpretation of the outputs of the textual analysis, and to help reduce research bias and the potential misinterpretation of findings. It considers: (1) discursive practices: the context in which the production, distribution, and consumption of the texts under consideration takes place, and (2) social practices: the context of the broader social, cultural and political systems in which the discourse occurs (Fairclough 2013).

The analytical framework that guides the textual analysis of decisions within the UNFCCC is adapted from Hansen (2006), and based on the assumption that it is through language that meaning and particular identities are attached to peoples and issues. Policy identities are thus understood as relational, stemming from discursive juxtapositions, and through processes of linking and differentiation of the self to others. Accordingly, identities are (re)constructed and prioritized in policy discourses, characterizing what constitutes priority concerns and legitimate actions to address concerns as they are formulated. This construction of identities in policy discourses and their implications can be analyzed by extracting the spatial, temporal and ethical elements that constitute subjects, displaying discursive categories and mapping their inter-connections. The framework (*see supplementary Figure 2*) is designed to allow for the careful consideration of the signs articulated in specific discourse or texts, to review how they are coupled to provide meaning, to reveal their effects of truth, and to expose where instabilities or inconsistencies might occur.

## **2.2.Methods**

Decision texts from the Conference of the Parties (CP) and Conference of the Parties serving as the Meeting to the Kyoto Protocol (CMP) are considered here as forming the official discourse on adaptation to climate change in the UNFCCC (all States that are Parties to the UNFCCC are represented at the COP, while only Parties to the Kyoto Protocol are represented at the CMP). Such texts have similarly been used in other studies examining official foreign or international policy discourses (Hansen 2006, Antonova 2016). These decisions take the form of “soft law.” The content of the decisions primarily addresses commitments, obligations, norms, and rules for Parties, but also provides instructions for the operation of the bodies, work programmes, committees, groups, funds and mechanisms internal to the Convention, and creates linkages to external multilateral, intergovernmental, and civil society organizations. All decision texts from the 1992 Convention (Rio) up to and including CP20/2014 (Lima) were located and downloaded from the UNFCCC website. This includes all CP and CMP decisions rendered during the “key steps” (as institutionally defined by the UNFCCC) and specific adaptation-relevant decisions (*see supplementary tables 1 and 2*).

The textual analysis of the “key step” decisions served as a baseline for characterizing the evolving focus of adaptation in relation to mitigation in the wider policy discourse within the Convention, whereas analysis of the adaptation-specific decisions served to characterize the specific elements of the official discourse on adaptation. In all cases, explicit references to Indigenous and/or traditional peoples, practices and knowledge were identified and placed in context within the broader discourse on adaptation. Both decision bodies were used to characterize the policy identities as framed by the discourse under consideration.

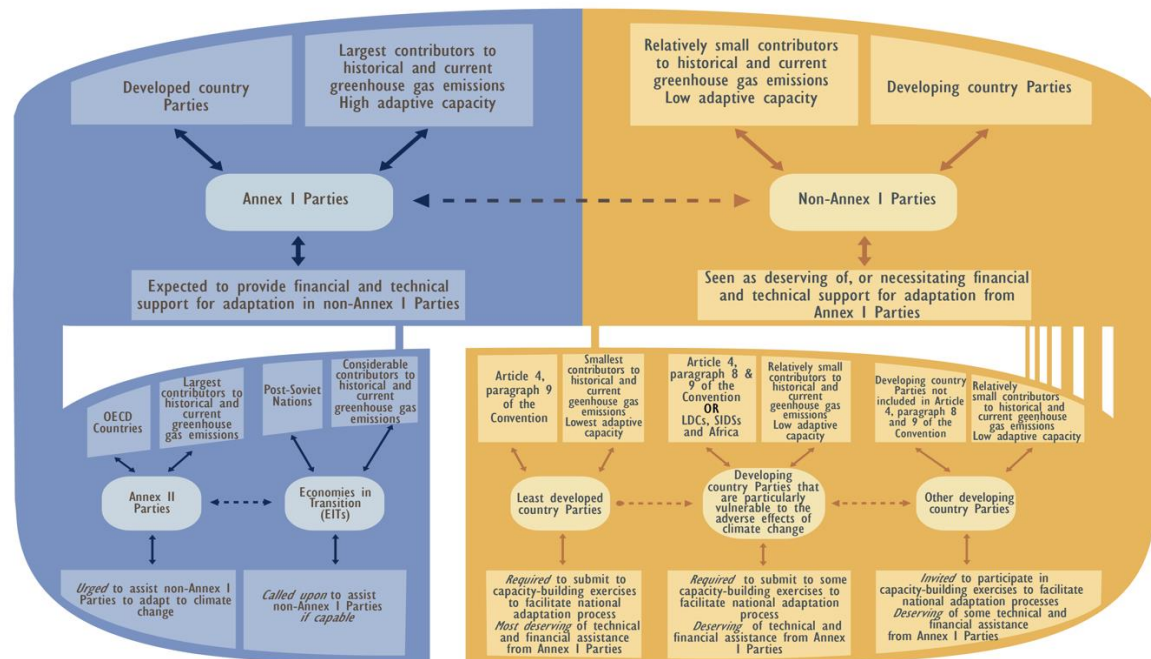
Review and coding of the texts was carried out through iterative rounds of reading, combining journaling with the use of the qualitative analysis software *Atlas.ti*. Attention was given to context, practices, attitudes, themes, and choice of wording. The coding and journaling strategies used sought to help organize the textual data for thematic analysis of the discourse on climate change adaptation and its referent policy identities, while also extracting specific quotes that have meaning and effect for Indigenous peoples’ participation in and access to adaptation funding (see *supplementary table 3*).

### **3. Results**

This section examines and characterizes the discourse on adaptation in the UNFCCC, documenting the guiding principles of the Convention, examining how the objectives of the Convention as they concern adaptation have evolved over time, and reviewing the discourse around specific adaptation work streams. A focus on adaptation discourse in general allows us to examine and situate reference to Indigenous peoples, practices and knowledge in decision texts.

#### **3.1.Guiding principles of the Convention**

The UNFCCC and all subsequent decisions, protocols and agreements rendered by the CP are built around, and operate according to, guiding principles by which State representatives interact to respond to and address the causes and impacts of climate change. As such, decision-making power within the institution lies entirely with nation-states, whereby the fate of sub-national groups and populations rests with the decisions brought forth and agreed upon by their national delegations. Some of these principles are explicitly identified in Article 3 (Table 1), entrenching differentiated roles, priorities and pathways for addressing climate change, and setting the ‘rules of the game’ (Figure 1). Other principles are implicit, most importantly the principle of sovereign equality of States.



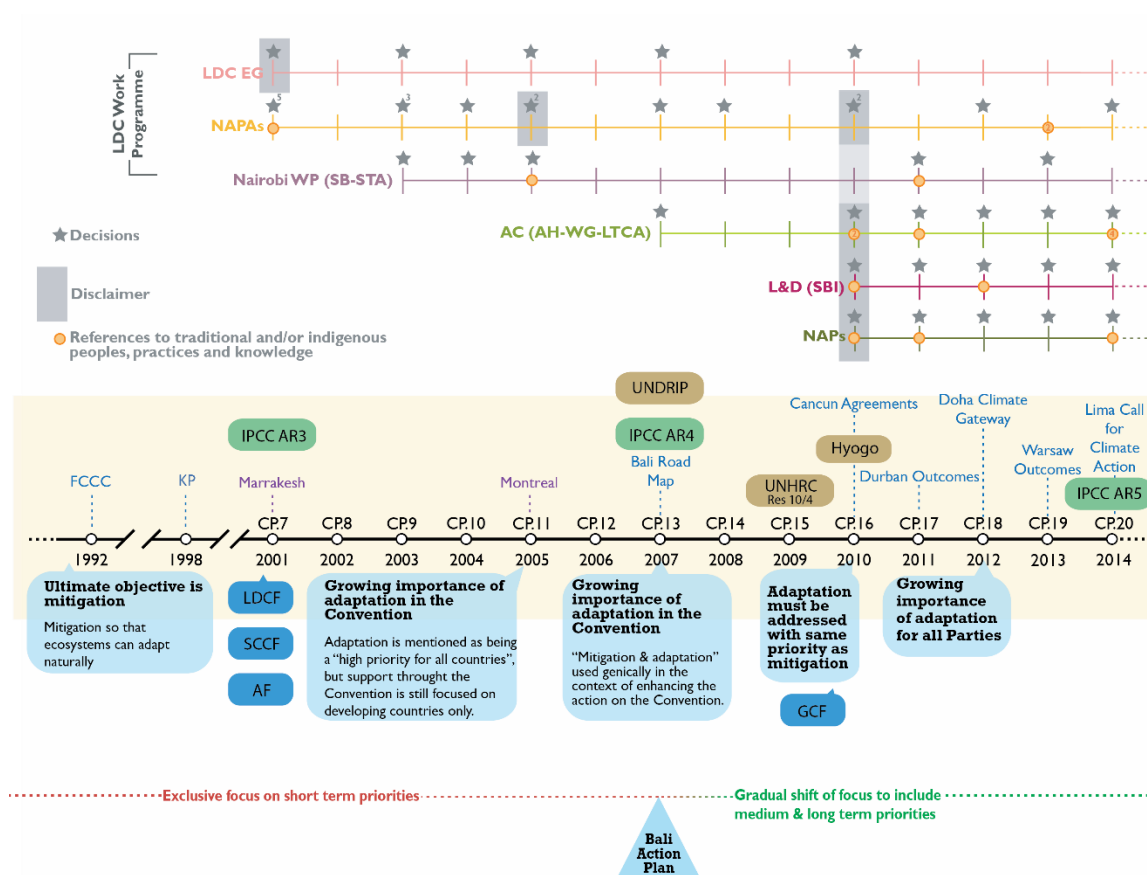
**Figure 1.** Referent identities constituted by the discourse on adaptation in CP decisions (List of abbreviations used in this figure: Organization for Economic Co-operation and Development (OECD), Economies in Transition (EITs), Least Developed Countries (LDCs), Small Island Developing States (SIDSs))

**Table 1.** Five principles of the UNFCCC outlined in Article 3

Principle	Relevant text	Implications
1	Parties are encouraged to “protect the climate system [...] on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities” (p.4).	Establishes responsibility for developed nations to lead on action on mitigation and supporting adaptation in the most vulnerable nations (i.e. common but differentiated responsibility)
2	Parties are urged to give full consideration to the “specific needs and special circumstances of developing country Parties [...] that are particularly vulnerable to the adverse effects of climate change [...]” (p.4).	Codifies principle of intergenerational equity
3	Parties are urged to use the precautionary principle “[w]here there are threats of serious or irreversible damage” (p.4).	The potential lack of scientific certainty should not be used as a reason for postponing measures to prevent, anticipate or minimize the adverse effects of climate change.
4	Parties have a right to, and should promote sustainable economic development, as this	Acknowledges that developing country Parties’ share of global

	“essential for adopting measures to address climate change” (p.5), and enabling them to better implement their commitments under the Convention	emissions will continue to grow to allow them to meet their socio-economic development needs.
5	Parties are encouraged to “cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties” (p.5)	Acknowledges that measures taken to address climate change should not unfairly penalize states’ participation in, or create restrictions on, international trade

### 3.2.The shifting role of adaptation



**Figure 2.** Adaptation discourse in CP decisions timeline, and Convention objectives. (List of abbreviations used in this figure: Least Developed Countries Expert Group (LDC EG), National Adaptation Programme of Action (NAPAs), Nairobi Work Programme on Impacts, Vulnerability and Adaptation (Nairobi WP), Subsidiary Body for Scientific and Technological Advice (SB-STA), Adaptation Committee (AC), Ad Hoc Working Group for Long-Term Cooperative Action (AH-WG-LTCA), Work Programme on Loss and Damage (L&D), Subsidiary Body for Implementation (SBI), National Adaptation Plan (NAPs), United Nations Framework Convention on Climate Change (FCCC), Kyoto Protocol (KP), Least Developed Countries Fund (LDCF), Special Climate Change Fund (SCCF), Adaptation Fund (AF), Green Climate Fund (GCF), Intergovernmental Panel on Climate Change Assessment Report (IPCC AR#), United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), United Nations Human Rights Council (UNHRC), Hyogo Framework for Action (Hyogo))

### *The early years of the Convention: adaptation takes a back seat*

Adaptation was not initially conceptualised by the CP as a key component to addressing climate change, with the ultimate objective of the Convention to stabilize “greenhouse gas concentrations ... at a level that would prevent dangerous interference with the climate system” (Article 2, p.4). References to adaptation in the Convention text are minimal: for instance, the word *adaptation* and its variants only come up 6 times in the Convention text. During this first era, adaptation was marginalized and seen as defeatist by some, while developed country Parties viewed discussion on adaptation as an implicit acceptance of their responsibility for causing climate change (Figure 2) (Schipper 2006).

Where adaptation is noted in the Convention text (e.g. Article 4), two important themes arise: (1) capacity-building to *facilitate* adaptation through assessments, strategies and planning, and knowledge creation and dissemination, and (2) finance to *assist* developing countries that are particularly vulnerable to meet the costs of adaptation. These themes form the basis of all future action on and funding for adaptation in the Convention. The first theme of facilitation, began to be realized a decade later, through the Least Developed Countries Expert Group (LDC EG), the Nairobi Work Programme on Impacts, Vulnerability and Adaptation (Nairobi WP), and the National Adaptation Programmes of Action (NAPAs) (*supplementary table 4*). With regards the second theme, funds for adaptation were first established in 1997 and ratified in 1998 through the Kyoto Protocol, at CP7 in 2001 in Marrakesh, and CP16 in Cancun in 2010. Article 4, paragraphs 8 and 9 (consistent with principles 1 and 2) identifies the least developed countries (LDCs) as the most likely benefactors of assistance, framing adaptation as an issue for developing countries, a fact which had significant implications for adaptation discourse at subsequent CPs and CMPs (*supplementary table 5*).

In line with principles 1 and 2 of the Convention, the Kyoto Protocol (KP) continued to characterise Parties’ commitments and embed norms about assigning responsibility and identifying those nations deserving of special consideration. The KP explicitly requested developed country Parties to implement policies, measures, and commitments under the Protocol in such a way to minimize the adverse effects of climate change and response measures on other Parties, especially developing countries and in particular those identified in Article 4, paragraphs 8 and 9 (see KP Article 2, paragraph 3; and KP Article 3, paragraph 14). This framing what counts as valid policy, assigning responsibility to developed country Parties. The first hint of a formal mechanism that would eventually lead to funding for adaptation through the Convention was established through the KPs Clean Development Mechanism (CDM), where a portion of the proceeds from certified project activities would eventually be made available to assist “developing country Parties that are particularly vulnerable to .... climate change to meet the costs of adaptation” (p.12). The Adaptation Fund, created at CP7 in 2001 to achieve this, became operational a decade later.

### *The Marrakesh Accords: the emergence of adaptation in the Convention*

In the years following the ratification of the KP, the CP continued to institute bodies and financial mechanisms that would allow for developed country Parties to commit to assisting the developing countries identified in Article 4 (paragraphs 8, 9) adapt to the adverse effects of climate change. Specifically, formal funding and capacity-building arrangements for adaptation began to appear in decisions made under the Convention from 2001 onwards and focused on establishing the rules, processes and priorities to facilitate the provision of financial and technical assistance

by developed country Parties to developing country Parties, particularly the LDCs (*supplementary table 5*). The expanding discursive space framed adaptation as a developing country issue, stemming primarily from low levels of development and high levels of poverty. Accordingly, most decisions relating to adaptation from the Marrakesh CP (2001) onwards focus on developed country obligations to assist in assessing the urgent and immediate adaptation needs and priorities of developing country Parties, while seeking to increase the general understanding and assessment of impacts, vulnerability and adaptation in all Parties.

*Montreal and the Bali Road Map: adaptation as a central component of climate policy*

At CP11 in Montreal (2005), the understanding of the role of adaptation in the Convention began to change once more, reflecting a growing understanding among the Parties that some degree of climate change was unavoidable, and that “adaptation [should be] of high priority for all countries” (*see supplementary Figure 2*) (Decision 2, CP.11, 2005, preamble), reiterating the heightened vulnerability of LDCs and Small Island Developing States (SIDSs). At CP13 in Bali (2007), a general shift in discursive structure of decision texts is evident, moving from referring to *adaptation* only sporadically in comparison to *mitigation*, to tagging the term *mitigation and adaptation* at the end of most paragraphs in Decision 1, CP.13/2007, known as the Bali Action Plan, to inserting the term more generically throughout the text in nearly all decisions. This increased attention to adaptation in part reflects increasing scientific certainty about climate change, as was documented in the IPCC Fourth Assessment Report released at that time. CP13 also marked the beginning of a gradual shift away from focusing solely on short term adaptation priorities to embracing an approach that included medium- to long-term needs and goals. This shift is formalized and exemplified through the “shared vision for long-term cooperative action”, a phrase first coined in the Bali Road Map, and later reiterated several times in the Cancun Agreements and Durban Outcomes.

*Cancun onwards: Adaptation achieves equal footing with mitigation*

The next important shift in wording occurred in 2010 at CP16 in Cancun, which was a pivotal moment in the growing role of adaptation in the Convention. This was the first time that adaptation was explicitly stated in the context of Convention objectives for all Parties, that “[a]daptation *must* be addressed with the same priority as mitigation” (Paragraph 2(b), Decision 1, CP16, 2010). In comparison to the wording used at CP11 in Montreal or CP13 in Bali, the wording in the Cancun decisions is significant in that this was the first time that adaptation was explicitly and formally placed on an equal footing with mitigation. A number of additional developments from CP16 further exemplify this trend. For example, the Adaptation Committee (AC) was created with the goal of providing technical support and guidance to all Parties, with a view of facilitating implementation of nationally appropriate adaptation measures, and formalizing the increased role of adaptation in the Convention. It is noteworthy that the AC aims to provide technical support for capacity-building for *all* Parties, a noteworthy discursive development, although principles 1 & 2 of the Convention remain strongly entrenched in all other works streams where adaptation remains tied to developing country needs and interests. In other words, though the scope of responses for the *facilitation* of adaptation had expanded to include all countries, adaptation *assistance* remained firmly geared towards developing countries. Furthermore, at this time, the shift to include medium- and long-term priorities for adaptation was further embedded through the establishment of the Work Programme on Loss and Damage (see Decision 1, paragraphs 25 and 26/CP16, and Decision



7/CP17) and National Adaptation Plans (NAPs) (see Decision 5/CP17), two programs that were constituted with the goal of assisting developing country Parties (*supplementary table 4*).

### **3.3.Adaptation work streams**

The above sections on the principles and objectives of the UNFCCC outline the identities and responsibilities of Parties, within which specific decisions in adaptation work streams have been made (Figure 1). Thirty eight specific decisions are documented from CP1 to CP20 pertaining to 6 work streams (*supplementary table 2*) (Figure 1), forming the basis of the official discourse on adaptation in CP decisions. Two major trends are evident in the articulation of adaptation priorities in CP decisions.

Firstly, up until CP13 in Bali, adaptation work streams focused solely on identifying and addressing urgent and immediate priorities, especially in developing country Parties, including the LDC Work Programme (LDC WP), the Nairobi Work Programme (NWP), and the NAPA process. The NWP is an advisory body primarily for developing country Parties aiming to improve understanding and assessment of impacts, vulnerability and adaptation options. The goal is to help Parties make informed decisions on practical adaptation actions and measures in response to climate change. The LDC WP facilitates adaptation planning and capacity-building through the NAPAs, supported by the LDC Expert Group, and also provides financial assistance through the LDC Fund (LDCF), the Special Climate Change Fund (SCCF), and the Adaptation Fund (AF), established at CP7 (*supplementary tables 4, 5*). At CP16 the Green Climate Fund (GCF) was also created primarily to support “urgent and immediate needs of developing countries that are particularly vulnerable to the adverse effects of climate change....” (paragraph 52, Annex to Decision 3, CP.17/2011, p.64).

Secondly, at CP13 and building upon the institutional capacities developed, a parallel focus on medium- to long-term adaptation priorities began to emerge, exemplified in the Bali Action Plan in the “shared vision for long-term cooperative action”. Three work streams were subsequently added to the UNFCCC’s adaptation work: 1) the Adaptation Committee (AC), established to promote the implementation of enhanced action on adaptation in a coherent manner; 2) the National Adaptation Plan (NAP) process, designed to build on the NAPAs experience, identifying medium- and long-term adaptation needs of LDCs (and interested developing country Parties) and developing strategies and programmes to address those needs; and 3) the Work Programme on Loss and Damage (L&D), established to consider potential approaches to loss and damage in developing countries that are particularly vulnerable (*supplementary table 4*). The AC was first established in Bali, under the Ad Hoc Working Group on Long-Term Cooperative Action (AH-WG-LTCA) and formalized at CP16, while along with the NAPs and L&D were later established at CP16.

Three “legal disclaimers” in decisions are of relevance to the adaptation discourse (*supplementary table 6*). The first disclaimer appears in the decisions that established the LDC Expert Group, and states that “taking into account the unique circumstances of the least developed countries, the establishment of the group does not set a precedent for the establishment of similar groups for other categories of countries” (Decision 29/CP7, paragraph 2, p14). A similar disclaimer surfaces in a decision providing further guidance on the operation of the LDCF in Decision 3, adopted at CP11 in 2005, which states that “given the unique circumstances of the Least Developed Countries Fund, the operation of the fund shall not set a precedent for other funding arrangements under the Convention” (paragraph 7, p10). Both disclaimers limit the possibilities for use of the arguments being made for the support provided to LDCs as a precedent

for other vulnerable groups in similar contexts as LDCs (relevant for Indigenous peoples, as discussed later). The third disclaimer relates to the Cancun Agreements, stating that “[s]eeking to secure progress in a balanced manner, with the understanding that, through this decision, not all aspects of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention are concluded, and that nothing in this decision shall prejudice prospects for, or the content of, a legally binding outcome in the future” (Decision 1/CP.16, preamble, p2).

### **3.4. Indigenous peoples, practices, and knowledge in decision texts**

References to Indigenous peoples, practices, and knowledge were identified and extracted from decision texts as they occurred through iterative rounds of reading and coding (see methods in *supplementary materials*). Twenty decisions and appendices were documented to reference Indigenous (or traditional) peoples, practices and/or knowledge in 31 instances; of these, 14 explicitly focus on adaptation, 6 mitigation, 5 adaptation and mitigation, 1 overall Convention objectives, and 5 cover all aspects of the Convention. A full list of relevant decisions and quotes is provided in *supplementary table 7*. Three trends are observable in the coverage of Indigenous issues in the UNFCCC.

Firstly, prior to CP.11 in Montreal in 2005, there is no explicit reference to Indigenous peoples, with traditional knowledge referred to in 2 instances as a source of information and knowledge that can help build adaptive capacity and detect change (Decision 2, CP.7; Decision 28, CP.7). At CP.11, Decision 2 relevant to the mandate of the Nairobi WP, makes explicit reference to the significant changes occurring in the Arctic, identifies adaptation as a high priority for all countries, and states the importance of local and Indigenous knowledge for adaptation. From CP.11 until CP.16 in Cancun, no decision texts examined cover Indigenous issues as they pertain to adaptation.

Secondly, starting at CP.16 in Cancun, the frequency with which references to Indigenous peoples, knowledge and practices are made increases significantly. From CP.16 onward, a total of twenty nine explicit references are made; fourteen in the context of adaptation specifically (n=2 CP.16, n=3 CP.17, n=1 CP.18, n=2 CP.19, n=6 CP.20), five in the context of mitigation (n=4 CP.16, n=1 CP.19), five in the context of both adaptation and mitigation (n=1 CP.17, n=2 CP.18, n=2 CP.20), one in the context of Convention objectives (n=1 CP.20), and an additional four in the context of all aspects of the Convention (n=2 CP.16, n=2 CP.20). This expansion can be traced to the inclusion and official recognition of the unique challenges facing Indigenous peoples by the Parties to the Convention in the preamble of the first decision of CP.16, which “[recognizes] that the adverse effects of climate change has direct implications for the effective enjoyment of human rights and that the effects of climate change will be felt most acutely by those segments of the population that are already vulnerable owing to geography, gender, age, indigenous or minority status, or disability.” This development reflects broader changes in the global institutional context, taking cues from Resolution 10/4 of the United Nations Human Rights Council (UNHRC) (2009). The preamble, adopted from this Resolution, effectively frames climate policy as a human rights issue, and is reinforced by the use of human rights language throughout the CP.16 decision texts. Absent, however, is any reference in the examined texts to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in contexts relating to adaptation.

Finally, a noteworthy development in the Convention is a shift in the kinds of knowledge that are deemed as appropriate sources of information to guide actions through the Convention; the shift from a purely scientific approach to adaptation, to one that also values traditional and Indigenous knowledge and practices. This trend is apparent in the changing language used to refer to the sources of knowledge on which actions and decisions in the Convention should be based:

language first coined at CP16 in Decision 1, paragraph 12, and reiterated at subsequent CPs, affirms “that enhanced action on adaptation should be [...] guided by the best available science and, as appropriate, traditional and indigenous knowledge [...]” (p.4).

#### **4. Discussion**

This paper identifies and characterizes the discourse around adaptation in the UNFCCC, examining implications for Indigenous peoples based on a critical discourse analysis of the original Convention text and decision texts from subsequent Conference of the Parties (CP). The discursive space for engaging Indigenous issues in adaptation in the UNFCCC has expanded over the last decade, especially after CP16 in Cancun, advancing considerably from the original Convention text where there is no acknowledgment of Indigenous peoples, despite their being sections where one would assume that reference would be made (e.g. Article 4 on differentiated impacts by social groups) (Smith and Sharp 2012). This is concomitant with developments around the framing of acceptable or appropriate forms of knowledge to guide adaptation evident in the gradual shift from a reliance on scientific and technocratic processes to approaches sensitive and open to traditional and Indigenous knowledge and practices, paralleling developments in the broader scientific community (Smith and Sharp 2012, Schipper et al. 2014, Maldonado et al., 2016). For example, the fifth assessment report (AR5) of the Intergovernmental Panel on Climate Change (IPCC) calls for the explicit need to include traditional knowledge in adaptation; the US Third National Climate Assessment had a specific chapter on Indigenous peoples, involving collaboration to solicit, collect and synthesize traditional knowledge; and a number of guidelines have been developed in recent years for the engagement of traditional knowledge in climate initiatives (e.g. CTKW 2014, UNFCCC 2014). It also occurs in the context of actions by Indigenous Peoples Organizations (IPOs) and Indigenous thought leaders who have been increasingly vocal over the threats posed by climate change and concerns that climate policy may further undermine Indigenous rights.

While the recognition of Indigenous issues in the UNFCCC remains limited and recent, the expanding discursive space nevertheless represents an important development as Indigenous knowledge systems have often been dismissed as ‘unscientific’ or ‘anecdotal’, and overlooked in national planning as representing ‘backward’ forms of development (Ford 2012, Singh et al. 2013, Smit and Sharp 2012; Brugnach et al in press). As such, institutional processes that engage constituents whose needs and interests may otherwise be silenced in national negotiation discourses, and which endorse new norms and best practices, are believed to influence State behaviour through their constitutive and regulative effects (Barnett 2004). In the case of the UNFCCC, this would occur by setting international expectations about future decision pathways for adaptation and by encouraging countries to report on these issues in National Communications, NAPAs, and NAPs.

Greater engagement with Indigenous issues is already being reflected in the work streams of relevant bodies within the Convention. For example, in 2014 an expert workshop on best practices and available tools for the use of Indigenous and traditional knowledge and practices for adaptation was convened by the Adaptation Committee and Nairobi WP (UNFCCC 2014), attended by IPOs, Indigenous thought leaders, researchers, and UN staff. Recommendations from the workshop focused on, among other priorities: (1) considering and integrating local, Indigenous and traditional knowledge and practices into national adaptation planning; (2) the recognition of Indigenous and traditional knowledge in a manner commensurate with science; and (3) the need for the UNFCCC to provide guidance to adaptation funding mechanisms on how to integrate local, Indigenous and traditional knowledge and practices into adaptation programming. In turn, these

recommendations have influenced decision making processes and actions taken through the Convention. At CP20 in Lima, for instance, Decision 4 directly mentions recommendations made at the workshop, and there are further indirect references in both Decision 3 and Decision 4.

The establishment of the legitimacy of Indigenous knowledge and practices among Parties documented from CP11 to CP20 provides a grounding for greater engagement of, and focus on, Indigenous issues in the Convention post-CP21, particularly in light of the Paris Agreement (PA), with the rights of Indigenous peoples acknowledged in the decision text preamble along with the need for stronger and more ambitious climate change action for Indigenous peoples. This is a major development as in the original UNFCCC text and Kyoto Protocol Indigenous peoples are construed as standardized ‘stakeholders’ (Smith and Sharp 2012).

The extent to which the PA will affect priorities, rules, and work streams within the UNFCCC will depend on whether it is first ratified by enough States, and then how its Articles are interpreted in the context of the Convention. In turn this will be influenced by the ability of IPOs to meaningfully participate in the Convention process. Discursive practices in the UNFCCC, however, focus almost solely on the nation-state, with the Convention’s original mandate being to provide a forum primarily for negotiating climate change mitigation agreements between States. This State-centric structure frames the responsibility for climate action of sub-national populations as being in the jurisdiction of national governments. Participation by IPOs in the formal negotiations (outside of being non-state observers) depends on being included in official delegations by respective national governments. Given the marginalization and lack of recognition given to Indigenous populations in some nations, these opportunities may be limited and dependent on political factors (Maillet & Ford 2013; Brugnach et al in press). Although there are channels through which IPOs can submit statements, recommendations and proposals to the Parties, there is currently no mechanism through which to ensure that Indigenous rights are respected, or that the special needs of Indigenous people are incorporated in decision texts.

The role of Indigenous peoples in the UNFCCC contrasts to the UN Convention on Biological Diversity (UNCBD). Here, Indigenous peoples were recognized as having a stake in negotiations from the beginning, with the UNCBD text containing several references to Indigenous peoples, including calls on states to “respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities ...” (Article 8(j)). This builds upon an earlier recognition by the scientific community of the relevance of Indigenous knowledge to biodiversity conservation. The UNCBD also allows Indigenous groups to comment on, to draft text in negotiations, and to participate in contact group meetings at the discretion of the Chair when issues relating to them are discussed (Schroeder 2010). In contrast, no explicit link was made between Indigenous peoples and climate change until the mid-2000s in the UNFCCC, and there are as yet no formal mechanisms for IPOs to influence the process beyond lobbying delegates (Schroeder 2010).

IPOs and thought leaders have argued for the creation of Indigenous-specific adaptation funds (e.g. similar to the Voluntary Fund for Indigenous and Local Communities in the UNCBD), reflecting sensitivity of Indigenous peoples to climate change, special needs in a changing climate, and marginalization, which it is believed will limit their ability to access nationally controlled adaptation funds. There is limited discursive space, however, for the development of such stand-alone funding mechanisms given the State-centric nature of the Convention. Further, some have argued that adaptation funding through the Convention should target Indigenous peoples regardless of geographical location, reflecting similarities in drivers of vulnerability and absence of support mechanisms in diverse contexts (Ford 2009). Yet the guiding principles of the Convention make the creation of such Indigenous-specific funding streams appear unlikely; all

funding flows through the Convention are unidirectional, from high income nations to low and middle income (non-Annex 1), and while the scope of responses for the facilitation of adaptation has expanded to include all countries (e.g. through Adaptation Committee), financial assistance remains firmly directed towards developing countries.

In-light of these limits, we recognise the importance of promoting Indigenous needs and rights in a rapidly changing climate through alternative venues which have potential to create or inform the development of targeted Indigenous focused work-streams, including relevant UN Conventions (e.g. UNCBD, Sendai Framework), international financial institutions (World Bank), the UN Permanent Forum on Indigenous Issues, regional bodies (e.g. EU, OECD), and national governments. Greater engagement of the IPCC with Indigenous issues is also important, with IPCC assessment reports influential in informing the UNFCCC and other international bodies (Ford et al. 2012, 2016; Smit and Sharp, 2012). There are also opportunities within the UNFCCC to formally enhance the engagement of Indigenous issues, including:

- The rules of fund board composition and membership, and Convention committees and work programmes (e.g. Decision 2, paragraph 101, CP17/2011), could be amended to include additional seats, such as an Indigenous representative from an Annex-I Party and another from a non-Annex I Party. Given that there is no disclaimer of precedent in the decisions examined that would explicitly restrict this kind of amendment, it can be assumed that this could be done, should the Parties to the Convention agree to do so.
- IPOs could be invited by Working Groups to co-chair meetings and intervene in debates that cover topics relating to traditional and Indigenous knowledge, and hence contribute to making formal recommendations to the Parties (e.g. LDC WG, WG on Loss & Damage, AC). Such an approach has been advocated in the UNCBD, and was followed by the UNFCCC at its 2014 meeting on Indigenous knowledge for adaptation (UNFCCC 2014).
- There is a need for greater participation by IPOs in the UNFCCC. Betzold and Flesken (2014), for example, document that on average only 6 participating IPOs attend UNFCCC CPs as accredited NGO observers, compared to over 50 in average UNCBD CPs, attributing this to a number of factors, including perceptions among IPOs that biodiversity issues are more relevant and important to them. Greater engagement of IPOs in the UNCBD, from an earlier stage and with a greater sense of cohesion, has also led to formal mechanisms being established, including the formation of the International Indigenous Forum on Biodiversity (IIFB) in 1996, with the aim of providing advice to Party Delegations and influence the interpretation of government obligations within the UNCBD (Schroeder 2010, Betzold & Flesken 2014). The IIFB, in turn, was officially recognized as an advisory body to the UNCBD in 2000, and receives logistical support from the UNCBD Secretariat, and has served to establish clear rules for the participation of IPOs in the negotiations. Indeed, after its recognition, the time allocated to IPO contributions increased and the social dimensions of biodiversity, including the role of Indigenous peoples as resource managers, received greater attention (Schroeder 2010). More broadly, the establishment of official advisory bodies has been identified as important in increasing issue legitimacy in the eyes of the Parties to the Convention (Haas 2002, Biermann & Gupta 2011). We recommend similar institutional mechanisms to be created as part of the UNFCCC framework.

Climate change is a major overarching challenge facing Indigenous peoples, acting as an impact multiplier to many underlying stresses, yet it may also be an opportunity to catalyze action,

seek redress, and challenge violations of rights. Greater engagement and co-ordination among IPOs involved in the UNFCCC process, ultimately including the establishment of an Indigenous advisory body / forum, would serve to advance Indigenous issues among Parties. The opening up of discursive space for engagement with Indigenous issues in the Convention documented here over the last decade, combined with the text of the Paris Agreement, indicates growing awareness and significant potential for change at the global level.